

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time \_\_\_\_\_

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1981**

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**ENROLLED**

**SENATE BILL NO. 670**

(By Mr. McGraw, Mr. President, et al.)

—•—

PASSED April 11, 1981

In Effect July 1, 1981 ~~Passage~~

—•—

No. 670

**ENROLLED**  
**Senate Bill No. 670**

(By MR. MCGRAW, MR. PRESIDENT, and MR. WILLIAMS)

[Passed April 11, 1981; in effect July 1, 1981.]

AN ACT to repeal section twenty-one, article four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said chapter eleven by adding thereto a new article, designated article six-b, all relating generally to the ad valorem property tax homestead exemption; defining terms; providing for allowance of exemption to persons age sixty-five or older or who are permanently and totally disabled; requiring the filing of claim for exemption and annual certification of permanent and total disability; providing for waiver of exemption for failure to timely file; providing procedures for review of claims and for determination and payment of reimbursements; creating the homestead property tax exemption fund; providing for criminal penalties, severability and effective date.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-one, article four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter eleven be amended by adding thereto a new article, designated article six-b, all to read as follows:

**ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.**

**§11-6B-1. Declaration of purpose.**

1     This article is enacted to implement the amendment to  
2     article X, section one-b of the constitution increasing the ad  
3     valorem property tax homestead exemption, which was

4 ratified by the people at the general election held on the  
5 fourth day of November, one thousand nine hundred eighty.

**§11-6B-2. Definitions.**

1 For purposes of this article, the term:

2 (1) "Assessed value" means the value of property as  
3 determined under article three of this chapter.

4 (2) "Claimant" means a person who is age sixty-five or  
5 older or who is certified as being permanently and totally  
6 disabled, and who owns a homestead that is used and  
7 occupied by the owner thereof exclusively for residential  
8 purposes.

9 (3) "Homestead" means a single family residential house,  
10 including a modular home, and the land surrounding such  
11 structure; or a mobile home regardless of whether the land  
12 upon which such mobile home is situated is owned or leased.

13 (4) "Owner" means the person who is possessed of the  
14 homestead, whether in fee or for life. A person seized or  
15 entitled in fee subject to a mortgage or deed of trust securing  
16 a debt or liability shall be deemed the owner until the  
17 mortgagee or trustee takes possession, after which such  
18 mortgagee or trustee shall be deemed the owner. A person  
19 who has an equitable estate of freehold, or is a purchaser of a  
20 freehold estate who is in possession before transfer of legal  
21 title shall also be deemed the owner. Personal property  
22 mortgaged or pledged shall, for the purpose of taxation, be  
23 deemed the property of the party in possession.

24 (5) "Permanently and totally disabled" means a person  
25 who is unable to engage in any substantial gainful activity by  
26 reason of any medically determinable physical or mental  
27 condition which can be expected to result in death or which  
28 has lasted or can be expected to last for a continuous period  
29 of not less than twelve months.

30 (6) "Sixty-five years of age or older" includes a person  
31 who attains the age of sixty-five on or before the thirtieth day  
32 of June following the July first assessment date.

33 (7) "Used and occupied exclusively for residential  
34 purposes" means that the property is used as an abode,  
35 dwelling or habitat for more than one half of the year by the  
36 owner and that the property is used only as an abode,  
37 dwelling or habitat to the exclusion of any commercial use.

38 (8) "Tax year" means the calendar year following the July  
39 first assessment day.

**§11-6B-3. Ten thousand dollar homestead exemption allowed.**

- 1 (a) *General*.—An exemption from ad valorem property  
2 taxes shall be allowed for the first ten thousand dollars of  
3 assessed value of a homestead that is used and occupied by  
4 the owner thereof exclusively for residential purposes, when  
5 such owner is sixty-five years of age or older or is certified as  
6 being permanently and totally disabled. Only one exemption  
7 shall be allowed for each homestead used and occupied  
8 exclusively for residential purposes by the owner thereof,  
9 regardless of the number of qualified owners residing therein.
- 10 (b) *Attachment of exemption*.—This exemption shall  
11 attach to the homestead occupied by the qualified owner on  
12 the July first assessment date and shall be applicable to taxes  
13 for the following tax year. An exemption shall not be  
14 transferred to another homestead until the following July  
15 first. If the homestead of an owner qualified under this article  
16 is transferred by deed, will or otherwise, the ten thousand  
17 dollar exemption shall be removed from the property on the  
18 next July first assessment date unless the new owner  
19 qualifies for the exemption.

