

H. B. 2980

(By Delegates Kominar, Barker,
T. Campbell, Craig, Miley, D. Poling,
M. Poling, White, Carmichael and Hamilton)

[Introduced February 1, 2011; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-3-9 of the Code of West Virginia,
1931, as amended, relating to permitting property used for
charitable purposes with youth service as its primary purpose
to be leased or generate revenue for the nonprofit
organization for intervals not longer than three weeks and
twenty-six weeks total per year to be exempt from 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.

(a) All property, real and personal, described in this
subsection, and to the extent limited by this section, is exempt
from taxation:

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

(2) Property belonging exclusively to the state;

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

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

6 (5) Property used exclusively for divine worship;

7 (6) Parsonages and the household goods and furniture
8 pertaining thereto;

9 (7) Mortgages, bonds and other evidence of indebtedness in the
10 hands of bona fide owners and holders hereafter issued and sold by
11 churches and religious societies for the purposes of securing money
12 to be used in the erection of church buildings used exclusively for
13 divine worship or for the purpose of paying indebtedness thereon;

14 (8) Cemeteries;

15 (9) Property belonging to, or held in trust for, colleges,
16 seminaries, academies and free schools, if used for educational,
17 literary or scientific purposes, including books, apparatus,
18 annuities and furniture;

19 (10) Property belonging to, or held in trust for, colleges or
20 universities located in West Virginia, or any public or private
21 nonprofit foundation or corporation which receives contributions
22 exclusively for such college or university, if the property or
23 dividends, interest, rents or royalties derived therefrom are used
24 or devoted to educational purposes of such college or university;

25 (11) Public and family libraries;

26 (12) Property used for charitable purposes and not held or

1 leased out for profit: Provided, That this exemption applies to
2 property owned by a nonprofit organization with youth service as
3 its primary purpose which is leased or used to generate revenue for
4 the nonprofit organization so long that any such lease is for
5 intervals of time no greater than three weeks, and that the total
6 number of weeks leased out per year does not exceed twenty-six
7 weeks;

8 (13) Property used for the public purposes of distributing
9 electricity, water or natural gas or providing sewer service by a
10 duly chartered nonprofit corporation when such property is not
11 held, leased out or used for profit;

12 (14) Property used for area economic development purposes by
13 nonprofit corporations when the property is not leased out for
14 profit;

15 (15) All real estate not exceeding one acre in extent, and the
16 buildings on the real estate, used exclusively by any college or
17 university society as a literary hall, or as a dormitory or
18 clubroom, if not used with a view to profit, including, but not
19 limited to, property owned by a fraternity or sorority organization
20 affiliated with a university or college or property owned by a
21 nonprofit housing corporation or similar entity on behalf of a
22 fraternity or sorority organization affiliated with a university or
23 college, when the property is used as residential accommodations or
24 as a dormitory for members of the organization;

25 (16) All property belonging to benevolent associations not
26 conducted for private profit;

1 (17) Property belonging to any public institution for the
2 education of the deaf, ~~dumb~~ or blind or any hospital not held or
3 leased out for profit;

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

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

7 (20) Fire engines and implements for extinguishing fires, and
8 property used exclusively for the safekeeping thereof, and for the
9 meeting of fire companies;

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

12 (22) Household goods to the value of \$200, whether or not held
13 or used for profit;

14 (23) Bank deposits and money;

15 (24) Household goods, which for purposes of this section means
16 only personal property and household goods commonly found within
17 the house and items used to care for the house and its surrounding
18 property, when not held or used for profit;

19 (25) Personal effects, which for purposes of this section
20 means only articles and items of personal property commonly worn on
21 or about the human body or carried by a person and normally thought
22 to be associated with the person when not held or used for profit;

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

24 (27) All property belonging to the state, any county,
25 district, city, village, town or other political subdivision or any
26 state college or university which is subject to a lease purchase

1 agreement and which provides that, during the term of the lease
2 purchase agreement, title to the leased property rests in the
3 lessee so long as lessee is not in default or shall not have
4 terminated the lease as to the property;

5 (28) Personal property, including vehicles that qualify for a
6 farm use exemption certificate pursuant to section two, article
7 three, chapter seventeen-a of this code and livestock, employed
8 exclusively in agriculture, as defined in article ten, section one
9 of the West Virginia Constitution: *Provided*, That this exemption
10 only applies in the case of such personal property used on a farm
11 or farming operation that annually produces for sale agricultural
12 products, as defined in rules of the Tax Commissioner; and

13 (29) Any other property or security exempted by any other
14 provision of law.

15 (b) Notwithstanding the provisions of subsection (a) of this
16 section, no property is exempt from taxation which has been
17 purchased or procured for the purpose of evading taxation whether
18 temporarily holding the same over the first day of the assessment
19 year or otherwise.

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

24 (d) Notwithstanding any other provisions of this section, this
25 section does not exempt from taxation any property owned by, or
26 held in trust for, educational, literary, scientific, religious or

1 other charitable corporations or organizations, including any
2 public or private nonprofit foundation or corporation existing for
3 the support of any college or university located in West Virginia,
4 unless such property, or the dividends, interest, rents or
5 royalties derived therefrom, is used primarily and immediately for
6 the purposes of the corporations or organizations.

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

10 (f) Inasmuch as there is litigation pending regarding
11 application of this section to property held by fraternities and
12 sororities, amendments to this section enacted in 1998 shall apply
13 to all cases and controversies pending on the date of such
14 enactment.

15 (g) The amendment to subdivision (27), subsection (a) of this
16 section, passed during the 2005 regular session of the Legislature,
17 shall apply to all applicable lease purchase agreements in
18 existence upon the effective date of the amendment.

NOTE: The purpose of this bill is to exempt from taxation
property which is owned by a charitable organization owned by a
nonprofit youth serving organization which is leased or used to
generate revenue for the nonprofit organization so long that any
lease is for intervals of time no greater than three weeks, and
that the total number of weeks leased out per year does not exceed
twenty-six weeks.

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

This bill was recommended for introduction and passage during the 2011 Regular Session of the Legislature by the Joint Commission on Economic Development.