

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2586

FISCAL
NOTE

By Delegate Smith

[Introduced January 16, 2023; Referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-6B-13, relating to establishing a \$30,000 homestead exemption for
 3 taxpayers with a household income at or below U.S. Department of Health & Human
 4 Services Poverty Guidelines.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-13. \$30,000 poverty homestead exemption.

1 For purposes of this article:

2 (a) "Assessed value" means the value of property as determined pursuant to §11-3-1 et
 3 seq. and §11-4-1 et seq. of this code;

4 (b) "Claimant" means a person who owns property with a home that is used and occupied
 5 by the owner thereof exclusively for residential purposes;

6 (c) "Family member" means a person who is related by common ancestry, adoption, or
 7 marriage including, but not limited to, persons related by lineal and collateral consanguinity;

8 (d) "Federal poverty guidelines" means the poverty guidelines updated periodically in the
 9 Federal Register by the U.S. Department of Health and Human Services under the authority of 42
 10 U.S.C. §9902(2);

11 (e) "Used and occupied exclusively for residential purposes" means that the property is
 12 used as an abode, dwelling or habitat for more than six consecutive months of the assessed year
 13 prior to the date of application by the owner thereof; and that the property is used as an abode,
 14 dwelling, or habitat to the exclusion of any commercial use.

15 (f) "Tax year" means the calendar year following the July first assessment day.

16 (g) General. — An exemption from ad valorem property taxes shall be allowed for the first
 17 \$30,000 of assessed value of a homestead that is used and occupied by the owner thereof
 18 exclusively for residential purposes, when such owner is 65 years of age or older or is certified as
 19 being permanently and totally disabled and such owner is at or below the most recent version of

20 the federal poverty guidelines: *Provided*, That the claimant owner meets all other provisions
21 identified in §11-6B-3(a) and that the claimant owner has not received a similar poverty exemption
22 in another state for the same tax year: *Provided, however*, That when a resident of West Virginia
23 establishes residency in another state or country and subsequently returns and reestablishes
24 residency in West Virginia within a period of five years, such resident may be allowed a poverty
25 exemption without satisfying the requirement of two years consecutive residency if such person
26 was a resident of this state for two calendar years out of the 10 calendar years immediately
27 preceding the tax year for which the poverty exemption is sought.

28 (h) *Attachment of exemption.* — This exemption shall attach to the property occupied by
29 the qualified owner on the July 1 assessment date and shall be applicable as an exemption for the
30 following tax year. An exemption shall not be transferred to another claimant until the following July
31 1. If the property of an owner qualified under this article is transferred by deed, inheritance, or
32 otherwise, the poverty exemption shall be removed from the property on the next July 1
33 assessment date unless the new owner qualifies for the exemption.

34 (i) *Claim for exemption; renewals; waiver of exemption.*

35 (1) *General.* — No poverty exemption shall be allowed under this article unless a claim of
36 exemption is filed with the assessor of the county in which the property is located, between July 1
37 and December 1, following the July 1 assessment day. In the case of sickness, absence or other
38 disability of the claimant, the claim may be filed by the claimant or his or her duly authorized agent.
39 The claimant's application for exemption shall be accompanied by a sworn affidavit stating that the
40 claimant is not receiving a similar exemption in another state:

41 (2) *Claims for poverty exemption.* — Each yearly claim for poverty exemption shall include
42 copies of the following records:

43 (A) *The personal income tax return form for the most recent tax year filed for every person*
44 *residing in the principal residence. Federal tax returns are not required for a person residing in the*
45 *principal residence if that person was not required to file a federal income tax return in the tax year*

46 in which the poverty exemption under this section is claimed;

47 (B) Valid driver license or other form of photo identification;

48 (C) A deed, land contract, or other evidence of ownership of the property for which a
49 poverty exemption is requested; and

50 (D) Proof of residence in the property in question including, but not limited to, the claimant's
51 voter's registration card issued in this state or a motor vehicle registration card issued in this state.

52 (3) Renewals. — Automatic renewal is not authorized. The claimant must apply for a
53 poverty homestead exemption every year. The application for exemption must be submitted
54 between July 1 and December 1 following the July 1 assessment day.

55 (4) Waiver of exemption. — Any claimant not filing his or her claim for exemption on or
56 before December 1, waives his or her right to exemption for the next tax year.

