

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 428

FISCAL  
NOTE

BY SENATORS GAUNCH, FACEMIRE, CLINE, BOSO, AND

ROMANO

[Introduced January 30, 2018; Referred  
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-13EE-1, §11-13EE-2, and §11-13EE-3, all relating to providing a tax credit  
 3 for modifications to homes made more accessible for an elderly person or a person with  
 4 a disability.

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

**ARTICLE 13EE. LIVABLE HOME TAX CREDIT.**

**§11-13EE-1. Legislative Purpose.**

1 The Legislature finds there is a need for West Virginians with disabilities and older adults  
 2 to have stable, affordable and accessible housing. Home modifications increase the quality of life  
 3 and promote independence for people living with disabilities or older adults and allow these  
 4 individuals to remain actively engaged in the workplace and community, which benefit our society  
 5 as a whole. Despite their necessity, home modifications can be expensive and often place a large  
 6 financial burden on families. As modifying a home can be more affordable than living in an  
 7 assisted living facility, it makes financial sense for families to keep their loved ones in their own  
 8 homes for as long as possible and make any necessary adjustments to the living space.

9 In order to successfully address the challenges of a surging population of older adults and  
 10 others living with chronic conditions, who have significant needs for long-term services and  
 11 support, the state must develop methods to enable these individuals to remain in their homes and  
 12 avoid unnecessary costs to the state's health care system. In order to help make renovations  
 13 more affordable and attainable for West Virginians there is hereby provided a tax credit for certain  
 14 expenses incurred for the cost of home modifications.

**§11-13EE-2. Definitions.**

1 (a) General. – When used in this article, or in the administration of this article, terms  
 2 defined in subsection (b) of this section have the meanings ascribed to them by this section,  
 3 unless a different meaning is clearly required by the context in which the term is used.

4 (b) Terms defined. –

5 (1) The term “disability” means:

6 (A) A mental or physical impairment which substantially limits one or more person’s major  
7 life activities. The term “major life activities” includes functions such as caring for one’s self,  
8 performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

9 (B) A record of such impairment; or

10 (C) Being regarded as having such an impairment.

11 (2) The term “modifications” may include:

12 (A) Furniture risers;

13 (B) Handrails;

14 (C) Grab bars;

15 (D) Shower seats;

16 (E) Stair lifts;

17 (F) Ramps;

18 (G) Zero step entrance;

19 (H) Doors usable by a person in a wheelchair; and

20 (I) Other modifications to improve accessibility and enhance independent living.

21 (2) The term “older adults” means the age of 62 or older; and

22 (3) The term “retrofit” means the act of adding a component or accessory to something  
23 that did not have it when manufactured.

**§11-13EE-3. Amount of Credit Allowed.**

1 (a) An individual shall be allowed a credit against the tax imposed by §11-15-1 et seq. of  
2 this code for a portion of the total purchase price paid by the individual for a new residence or the  
3 total amount expended to retrofit an existing residence, provided that the new residence or  
4 retrofitting of the existing residence is designed to improve accessibility and provide universal  
5 visitability.

6 (b) Real estate developers shall be allowed a credit against the tax imposed by §11-15-1

7 et seq. of this code for a portion of the total amount it expended in constructing a new residential  
8 structure or unit or retrofitting or renovating of the existing residential structure or unit, provided  
9 that the new residential structure or unit or the retrofitting or renovating of the existing residential  
10 structure or unit is designed to improve accessibility and provide universal visitability.

11 (c) The credit shall be allowed for the taxable year in which the residence has been  
12 purchased or construction, retrofitting, or renovation of the residence or residential structure or  
13 unit has been completed. The credit allowed under this section shall not exceed \$5,000 for the  
14 purchase of each new residence or the construction of each new residential structure or unit, or,  
15 50 percent of the total amount expended, not to exceed \$5,000, for the retrofitting or renovation  
16 of each existing residence or residential structure or unit.

17 (d) No credit shall be allowed under this section for the purchase, construction, retrofitting,  
18 or renovation of residential rental property unless written consent is provided by the property  
19 owner.

20 (e) Eligible taxpayers shall apply for the credit by making application to the West Virginia  
21 Housing Development Fund. The West Virginia Housing Development Fund shall issue a  
22 certification for an approved application to the taxpayer. The taxpayer shall attach the certification  
23 to the applicable income tax return. The total amount of tax credits granted under this section for  
24 any fiscal year shall not exceed \$1 million.

25 (f) Each year the West Virginia Housing Development Fund shall allocate \$500,000 in tax  
26 credits for the purchase or construction of new residences and \$500,000 in tax credits for the  
27 retrofitting or renovation of existing residences or residential structures or units. If the amount of  
28 tax credits approved in a fiscal year for the purchase or construction of new residences is less  
29 than \$500,000, the Director of the West Virginia Housing Development Fund shall allocate the  
30 remaining balance of such tax credits for the retrofitting or renovation of existing residences or  
31 residential structures or units. If the amount of tax credits approved in a fiscal year for the  
32 retrofitting or renovation of existing residences or residential structures or units is less than

33 \$500,000, the Director of the West Virginia Housing Development Fund shall allocate the  
34 remaining balance of such tax credits for the purchase or construction of new residences. In the  
35 event applications for the tax credit exceed the amount allocated by the director for the fiscal year,  
36 the West Virginia Housing Development Fund shall issue the tax credits pro rata based upon the  
37 amount of tax credit approved for each taxpayer and the amount of tax credits allocated by the  
38 director.

39 (g) The director shall not issue any tax credits relating to transactions or dealings between  
40 affiliated entities. The director shall not issue any tax credits more than once to the same or  
41 different persons relating to the same retrofitting, renovation, or construction project.

42 (h) The amount of credit taken by a taxpayer pursuant to this section shall not exceed the  
43 taxpayer's income tax liability for the taxable year. If the amount of credit allowed for the taxable  
44 year in which the residence has been purchased or construction, retrofitting, or renovation of the  
45 residence or residential structure or unit has been completed exceeds the taxpayer's income tax  
46 liability imposed for such taxable year, then the amount that exceeds the tax liability may be  
47 carried over for credit against the income taxes of such taxpayer in the next seven taxable years  
48 or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits  
49 granted to a partnership, limited liability company, or electing small business corporations shall  
50 be allocated to the individual partners, members, or shareholders, respectively, in proportion to  
51 their ownership or interest in such business entities.

NOTE: The purpose of this bill is to provide a tax credit for modifications to homes made more accessible for an elderly person or a person with a disability.

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