AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, providing, as a public purpose, general relief for low income citizens who are sixty-five years of age or over to aid them in providing or maintaining a homestead, by authorizing a claim for relief to be filed with the state tax commissioner and payment thereof from state funds, the amount of relief to be measured in part by the real property taxes or that portion of rent attributable to real property taxes paid by any such citizen; providing a rule of construction; defining terms; providing for computation of the amount of such claims for relief; providing limitations with respect thereto; authorizing tables for such claims for relief; relating to forms and instructions in connection with such claims for relief; relating to maximum participation under said article twenty-five; relating to proof of claims for relief; requiring cooperation of landlord; providing there may only be one claimant for a homestead for a particular calendar year; establishing filing date for any such claim for relief; providing for waiver of claims in the event of late claims therefor; authorizing extension of filing date and amended claims for relief; providing for disbursement from state funds to pay claims for relief; providing that any such claim for relief is personal; relating to payment of any claim for relief to legal guardian, committee,
executor or administrator or other persons or the escheat thereof to the state; providing for offsets against any such claim for relief; relating to the denial of any such claim for relief and the grounds therefor; providing for criminal offenses; providing criminal penalties; authorizing disallowance of portion of any such claim which is excessive; relating to recovery of improper payments and interest thereon; relating to hearings and appeals; incorporating certain provisions of article thirteen of said chapter eleven; providing a severability clause; and providing effective date of said article twenty-five.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-five, to read as follows:

ARTICLE 25. TAX RELIEF FOR ELDERLY HOMEOWNERS AND RENTERS.

§11-25-1. Declaration of purpose; rule of construction.

1 This article is enacted to provide general relief for low income citizens who are sixty-five years of age or over to aid them in providing or maintaining a homestead, by authorizing a claim for relief to be filed with the state tax commissioner and payment thereof from state funds, the amount of relief to be measured in part by the real property taxes or that portion of rent attributable to real property taxes paid by any such citizen, and the providing of such general relief is hereby declared to be a public purpose. This article shall, therefore, be liberally construed.


1 When used in this article, unless the context clearly requires a different meaning:
2 (1) “Claimant” means a person sixty-five years of age or older who was domiciled in this state during any portion of the calendar year preceding the year in which the claimant is eligible to file a claim for relief under
this article and who had a gross household income of
not more than five thousand dollars during the calendar
year preceding the year in which he is eligible to file a
claim for relief under this article. If two or more indi-
viduals, who otherwise qualify as claimants under this
article, occupy a single homestead, such individuals may
determine between themselves as to which individual
shall be the claimant; however, if such individuals are
unable to agree, the matters shall be referred to the state
tax commissioner for determination and his decision shall
be final.

(2) "Claimant's spouse" means the spouse of the claim-
ant if such spouse resides in the homestead during any
portion of the calendar year preceding the year in
which the claimant is eligible to file a claim for relief
under this article.

(3) "Gross household income" means all actual income
received by a claimant and the claimant's spouse during
the calendar year preceding the year in which he is
eligible to file a claim for relief under this article and
such actual income shall be computed by adding to the
West Virginia adjusted gross income (as that term is
defined in section twelve, article twenty-one of this
chapter) of such claimant and the claimant's spouse all
of the following actually received by the claimant and
claimant's spouse during such calendar year:

(a) Amount of capital gains excluded from West
Virginia adjusted gross income;

(b) Support money;

(c) Nontaxable strike benefits;

(d) Cash public assistance, welfare and relief but
not any relief under this article;

(e) Gross amount of any pension or annuity, including
railroad retirement benefits;

(f) Social security benefits;

(g) Unemployment compensation benefits;

(h) Veterans disability pensions;

(i) Workmen's compensation benefits; and

(j) Private disability insurance benefits.
Gross household income does not include gifts from non-governmental sources, or surplus foods or other relief in kind supplied by a governmental agency.

(4) "Gross rent" means the total amount of money or its equivalent actually paid by a claimant during a particular calendar year to his landlord in a bona fide manner solely for the right of occupancy of a homestead, exclusive of any charges for utilities, services, furniture, furnishings or electrical or other appliances furnished by such landlord to such claimant; and if the state tax commissioner determines that the rent charged was excessive for the purposes of this article, he may adjust the same, for the purposes of this article, to a reasonable amount.

(5) "Homestead" means a single family residential house and the land surrounding such structure; or a part of a multi-dwelling, multi-purpose building or apartment house; or a mobile home which is used as a permanent residence and the land upon which such mobile home is situate; and it is immaterial for the purposes of this article whether the foregoing are being purchased, are owned or are rented.

(6) "Household" means a claimant, a claimant and the claimant's spouse or a claimant and any other person or persons, who resides or reside in a homestead.