57 (j) Determination; notice of denial of claim or exemption.

58 (1) The assessor shall, as soon as practicable after a claim for poverty exemption is filed,
59 review that claim and either approve or deny it. If the poverty exemption is denied, the assessor
60 shall promptly, but not later than January 1, serve the claimant with written notice explaining why
61 the poverty exemption was denied and furnish a form for filing with the county commission should
62 the claimant desire to take an appeal. The notice required or authorized by this section shall be
63 served on the claimant or his or her authorized representative either by personal service or by
64 certified mail.

65 (2) In the event that the assessor shall have information sufficient to form a reasonable
66 belief that a claimant, after having been originally granted a poverty exemption, is not eligible for
67 said poverty exemption, he or she shall deny the poverty exemption on the next assessment date
68 and shall promptly, but no later than January 1, serve the claimant with written notice explaining
69 the reasons for the denial and furnish a form for filing with the county commission should the
70 claimant desire to take an appeal.

71 (k) Appeals procedure.

72 (1) Notice of appeal; time limit. — Any claimant aggrieved by the denial of his or her claim
73 for poverty exemption or the subsequent denial of his or her poverty exemption may appeal to the
74 county commission within 30 days after receipt of written notice explaining why the poverty
75 exemption was denied.

76 (2) Review; determination; appeal. — The county commission shall complete its review
77 and issue its determination as soon as practicable after receipt of the notice of appeal, but in no
78 event later than February 28 of the tax year for which the poverty exemption is first applied. In
79 conducting its review, the county commission may hold a hearing on the claim. The assessor or
80 the claimant may apply to the circuit court of the county for review of the determination of the
81 county commission in the same manner as is provided for appeals from the county commission in
82 §11-3-25 of this code.

83 (l) Entry in property tax books. The poverty exemption of school excess levy value shall be
84 shown on the property books as a deduction from the total assessed value of the homestead.

85 (m) Forms, instructions and regulations. The Tax Commissioner shall prescribe and supply
86 all necessary instructions and forms for administration of this article. Additionally, the Tax
87 Commissioner may make propose and submit rules necessary to implement the provisions of this
88 article pursuant to the provisions of §29A-3-1 et seq. of this code.

89 (n) Criminal penalties; restitution.

90 (1) False or fraudulent claim for poverty exemption. — Any claimant who willfully files a
91 fraudulent claim for poverty exemption, and any person who knowingly assisted in the preparation
92 or filing of such fraudulent claim for poverty exemption or who knowingly supplied information
93 upon which the fraudulent claim was prepared or allowed, shall be guilty of a misdemeanor, and,
94 upon conviction thereof, shall be fined not less than \$50 nor more than \$150, or confined in jail for
95 not more than six months, or both fined and confined.

96 (2) Fraudulent assessments. — An assessor or employee of a county who, with intent to
97 defraud the state, assesses the value of the eligible poverty exemption claimant's property for an

98 amount which is in excess of its true and actual value or is in excess of the assessed value of
99 similar property in his or her county, in order to increase the cost of the poverty exemption to his or
100 her county and to thereby secure a larger reimbursement from the state, shall be guilty of a
101 misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500,
102 or confined in jail for not more than one year, or both fined and confined. Each violation of this
103 subsection shall constitute a separate offense.

104 (3) *Failure to notify assessor.* — A claimant or his or her legal representative, who, prior to
105 the next July 1, fails to notify the assessor of the county wherein property subject to the poverty
106 exemption is located, that title to that property or a portion thereof was transferred by deed, grant,
107 sale, gift, inheritance, or by other laws of this state regulating descent and distribution, that the
108 property is no longer used and occupied for residential purposes exclusively by the claimant, shall
109 be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 or
110 confined in jail for not more than one year, or both fined and confined.

111 (4) *Restitution.* — In addition to the criminal penalties provided above, upon conviction of
112 any of the above offenses, the court shall order that the defendant make restitution unto the state
113 for all taxes not paid for an improper poverty exemption for the claimant and interest thereon at the
114 legal rate until paid.

115 (5) *Effective date.* The provisions of this article shall be enacted in the tax year following
116 the year of passage.

NOTE: The purpose of this bill is to allow a \$30,000 poverty homestead exemption to an owner of a residence whose annual household income is at or below the latest federal poverty guidelines.

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