

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2963

**FISCAL
NOTE**

BY DELEGATES NELSON AND BOGGS

BY REQUEST OF THE TAX AND REVENUE DEPARTMENT

[Introduced March 13, 2017; Referred
to the Committee on Finance.]

1 A BILL to amend and reenact §11-11-17a of the Code of West Virginia, 1931, as amended;
 2 relating to terminating on a certain date provisions by which domiciliary personal
 3 representatives of nonresident decedents may apply for certain releases.

Be it enacted by the Legislature of West Virginia:

1 That §11-11-17a of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 11. ESTATE TAXES.

**§11-11-17a. Discharge of nonresident decedent's real property in absence of ancillary
 administration, termination.**

1 (a) The domiciliary personal representative of a nonresident decedent may apply to the
 2 Tax Commissioner for a certificate releasing all real property situate in this state included in
 3 decedent's gross estate from any lien imposed by section seventeen of this article. In the absence
 4 of ancillary administration in this state, the Tax Commissioner may consider reliable and
 5 satisfactory evidence furnished by the personal representative regarding the value of real property
 6 and the amount of tax due under this article, or that no tax liability exists under this article with
 7 respect to any real property.

8 (b) If the Tax Commissioner determines that reliable and satisfactory evidence exists, an
 9 affidavit of value submitted by the personal representative made pursuant to and in conjunction
 10 with the evidence shall be marked as inspected by the commissioner and shall be filed by the
 11 estate in the county or counties of this state where the real property is situate.

12 (c) In determining tax liability, the Tax Commissioner may also consider an appraisal of
 13 the real property submitted in writing to the Tax Commissioner, paid for by the personal
 14 representative and made at the personal representative's request. The appraisal shall be
 15 performed by a licensed real estate appraiser acceptable to the Tax Commissioner and it shall be
 16 filed in the county or counties where the real property is situate.

17 (d) If the Tax Commissioner is satisfied that no tax liability exists, or that the tax liability of

18 the estate has been fully discharged, the Tax Commissioner may issue a certificate under
19 subsection (f), section seventeen of this article.

20 (e) On and after July 1, 2017, the provisions of this section have no force or effect.

NOTE: The purpose of this bill is to eliminate the requirement that the personal representative of a nonresident decedent apply to the Tax Commissioner for a certificate releasing all real property situate in this state from any estate tax lien, because West Virginia does not impose an estate tax or an inheritance tax on estates of persons dying after December 31, 2004.

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