(7) "Property taxes" means the amount of the real property taxes, exclusive of any interest or charges for delinquency thereof, paid by a claimant on his homestead beginning with the calendar year one thousand nine hundred seventy-two, and for any particular calendar year thereafter: Provided, That if a homestead is owned by a claimant and a persons or persons (other than the claimant's spouse) as joint tenants or as tenants in common, and such person or persons owning such interest in such homestead do not reside in such homestead, then for the purposes of this article, the property taxes paid by the claimant shall be prorated according to such claimant's percentage of ownership of such homestead: Provided, however, That if the claimant's homestead is a single unit within any multi-dwelling building, multi-
purpose building or apartment house, and such claimant owns the entirety of any such structure, the property taxes paid by the claimant, for the purposes of this article shall be prorated so as to reflect the percentage of value which the claimant's homestead is to the value of the entire structure which is assessed in a single assessment based upon the entire property.

(8) "Rent constituting property taxes" means twelve percent of the gross rent paid by a claimant for the right of occupancy of his homestead beginning with the calendar year one thousand nine hundred seventy-two, and for any particular calendar year thereafter.

§11-25-3. Computation of relief; limits and tables.

(a) The amount of any claim for relief pursuant to this article shall be limited as follows:

(1) If the gross household income of the claimant or of the claimant and the claimant's spouse was five hundred dollars or less during the calendar year to which the claim relates, the claim shall be limited to seventy-five percent of the amount of the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead.

(2) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than five hundred dollars but not in excess of one thousand dollars during the calendar year to which the claim relates, the claim shall be limited to seventy-five percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars.

(3) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than one thousand dollars but not in excess of two thousand dollars during the calendar year to which the claim relates, the claim shall be limited to sixty percent of the amount by which the property taxes, or rent constituting
property taxes, or both, in such year on or with respect to the claimant’s homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars and (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars.

(4) If the gross household income of the claimant or of the claimant and the claimant’s spouse was more than two thousand dollars but not in excess of three thousand dollars during the calendar year to which the claim relates, the claim shall be limited to forty-five percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant’s homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars, (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars, (iv) two percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars and (v) two and one-half percent of that portion of gross household income in excess of two thousand five hundred dollars but not in excess of three thousand dollars.

(5) If the gross household income of the claimant or of the claimant and the claimant’s spouse was more than three thousand dollars but not in excess of four thousand dollars during the calendar year to which the claim relates, the claim shall be limited to thirty percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant’s homestead are in excess of (i) one half
(6) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than four thousand dollars but not in excess of five thousand dollars during the calendar year to which the claim relates, the claim shall be limited to thirty percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars, (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars, (iv) two percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars, (v) two and one-half percent of that portion of gross household income in excess of three thousand dollars but not in excess of three thousand five hundred dollars and (vi) three percent of that portion of gross household income in excess of three thousand five hundred dollars but not in excess of four thousand dollars.
of two thousand five hundred dollars but not in excess
of three thousand dollars, (vi) three percent of that
portion of gross household income in excess of three
cent thousand dollars but not in excess of three thousand five
cent hundred dollars, (vii) three and one-half percent of that
portion of gross household income in excess of three
cent five hundred dollars but not in excess of four
cent thousand dollars, (viii) four percent of that portion of
gross household income in excess of four thousand dollars
but not in excess of four thousand five hundred dollars
and (ix) four and one-half percent of that portion of
gross household income in excess of four thousand five
cent hundred dollars but not in excess of five thousand dollars.

(b) In any case in which the property taxes, or rent
constituting property taxes, or both, during any one
calendar year on or with respect to any homestead exceed
one hundred twenty-five dollars, the amount thereof shall,
for purposes of this article, be deemed to have been one
cent hundred twenty-five dollars.

(c) The state tax commissioner shall prepare a table
under which claims under this article shall be determined.
The table shall be published in the department's official
rules and regulations and shall be printed on the appro-
priate claim forms. The amount of relief as shown in the
table for each bracket shall be computed only to the
nearest ten cents.

§11-25-4. Forms and instructions; maximum participation.

The state tax commissioner shall prescribe and make
available claim forms with instructions for claimants,
and every assessor and sheriff shall comply with all
reasonable requests and rules and regulations of the
state tax commissioner in order to encourage maximum
participation of claimants eligible for relief under the
provisions of this article.

§11-25-5. Proof of claim; landlord's cooperation required;
limitations.

Every claimant who is a homestead owner shall supply
to the state tax commissioner, in support of his claim,
reasonable proof of property taxes paid, information as
to the size and nature of the property claimed as the
homestead and a statement that the real property taxes
thereon have been paid by him and that there are no
delinquent real property taxes on the homestead.
Every claimant who is a homestead renter shall supply
to the state tax commissioner, in support of his claim,
reasonable proof, as required by the state tax commis-
sioner, of rent paid and the name and address of the
owner or managing agent of the property rented. The
claimant’s landlord shall at the claimant’s request sign
a statement setting forth the gross rent paid by the
claimant for the particular calendar year. Any landlord
who willfully furnishes a false or fraudulent statement,
or who willfully fails to furnish a statement in the man-
er, at the time, and showing the information required
by the claimant in order to file a timely claim, shall for
each such violation be guilty of a misdemeanor, and,
upon conviction thereof, shall be fined an amount not
exceeding fifty dollars.
Only one claimant for a homestead for a calendar year
shall be entitled to relief under this article.

