

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5134**

By Delegates Smith, Cooper, Heckert, Hillenbrand,  
Ridenour, Mazzocchi, Crouse, Sheedy, Winzenreid,  
Householder, and Criss

[Originating in the Committee on Finance; Reported  
on February 21, 2024]



1 A BILL to amend and reenact §11-13MM-2 and §11-13MM-4 of the Code of West Virginia, 1931,  
2 as amended, all relating to providing for the continuation of the disabled veteran real  
3 property tax credit for certain widowed spouses.

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

**ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.**

**§11-13MM-2.**

**Definitions.**

1 (a) General. — When used in this article, or in the administration of this article, terms  
2 defined in subsection (b) of this section have the meanings ascribed to them by this section unless  
3 a different meaning is clearly required by the context in which the term is used.

4 (b) Terms defined. —

5 (1) "Ad valorem property tax" means and is limited to the West Virginia ad valorem property  
6 tax.

7 (2) "Business" means any activity taxable under article §11-12-1 *et seq.* of this code, which  
8 is engaged in by any person in this State.

9 (3) "Disabled veteran taxpayer" means a person given an honorable discharged discharge  
10 from any branch of the armed services of the United States and who is considered at least ninety  
11 percent totally and permanently disabled due solely to service-connected disabilities by the  
12 Department of Veterans Affairs.

13 (4) "Eligible motor vehicle" means a motor vehicle on which the ad valorem property tax  
14 has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined  
15 in this article.

16 (5) "Flow-through entity," "conduit entity," or "pass through entity" means an S Corporation,  
17 partnership, limited partnership, limited liability partnership, or limited liability company. The term  
18 "flow-through entity," "conduit entity," or "pass through entity" includes a publicly traded  
19 partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity  
20 securities registered with the Securities and Exchange Commission under section 12 of Title I of

21 the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership  
22 as defined in section 7704 of the Internal Revenue Code having equity securities registered with  
23 the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange  
24 Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for  
25 federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et*  
26 *seq.* of this code for purposes of this article.

27 (6) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code:  
28 Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility  
29 terrain vehicles as defined in §20-15-2 of this code.

30 (7) "Person" means and includes an individual, a trust, estate, partnership, pass through  
31 entity, association, company, or corporation.

32 (8) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code:  
33 *Provided*: That, for the purposes of this article, the term "personal property" shall not include a  
34 working interest in any oil, natural gas, or natural gas liquid producing property or any property of a  
35 public service company.

36 (9) "Personal property taxes paid" means the aggregate of regular levies, excess levies  
37 and bond levies extended against personal property that are paid during the calendar year and  
38 determined after any application of any discount for early payment of taxes. "Personal property  
39 taxes paid" does not include any untimely ad valorem property tax paid, or any payment of  
40 delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any  
41 penalty or interest for late payment of property taxes.

42 (10) "Public service company" means a corporation or other business entity which delivers  
43 services considered essential to the public interest that are regulated by the applicable federal or  
44 state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas,  
45 telecommunications, and water, and those transporting personal property or passengers,

46 including, but not limited to, airlines, railroads, trucking, and bus companies, and which are  
47 centrally assessed by the state for property tax purposes.

48 (11) "Real property taxes paid" means the aggregate of regular levies, excess levies and  
49 bond levies that are paid during the calendar year and determined after any application of any  
50 discount for early payment of taxes. "Real property taxes paid" does not include any untimely ad  
51 valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of  
52 "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

53 (12) "Widowed spouse of a disabled veteran taxpayer" means a person who is the  
54 surviving spouse of a disabled veteran taxpayer as defined in this subsection who had previously  
55 received the disabled veteran real property tax credit authorized by §11-13MM-4 of this code:  
56 Provided, That he or she has not subsequently remarried.

**§11-13MM-4. Disabled veteran and widowed spouse of a disabled veteran real property tax credit.**

1 (a) Credit allowed. — ~~Disabled veterans~~ A veteran taxpayer or widowed spouse of a  
2 disabled veteran taxpayer may receive a tax credit against the tax imposed under §11-21-1 *et seq.*  
3 of this code in the amount of West Virginia ad valorem property tax timely paid on his or her  
4 homestead during the personal income taxable year.

5 (b) Amount of credit. — Any ~~homeowner taxpayer~~ taxpayer meeting the definition of a disabled  
6 veteran or widowed spouse of a disabled veteran under this article, shall be allowed a refundable  
7 credit against the taxes imposed by §11-21-1 *et seq.* of this code equal to the amount of West  
8 Virginia ad valorem real property taxes timely paid a county sheriff on a homestead which is used  
9 or occupied exclusively for residential purposes, as those terms are defined in §11-6B-2, during  
10 the personal income taxable year: *Provided*, That in no case shall any credit be allowed under this  
11 article for any untimely real property tax paid, or any payment of delinquent real property tax, or  
12 payment of "back tax" real property taxes.

13 (c) Application of credit against personal income tax. — The amount of credit allowed  
14 under this section shall be taken against the personal income tax liability, imposed by article §11-  
15 21-1 *et seq.* of this code, of the ~~eligible taxpayer~~ disabled veteran taxpayer or widow of a disabled  
16 veteran taxpayer.

17 (d) Refundable portion of annual credit allowance. — If the annual tax credit allowed under  
18 this article exceeds the amount of personal income tax subject to offset under this article in any  
19 taxable year, the ~~eligible taxpayer~~ disabled veteran taxpayer or widow of a disabled veteran  
20 taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

21 (e) Termination of tax credit. — Any tax credit approved in accordance with the provisions  
22 of this section shall terminate immediately when any of the following events occur:

23 (1) The death of the ~~owner of the property~~ disabled veteran taxpayer or widow of a disabled  
24 veteran taxpayer for which the tax credit was authorized;

25 (2) The sale of the property for which the tax credit was approved; or

26 (3) A determination by the assessor that the property for which the tax credit was approved  
27 no longer qualifies for the tax credit in accordance with the provisions of this section.

28 (f) Forms and instructions. — The Tax Commissioner shall prescribe and supply all  
29 necessary instructions and forms for administration of this section.