

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 363

FISCAL
NOTE

BY SENATOR BALDWIN

[Introduced January 21, 2019; Referred
to the Committee on Finance]

1 A BILL to amend and reenact §11-6B-3 of the Code of West Virginia, 1931, as amended, relating
2 to exempting the first \$150,000 of the assessed value of a person's primary residence in
3 this state if the person is a veteran and is permanently and totally physically or mentally
4 disabled.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-3. Twenty thousand dollar homestead exemption allowed; additional exemption for disabled veterans.

1 (a) *General.* -- An exemption from ad valorem property taxes shall be allowed for the first
2 \$20,000 of assessed value of a homestead that is used and occupied by the owner thereof
3 exclusively for residential purposes, when such owner is 65 years of age or older or is certified as
4 being permanently and totally disabled provided the owner has been or will be a resident of the
5 State of West Virginia for the two consecutive calendar years preceding the tax year to which the
6 homestead exemption relates: *Provided,* That an owner who receives a similar exemption for a
7 homestead in another state is ineligible for the exemption provided by this section. The owner's
8 application for exemption shall be accompanied by a sworn affidavit stating that such owner is
9 not receiving a similar exemption in another state: *Provided, however,* That when a resident of
10 West Virginia establishes residency in another state or country and subsequently returns and
11 reestablishes residency in West Virginia within a period of five years, such resident may be
12 allowed a homestead exemption without satisfying the requirement of two years consecutive
13 residency if such person was a resident of this state for two calendar years out of the 10 calendar
14 years immediately preceding the tax year for which the homestead exemption is sought. Proof of
15 residency includes, but is not limited to, the owner's voter's registration card issued in this state
16 or a motor vehicle registration card issued in this state.

17 (b) Veteran exemption. -- Additionally, when a person is a resident of this state at the time
18 such person enters upon active duty in the military service of this country and throughout such

19 service maintains this state as his or her state of residence, and upon ~~retirement from the military~~
20 ~~service, or earlier separation from the military service~~ due to a permanent and total physical or
21 mental disability certified by a physician, attesting the person is 100 percent permanently and
22 totally physically or mentally disabled, such person returns to this state and purchases a
23 homestead, such person is deemed to satisfy the residency test required by this section and shall
24 be allowed a homestead exemption under this section for the first \$150,000 of the assessed value
25 of the person's primary residence in this state if such person is otherwise eligible for a homestead
26 exemption under this article; and the Tax Commissioner may specify, by regulation promulgated
27 under chapter 29A of this code, what constitutes acceptable proof of these facts. Only one
28 exemption shall be allowed for each homestead used and occupied exclusively for residential
29 purposes by the owner thereof, regardless of the number of qualified owners residing therein.
30 Provided, That upon the death of a person who used this exemption, the person's spouse may
31 claim the exemption so long as the spouse continues to reside in the original residence where the
32 exemption attached.

33 ~~(b)~~(c) *Attachment of exemption.* -- This exemption shall attach to the homestead occupied
34 by the qualified owner on the July first assessment date and shall be applicable to taxes for the
35 following tax year. An exemption shall not be transferred to another homestead until the following
36 July first. If the homestead of an owner qualified under this article is transferred by deed, will or
37 otherwise, the \$20,000 exemption shall be removed from the property on the next July first
38 assessment date unless the new owner qualifies for the exemption.

39 ~~(e)~~(d) *Construction.* -- The residency requirement specified in subsection (a) is enacted
40 pursuant to the Legislature's authority to prescribe by general law requirements, limitations and
41 conditions for the homestead exemption, as set forth in section one-b, article ten of the
42 Constitution of this state. Should the Supreme Court of Appeals or a federal court of competent
43 jurisdiction determine that this residency requirement violates federal law in a decision that
44 becomes final, this section shall then be construed and applied, beginning with the July first

45 assessment day immediately following the date the decision became final, as if the residency
46 requirement had not been enacted, thereby preserving the availability of the homestead
47 exemption and the fiscal integrity of local government levying bodies.

NOTE: The purpose of this bill is to exempt the first \$150,000 of the assessed value of a person's primary residence in this state if the person is a veteran and is permanently and totally physically or mentally disabled.

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