

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5134

By Delegates Smith, Cooper, Heckert, Hillenbrand,
Ridenour, Mazzocchi, Crouse, Sheedy, Winzenreid,
Householder, and Criss

[Introduced January 25, 2024; Referred to the
Committee on Veterans' Affairs and Homeland
Security then Finance]

1 A BILL to amend and reenact §11-13MM-2 and §11-13MM-4 of the Code of West Virginia, 1931,
 2 as amended, relating to providing for a deceased disabled veteran real property exemption
 3 for widowed spouses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.

§11-13MM-2.

Definitions.

1 (a) General. — When used in this article, or in the administration of this article, terms
 2 defined in subsection (b) of this section have the meanings ascribed to them by this section unless
 3 a different meaning is clearly required by the context in which the term is used.

4 (b) Terms defined. —

5 (1) "Ad valorem property tax" means and is limited to the West Virginia ad valorem property
 6 tax.

7 (2) "Business" means any activity taxable under article §11-12-1 *et seq.* of this code, which
 8 is engaged in by any person in this State.

9 (3) "Disabled veteran taxpayer" means a person honorable discharged from any branch of
 10 the armed services of the United States and who is considered at least ninety percent totally and
 11 permanently disabled due solely to service-connected disabilities by the Department of Veterans
 12 Affairs.

13 (4) "Eligible motor vehicle" means a motor vehicle on which the ad valorem property tax
 14 has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined
 15 in this article.

16 (5) "Flow-through entity," "conduit entity," or "pass through entity" means an S Corporation,
 17 partnership, limited partnership, limited liability partnership, or limited liability company. The term
 18 "flow-through entity," "conduit entity," or "pass through entity" includes a publicly traded
 19 partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity
 20 securities registered with the Securities and Exchange Commission under section 12 of Title I of

21 the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership
22 as defined in section 7704 of the Internal Revenue Code having equity securities registered with
23 the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange
24 Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for
25 federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et*
26 *seq.* of this code for purposes of this article.

27 (6) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code:
28 Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility
29 terrain vehicles as defined in §20-15-2 of this code.

30 (7) "Person" means and includes an individual, a trust, estate, partnership, pass through
31 entity, association, company, or corporation.

32 (8) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code:
33 *Provided*: That, for the purposes of this article, the term "personal property" shall not include a
34 working interest in any oil, natural gas, or natural gas liquid producing property or any property of a
35 public service company.

36 (9) "Personal property taxes paid" means the aggregate of regular levies, excess levies
37 and bond levies extended against personal property that are paid during the calendar year and
38 determined after any application of any discount for early payment of taxes. "Personal property
39 taxes paid" does not include any untimely ad valorem property tax paid, or any payment of
40 delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any
41 penalty or interest for late payment of property taxes.

42 (10) "Public service company" means a corporation or other business entity which delivers
43 services considered essential to the public interest that are regulated by the applicable federal or
44 state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas,
45 telecommunications, and water, and those transporting personal property or passengers,

46 including, but not limited to, airlines, railroads, trucking, and bus companies, and which are
 47 centrally assessed by the state for property tax purposes.

48 (11) "Real property taxes paid" means the aggregate of regular levies, excess levies and
 49 bond levies that are paid during the calendar year and determined after any application of any
 50 discount for early payment of taxes. "Real property taxes paid" does not include any untimely ad
 51 valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of
 52 "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

53 (12) "Disabled veteran taxpayer – Eligible Widowed Spouse" means a person who is the
 54 un-remarried surviving spouse of a disabled veteran taxpayer referred to in paragraph (b)(3) of this
 55 section who was already receiving the disabled veteran real property tax credit referred to in §11-
 56 13MM-4.

§11-13MM-4. Disabled veteran real property tax credit.

1 (a) Credit allowed. — Disabled veterans and eligible widowed spouses may receive a tax
 2 credit against the tax imposed under §11-21-1 *et seq.* of this code in the amount of West
 3 Virginia ad valorem property tax timely paid on his or her homestead during the personal income
 4 taxable year.

5 (b) Amount of credit. — Any homeowner meeting the definition of a disabled veteran or
 6 eligible widowed spouses under this article, shall be allowed a refundable credit against the taxes
 7 imposed by §11-21-1 *et seq.* of this code equal to the amount of West Virginia ad valorem real
 8 property taxes timely paid a county sheriff on a homestead which is used or occupied exclusively
 9 for residential purposes, as those terms are defined in §11-6B-2, during the personal income
 10 taxable year: *Provided*, That in no case shall any credit be allowed under this article for any
 11 untimely real property tax paid, or any payment of delinquent real property tax, or payment of
 12 "back tax" real property taxes.

13 (c) Application of credit against personal income tax. — The amount of credit allowed
 14 under this section shall be taken against the personal income tax liability, imposed by article §11-

15 21-1 *et seq.* of this code, of the eligible taxpayer.

16 (d) Refundable portion of annual credit allowance. — If annual tax credit allowed under this
17 article exceeds the amount of personal income tax subject to offset under this article in any taxable
18 year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax
19 credit.

20 (e) Termination of tax credit. — Any tax credit approved in accordance with the provisions
21 of this section shall terminate immediately when any of the following events occur:

22 (1) The death of the owner of the property for which the tax credit was authorized, unless
23 survived by an eligible widowed spouse wherein the tax credit is terminated upon their death;

24 (2) The sale of the property for which the tax credit was approved; or

25 (3) A determination by the assessor that the property for which the tax credit was approved
26 no longer qualifies for the tax credit in accordance with the provisions of this section.

27 (f) Forms and instructions. — The Tax Commissioner shall prescribe and supply all
28 necessary instructions and forms for administration of this section.

NOTE: The purpose of this bill is to provide for a deceased disabled veteran real property exemption for widowed spouses.

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