

**H. B. 3015**

(By Delegate Fast)

[Introduced February 24, 2015; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting from property tax certain properties in this state owned by nonprofit youth organizations and built at cost of at least \$100 million whether or not the property is used for the nonprofit youth organization's charitable or nonprofit purpose to help raise funds for the benefit of the nonprofit youth organization; providing exceptions to the exemption; setting forth programs that are to be considered charitable nonprofit uses; providing where that three percent of gross revenues is to be transferred; setting forth where that revenue is to be transferred; and establishing terms.

*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 subsection, and to the extent limited by  
2 this section, is exempt from taxation:

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

5           (2) Property belonging exclusively to the state;

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

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

10          (5) Property used exclusively for divine worship;

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

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

16          (8) Cemeteries;

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

20          (10) Property belonging to, or held in trust for, colleges or universities located in West  
21 Virginia, or any public or private nonprofit foundation or corporation which receives contributions  
22 exclusively for such college or university, if the property or dividends, interest, rents or royalties

1 derived therefrom are used or devoted to educational purposes of such college or university;

2 (11) Public and family libraries;

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

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

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

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

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

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

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

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

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

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

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

4           (23) Bank deposits and money;

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

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

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

12          (27) All property belonging to the state, any county, district, city, village, town or other  
13 political subdivision or any state college or university which is subject to a lease purchase agreement  
14 and which provides that, during the term of the lease purchase agreement, title to the leased property  
15 rests in the lessee so long as lessee is not in default or shall not have terminated the lease as to the  
16 property;

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

1       (29) Property owned by a nonprofit organization whose primary purpose is youth  
2 development by means of adventure, educational or recreational activities for young people, at a  
3 nonprofit constructed facility built with the expenditure of no less than \$100 million, where such  
4 facility is capable of supporting additional activities within the region or State of West Virginia and  
5 which is leased or used to generate revenue for the nonprofit organization whether or not said  
6 property is used by the nonprofit organization for its nonprofit purpose, subject to the restrictions  
7 set forth in paragraph (A) of this subdivision. As used in this subdivision, "event," "events,"  
8 "program," or "programs" include only nonprofit youth activities designed, organized and  
9 implemented for the purposes of religious and spiritual guidance, character building, mentoring,  
10 educational and vocational training and teaching of youth.

11       (A) Real property, otherwise exempt from taxation under this subdivision, is not exempt if  
12 any of the following restrictions apply:

13       (i) Lodging or camping facilities rented on a per-night for-profit basis to the general public  
14 or operated or advertised as a public motel, hotel, bed and breakfast, or campground. However,  
15 subject to paragraph (C) of this subdivision nothing herein may be construed to prohibit the use of  
16 lodging and campground facilities by persons participating in retreats, meetings, and multiday  
17 spectator sports events being held on-site wherein on-site lodging or camping is offered as part of  
18 a program.

19       (ii) Operating any retail store located on the property that is open to persons other than who  
20 are attending programs on the property regardless of the nature of the program offered. However,  
21 this limitation does not apply to up to two gift shops at a welcome or information centers located  
22 adjacent to an entrance public highway operated by the nonprofit organization which is open to the

1 general public.

2 (iii) Utilization of zip-lines, canopy tours, wheeled sports and climbing facilities by the  
3 general public on a for-profit fee basis. However, this restriction does not preclude the sale of  
4 individual visitor passes allowing for tours and access to limited paid-admission areas of the facility  
5 open to the public for the purpose of viewing programs consistent with the owner's nonprofit  
6 purposes where zip-lines, canopy tours, wheeled sports or climbing facilities are merely components  
7 of the programs on the property used, and provided that all such visitor fees are sold subject to the  
8 applicable state and local sales tax. Except as otherwise provided, visitors purchasing one-day  
9 admissions under this provision are not allowed to rent or utilize any on-site overnight lodging or  
10 camping facilities.

