

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 569

FISCAL
NOTE

By Senators Weld, Plymale, Woelfel, Hunt, and

Woodrum

[Introduced February 06, 2023; referred
to the Committee on the Economic Development; and
then to the Committee on 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 (a) Tax Credit. A credit against the tax imposed by the provisions of §11-24-1 et seq. and
 2 §11-21-1 et seq. of this code shall be allowed as follows:

3 Rehabilitation of Blighted Properties. -- For blighted property that has been conveyed by a
 4 deed pursuant to §11A-3-59 of this code, the credit is equal to 100 percent of blighted property
 5 rehabilitation and improvement expenditures made on or after January 1, 2024 and within one
 6 year of the date of such deed: *Provided*, That the taxpayer is not entitled to this credit if, when the
 7 applicant begins to claim the credit and throughout the time period within which the credit is
 8 claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or
 9 the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is
 10 delinquent in the payment of property taxes on the property containing the blighted property when
 11 the applicant begins to claim the credit and throughout the time period within which the credit is
 12 claimed. This credit is available for both residential and nonresidential buildings located in this
 13 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 §11-13MM-1 of this code 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 §11-13MM-1
 6 of this code 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 §11-13MM-3 of this code, the credit authorized in §11-13MM-1
 2 of this code, for a specific blighted property rehabilitation and improvement expenditure made by a
 3 taxpayer in any taxable year beginning January 1, 2024, and thereafter, shall be allowed against
 4 the tax imposed by this article in the applicable taxable year. The tax commissioner shall require
 5 disclosure of information regarding the credits allowed in §11-13MM-1 of this code in accordance
 6 with the provisions of §11-10-5s of this code.

§11-13MM-4. Application of credits.

1 The credits granted, pursuant to §11-13MM-1 of this code, 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 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.