

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 3209

FISCAL  
NOTE

By Delegates Westfall and Skaff

[By Request of the Auditor's Office]

[Introduced February 02, 2023; Referred to the  
Committee on Economic Development and Tourism  
then Finance

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and §11-  
 3 13MM-6, all relating to creating the Rehabilitation of Blighted Properties Tax Credit Act;  
 4 providing for a credit against state corporate net income taxes and personal income taxes;  
 5 providing for carryback and carryforward of certain tax credits; providing for the allowance  
 6 of certain tax credits in specific taxable years; providing for the application of certain tax  
 7 credits; providing definitions; and authorizing rulemaking.

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

**ARTICLE 13MM. REHABILITATION OF BLIGHTED PROPERTIES TAX CREDIT ACT.**

**§11-13MM-1. Rehabilitation of Blighted Property Tax Credits.**

1 Tax Credit. A credit against the tax imposed by the provisions of §11-24-1 *et seq.* and §11-  
 2 21-1 *et seq.* of this code shall be allowed as follows:

3 Rehabilitation of Blighted Properties. — For blighted property, the credit is equal to 100  
 4 percent of blighted property rehabilitation and improvement expenditures: *Provided,* That the  
 5 taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout  
 6 the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any  
 7 tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or  
 8 municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property  
 9 containing the blighted property when the applicant begins to claim the credit and throughout the  
 10 time period within which the credit is claimed. This credit is available for both residential and  
 11 nonresidential buildings located in this state that are blighted property.

**§11-13MM-2. Carryback, carryforward.**

1 Any unused portion of the credit for blighted property rehabilitation and improvement  
 2 expenditures authorized by section one of this article which may not be taken in the taxable year to  
 3 which the credit applies shall qualify for carryback and carryforward treatment: *Provided,* That the  
 4 amount of such credit taken in a taxable year shall in no event exceed the tax liability due for the

5 taxable year: *Provided, however,* That any unused portion of the credit authorized by section one  
6 of this article may be carried over to each of the next five tax years following the first tax year for  
7 which the credit entitlement is authorized under this article for a specific blighted property  
8 rehabilitation and improvement expenditure until used to exhaustion or forfeited due to lapse of  
9 time.

**§11-13MM-3. Credit allowed for specific taxable years.**

1 Subject to the provisions of section three of this article, the credit authorized in section one  
2 of this article, for a specific blighted property rehabilitation and improvement expenditure made by  
3 a taxpayer in any taxable year beginning on the January 1, 2024, and thereafter, shall be allowed  
4 against the tax imposed by this article in the applicable taxable year. The tax commissioner shall  
5 require disclosure of information regarding the credits allowed in section one of this article in  
6 accordance with the provisions of section five-s, article ten of this chapter.

**§11-13MM-4. Application of credits.**

1 The credits granted, pursuant to section one of this article, to an electing small business  
2 corporation (S corporation), limited partnership, general partnership, limited liability company or  
3 multiple owners of property shall be passed through to the shareholders, partners, members or  
4 owners, either pro rata or pursuant to an agreement among the shareholders, partners, members  
5 or owners documenting an alternative distribution method. Taxpayers eligible for the credits may  
6 transfer, sell or assign the credits.

**§11-13MM-5. Definitions.**

1 As used in this code article, the term:

2 (1) "Blighted property" means a tract or parcel of real property located in West Virginia that,  
3 by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate  
4 provisions for ventilation, light, air or sanitation, high density of population and overcrowding,  
5 deterioration of site or other improvements, or the existence of conditions that endanger life or  
6 property by fire or other causes, or any combination of such factors, is detrimental to the public

7 health, safety, or welfare.

8 (2) "Blighted property rehabilitation and improvement expenditure" means a reasonable  
9 direct cost incurred by a taxpayer for the demolition, restoration or improvement of a blighted  
10 property that is reasonably anticipated to increase the fair market value of the blighted property  
11 and to cause the property to no longer qualify as blighted property: *Provided*, That the term  
12 Blighted property rehabilitation and improvement expenditure does not include acquisition costs  
13 of a blighted property, including interest incurred on indebtedness that is attributable to the  
14 acquisition, enlargement costs of a blighted property where the total volume of the building is  
15 increased, or costs attributed to work done to facilities related to the building (for example,  
16 sidewalks and parking lots).

**§11-13MM-6. Legislative rules; authority of the Tax Commissioner.**

1 (a) The Tax Commissioner shall propose rules for legislative approval in accordance with  
2 the provisions of §29A-3-1 *et seq.* of this code as may be necessary to carry out the purpose of this  
3 article.

4 (b) The Tax Commissioner may create forms and require the submission of documentation  
5 from any taxpayer who claims entitlement to the credit authorized by this article in order to verify  
6 such entitlement.

NOTE: The purpose of this bill is to provide tax credits to incentivize investments and improvements in blighted properties in West Virginia.

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