11 (iv) Leasing or renting the otherwise exempt property, or portion thereof on a for-profit basis  
12 for spectator activities including, but not limited to, zip-lining, canopy tours, wheeled sports,  
13 climbing, sporting competitions, concerts, exhibitions or mass gatherings.

14 (B) Programs or activities at the facility held in conjunction with a government organization  
15 or sponsored by other nonprofit organizations serving youth, veterans, military services, public  
16 services including, fire, police, emergency and search and rescue services, government agencies,  
17 schools and universities, health care providers and similar organizations or groups which are  
18 designed to provide opportunities for learning or training in the areas of leadership, character  
19 education, science, technology, engineering, arts and mathematics (STEAM) programs, physical  
20 challenges, sustainability, conservation and outdoor learning programs shall be considered a  
21 charitable or nonprofit use for the purposes of this section.

22 (C) When exempt property or facilities are used in a manner outside the restrictions set forth

1 in this section, the owner of the exempt property shall pay an amount equal to three percent of the  
2 gross revenue for such use as follows:

3 (1) One and one-half percent of the gross revenues shall be paid quarterly to the Tourism  
4 Promotion Fund established in section twelve, article two, chapter five-b of this code.

5 (2) One and one-half percent of the gross revenues shall be paid quarterly into separate  
6 accounts established and maintained by the sheriffs of Fayette, Nicholas and Raleigh counties to be  
7 used solely for the establishment and delivery of a science, technology, engineering, art and math  
8 (STEAM) program in conjunction with the owner of the exempt property. The funds shall be divided  
9 equally for use in each county and the programs must be approved by the respective superintendents  
10 of the county board of education. Expenditures from the accounts shall be authorized by the  
11 superintendents.

12 (D) If during periods of use which are subject to the restrictions of this section merchants are  
13 allowed to do business on the property resulting in the required payments under paragraph (C ) of  
14 this subdivision, the owner or lessee of the property shall offer space to local merchants on terms at  
15 least as favorable as are offered to other merchants.

16 (E) As used herein, owner includes the owner holding record title to the property and its  
17 affiliates to the extent they are commonly owned, controlled or have the power to appoint the  
18 governing body of the affiliate.

19 (F) Nothing in this subdivision may be construed to prohibit the owner of property otherwise  
20 subject to this section from having portions of the property severed from the remainder of the  
21 property, assessed and taxed as if nonexempt and thereafter conducting business on such property  
22 the same as any other nonexempt property, with any severed property to include all surrounding

1 property which serves to support the nonexempt business or activity.

2 ~~(29)~~ (30) Any other property or security exempted by any other provision of law.

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

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

9 (d) Notwithstanding any other provisions of this section, this section does not exempt from  
10 taxation any property owned by, or held in trust for, educational, literary, scientific, religious or other  
11 charitable corporations or organizations, including any public or private nonprofit foundation or  
12 corporation existing for the support of any college or university located in West Virginia, unless such  
13 property, or the dividends, interest, rents or royalties derived therefrom, is used primarily and  
14 immediately for the purposes of the corporations or organizations.

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

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

21 (g) The amendment to subdivision (27), subsection (a) of this section, passed during the 2005  
22 five regular session of the Legislature, shall apply to all applicable lease purchase agreements in



1 existence upon the effective date of the amendment.

NOTE: The purpose of this bill is to enact enabling legislation for the "Nonprofit Youth Organization Tax Exemption Support Amendment" to Article X of the Constitution of the State of West Virginia passed by the voters of the state at the general election of November 4, 2014. The bill exempts from property tax certain properties in this state owned by nonprofit youth organizations and built at cost of at least \$100 million whether or not the property is used for the nonprofit youth organization's charitable or nonprofit purpose to help raise funds for the benefit of the nonprofit youth organization. The bill provides exceptions to the exemption. The bill sets forth programs that are to be considered charitable nonprofit uses. The bill provides for that three percent of gross revenues are to be paid in certain instances. The bill setting forth where that revenue is to be transferred. The bill establishes terms.

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