§11-25-6. Filing date.
No claim for relief shall be paid or allowed unless such
claim for relief is actually filed with and in the possession
of the state tax commissioner between and including the
respective dates of July one and September thirty fol-
lowing the calendar year with respect to which the claim
for relief under the provisions of this article is based.
Persons not filing claims for relief as provided by this
article within the appropriate ninety-day filing period
are deemed to have waived all claims for relief for that
particular calendar year. A claimant filing a timely claim
for relief may submit an amended claim for relief within
two years following the close of the appropriate filing
period.
In case of sickness, absence or other disability of the
claimant or if, in the state tax commissioner’s judgment
good cause exists, the state tax commissioner may extend
the time for filing a claim for relief for a period not to
exceed six months.
§11-25-7. Claim as disbursement from state funds; claim is personal; offset.

1 Upon the state tax commissioner’s determination that a claimant is entitled to relief under the provisions of this article, and after audit and certification of his claim for relief, such relief shall be paid upon a state warrant drawn upon the state treasury from balances retained for general purposes. The right to file a claim for relief under this article is personal to the claimant and shall not survive his death except that the spouse of such decedent shall be entitled to file such claim if decedent had not filed the same. In the event the claimant is incompetent or insane, his claim may be filed by his duly appointed and qualified legal guardian or committee. If a claimant dies after having filed a timely claim for relief under the provisions of this article, and the state tax commissioner determines that such relief or any portion thereof is proper, then such relief or portion thereof shall be paid to such claimant’s executor or administrator: Provided,

That if an executor or administrator has not been appointed and qualified within a reasonable time after the claimant’s death, the state tax commissioner may in his discretion pay such relief to any person residing in the claimant’s homestead if there be such person and if there be no such other person residing in such homestead, the amount of such relief shall escheat to the state. The amount of any claim for relief otherwise payable under this article may be applied by the state tax commissioner against any liability outstanding on the books of the commissioner against the claimant.

§11-25-8. Denial of claim; violation and penalties.

1 If it is determined that a claim for relief was filed by a claimant who was the recipient of public fund for the payment of his real property taxes or rent during the period for which the claim for relief was filed, or that such claimant received title to his homestead primarily for the purpose of receiving relief under this article, or that a claim for relief was filed with fraudulent intent, such claim for relief shall be disallowed in full, and, if
any such claim for relief has been paid, the amount paid
may be recovered by assessment in the same manner as
taxes are assessed under article thirteen of this chapter
and the assessment shall bear interest from the date of
payment of the claim for relief, until refunded to the state
tax commissioner, at the rate of one percent per month.
Any claimant willfully and knowingly filing a fraudulent
claim for relief, and any person who assisted in the prep-
aration or filing of such fraudulent claim for relief or
supplied information upon which such fraudulent claim
for relief was prepared, with knowledge of such fraudu-
ment intent of the claimant, shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
less than fifty nor more than one hundred dollars, or im-
prisoned in the county jail not more than six months, or
both fined and imprisoned. If it is determined that a
claim for relief is excessive and was through negligence
incorrectly prepared, ten percent of the corrected claim
for relief shall be disallowed, and if the claim for relief
has been paid, the excessive portion of any amount paid
and the ten percent disallowed shall be similarly recov-
ered by assessment in the same manner as taxes are as-
sessed under article thirteen of this chapter and the assess-
ment shall bear interest from the date of payment of
the claim for relief until refunded to the state tax com-
missioner at the rate of one percent per month.


Any claimant aggrieved by the denial in whole or in
part of his claim for relief, except when the denial is
based upon the late filing of a claim for relief, may de-
mand a hearing within thirty days after such denial by
filing with the state tax commissioner a verified petition
for hearing, which petition shall set forth with definite-
ness and particularity the reasons for objecting to such
denial. In every case where a petition is filed, the state
tax commissioner shall assign a time and place for a
hearing upon the same and shall proceed in accordance
with the provisions of article thirteen of this chapter and
all of the applicable provisions of said article thirteen shall
be applicable with like effect as if the petition were a
petition for reassessment as provided in said article thirteen. In connection with holding any such hearing, the state tax commissioner shall have all of the relevant powers and authority set forth in said article thirteen. An appeal from a final decision of the state tax commissioner made after any such hearing may be taken by the claimant in accordance with the provisions of said article thirteen of this chapter, and such appeal shall be processed and determined with like effect as if said claimant were a “taxpayer” as that term is used in said article thirteen.

§11-25-10. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

§11-25-11. Effective date.

The provisions of this article shall take effect on the first day of January, one thousand nine hundred seventy-two.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

In Effect July 1, 1972.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within [Approved] this the 21st day of March, 1972.

[Signature]
Governor