

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2584

FISCAL
NOTE

By Delegates Smith, Barnhart, Cooper, Kimble,
Longanacre, Honaker, Ridenour, Hardy, Mallow,
Steele, and McGeehan

[Introduced January 16, 2023; Referred to the
Committee on Veterans' Affairs and Homeland
Security then Finance]

1 A BILL to amend and reenact §11-6B-2 and §11-6B-4 of the Code of West Virginia, 1931, as
 2 amended, all relating to taxation; homestead property tax and exemption; and allowing the
 3 exemption for the owner or partial owner who is a veteran of the United States military and
 4 has been determined by the United States Department of Veterans Affairs or its successor
 5 to have a 100 percent service connected disability.

Be it enacted by the Legislature of West Virginia:

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 under article three of this
 3 chapter.

4 ~~(2)~~ "Claimant" means a person who is age 65 or older or who is certified as being
 5 permanently and totally disabled, and who owns a homestead that is used and occupied by the
 6 owner thereof exclusively for residential purposes: *Provided*, That: (1) If the property was most
 7 recently used and occupied by the owner or the owner's spouse thereof exclusively for residential
 8 purposes; (2) the owner, as a result of illness, accident or infirmity, is residing with a family member
 9 or is a resident of a nursing home, personal care home, rehabilitation center or similar facility; and
 10 (3) the property is retained by the owner for noncommercial purposes, then the owner of that
 11 property may continue to claim a homestead property tax exemption on the property.

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

14 ~~(4)~~ "Homestead" means a single family residential house, including a mobile or
 15 manufactured or modular home, and the land surrounding such structure; or a mobile or
 16 manufactured or modular home regardless of whether the land upon which such mobile or
 17 manufactured or modular home is situated is owned or leased.

18 ~~(5)~~ "Owner" means the person who is possessed of the homestead, whether in fee or for

19 life. A person seized or entitled in fee subject to a mortgage or deed of trust shall be considered the
 20 owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate
 21 who is in possession before transfer of legal title shall also be considered the owner. Personal
 22 property mortgaged or pledged shall, for the purpose of taxation, be considered the property of the
 23 party in possession.

24 ~~(6)~~ "Permanently and totally disabled" means:

25 (A) A person who is unable to engage in any substantial gainful activity by reason of any
 26 medically determinable physical or mental condition which can be expected to result in death or
 27 which has lasted or can be expected to last for a continuous period of not less than 12 months; ~~or~~

28 (B) A disabled veteran who is considered to be 100 percent totally and permanently
 29 disabled due solely to service connected disabilities by the Department of Veterans Affairs.

30 ~~(7)~~ "Sixty-five years of age or older" includes a person who attains the age of 65 on or
 31 before June 30 following the July first assessment day.

32 ~~(8)~~ "Used and occupied exclusively for residential purposes" means that the property is
 33 used as an abode, dwelling or habitat for more than six consecutive months of the calendar year
 34 prior to the date of application by the owner thereof; and that the property is used only as an
 35 abode, dwelling or habitat to the exclusion of any commercial use: *Provided*, That failure to satisfy
 36 this six-month period shall may not prevent allowance of a homestead exemption to a former
 37 resident in accordance with §11-6B-3 of this code.

38 ~~(9)~~ "Tax year" means the calendar year following the July first assessment day.

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

§11-6B-4. Claim for exemption; renewals; waiver of exemption.

1 (a) *General.* -- No exemption shall may be allowed under this article unless a claim of
 2 exemption is filed with the assessor of the county in which the homestead is located, on or before
 3 December 1, following the July first assessment day. In the case of sickness, absence or other

4 disability of the claimant, the claim may be filed by the claimant or his or her duly authorized agent.

5 (b) *Claims for disability exemption.* -- Each claim for exemption based on the owner being
6 permanently and totally disabled shall include one of the following forms of documentation in
7 support of said claim: (1) A written certification by a doctor of medicine or doctor of osteopathy
8 licensed to practice their particular profession in this state that the claimant is permanently and
9 totally disabled; (2) a written certification by the social security administration that the claimant is
10 currently receiving benefits for permanent and total disability; (3) a copy of the letter from the social
11 security administration originally awarding benefits to the claimant for permanent and total
12 disability and a copy of a current check for such benefits, marked void; (4) a current social security
13 health insurance (Medicare) card in the name of the claimant and a copy of a current check to the
14 claimant, marked void, for benefits from the social security administration for permanent and total
15 disability; (5) a written certification signed by the veterans administration certifying that a person is
16 100 percent totally and permanently disabled due solely to service connected disabilities; (6) any
17 lawfully recognized workers' compensation documentation certifying that a person is totally and
18 permanently disabled; (7) any lawfully recognized pneumoconiosis documentation certifying that a
19 person is totally and permanently disabled; ~~or~~ (8) any ~~other~~ lawfully recognized documentation
20 certifying that a person is totally and permanently disabled.

21 (c) *Renewals.* --

22 (1) *Senior citizens.* -- If the claimant is age 65 or older, then after the claimant has filed for
23 the exemption once with his or her assessor, there shall be no need for that claimant to refile
24 unless the claimant moves to a new homestead.

25 (2) *Disabled.* -- If the claimant is permanently and totally disabled, then after the claimant
26 has filed for the exemption once with his or her assessor, and signed a statement certifying that he
27 or she will notify the assessor if he or she is no longer eligible for an exemption on the basis of
28 being permanently and totally disabled and that the claimant will notify the assessor within thirty
29 days of the discontinuance of the receipt of benefits for permanent and total disability, if the

30 claimant originally claimed receipt of said benefits to document his or her claim for exemption,
31 there shall be no need for that claimant to refile, unless the claimant moves to a new homestead.

32 (3) *Waiver of exemption.* -- Any person not filing his or her claim for exemption on or before
33 December 1, shall be determined to have waived his or her right to exemption for the next tax year.

34 (4) *Residential care exception.* — For purposes of this section, an otherwise qualified
35 claimant who, as a result of illness, accident or infirmity, resides with a family member or is a
36 resident at a nursing home, personal care home, rehabilitation center or similar facility is not
37 considered to have moved to a new homestead.

NOTE: The purpose of this bill is to allow an Homestead Property Tax Exemption to veterans who are 100 percent disabled and have been determined by the United States Department of Veterans Affairs or its successor to have a 100 percent service connected 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.