

Senate Bill No. 124

(By Senator Sypolt)

[Introduced January 11, 2012; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-21-21 of the Code of West Virginia,
1931, as amended, relating to changing the qualifier for low
income to three hundred percent or less of the federal poverty
guideline from one hundred fifty percent or less of the
federal poverty guideline for a senior citizens' homestead tax
credit.

Be it enacted by the Legislature of West Virginia:

That §11-21-21 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

**§11-21-21. Senior citizens' tax credit for property tax paid on
first \$10,000 of taxable assessed value of a
homestead in this state; tax credit for property tax**

1 **paid on the first \$20,000 of value for property tax**
2 **years after December 31, 2006.**

3 (a) *Allowance of credit.* --

4 (1) A low-income person who is allowed a \$20,000 homestead
5 exemption from the assessed value of his or her homestead for ad
6 valorem property tax purposes, as provided in section three,
7 article six-b of this chapter, ~~shall be~~ is allowed a refundable
8 credit against the taxes imposed by this article equal to the
9 amount of ad valorem property taxes paid on up to the first \$10,000
10 of taxable assessed value of the homestead for property tax years
11 that begin on or after January 1, 2003, except as provided in
12 subdivision (2) of this subsection.

13 (2) For tax years beginning on or after January 1, 2007, a
14 low-income person who is allowed a \$20,000 homestead exemption from
15 the assessed value of his or her homestead for ad valorem property
16 tax purposes, as provided in section three, article six-b of this
17 chapter, ~~shall be~~ is allowed a refundable credit against the taxes
18 imposed by this article equal to the amount of ad valorem property
19 taxes paid on up to the first \$20,000 of taxable assessed value of
20 the homestead for property tax years that begin on or after
21 January 1, 2007: *Provided,* That for tax years beginning on and
22 after January 1, 2009, any person who is required to pay the
23 federal alternative minimum income tax in the current tax year is
24 disqualified from receiving any tax credit provided under this

1 section.

2 (3) Due to the administrative cost of processing, the
3 refundable credit authorized by this section may not be refunded if
4 less than \$10.

5 (4) The credit for each property tax year shall be claimed by
6 filing a claim for refund within three years after the due date for
7 the personal income tax return upon which the credit is first
8 available.

9 (b) *Terms defined.* --

10 For purposes of this section:

11 (1) "Low income" means federal adjusted gross income for the
12 taxable year that is one hundred fifty percent or less of the
13 federal poverty guideline for the year in which property tax was
14 paid, based upon the number of individuals in the family unit
15 residing in the homestead, as determined annually by the United
16 States Secretary of Health and Human Services. Beginning on or
17 after July 1, 2012, "low income" means federal adjusted gross
18 income for the taxable year that is three hundred percent or less
19 of the federal poverty guideline for the year in which property tax
20 was paid, based upon the number of individuals in the family unit
21 residing in the homestead, as determined annually by the United
22 States Secretary of Health and Human Services.

23 (2) (A) For tax years beginning before January 1, 2007, "taxes
24 paid" means the aggregate of regular levies, excess levies and bond

1 levies extended against not more than \$10,000 of the taxable
2 assessed value of a homestead that are paid during the calendar
3 year determined after application of any discount for early payment
4 of taxes but before application of any penalty or interest for late
5 payment of property taxes for a property tax year that begins on or
6 after January 1, 2003, except as provided in paragraph (B) of this
7 subdivision.

8 (B) For tax years beginning on or after January 1, 2007,
9 "taxes paid" means the aggregate of regular levies, excess levies
10 and bond levies extended against not more than \$20,000 of the
11 taxable assessed value of a homestead that are paid during the
12 calendar year determined after application of any discount for
13 early payment of taxes but before application of any penalty or
14 interest for late payment of property taxes for a property tax year
15 that begins on or after January 1, 2007.

16 (c) *Legislative rule.* --

17 The Tax Commissioner shall propose a legislative rule for
18 promulgation as provided in article three, chapter twenty-nine-a of
19 this code to explain and implement this section.

20 (d) *Confidentiality.* --

21 The Tax Commissioner shall ~~utilize~~ use property tax
22 information in the statewide electronic data processing system
23 network to the extent necessary for the purpose of administering
24 this section, notwithstanding any provision of this code to the

1 contrary.

NOTE: The purpose of this bill is to change the qualifier for low income to three hundred percent or less of the federal poverty guideline from one hundred fifty percent or less of the federal poverty guideline for a senior citizens' homestead tax credit.

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