

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 92

FISCAL
NOTE

BY SENATORS BALDWIN, CINE, JEFFRIES, LINDSAY,

ROMANO, AND FACEMIRE

[Introduced January 8, 2020; referred
to the Committee on Finance]

1 A BILL to amend and reenact §11-6B-3 of the Code of West Virginia, 1931, as amended, relating
 2 to exempting the first \$150,000 of the assessed value of a person's primary residence in
 3 this state if the person is a veteran and is permanently and totally physically or mentally
 4 disabled.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-3. Twenty thousand dollar homestead exemption allowed; additional exemption for disabled veterans.

1 (a) *General.* -- An exemption from ad valorem property taxes ~~shall be~~ is allowed for the
 2 first \$20,000 of assessed value of a homestead that is used and occupied by the owner thereof
 3 exclusively for residential purposes, when ~~such~~ the owner is 65 years of age or older or is certified
 4 as being permanently and totally disabled ~~provided if~~ if the owner has been or will be a resident of
 5 the State of West Virginia for the two consecutive calendar years preceding the tax year to which
 6 the homestead exemption relates: *Provided,* That an owner who receives a similar exemption for
 7 a homestead in another state is ineligible for the exemption provided by this section. The owner's
 8 application for exemption shall be accompanied by a sworn affidavit stating that ~~such~~ the owner
 9 is not receiving a similar exemption in another state: *Provided, however,* That when a resident of
 10 West Virginia establishes residency in another state or country and subsequently returns and
 11 reestablishes residency in West Virginia within a period of five years, ~~such~~ the resident may be
 12 allowed a homestead exemption without satisfying the requirement of two years consecutive
 13 residency if ~~such~~ the person was a resident of this state for two calendar years out of the 10
 14 calendar years immediately preceding the tax year for which the homestead exemption is sought.
 15 Proof of residency includes, but is not limited to, the owner's voter's registration card issued in
 16 this state or a motor vehicle registration card issued in this state.

17 (b) Veteran exemption. -- Additionally, when a person is a resident of this state at the time
 18 ~~such~~ the person enters upon active duty in the military service of this country and throughout such

19 service maintains this state as his or her state of residence, and upon ~~retirement from the military~~
20 ~~service, or earlier separation from the military service~~ due to a permanent and total physical or
21 mental disability ~~such~~ certified by a physician, attesting the person is 100 percent permanently
22 and totally physically or mentally disabled, the person returns to this state and purchases a
23 homestead, ~~such~~ the person is deemed to satisfy the residency test required by this section and
24 ~~shall be~~ is allowed a homestead exemption under this section for the first \$150,000 of the
25 assessed value of the person's primary residence in this state if ~~such~~ the person is otherwise
26 eligible for a homestead exemption under this article; and the Tax Commissioner may specify, by
27 ~~regulation~~ rule promulgated under chapter 29A of this code, what constitutes acceptable proof of
28 these facts. Only one exemption ~~shall be~~ is allowed for each homestead used and occupied
29 exclusively for residential purposes by the owner thereof, regardless of the number of qualified
30 owners residing therein: Provided, That upon the death of a person who used this exemption, the
31 person's spouse may claim the exemption so long as the spouse continues to reside in the original
32 residence where the exemption attached.

33 ~~(b)~~ (c) *Attachment of exemption.* -- This exemption ~~shall attach~~ attaches to the homestead
34 occupied by the qualified owner on the July first assessment date and ~~shall be~~ is applicable to
35 taxes for the following tax year. An exemption ~~shall~~ may not be transferred to another homestead
36 until the following July first. If the homestead of an owner qualified under this article is transferred
37 by deed, will or otherwise, the \$20,000 exemption shall be removed from the property on the next
38 July first assessment date unless the new owner qualifies for the exemption.

39 ~~(e)~~ (d) *Construction.* -- The residency requirement specified in subsection (a) of this
40 section is enacted pursuant to the Legislature's authority to prescribe by general law
41 requirements, limitations and conditions for the homestead exemption, as set forth in section one-
42 b, article ten of the Constitution of this state. Should the Supreme Court of Appeals or a federal
43 court of competent jurisdiction determine that this residency requirement violates federal law in a
44 decision that becomes final, this section shall then be construed and applied, beginning with the

45 July first assessment day immediately following the date the decision became final, as if the
46 residency requirement had not been enacted, thereby preserving the availability of the homestead
47 exemption and the fiscal integrity of local government levying bodies.

NOTE: The purpose of this bill is to exempt the first \$150,000 of the assessed value of a person's primary residence in this state if the person is a veteran and is permanently and totally physically or mentally disabled.

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