

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 139**

**FISCAL  
NOTE**

BY SENATOR SYPOLT

[Introduced January 10, 2018; Referred  
to the Committee on Finance]

1 A BILL to amend and reenact §11-21-21 of the Code of West Virginia, 1931, as amended, relating  
 2 to changing the qualifier for low income to 300 percent or less of the federal poverty  
 3 guideline from 150 percent or less of the federal poverty guideline for a senior citizens'  
 4 homestead tax credit.

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

**ARTICLE 21. PERSONAL INCOME TAX.**

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

1 (a) Allowance of credit. --

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

8 (2) For tax years beginning on or after January 1, 2007, a low-income person who is  
 9 allowed a \$20,000 homestead exemption from the assessed value of his or her homestead for ad  
 10 valorem property tax purposes, as provided in §11-6B-3 of this code, shall be allowed a refundable  
 11 credit against the taxes imposed by this article equal to the amount of ad valorem property taxes  
 12 paid on up to the first \$20,000 of taxable assessed value of the homestead for property tax years  
 13 that begin on or after January 1, 2007: *Provided*, That for tax years beginning on and after January  
 14 1, 2009, any person who is required to pay the federal alternative minimum income tax in the  
 15 current tax year is disqualified from receiving any tax credit provided under this section.

16 (3) Due to the administrative cost of processing, the refundable credit authorized by this  
 17 section may not be refunded if less than \$10.

18 (4) The credit for each property tax year shall be claimed by filing a claim for refund within

19 three years after the due date for the personal income tax return upon which the credit is first  
20 available.

21 (b) *Terms defined.* --

22 For purposes of this section:

23 (1) (A) "Low income" means federal adjusted gross income for the taxable year that is one  
24 hundred fifty percent or less of the federal poverty guideline for the year in which property tax was  
25 paid, based upon the number of individuals in the family unit residing in the homestead, as  
26 determined annually by the United States Secretary of Health and Human Services.

27 (B) For tax years beginning after December 31, 2018, "low income" means federal  
28 adjusted gross income for the taxable year that is three hundred percent or less of the federal  
29 poverty guideline for the year in which property tax was paid, based upon the number of  
30 individuals in the family unit residing in the homestead, as determined annually by the United  
31 States Secretary of Health and Human Services.

32 (2) (A) For tax years beginning before January 1, 2007, "taxes paid" means the aggregate  
33 of regular levies, excess levies and bond levies extended against not more than \$10,000 of the  
34 taxable assessed value of a homestead that are paid during the calendar year determined after  
35 application of any discount for early payment of taxes but before application of any penalty or  
36 interest for late payment of property taxes for a property tax year that begins on or after January  
37 1, 2003, except as provided in paragraph (B) of this subdivision.

38 (B) For tax years beginning on or after January 1, 2007, "taxes paid" means the aggregate  
39 of regular levies, excess levies and bond levies extended against not more than \$20,000 of the  
40 taxable assessed value of a homestead that are paid during the calendar year determined after  
41 application of any discount for early payment of taxes but before application of any penalty or  
42 interest for late payment of property taxes for a property tax year that begins on or after January  
43 1, 2007.

44 (c) *Legislative rule.* --

45           The Tax Commissioner shall propose a legislative rule for promulgation as provided in  
46 §29A-3-1 *et seq.* of this code to explain and implement this section.

47           (d) *Confidentiality.* --

48           The Tax Commissioner shall utilize property tax information in the statewide electronic  
49 data processing system network to the extent necessary for the purpose of administering this  
50 section, notwithstanding any provision of this code to the contrary.

51           (e) For tax years beginning on or after January 1, 2012, taxpayers must calculate the credit  
52 authorized in this section prior to calculating the credit authorized in §11-21-23 of this code.

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 and 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 a heading or the present law, and underscoring indicates new language that would be added.