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**Senate Bill No. 85**

(By Senators Sypolt and Hall)

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[Introduced January 13, 2011; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend and reenact §11-21-21 of the Code of West Virginia,  
1931, as amended, relating to changing the qualifier for low  
income to three hundred percent or less of the federal poverty  
guideline from one hundred fifty percent or less of the  
federal poverty guideline for a senior citizens' homestead tax  
credit.

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

That §11-21-21 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 21. PERSONAL INCOME TAX.**

PART I. GENERAL.

**§11-21-21. Senior citizens' tax credit for property tax paid on  
first \$10,000 of taxable assessed value of a  
homestead in this state; tax credit for property tax  
paid on the first \$20,000 of value for property tax**

1                   **years after December 31, 2006.**

2           (a) *Allowance of credit.* --

3           (1) A low-income person who is allowed a \$20,000 homestead  
4 exemption from the assessed value of his or her homestead for ad  
5 valorem property tax purposes, as provided in section three,  
6 article six-b of this chapter, ~~shall be~~ is allowed a refundable  
7 credit against the taxes imposed by this article equal to the  
8 amount of ad valorem property taxes paid on up to the first \$10,000  
9 of taxable assessed value of the homestead for property tax years  
10 that begin on or after January 1, 2003, except as provided in  
11 subdivision (2) of this subsection.

12           (2) For tax years beginning on or after January 1, 2007, a  
13 low-income person who is allowed a \$20,000 homestead exemption from  
14 the assessed value of his or her homestead for ad valorem property  
15 tax purposes, as provided in section three, article six-b of this  
16 chapter, ~~shall be~~ is allowed a refundable credit against the taxes  
17 imposed by this article equal to the amount of ad valorem property  
18 taxes paid on up to the first \$20,000 of taxable assessed value of  
19 the homestead for property tax years that begin on or after  
20 January 1, 2007: *Provided*, That for tax years beginning on and  
21 after January 1, 2009, any person who is required to pay the  
22 federal alternative minimum income tax in the current tax year is  
23 disqualified from receiving any tax credit provided under this  
24 section.

25           (3) Due to the administrative cost of processing, the

1 refundable credit authorized by this section may not be refunded if  
2 less than \$10.

3 (4) The credit for each property tax year shall be claimed by  
4 filing a claim for refund within three years after the due date for  
5 the personal income tax return upon which the credit is first  
6 available.

7 (b) *Terms defined.* --

8 For purposes of this section:

9 (1) "Low income" means federal adjusted gross income for the  
10 taxable year that is one hundred fifty percent or less of the  
11 federal poverty guideline for the year in which property tax was  
12 paid, based upon the number of individuals in the family unit  
13 residing in the homestead, as determined annually by the United  
14 States Secretary of Health and Human Services. Beginning on or  
15 after July 1, 2011, "low income" means federal adjusted gross  
16 income for the taxable year that is three hundred percent or less  
17 of the federal poverty guideline for the year in which property tax  
18 was paid, based upon the number of individuals in the family unit  
19 residing in the homestead, as determined annually by the United  
20 States Secretary of Health and Human Services.

21 (2) (A) For tax years beginning before January 1, 2007, "taxes  
22 paid" means the aggregate of regular levies, excess levies and bond  
23 levies extended against not more than \$10,000 of the taxable  
24 assessed value of a homestead that are paid during the calendar  
25 year determined after application of any discount for early payment

1 of taxes but before application of any penalty or interest for late  
2 payment of property taxes for a property tax year that begins on or  
3 after January 1, 2003, except as provided in paragraph (B) of this  
4 subdivision.

5 (B) For tax years beginning on or after January 1, 2007,  
6 "taxes paid" means the aggregate of regular levies, excess levies  
7 and bond levies extended against not more than \$20,000 of the  
8 taxable assessed value of a homestead that are paid during the  
9 calendar year determined after application of any discount for  
10 early payment of taxes but before application of any penalty or  
11 interest for late payment of property taxes for a property tax year  
12 that begins on or after January 1, 2007.

13 (c) *Legislative rule.* --

14 The Tax Commissioner shall propose a legislative rule for  
15 promulgation as provided in article three, chapter twenty-nine-a of  
16 this code to explain and implement this section.

17 (d) *Confidentiality.* --

18 The Tax Commissioner shall ~~utilize~~ use property tax  
19 information in the statewide electronic data processing system  
20 network to the extent necessary for the purpose of administering  
21 this section, notwithstanding any provision of this code to the  
22 contrary.

NOTE: The purpose of this bill is to change the qualifier for  
low income to three hundred percent or less of the federal poverty

guideline from one hundred fifty percent or less of the federal poverty guideline for a senior citizens' homestead tax credit.

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