

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3179

**FISCAL
NOTE**

BY DELEGATES MALLOW, CONLEY, MANDT AND FORSHT

[Introduced March 16, 2021; 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 property tax exemptions; providing for an exemption from increasing property tax for
3 eligible individuals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-3. Twenty thousand dollar homestead exemption allowed; Exemption on increasing property tax for eligible individuals.

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. Additionally, when a person is a resident
17 of this state at the time such person enters upon active duty in the military service of this country
18 and throughout such service maintains this state as his or her state of residence, and upon
19 retirement from the military service, or earlier separation due to a permanent and total physical or

20 mental disability, such person returns to this state and purchases a homestead, such person is
21 deemed to satisfy the residency test required by this section and shall be allowed a homestead
22 exemption under this section if such person is otherwise eligible for a homestead exemption under
23 this article; and the Tax Commissioner may specify, by regulation promulgated under chapter 29A
24 of this code, what constitutes acceptable proof of these facts. Only one exemption shall be allowed
25 for each homestead used and occupied exclusively for residential purposes by the owner thereof,
26 regardless of the number of qualified owners residing therein.

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

33 (c) (1) Subject to the provisions in subsection (a), the following classes of residents of the
34 State of West Virginia who have resided in the state for more than two years shall be exempt from
35 increasing assessed value property taxes when such property is used and occupied by the owner
36 thereof exclusively for residential purposes and the owner is:

37 (A) 65 years and older;

38 (B) Certified as being permanently and totally disabled; or

39 (C) Widowed and earn less than \$20,000 gross income per year.

40 (2) The property owned and resided in by eligible individuals shall maintain the assessed
41 value and tax rate applicable to their property at the time the resident attains eligible status as
42 defined by this section.

43 ~~(c)~~ (d) Construction. -- The residency requirement specified in ~~subsection (a)~~ this section
44 is enacted pursuant to the Legislature's authority to prescribe by general law requirements,
45 limitations and conditions for the homestead exemption, as set forth in section one-b, article ten

46 of the Constitution of this state. Should the Supreme Court of Appeals or a federal court of
47 competent jurisdiction determine that this residency requirement violates federal law in a decision
48 that becomes final, this section shall then be construed and applied, beginning with the July first
49 assessment day immediately following the date the decision became final, as if the residency
50 requirement had not been enacted, thereby preserving the availability of the homestead
51 exemption and the fiscal integrity of local government levying bodies.

NOTE: The purpose of this bill is to limit property tax increases for individuals who are over 65, permanently disabled, or widowed and earn less than \$20,000 per year.

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