

**Senate Bill No. 615**

(By Senators Fitzsimmons, Edgell, Yost and Kessler (Mr. President))

[Introduced February 17, 2014; referred to the Committee on the Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-6B-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-6B-3a, all relating to the creation of a \$20,000 annual flood zone homestead property tax exemption; defining "high-risk area"; and providing eligibility qualifications for the flood zone homestead property tax exemption.

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

That §11-6B-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §11-6B-3a, all to read as follows:

**ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.**

**§11-6B-2. Definitions.**

1 For purposes of this article, the term:

2 (1) "Assessed value" means the value of property as determined  
3 under article three of this chapter.

4 (2) "Claimant" means a person who is age sixty-five or older  
5 or who is certified as being permanently and totally disabled, and  
6 who owns a homestead that is used and occupied by the owner thereof  
7 exclusively for residential purposes: *Provided, That:* (1) If the  
8 property was most recently used and occupied by the owner or the  
9 owner's spouse thereof exclusively for residential purposes; (2) the  
10 owner, as a result of illness, accident or infirmity, is residing  
11 with a family member or is a resident of a nursing home, personal  
12 care home, rehabilitation center or similar facility; and (3) the  
13 property is retained by the owner for noncommercial purposes, then  
14 the owner of that property may continue to claim a homestead  
15 property tax exemption on the property.

16 (3) "Family member" means a person who is related by common  
17 ancestry, adoption or marriage including, but not limited to,  
18 persons related by lineal and collateral consanguinity.

19 (4) "High risk area" means an area with a one percent annual  
20 chance of flooding and a twenty-six percent chance over flooding  
21 over the life of a thirty-year mortgage. This matches the Federal  
22 Emergency Management Agency's baseline definition for a high risk  
23 area flood zone designation.

24 ~~(4)~~ (5) "Homestead" means a single family residential house,

1 including a mobile or manufactured or modular home, and the land  
2 surrounding such structure; or a mobile or manufactured or modular  
3 home regardless of whether the land upon which such mobile or  
4 manufactured or modular home is situated is owned or leased.

5 ~~(5)~~ (6) "Owner" means the person who is possessed of the  
6 homestead, whether in fee or for life. A person seized or entitled  
7 in fee subject to a mortgage or deed of trust shall be considered  
8 the owner. A person who has an equitable estate of freehold, or is  
9 a purchaser of a freehold estate who is in possession before  
10 transfer of legal title shall also be considered the owner.  
11 Personal property mortgaged or pledged shall, for the purpose of  
12 taxation, be considered the property of the party in possession.

13 ~~(6)~~ (7) "Permanently and totally disabled" means a person who  
14 is unable to engage in any substantial gainful activity by reason  
15 of any medically determinable physical or mental condition which  
16 can be expected to result in death or which has lasted or can be  
17 expected to last for a continuous period of not less than twelve  
18 months.

19 ~~(7)~~ (8) "Sixty-five years of age or older" includes a person  
20 who attains the age of sixty-five on or before June 30 following  
21 the July 1 assessment day.

22 ~~(8)~~ (9) "Used and occupied exclusively for residential  
23 purposes" means that the property is used as an abode, dwelling or  
24 habitat for more than six consecutive months of the calendar year

1 prior to the date of application by the owner thereof; and that the  
2 property is used only as an abode, dwelling or habitat to the  
3 exclusion of any commercial use: *Provided*, That failure to satisfy  
4 this six-month period shall not prevent allowance of a homestead  
5 exemption to a former resident in accordance with section three of  
6 this article.

7 ~~(9)~~ (10) "Tax year" means the calendar year following the July  
8 1 assessment day.

9 ~~(10)~~ (11) "Resident of this state" means an individual who is  
10 domiciled in this state for more than six months of the calendar  
11 year.

12 **§11-6B-3a. Flood zone homestead property tax exemption.**

13 (a) An exemption from ad valorem taxes is allowed for \$20,000  
14 of assessed value of a homestead in a high risk area, so long as  
15 that homestead is used and occupied by its owner as his or her  
16 primary residence and exclusively for residential purposes.  
17 Notwithstanding the provisions set forth in section three of this  
18 article, this exemption may be allowed in addition to any other  
19 exemption allowed for each homestead used and occupied exclusively  
20 for residential purposes by its owner. Regardless of the number of  
21 other qualified owners residing in the homestead, only one  
22 exemption for living in a high risk area shall be used per  
23 household.

24 (b) This exemption attaches to the homestead occupied by the

1 qualified owner on the July 1 assessment date and is applicable to  
2 taxes for the following tax year. An exemption may not be  
3 transferred to another homestead until July 1 of the following  
4 year. Only structures in existence at the time of the enactment of  
5 this section are eligible for the homestead exemption created by  
6 this section. This exemption may not attach to properties where the  
7 property owner is receiving a similar exemption for a property in  
8 another state.

NOTE: The purpose of this bill is to create a \$20,000 annual flood zone homestead property tax exemption for property owners residing on homestead properties in designated flood plains.

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

§11-6B-3a is new; therefore, strike-throughs and underscoring has been omitted.