**§11-6B-4. Claim for exemption; renewals; waiver of exemption.**

- 1 (a) *General*.—No exemption shall be allowed under this  
2 article unless a claim of exemption is filed with the assessor  
3 of the county in which the homestead is located, on or before  
4 the first day of October following the July first assessment  
5 day. In the case of sickness, absence or other disability of the  
6 claimant, the claim may be filed by the claimant or his duly  
7 authorized agent.
- 8 (b) *Certification of disability*.—Any doctor of osteopathy  
9 or doctor of medicine licensed to practice medicine and  
10 surgery is a proper authority to certify that an individual is  
11 permanently and totally disabled. A written certification  
12 signed by a licensed doctor must accompany each claim for  
13 exemption that is based on the permanent and total disability  
14 of the claimant.
- 15 (c) *Renewals*.
- 16 (1) *Senior citizens*.—If the claimant is age sixty-five or  
17 older, then after the claimant has filed for the exemption once  
18 with his assessor, there shall be no need for that claimant to  
19 refile unless the claimant moves to a new homestead.
- 20 (2) *Disabled*.—If the claimant is permanently and totally  
21 disabled, then after the claimant has filed for the exemption  
22 once with his assessor, entitlement to the exemption shall be

23 maintained by annually filing, between July first and October  
24 first of each year, a certification of continued permanent and  
25 total disability.

26 (3) *Waiver of exemption.*—Any person not filing his claim  
27 for exemption or certification of continued permanent and  
28 total disability with the assessor of his county on or before the  
29 first day of October shall be deemed to have waived his right  
30 to exemption for the next tax year.

**§11-6B-5. Determination; notice of denial of claim.**

1 The assessor shall as soon as practicable after a claim for  
2 exemption is filed or a certification of continued permanent  
3 and total disability is filed, review that claim or certificate and  
4 either approve or deny it. If the exemption is denied, the  
5 assessor shall promptly, but not later than the first day of  
6 November, serve the claimant with written notice explaining  
7 why the exemption was denied, and furnish a form for filing  
8 with the county commission should the claimant desire to  
9 take an appeal. This notice shall be served on the claimant or  
10 his authorized representative either by personal service or by  
11 certified mail.

**§11-6B-6. Notice of appeal and appeals.**

1 (a) *Notice of appeal; thirty days.*—Any claimant aggrieved  
2 by the denial of his claim for exemption, may appeal to the  
3 county commission, within thirty days after receipt of written  
4 notice explaining why the exemption was denied.

5 (b) *Review; determination; appeal.*—The county  
6 commission shall complete its review and issue its  
7 determination within sixty days after receipt of the notice of  
8 appeal from the claimant. In conducting its review, the  
9 county commission may hold a hearing on the claim. The  
10 assessor or the claimant may apply to the circuit court of the  
11 county for review of the determination of the county  
12 commission in the same manner as is provided for appeals  
13 from the county commission in section twenty-five, article  
14 three of this chapter.

**§11-6B-7. Property tax books.**

1 (a) *Property book entry.*—The exemption of the first ten  
2 thousand dollars of assessed value shall be shown on the  
3 property books as a deduction from the total assessed value  
4 of the homestead.

5 (b) *Levy; statement to homestead owner.*—When the ten  
6 thousand dollar exemption is greater than the total assessed

7 value of the eligible homestead, no taxes shall be levied. The  
8 sheriff shall issue a statement to the owner showing that no  
9 taxes are due.

**§11-6B-8. Partial reimbursement for cost of homestead exemption increase.**

1 (a) *Annual appropriation.*—The Legislature shall  
2 annually appropriate to the homestead property tax  
3 exemption fund, general revenues of sufficient amount to  
4 reimburse local levying bodies for the amount of ad valorem  
5 property tax revenues lost by reason of the increase in the  
6 homestead property tax exemption: *Provided*, That no  
7 reimbursement shall be made for the amount of ad valorem  
8 property tax revenues lost by reason of the exemption of the  
9 first five thousand dollars of assessed value of real property  
10 owned and occupied by a person who is age sixty-five or  
11 older.

12 (b) *Report of assessor.*—On or before the first day of  
13 November following the July first assessment day, the  
14 assessor of each county shall forward to the tax commissioner  
15 a written report showing the assessed value of property  
16 eligible for the homestead exemption, the amount of such  
17 assessed value exempt from ad valorem property taxes  
18 because of the homestead exemption, the estimated loss in  
19 revenue to each levying body in his county because of the  
20 homestead exemption, the portion of such estimated loss  
21 eligible for reimbursement by the state and such other  
22 information as the tax commissioner may require. A copy of  
23 this report, or the pertinent portions thereof, shall also be  
24 filed with each levying body in his county.

25 (c) *Request for appropriation.*—On or before the last day  
26 of November following the July first assessment day, the tax  
27 commissioner shall submit to the commissioner of finance  
28 and administration a request for appropriations to the  
29 homestead property tax exemption fund to reimburse local  
30 levying bodies for the amount of ad valorem property tax  
31 revenues lost due to the increase in the homestead property  
32 tax exemption.

