WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
Committee Substitute for
SENATE BILL NO. 11

(By Mr. Samson)

PASSED March 10, 1982
In Effect July 1, 1982
AN ACT to amend and reenact sections four, five, six and ten, article six-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to homestead property tax exemptions; expanding the methods of documentation of permanent and total disability; eliminating the requirement that a claimant must file annually for exemption on the basis of permanent and total disability; providing that claimant must certify that he will notify assessor if he is no longer permanently and totally disabled; authorizing the assessor to deny exemptions originally granted upon belief that the claimant is ineligible for an exemption, providing for an appeal from the subsequent denial of an exemption by the assessor, providing for criminal penalties, and providing for restitution of all state taxes not paid due to improper exemption claim with interest thereon at legal rate until paid.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six and ten, article six-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

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

(a) General.—No exemption shall be allowed under this article unless a claim of exemption is filed with the assessor of the county in which the homestead is located, on or before the first day of October following the July first assessment day. In the case of sickness, absence or other disability of the claimant, the claim may be filed by the claimant or his duly authorized agent.

(b) Claims for disability exemption.—Each claim for exemption based on the owner being permanently and totally disabled shall include one of the following forms of documentation in support of said claim: (1) A written certification by a doctor of medicine or doctor of osteopathy licensed to practice their particular profession in this state that the claimant is permanently and totally disabled; (2) A written certification by the social security administration that the claimant is currently receiving benefits for permanent and total disability; (3) A copy of the letter from the social security administration originally awarding benefits to the claimant for permanent and total disability and a copy of a current check for such benefits, marked void; (4) A current social security health insurance (medicare) card in the name of the claimant and a copy of a current check to the claimant, marked void, for benefits from the social security administration for permanent and total disability; (5) A written certification signed by the veterans administration certifying that a person is totally and permanently disabled; (6) Any lawfully recognized workmen's compensation documentation certifying that a person is totally and permanently disabled; (7) Any lawfully recognized pneumoconiosis documentation certifying that a person is totally and permanently disabled; or (8) Any other lawfully recognized documentation certifying that a person is totally and permanently disabled.

(c) Renewals.

(1) Senior citizens.—If the claimant is age sixty-five or older, then after the claimant has filed for exemption, the
(2) Disabled.—If the claimant is permanently and totally disabled, then after the claimant has filed for the exemption once with his assessor, and signed a statement certifying that he will notify the assessor if he is no longer eligible for an exemption on the basis of being permanently and totally disabled and that the claimant will notify the assessor within thirty days of the discontinuance of the receipt of benefits for permanent and total disability, if the claimant originally claimed receipt of said benefits to document his claim for exemption, there shall be no need for that claimant to refile, unless the claimant moves to a new homestead.

(3) Waiver of exemption.—Any person not filing his claim for exemption on or before the first day of October shall be deemed to have waived his right to exemption for the next tax year.

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

(a) The assessor shall as soon as practicable after a claim for exemption is filed, review that claim and either approve or deny it. If the exemption is denied, the assessor shall promptly, but not later than the first day of November, serve the claimant with written notice explaining why the exemption was denied, and furnish a form for filing with the county commission should the claimant desire to take an appeal. The notice required or authorized by this section shall be served on the claimant or his authorized representative either by personal service or by certified mail.

(b) In the event that the assessor shall have information sufficient to form a reasonable belief that a claimant, after having been originally granted an exemption, is not eligible for said exemption, he shall deny the exemption on the next assessment date and shall promptly, but no later than the first day of November, serve the claimant with written notice explaining the reasons for the denial.
and furnish a form for filing with the county commission should the claimant desire to take an appeal.

§11-6B-6. Appeals procedure.

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

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

§11-6B-10. Criminal penalties; restitution.

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

(b) Fraudulent assessments.—(1) An assessor or employee of a county who, with intent to defraud the state, assesses the value of the eligible claimant’s homestead for an amount which is in excess of its true and actual value or is in excess of the assessed value of similar property in his county, in order to increase the cost of the homestead exemption to his county and to thereby secure a larger reimbursement from the state, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five
hundred dollars, or imprisoned in the county jail for not
more than one year, or both fined and imprisoned. Each
violation of this subsection shall constitute a separate of-
fense.
(2) An assessor or employee of a county who, with
intent to defraud a claimant, assesses the value of the
eligible claimant's homestead for an amount which is in
excess of its true and actual value or is in excess of the
assessed value of similar property in his county, shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not less than one hundred dollars nor more
than five hundred dollars, or imprisoned in the county
jail for not more than one year, or both fined and im-
prisoned. Each violation of this subsection shall constitute
a separate offense.
(c) Failure to notify assessor.—A claimant or his legal
representative who, prior to the next first day of July,
fails to notify the assessor of the county wherein property
subject to the homestead property tax exemption is lo-
cated, that title to that property or a portion thereof was
transferred by deed, grant, sale, gift, will or by the laws
of this state regulating descent and distribution, that the
property is no longer used and occupied for residential
purposes exclusively by the claimant or that the claimant
is no longer permanently and totally disabled, shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not more than one thousand dollars or im-
prisoned for not more than one year or both.
(d) In addition to the criminal penalties provided
above, upon conviction of any of the above offenses, the
court shall order that the defendant make restitution unto
the state for all taxes not paid due to an improper exemp-
tion for the claimant and interest thereon at the legal
rate until paid.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. F. Baylor  
Chairman Senate Committee

Tony E. Whitlow  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1982.

Jack C. Wick  
Clerk of the Senate

Clerk of the House of Delegates

Walter R. McRae  
President of the Senate

Speaker House of Delegates

The within _______approved_______ this the ___

day of __________, 1982.

Governor