

Senate Bill No. 269

(By Senators Yost, Kessler and Facemire)

[Introduced January 20, 2015; referred to the Committee on Natural Resources; and then to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6B-2 of the Code of West Virginia, 1931, as amended; and to
amend said code by adding thereto a new section, designated §11-6B-3a, all relating to
creation of a \$20,000 annual flood zone homestead property tax exemption; defining
"high-risk area"; and providing eligibility qualifications for flood zone homestead property
tax exemption.

Be it enacted by the Legislature of West Virginia:

That §11-6B-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
and that said code be amended by adding thereto a new section, designated §11-6B-3a, all to read
as follows:

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-2. Definitions.

For purposes of this article, the term:

(1) "Assessed value" means the value of property as determined under article three of this

1 chapter.

2 (2) "Claimant" means a person who is age sixty-five or older or who is certified as being
3 permanently and totally disabled, and who owns a homestead that is used and occupied by the owner
4 thereof exclusively for residential purposes: *Provided*, That: (1) If the property was most recently
5 used and occupied by the owner or the owner's spouse thereof exclusively for residential purposes;
6 (2) the owner, as a result of illness, accident or infirmity, is residing with a family member or is a
7 resident of a nursing home, personal care home, rehabilitation center or similar facility; and (3) the
8 property is retained by the owner for noncommercial purposes, then the owner of that property may
9 continue to claim a homestead property tax exemption on the property.

10 (3) "Family member" means a person who is related by common ancestry, adoption or
11 marriage including, but not limited to, persons related by lineal and collateral consanguinity.

12 (4) "High risk area" means an area with a one percent annual chance of flooding and a
13 twenty-six percent chance over flooding over the life of a thirty-year mortgage. This matches the
14 Federal Emergency Management Agency's baseline definition for a high risk area flood zone
15 designation.

16 ~~(4)~~ (5) "Homestead" means a single family residential house, including a mobile or
17 manufactured or modular home, and the land surrounding such structure; or a mobile or
18 manufactured or modular home regardless of whether the land upon which such mobile or
19 manufactured or modular home is situated is owned or leased.

20 ~~(5)~~ (6) "Owner" means the person who is possessed of the homestead, whether in fee or for
21 life. A person seized or entitled in fee subject to a mortgage or deed of trust shall be considered the
22 owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who

1 is in possession before transfer of legal title shall also be considered the owner. Personal property
2 mortgaged or pledged shall, for the purpose of taxation, be considered the property of the party in
3 possession.

4 ~~(6)~~ (7) "Permanently and totally disabled" means a person who is unable to engage in any
5 substantial gainful activity by reason of any medically determinable physical or mental condition
6 which can be expected to result in death or which has lasted or can be expected to last for a
7 continuous period of not less than twelve months.

8 ~~(7)~~ (8) "Sixty-five years of age or older" includes a person who attains the age of sixty-five
9 on or before June 30 following the July 1 assessment day.

10 ~~(8)~~ (9) "Used and occupied exclusively for residential purposes" means that the property is
11 used as an abode, dwelling or habitat for more than six consecutive months of the calendar year prior
12 to the date of application by the owner thereof; and that the property is used only as an abode,
13 dwelling or habitat to the exclusion of any commercial use: *Provided*, That failure to satisfy this
14 six-month period shall not prevent allowance of a homestead exemption to a former resident in
15 accordance with section three of this article.

16 ~~(9)~~ (10) "Tax year" means the calendar year following the July 1 assessment day.

17 ~~(10)~~ (11) "Resident of this state" means an individual who is domiciled in this state for more
18 than six months of the calendar year.

19 **§11-6B-3a. Flood zone homestead property tax exemption.**

20 (a) An exemption from ad valorem taxes is allowed for \$20,000 of assessed value of a
21 homestead in a high risk area, so long as that homestead is used and occupied by its owner as his or
22 her primary residence and exclusively for residential purposes. Notwithstanding the provisions set

1 forth in section three of this article, this exemption may be allowed in addition to any other
2 exemption allowed for each homestead used and occupied exclusively for residential purposes by
3 its owner. Regardless of the number of other qualified owners residing in the homestead, only one
4 exemption for living in a high risk area shall be used per household.

5 (b) This exemption attaches to the homestead occupied by the qualified owner on the July
6 1 assessment date and is applicable to taxes for the following tax year. An exemption may not be
7 transferred to another homestead until July 1 of the following year. Only structures in existence at
8 the time of the enactment of this section are eligible for the homestead exemption created by this
9 section. This exemption may not attach to properties where the property owner is receiving a similar
10 exemption for a property in another state.

NOTE: The purpose of this bill is to create a \$20,000 annual flood zone homestead property tax exemption for property owners residing on homestead properties in designated flood plains.

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

§11-6B-3a is new; therefore, strike-throughs and underscoring have been omitted.