

Senate Bill No. 359

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(By Senators Browning, Helmick, Kessler (Acting President),
McCabe, Prezioso, Stollings, Unger, Barnes, D. Facemire, Foster,
Jenkins, Plymale, Klempa, Beach, Yost and Williams)

[Introduced January 31, 2011; referred to the Committee on the
Judiciary; and then 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
27 leased out for profit: Provided, That this exemption applies to

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

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

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

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

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

26 (17) Property belonging to any public institution for the
27 education of the deaf, ~~dumb~~ or blind or any hospital not held or

1 leased out for profit;

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

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

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

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

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

12 (23) Bank deposits and money;

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

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

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

22 (27) All property belonging to the state, any county,
23 district, city, village, town or other political subdivision or any
24 state college or university which is subject to a lease purchase
25 agreement and which provides that, during the term of the lease
26 purchase agreement, title to the leased property rests in the
27 lessee so long as lessee is not in default or shall not have

1 terminated the lease as to the property;

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

10 (29) Any other property or security exempted by any other
11 provision of law.

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

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

21 (d) Notwithstanding any other provisions of this section, this
22 section does not exempt from taxation any property owned by, or
23 held in trust for, educational, literary, scientific, religious or
24 other charitable corporations or organizations, including any
25 public or private nonprofit foundation or corporation existing for
26 the support of any college or university located in West Virginia,
27 unless such property, or the dividends, interest, rents or

1 royalties derived therefrom, is used primarily and immediately for
2 the purposes of the corporations or organizations.

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

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

11 (g) The amendment to subdivision (27), subsection (a) of this
12 section, passed during the 2005 regular session of the Legislature,
13 shall apply to all applicable lease purchase agreements in
14 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.