

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

Committee Substitute for
SENATE BILL NO. 11

(By Mr. Sumner)



PASSED March 10, 1982

In Effect July 1, 1982 ~~Page~~



110.11

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 11

(By MR. SUSMAN, *original sponsor*)

[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.

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

8 (b) *Claims for disability exemption.*—Each claim for
9 exemption based on the owner being permanently and
10 totally disabled shall include one of the following forms of
11 documentation in support of said claim: (1) A written
12 certification by a doctor of medicine or doctor of osteop-
13 athy licensed to practice their particular profession in this
14 state that the claimant is permanently and totally dis-
15 abled; (2) A written certification by the social security
16 administration that the claimant is currently receiving
17 benefits for permanent and total disability; (3) A copy of
18 the letter from the social security administration origi-
19 nally awarding benefits to the claimant for permanent and
20 total disability and a copy of a current check for such
21 benefits, marked void; (4) A current social security
22 health insurance (medicare) card in the name of the
23 claimant and a copy of a current check to the claimant,
24 marked void, for benefits from the social security admin-
25 istration for permanent and total disability; (5) A writ-
26 ten certification signed by the veterans administration
27 certifying that a person is totally and permanently dis-
28 abled; (6) Any lawfully recognized workmen's compen-
29 sation documentation certifying that a person is totally
30 and permanently disabled; (7) Any lawfully recognized
31 pneumoconiosis documentation certifying that a person
32 is totally and permanently disabled; or (8) Any other
33 lawfully recognized documentation certifying that a per-
34 son is totally and permanently disabled.

35 (c) *Renewals.*

36 (1) *Senior citizens.*—If the claimant is age sixty-five
37 or older, then after the claimant has filed for ~~exemp-~~the *Sen*

38 tion once with his assessor, there shall be no need for that
39 claimant to refile unless the claimant moves to a new
40 homestead.

41 (2) *Disabled.*—If the claimant is permanently and to-
42 tally disabled, then after the claimant has filed for the
43 exemption once with his assessor, and signed a statement
44 certifying that he will notify the assessor if he is no
45 longer eligible for an exemption on the basis of being
46 permanently and totally disabled and that the claimant
47 will notify the assessor within thirty days of the discon-
48 tinuance of the receipt of benefits for permanent and total
49 disability, if the claimant originally claimed receipt of
50 said benefits to document his claim for exemption, there
51 shall be no need for that claimant to refile, unless the
52 claimant moves to a new homestead.

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

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

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

12 (b) In the event that the assessor shall have informa-
13 tion sufficient to form a reasonable belief that a claimant,
14 after having been originally granted an exemption, is not
15 eligible for said exemption, he shall deny the exemption
16 on the next assessment date and shall promptly, but no
17 later than the first day of November, serve the claimant
18 with written notice explaining the reasons for the denial

19 and furnish a form for filing with the county commission
20 should the claimant desire to take an appeal.

§11-6B-6. Appeals procedure.

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

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

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

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

11 (b) *Fraudulent assessments.*—(1) An assessor or em-
12 ployee of a county who, with intent to defraud the state,
13 assesses the value of the eligible claimant's homestead
14 for an amount which is in excess of its true and actual
15 value or is in excess of the assessed value of similar
16 property in his county, in order to increase the cost of the
17 homestead exemption to his county and to thereby secure
18 a larger reimbursement from the state, shall be guilty of
19 a misdemeanor, and, upon conviction thereof, shall be
20 fined not less than one hundred dollars nor more than five

21 hundred dollars, or imprisoned in the county jail for not
22 more than one year, or both fined and imprisoned. Each
23 violation of this subsection shall constitute a separate of-
24 fense.

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

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

49 (d) In addition to the criminal penalties provided
50 above, upon conviction of any of the above offenses, the
51 court shall order that the defendant make restitution unto
52 the state for all taxes not paid due to an improper exemp-
53 tion for the claimant and interest thereon at the legal
54 rate until paid.

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

K. P. Baylor
Chairman Senate Committee

Joseph E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1982.

Judd C. Nichols
Clerk of the Senate

V. Blankenship
Clerk of the House of Delegates

Warner P. McShaw
President of the Senate

W. H. Lee, Jr.
Speaker House of Delegates

The within *appeared* this the *29*
day of *March*, 1982.

[Signature]
Governor



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SECY. OF STATE