

Senate Bill No. 65

(By Senators Yost and Sypolt)

[Introduced January 12, 2011; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-3-9 of the Code of West Virginia,
1931, as amended, relating to exempting from taxation motor
vehicles owned by members of the armed forces of the United
States while serving in a designated war zone.

Be it enacted by the Legislature of West Virginia:

That §11-3-9 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

(a) All property, real and personal, described in this
subsection, and to the extent limited by this section, is exempt
from taxation:

(1) Property belonging to the United States, other than
property permitted by the United States to be taxed under state

1 law;

2 (2) Property belonging exclusively to the state;

3 (3) Property belonging exclusively to any county, district,
4 city, village or town in this state and used for public purposes;

5 (4) Property located in this state belonging to any city,
6 town, village, county or any other political subdivision of another
7 state and used for public purposes;

8 (5) Property used exclusively for divine worship;

9 (6) Parsonages and the household goods and furniture
10 pertaining thereto;

11 (7) Mortgages, bonds and other evidence of indebtedness in the
12 hands of bona fide owners and holders hereafter issued and sold by
13 churches and religious societies for the purposes of securing money
14 to be used in the erection of church buildings used exclusively for
15 divine worship or for the purpose of paying indebtedness thereon;

16 (8) Cemeteries;

17 (9) Property belonging to, or held in trust for, colleges,
18 seminaries, academies and free schools, if used for educational,
19 literary or scientific purposes, including books, apparatus,
20 annuities and furniture;

21 (10) Property belonging to, or held in trust for, colleges or
22 universities located in West Virginia, or any public or private
23 nonprofit foundation or corporation which receives contributions
24 exclusively for such college or university, if the property or

1 dividends, interest, rents or royalties derived therefrom are used
2 or devoted to educational purposes of such college or university;

3 (11) Public and family libraries;

4 (12) Property used for charitable purposes and not held or
5 leased out for profit;

6 (13) Property used for the public purposes of distributing
7 electricity, water or natural gas or providing sewer service by a
8 duly chartered nonprofit corporation when such property is not
9 held, leased out or used for profit;

10 (14) Property used for area economic development purposes by
11 nonprofit corporations when the property is not leased out for
12 profit;

13 (15) All real estate not exceeding one acre in extent, and the
14 buildings on the real estate, used exclusively by any college or
15 university society as a literary hall, or as a dormitory or
16 clubroom, if not used with a view to profit, including, but not
17 limited to, property owned by a fraternity or sorority organization
18 affiliated with a university or college or property owned by a
19 nonprofit housing corporation or similar entity on behalf of a
20 fraternity or sorority organization affiliated with a university or
21 college, when the property is used as residential accommodations or
22 as a dormitory for members of the organization;

23 (16) All property belonging to benevolent associations not
24 conducted for private profit;

1 (17) Property belonging to any public institution for the
2 education of the deaf, dumb or blind or any hospital not held or
3 leased out for profit;

4 (18) Houses of refuge and mental health facility or orphanage;

5 (19) Homes for children or for the aged, friendless or infirm
6 not conducted for private profit;

7 (20) Fire engines and implements for extinguishing fires, and
8 property used exclusively for the safekeeping thereof, and for the
9 meeting of fire companies;

10 (21) All property on hand to be used in the subsistence of
11 livestock on hand at the commencement of the assessment year;

12 (22) Household goods to the value of \$200.00, whether or not
13 held or used for profit;

14 (23) Bank deposits and money;

15 (24) Household goods, which for purposes of this section means
16 only personal property and household goods commonly found within
17 the house and items used to care for the house and its surrounding
18 property, when not held or used for profit;

19 (25) Personal effects, which for purposes of this section
20 means only articles and items of personal property commonly worn on
21 or about the human body or carried by a person and normally thought
22 to be associated with the person when not held or used for profit;

23 (26) Dead victuals laid away for family use;

24 (27) All property belonging to the state, any county,

1 district, city, village, town or other political subdivision or any
2 state college or university which is subject to a lease purchase
3 agreement and which provides that, during the term of the lease
4 purchase agreement, title to the leased property rests in the
5 lessee so long as lessee is not in default or shall not have
6 terminated the lease as to the property;

7 (28) Personal property, including vehicles that qualify for a
8 farm use exemption certificate pursuant to section two, article
9 three, chapter seventeen-a of this code and livestock, employed
10 exclusively in agriculture, as defined in article ten, section one
11 of the West Virginia Constitution: *Provided*, That this exemption
12 only applies in the case of such personal property used on a farm
13 or farming operation that annually produces for sale agricultural
14 products, as defined in rules of the Tax Commissioner; ~~and~~

15 (29) Motor vehicles owned by persons who are members of the
16 Armed Forces of the United States, stationed in a designated war
17 zone. The exemption from taxation shall continue for the time the
18 person is in the war zone and for two years after leaving any war
19 zone; and

20 ~~(29)~~ (30) Any other property or security exempted by any other
21 provision of law.

22 (b) Notwithstanding the provisions of subsection (a) of this
23 section, no property is exempt from taxation which has been
24 purchased or procured for the purpose of evading taxation whether

1 temporarily holding the same over the first day of the assessment
2 year or otherwise.

3 (c) Real property which is exempt from taxation by subsection
4 (a) of this section shall be entered upon the assessor's books,
5 together with the true and actual value thereof, but no taxes may
6 be levied upon the property or extended upon the assessor's books.

7 (d) Notwithstanding any other provisions of this section, this
8 section does not exempt from taxation any property owned by, or
9 held in trust for, educational, literary, scientific, religious or
10 other charitable corporations or organizations, including any
11 public or private nonprofit foundation or corporation existing for
12 the support of any college or university located in West Virginia,
13 unless such property, or the dividends, interest, rents or
14 royalties derived therefrom, is used primarily and immediately for
15 the purposes of the corporations or organizations.

16 (e) The Tax Commissioner shall, by issuance of rules, provide
17 each assessor with guidelines to ensure uniform assessment
18 practices statewide to effect the intent of this section.

19 (f) Inasmuch as there is litigation pending regarding
20 application of this section to property held by fraternities and
21 sororities, amendments to this section enacted in the year one
22 thousand nine hundred ninety-eight shall apply to all cases and
23 controversies pending on the date of such enactment.

24 (g) The amendment to subdivision (27), subsection (a) of this

1 section, passed during the 2005 regular session of the Legislature,
2 shall apply to all applicable lease purchase agreements in
3 existence upon the effective date of the amendment.

NOTE: The purpose of this bill is to exempt from taxation motor vehicles owned by members of the Armed Forces of the United States while serving in a designated war zone. The exemption continues for two years after the person has left a war zone.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.