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FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

REGULAR SESSION, 2007



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 406

(BY SENATOR JENKINS)



[Passed March 10, 2007; in effect ninety days from passage.]

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[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §11-4-3 of the Code of West Virginia, 1931, as amended, relating to including qualified continuing care retirement communities under the provisions of the Tax Limitations Amendment; and defining "qualified continuing care retirement community" and "qualified resident".

Be it enacted by the Legislature of West Virginia:

That §11-4-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§11-4-3. Definitions.

- 1 (a) For the purpose of giving effect to the Tax
- 2 Limitations Amendment, this chapter shall be
- 3 interpreted in accordance with the following
- 4 definitions, unless the context clearly requires a
- 5 different meaning:

6 (1) "Owner" means the person, as defined in section
7 ten, article two, chapter two of this code, who is
8 possessed of the freehold, whether in fee or for life. A
9 person seized or entitled in fee subject to a mortgage or
10 deed of trust securing a debt or liability is considered
11 the owner until the mortgagee or trustee takes
12 possession, after which the mortgagee or trustee shall be
13 considered the owner. A person who has an equitable
14 estate of freehold, or is a purchaser of a freehold estate
15 who is in possession before transfer of legal title is also
16 considered the owner. Owner shall also include the
17 corporation or other organization possessed of the
18 freehold of a qualified continuing care retirement
19 community.

20 (2) "Used and occupied by the owner thereof
21 exclusively for residential purpose" means actual
22 habitation by the owner or the owner's spouse, or a
23 qualified resident of all or a portion of a parcel of real
24 property as a place of abode to the exclusion of any
25 commercial use: *Provided*, That if the parcel of real
26 property was unoccupied at the time of assessment and
27 either: (A) Was used and occupied by the owner thereof
28 exclusively for residential purposes on the first day of
29 July of the previous year assessment date; (B) was
30 unimproved on the first day of July of the previous year
31 but a building improvement for residential purposes
32 was subsequently constructed thereon between that
33 date and the time of assessment; or (C) is retained by the
34 property owner for noncommercial purposes and was
35 most recently used and occupied by the owner or the
36 owner's spouse as a residence and the owner, as a result
37 of illness, accident or infirmity, is residing with a family
38 member or is a resident in a nursing home, personal
39 care home, rehabilitation center or similar facility, then
40 the property shall be considered "used and occupied by
41 the owner thereof exclusively for residential purpose":
42 *Provided, however*, That nothing herein contained shall
43 permit an unoccupied or unimproved property to be
44 considered "used and occupied by the owner thereof
45 exclusively for residential purposes" for more than one
46 year unless the owner, as a result of illness, accident or
47 infirmity, is residing with a family member or is a

48 resident of a nursing home, personal care home,
49 rehabilitation center or similar facility. Except in the
50 case of a qualified continuing care retirement
51 community, if a license is required for an activity on the
52 premises or if an activity is conducted thereon which
53 involves the use of equipment of a character not
54 commonly employed solely for domestic as
55 distinguished from commercial purposes, the use may
56 not be considered to be exclusively residential. In the
57 case of a qualified continuing care retirement
58 community, uses attendant to the functioning of the
59 qualified continuing care retirement community,
60 including, without limitation, cafeteria, laundry,
61 personal and health care services, shall not be
62 considered a commercial use even if such activity or
63 equipment requires a separate license or payment.

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

68 (4) "Farm" means a tract or contiguous tracts of land
69 used for agriculture, horticulture or grazing and
70 includes all real property designated as "wetlands" by
71 the United States Army Corps of Engineers or the
72 United States Fish and Wildlife Service.

73 (5) "Occupied and cultivated" means subjected as a
74 unit to farm purposes, whether used for habitation or
75 not, and although parts may be lying fallow, in timber
76 or in wastelands.

77 (6) "Qualified continuing care retirement community"
78 means a continuing care retirement community: (A)
79 Owned by a corporation or other organization exempt
80 from federal income taxes under the Internal Revenue
81 Code; (B) used in a manner consistent with the purpose
82 of providing housing and health care for residents; and
83 (C) which receives no Medicaid funding under the
84 provisions of article four-b, chapter nine of this code.
85 For purposes of this section, a continuing care
86 retirement community is a licensed facility under the

87 provisions of articles five-c and five-d, chapter sixteen
88 of this code at which independent living, assisted living
89 and nursing care, if necessary, are provided to qualified
90 residents.

91 “Qualified resident” means a person who contracts
92 with a qualified continuing care retirement community
93 to reside therein, in exchange for the payment of an
94 entrance fee or deposit, or payment of periodic charges,
95 or both.

96 (b) Effective date of amendments — Amendments to
97 this section enacted during the regular session of the
98 Legislature in the year two thousand six shall have
99 retroactive effect to and including the first day of July,
100 two thousand five, and shall apply in determining tax
101 for tax years beginning the first day of January, two
102 thousand six, and thereafter.

103 Effective date of amendments — Amendments to this
104 section enacted during the regular session of the
105 Legislature in the year two thousand seven shall take
106 effect on the first day of July, two thousand seven.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ch White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Holmes
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved*..... this
the *3rd* Day of *April*....., 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2007

Time 1:30 pm