WEST VIRGINIA CODE: §11-4-3

§11-4-3. Definitions.

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

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

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

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

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

(C) Is retained by the property owner for noncommercial purposes and was most recently used and occupied by the owner, or the owner's spouse, or an immediate family member of the owner as a residence and the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident in a nursing home, personal care home, rehabilitation center or similar facility, then the property shall be considered "used and occupied by the owner thereof exclusively for residential purpose": *Provided*, That nothing herein contained permits an unoccupied or unimproved property to be considered "used and occupied by the owner thereof exclusively for residential purposes" for more than one year

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unless the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident of a nursing home, personal care home, rehabilitation center or similar facility. Except in the case of a qualified continuing care retirement community, if a license is required for an activity on the premises or if an activity is conducted thereon which involves the use of equipment of a character not commonly employed solely for domestic as distinguished from commercial purposes, the use may not be considered to be exclusively residential. I Qualified continuing care retirement community uses attendant to the functioning of the qualified continuing care retirement community, including, without limitation, cafeteria, laundry, personal and health care services, may not be considered commercial uses even if such activity or equipment requires a separate license or payment.

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

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

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

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

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

“Qualified continuing care retirement community” means a continuing care retirement community:

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

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

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

“Qualified resident” means a person who contracts with a qualified continuing care retirement community to reside therein, in exchange for the payment of an entrance fee or

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deposit, or payment of periodic charges, or both.

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

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

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

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