

SB 370
(Veto)

FILED

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SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 370

(By Senator Helmick, et al)

PASSED March 6, 2006

In Effect July 1, 2006 Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 370

(BY SENATORS HELMICK, FACEMYER, SHARPE, PREZIOSO,
PLYMALE, EDGELL, LOVE, BAILEY, MCCABE, UNGER, MINEAR,
BOLEY, YODER, GUILLS AND SPROUSE)

[Passed March 6, 2006; to take effect July 1, 2006.]

AN ACT to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting personal property employed exclusively in agriculture and owned by the producer from personal property taxation.

Be it enacted by the Legislature of West Virginia:

That §11-3-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

- 1 (a) All property, real and personal, described in this
- 2 subsection, and to the extent herein limited, is exempt
- 3 from taxation:

4 (1) Property belonging to the United States, other than
5 property permitted by the United States to be taxed under
6 state law;

7 (2) Property belonging exclusively to the state;

8 (3) Property belonging exclusively to any county,
9 district, city, village or town in this state and used for
10 public purposes;

11 (4) Property located in this state belonging to any city,
12 town, village, county or any other political subdivision of
13 another state and used for public purposes;

14 (5) Property used exclusively for divine worship;

15 (6) Parsonages and the household goods and furniture
16 pertaining thereto;

17 (7) Mortgages, bonds and other evidence of indebtedness
18 in the hands of bona fide owners and holders hereafter
19 issued and sold by churches and religious societies for the
20 purposes of securing money to be used in the erection of
21 church buildings used exclusively for divine worship or for
22 the purpose of paying indebtedness thereon;

23 (8) Cemeteries;

24 (9) Property belonging to, or held in trust for, colleges,
25 seminaries, academies and free schools, if used for educa-
26 tional, literary or scientific purposes, including books,
27 apparatus, annuities and furniture;

28 (10) Property belonging to, or held in trust for, colleges
29 or universities located in West Virginia, or any public or
30 private nonprofit foundation or corporation which receives
31 contributions exclusively for such college or university, if
32 the property or dividends, interest, rents or royalties
33 derived therefrom are used or devoted to educational
34 purposes of such college or university;

35 (11) Public and family libraries;

36 (12) Property used for charitable purposes and not held
37 or leased out for profit;

38 (13) Property used for the public purposes of distributing
39 water or natural gas or providing sewer service by a duly
40 chartered nonprofit corporation when such property is not
41 held, leased out or used for profit;

42 (14) Property used for area economic development
43 purposes by nonprofit corporations when such property is
44 not leased out for profit;

45 (15) All real estate not exceeding one acre in extent, and
46 the buildings thereon, used exclusively by any college or
47 university society as a literary hall, or as a dormitory or
48 clubroom, if not used with a view to profit, including, but
49 not limited to, property owned by a fraternity or sorority
50 organization affiliated with a university or college, or
51 property owned by a nonprofit housing corporation or
52 similar entity on behalf of a fraternity or sorority organi-
53 zation affiliated with a university or college, when the
54 property is used as residential accommodations or as a
55 dormitory for members of the organization;

56 (16) All property belonging to benevolent associations
57 not conducted for private profit;

58 (17) Property belonging to any public institution for the
59 education of the deaf, dumb or blind or any hospital not
60 held or leased out for profit;

61 (18) Houses of refuge and mental health facility or
62 orphanage;

63 (19) Homes for children or for the aged, friendless or
64 infirm not conducted for private profit;

65 (20) Fire engines and implements for extinguishing fires,
66 and property used exclusively for the safekeeping thereof,
67 and for the meeting of fire companies;

68 (21) All property on hand to be used in the subsistence of
69 livestock on hand at the commencement of the assessment
70 year;

71 (22) Household goods to the value of two hundred
72 dollars, whether or not held or used for profit;

73 (23) Bank deposits and money;

74 (24) Household goods, which for purposes of this section
75 means only personal property and household goods
76 commonly found within the house and items used to care
77 for the house and its surrounding property, when not held
78 or used for profit;

79 (25) Personal effects, which for purposes of this section
80 means only articles and items of personal property com-
81 monly worn on or about the human body, or carried by a
82 person and normally thought to be associated with the
83 person when not held or used for profit;

84 (26) Dead victuals laid away for family use;

85 (27) All property belonging to the state, any county,
86 district, city, village, town or other political subdivision,
87 or any state college or university which is subject to a lease
88 purchase agreement and which provides that, during the
89 term of the lease purchase agreement, title to the leased
90 property rests in the lessee so long as lessee is not in
91 default or shall not have terminated the lease as to the
92 property;

93 (28) Personal property, including vehicles that qualify
94 for a farm use exemption certificate pursuant to section
95 two, article three, chapter seventeen-a of this code and
96 livestock, employed exclusively in agriculture, as defined
97 in article ten, section one of the West Virginia Constitu-
98 tion: *Provided*, That this exemption shall only apply in the
99 case of such personal property used on a farm or farming
100 operation that annually produces for sale agricultural
101 products, as defined in rules of the Tax Commissioner; and

102 (29) Any other property or security exempted by any
103 other provision of law.

104 (b) Notwithstanding the provisions of subsection (a) of
105 this section, no property is exempt from taxation which
106 has been purchased or procured for the purpose of evading
107 taxation whether temporarily holding the same over the
108 first day of the assessment year or otherwise.

109 (c) Real property which is exempt from taxation by
110 subsection (a) of this section shall be entered upon the
111 assessor's books, together with the true and actual value
112 thereof, but no taxes may be levied upon the property or
113 extended upon the assessor's books.

114 (d) Notwithstanding any other provisions of this section,
115 this section does not exempt from taxation any property
116 owned by, or held in trust for, educational, literary,
117 scientific, religious or other charitable corporations or
118 organizations, including any public or private nonprofit
119 foundation or corporation existing for the support of any
120 college or university located in West Virginia, unless such
121 property, or the dividends, interest, rents or royalties
122 derived therefrom, is used primarily and immediately for
123 the purposes of the corporations or organizations.

124 (e) The Tax Commissioner shall, by issuance of rules,
125 provide each assessor with guidelines to ensure uniform
126 assessment practices statewide to effect the intent of this
127 section.

128 (f) Inasmuch as there is litigation pending regarding
129 application of this section to property held by fraternities
130 and sororities, amendments to this section enacted in the
131 year one thousand nine hundred ninety-eight shall apply
132 to all cases and controversies pending on the date of such
133 enactment.

134 (g) The amendment to subdivision (27), subsection (a) of
135 this section, passed during the two thousand five regular
136 session of the Legislature, shall apply to all applicable

137 lease purchase agreements in existence upon the effective
138 date of the amendment.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Cheryl White
.....
Chairman Senate Committee

K. Be...
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2006.

Darrell Holmes
.....
Clerk of the Senate

Suzanne...
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Robert...
.....
Speaker House of Delegates

The within *is disapproved* this the *15th*
Day of *May*, 2006.

Paul M. Raabe III
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 09 2006

Time 9:05