

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled

Senate Bill 803

BY SENATOR WOODRUM

[Passed March 9, 2024; in effect from passage]

1 AN ACT to amend and reenact §11-4-3 of the Code of West Virginia, 1931, as amended, relating
2 to definitions used for assessment of real property; providing definitions for immediate
3 family member and family trust; providing that owner includes homeowners who have
4 vacated their homes under certain circumstances; including use by an immediate family
5 member in definition of used and occupied by the owner thereof exclusively for residential
6 purposes; and providing for owner when freehold possessed by a family trust.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§11-4-3. Definitions.

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

4 "Owner" means the person, as defined in §2-2-10 of this code, who is possessed of the
5 freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed
6 of trust securing a debt or liability is considered the owner until the mortgagee or trustee takes
7 possession, after which the mortgagee or trustee shall be considered the owner. A person who
8 has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession
9 before transfer of legal title is also considered the owner. Owner includes the corporation or other
10 organization possessed of the freehold of a qualified continuing care retirement community.
11 Owner includes homeowners who have vacated their owner-occupied, single-family, residential
12 property, which was their most recent primary residence, and have listed that property for sale
13 with a licensed real estate broker, and have not leased said property to anyone since vacating
14 said property. Owner means the person who is using and occupying all or a portion of a parcel
15 of real estate the freehold of which is possessed by a family trust: *Provided*, That the parcel is
16 used and occupied by the owner thereof exclusively for residential purposes.

17 “Used and occupied by the owner thereof exclusively for residential purpose” means
18 actual habitation by the owner, or the owner’s spouse, an immediate family member of the owner,
19 or a qualified resident of all or a portion of a parcel of real property as a place of abode to the
20 exclusion of any commercial use: *Provided*, That if the parcel of real property was unoccupied at
21 the time of assessment and either:

22 (A) Was used and occupied by the owner thereof exclusively for residential purposes on
23 July 1, of the previous year assessment date;

24 (B) Was unimproved on July 1, of the previous year but a building improvement for
25 residential purposes was subsequently constructed thereon between that date and the time of
26 assessment; or

27 (C) Is retained by the property owner for noncommercial purposes and was most recently
28 used and occupied by the owner, or the owner’s spouse, or an immediate family member of the
29 owner as a residence and the owner, as a result of illness, accident or infirmity, is residing with a
30 family member or is a resident in a nursing home, personal care home, rehabilitation center or
31 similar facility, then the property shall be considered “used and occupied by the owner thereof
32 exclusively for residential purpose”: *Provided*, That nothing herein contained permits an
33 unoccupied or unimproved property to be considered “used and occupied by the owner thereof
34 exclusively for residential purposes” for more than one year unless the owner, as a result of
35 illness, accident or infirmity, is residing with a family member or is a resident of a nursing home,
36 personal care home, rehabilitation center or similar facility. Except in the case of a qualified
37 continuing care retirement community, if a license is required for an activity on the premises or if
38 an activity is conducted thereon which involves the use of equipment of a character not commonly
39 employed solely for domestic as distinguished from commercial purposes, the use may not be
40 considered to be exclusively residential. I Qualified continuing care retirement community uses
41 attendant to the functioning of the qualified continuing care retirement community, including,

42 without limitation, cafeteria, laundry, personal and health care services, may not be considered
43 commercial uses even if such activity or equipment requires a separate license or payment.

44 "Family member" means a person who is related by common ancestry, adoption or
45 marriage including, but not limited to, persons related by lineal and collateral consanguinity.

46 "Family trust" means a trust the beneficiaries of which include only the person who is
47 possessed of the freehold and his or her immediate family members.

48 "Immediate family member" means a spouse, child, sibling, parent, grandparent, or
49 grandchild. This includes stepparents, stepchildren, stepsiblings, sons-in-law, daughters-in-law,
50 fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, and adoptive relationships.

51 "Farm" means a tract or contiguous tracts of land used for agriculture, horticulture or
52 grazing and includes all real property designated as "wetlands" by the United States Army Corps
53 of Engineers or the United States Fish and Wildlife Service.

54 "Occupied and cultivated" means subjected as a unit to farm purposes, whether used for
55 habitation or not, and although parts may be lying fallow, in timber or in wastelands.

56 "Qualified continuing care retirement community" means a continuing care retirement
57 community:

58 (A) Owned by a corporation or other organization exempt from federal income taxes under
59 the Internal Revenue Code;

60 (B) Used in a manner consistent with the purpose of providing housing and health care for
61 residents; and

62 (C) Which receives no Medicaid funding under the provisions of §9-4B-1 *et seq.* of this
63 code. For purposes of this section, a continuing care retirement community is a licensed facility
64 under the provisions of §16-5C-1 *et seq.* and §16-5D-1 *et seq.* of this code at which independent
65 living, assisted living, and nursing care, if necessary, are provided to qualified residents.

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

69 (b)(1) Amendments to this section enacted during the 2006 regular session of the
70 Legislature shall have retroactive effect to and including July 1, 2005, and shall apply in
71 determining tax for tax years beginning January 1, 2006, and thereafter.

72 (2) Amendments to this section enacted during the 2007 regular session of the Legislature
73 shall take effect on July 1, 2007.

74 (3) Amendments to this section enacted during the 2024 regular session of the Legislature
75 shall take effect on July 1, 2024.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

In effect from passage.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2024.

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Governor