

1 **Senate Bill No. 74**

2 (By Senator Sypolt)

3 \_\_\_\_\_  
4 [Introduced January 8, 2014; referred to the Committee on the  
5 Judiciary; and then to the Committee on Finance.]

6 \_\_\_\_\_  
7 **FISCAL**  
8 **NOTE**

9  
10 A BILL to amend and reenact §11-21-21 of the Code of West Virginia,  
11 1931, as amended, relating to changing the qualifier for low  
12 income from one hundred fifty percent or less of the federal  
13 poverty guideline to three hundred percent or less of the  
14 federal poverty guideline for a senior citizens' homestead tax  
15 credit.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 21. PERSONAL INCOME TAX.**

20 **§11-21-21. Senior citizens' tax credit for property tax paid on**  
21 **first \$20,000 of taxable assessed value of a**  
22 **homestead in this state.**

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

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

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

23           (3) Due to the administrative cost of processing, the  
24 refundable credit authorized by this section may not be refunded if

1 less than \$10.

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

6 (b) *Terms defined.* --

7 For purposes of this section:

8 (1) "Low income" means federal adjusted gross income for the  
9 taxable year that is one hundred fifty percent or less of the  
10 federal poverty guideline for the year in which property tax was  
11 paid, based upon the number of individuals in the family unit  
12 residing in the homestead, as determined annually by the United  
13 States Secretary of Health and Human Services. Beginning on July  
14 1, 2014, "low income" means federal adjusted gross income for the  
15 taxable year that is three hundred percent or less of the federal  
16 poverty guideline for the year in which property tax was paid,  
17 based on the number of individuals in the family unit residing in  
18 the homestead, as determined annually by the United States  
19 Secretary of Health and Human Services.

20 (2) (A) For tax years beginning before January 1, 2007, "taxes  
21 paid" means the aggregate of regular levies, excess levies and bond  
22 levies extended against not more than \$10,000 of the taxable  
23 assessed value of a homestead that are paid during the calendar  
24 year determined after application of any discount for early payment

1 of taxes but before application of any penalty or interest for late  
2 payment of property taxes for a property tax year that begins on or  
3 after January 1, 2003, except as provided in paragraph (B) of this  
4 subdivision.

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

13 (c) *Legislative rule.* --

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

17 (d) *Confidentiality.* --

18 The Tax Commissioner shall utilize property tax information in  
19 the statewide electronic data processing system network to the  
20 extent necessary for the purpose of administering this section,  
21 notwithstanding any provision of this code to the contrary.

22 (e) For tax years beginning on or after January 1, 2012,  
23 taxpayers must calculate the credit authorized in this section  
24 prior to calculating the credit authorized in section twenty-three

1 of this article.

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.