

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Introduced**

### **House Bill 2344**

**FISCAL  
NOTE**

BY DELEGATES ROWAN, PYLES, ROHRBACH AND

LOVEJOY

[Introduced January 11, 2019; Referred  
to the Committee on Seniors, Children, and Family  
Issues then 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 §11-3EE-2(b) of this code have the meanings ascribed to them by that subsection,  
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;

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

5 (b) Real estate developers are allowed a credit against the tax imposed by §11-15-1 *et*  
6 *seq.* of this code for a portion of the total amount expended in constructing a new residential

7 structure or unit or retrofitting or renovating of the existing residential structure or unit, provided  
8 that the new residential structure or unit or the retrofitting or renovating of the existing residential  
9 structure or unit is designed to improve accessibility and provide universal visitability.

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

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

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

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

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

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

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