33 (d) *Homestead property tax exemption fund.*—In order to  
34 provide the reimbursement to local levying bodies as  
35 required by this article, there is hereby created in the state  
36 treasurer's office a special fund to be known as the  
37 "homestead property tax exemption fund". The moneys in

38 such fund shall be paid to the county sheriff as agent for the  
39 local levying bodies between the first and thirty-first day of  
40 January of each calendar year to reimburse them for the  
41 amount of tax revenue lost during the preceding calendar  
42 year by reason of the homestead tax exemption increase.

43 (e) *Local levying bodies; account receivable.*—Each local  
44 levying body shall on the first day of July of each fiscal year  
45 establish and show as a revenue receivable the amount of  
46 revenue lost by reason of the homestead property tax  
47 exemption increase and for which they will be reimbursed by  
48 the state in the subsequent calendar year.

49 (f) *Request for payment; sheriff.*—The sheriff of each  
50 county shall in August of each year send the tax  
51 commissioner a request for payment of the amount of ad  
52 valorem property tax revenue lost by the local governmental  
53 units in his county due to the homestead tax exemption  
54 increase. In January of each year and after review and  
55 approval by him, the tax commissioner shall issue his  
56 requisition for the amount payable and the auditor shall issue  
57 his warrant on the treasurer. The treasurer shall pay the  
58 warrant out of the “homestead property tax exemption fund”.

**§11-6B-9. Forms, instructions and regulations.**

1 The tax commissioner shall prescribe and supply all  
2 necessary instructions and forms for administration of this  
3 article. Additionally, the tax commissioner may make all  
4 necessary rules and regulations for this article as provided in  
5 the state administrative procedure act in chapter  
6 twenty-nine-a of this code.

**§11-6B-10. Criminal penalties.**

1 (a) *False or fraudulent claim for exemption.*—Any  
2 claimant who willfully files a fraudulent claim for exemption,  
3 and any person who knowingly assisted in the preparation or  
4 filing of such fraudulent claim for exemption or who  
5 knowingly supplied information upon which the fraudulent  
6 claim was prepared or allowed, shall be guilty of a  
7 misdemeanor, and, upon conviction thereof, shall be fined  
8 not less than fifty nor more than one hundred and fifty  
9 dollars, or imprisoned in the county jail for not more than six  
10 months, or both fined and imprisoned.

11 (b) *Fraudulent assessments.*—(1) An assessor or  
12 employee of a county who, with intent to defraud the state,

13 assesses the value of the eligible claimant's homestead for an  
14 amount which is in excess of its true and actual value or is in  
15 excess of the assessed value of similar property in his county,  
16 in order to increase the cost of the homestead exemption to  
17 his county and to thereby secure a larger reimbursement  
18 from the state, shall be guilty of a misdemeanor, and, upon  
19 conviction thereof, shall be fined not less than one hundred  
20 dollars nor more than five hundred dollars, or imprisoned in  
21 the county jail for not more than one year, or both fined and  
22 imprisoned. Each violation of this subsection shall constitute  
23 a separate offense.

24 (2) An assessor or employee of a county who, with intent  
25 to defraud a claimant, assesses the value of the eligible  
26 claimant's homestead for an amount which is in excess of its  
27 true and actual value or is in excess of the assessed value of  
28 similar property in his county, shall be guilty of a  
29 misdemeanor, and, upon conviction thereof, shall be fined  
30 not less than one hundred dollars nor more than five hundred  
31 dollars, or imprisoned in the county jail for not more than one  
32 year, or both fined and imprisoned. Each violation of this  
33 subsection shall constitute a separate offense.

34 (c) *Failure to notify assessor.*—A claimant or his legal  
35 representative, who prior to the next first day of July, fails to  
36 notify the assessor of the county wherein property subject to  
37 the homestead property tax exemption is located, that title to  
38 that property or a portion thereof was transferred by deed,  
39 grant, sale, gift, will or by the laws of this state regulating  
40 descent and distribution or that the property is no longer  
41 used and occupied for residential purposes exclusively by the  
42 claimant, shall be guilty of a misdemeanor, and, upon  
43 conviction, shall be fined not more than one thousand dollars  
44 or imprisoned for not more than one year or both.

**§11-6B-11. Severability.**

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

**§11-6B-12. Effective date.**

1 The provisions of this article shall take effect on the first  
2 day of July, one thousand nine hundred eighty-one.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*R. P. Bayle*  
Chairman Senate Committee

*Long E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1981.

*Judd C. Wills*  
Clerk of the Senate

*V. A. Blankenship*  
Clerk of the House of Delegates

*Marshall L. Hall*  
President of the Senate

*Charles M. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *29*

day of *April*, 1981.

*John R. Belk*  
Governor

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