

No. 609 ✓

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

—•—
ENROLLED

Committee Substitute for
SENATE BILL NO. 609

(By Mr. Turner and Mrs. Spears)

—•—
PASSED April 13 1985

In Effect ninety days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 609

(MR. TUCKER AND MRS. SPEARS, *original sponsors*)

(Originating in the Committee on Finance.)

[Passed April 13, 1985; in effect ninety days from passage.]

AN ACT to amend and reenact sections nine and twenty-seven, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to property exempt from taxation; allowing a taxpayer to obtain relief from overpayment of taxes due to a clerical error or other mistake within one year after the mistake is discovered; notice to taxpayer; providing that such relief from overpayment discovered after one year be in the form of a credit against tax.

Be it enacted by the Legislature of West Virginia:

That sections nine and twenty-seven, article three, 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 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

1 All property, real and personal, described in this sec-
2 tion, and to the extent herein limited, shall be exempt
3 from taxation, that is to say: Property belonging to the
4 United States, other than property permitted by the

5 United States to be taxed under state law; property be-
6 longing exclusively to the state; property belonging exclu-
7 sively to any county, district, city, village or town in this
8 state, and used for public purposes; property located in this
9 state, belonging to any city, town, village, county or any
10 other political subdivisions of another state, and used for
11 public purposes; property used exclusively for divine wor-
12 ship; parsonages, and the household goods and furni-
13 ture pertaining thereto; mortgages, bonds and other evi-
14 dence of indebtedness in the hands of bona fide owners
15 and holders hereafter issued and sold by churches and
16 religious societies for the purposes of securing money to
17 be used in the erection of church buildings used exclu-
18 sively for divine worship, or for the purpose of paying
19 indebtedness thereon; cemeteries; property belonging to,
20 or held in trust for, colleges, seminaries, academies and
21 free schools, if used for educational, literary or scientific
22 purposes, including books, apparatus, annuities and furni-
23 ture; public and family libraries; property used for
24 charitable purposes, and not held or leased out for profit;
25 property used for the public purposes of distributing
26 water or providing sewer service by a duly chartered
27 nonprofit corporation when such property is not held,
28 leased out, or used for profit; property used for area
29 economic development purposes by nonprofit corporations
30 when such property is not leased out for profit; all real
31 estate not exceeding one-half acre in extent, and the
32 buildings thereon, and used exclusively by any college or
33 university society as a literary hall, or as a dormitory or
34 clubroom, if not leased or otherwise used with a view to
35 profit; all property belonging to benevolent associations,
36 not conducted for private profit; property belonging to
37 any public institution for the education of the deaf, dumb
38 or blind, or any hospital not held or leased out for profit;
39 house of refuge, lunatic or orphan asylum; homes for
40 children or for the aged, friendless or infirm, not conduct-
41 ed for private profit; fire engines and implements for
42 extinguishing fires, and property used exclusively for the
43 safekeeping thereof, and for the meeting of fire com-
44 panies; and all property on hand to be used in the sub-
45 sistence of livestock on hand at the commencement of the

46 assessment year; household goods to the value of two
 47 hundred dollars, whether or not held or used for profit;
 48 bank deposits and money; household goods (which term
 49 is deemed for purposes of this section to mean only
 50 personal property and household goods commonly found
 51 within the house and items used to care for the house and
 52 its surrounding property) when not held or used for
 53 profit, and personal effects (which term is deemed for
 54 purposes of this section to mean only articles and items
 55 of personal property commonly worn on or about the
 56 human body, or carried by a person and normally thought
 57 to be associated with the person) when not held or used
 58 for profit; dead victuals laid away for family use and any
 59 other property or security exempted by any other provi-
 60 sion of law; but no property shall be exempt from taxa-
 61 tion which shall have been purchased or procured for the
 62 purpose of evading taxation, whether temporarily holding
 63 the same over the first day of the assessment year or
 64 otherwise: *Provided*, That real property which is exempt
 65 from taxation by this section, shall be entered upon the
 66 assessor's books, together with the true and actual value
 67 thereof, but no taxes shall be levied upon the same or
 68 extended upon the assessor's books.

69 Notwithstanding any other provisions of this section,
 70 however, no language herein shall be construed to exempt
 71 from taxation any property owned by, or held in trust
 72 for, educational, literary, scientific, religious or other
 73 charitable corporations or organizations, unless such
 74 property is used primarily and immediately for the pur-
 75 poses of such corporations or organizations.

76 The tax commissioner shall, by issuance of regulations,
 77 provide each assessor with guidelines to insure uniform
 78 assessment practices statewide to effect the intent of this
 79 section.

**§11-3-27. Relief in county commission from erroneous assess-
 ments.**

1 Any taxpayer, or the prosecuting attorney or tax com-
 2 missioner, upon behalf of the state, county and districts,
 3 claiming to be aggrieved by any entry in the property

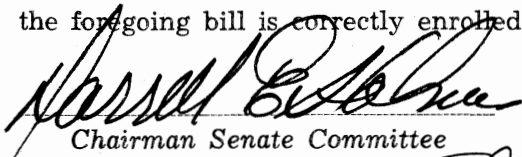
4 books of the county, including entries with respect to
5 classification and taxability of property, resulting from a
6 clerical error, or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake
7 growing out of negligence or the exercise of poor judgment, may, within one year from the time the property
8 books are delivered to the sheriff or within one year from
9 the time such clerical error or mistake is discovered or
10 reasonably could have been discovered, apply for relief
11 to the county commission of the county in which such
12 books are made out: *Provided*, That upon the discovery
13 of any such clerical error or mistake by the sheriff or the
14 assessor, or either officer having knowledge thereof, the
15 sheriff or assessor shall cause notice to be sent to any
16 taxpayer affected by the clerical error or mistake by first-class United States mail advising the taxpayer of the
17 right to make application from relief from the erroneous
18 assessment. Before the application is heard, the taxpayer
19 shall give notice to the prosecuting attorney of the
20 county, or the state shall give notice to the taxpayer, as
21 the case may be. The application, whether by the taxpayer or the state, shall have precedence over all other
22 business before the court; but any order or judgment
23 shall show that either the prosecuting attorney or the tax
24 commissioner was present defending the interests of the
25 state, county and districts: *Provided, however*, That the
26 provisions of this section shall not be construed as giving
27 county commissions jurisdiction to consider any question
28 involving the classification or taxability of property which
29 has been the subject matter of an appeal under the provisions of section twenty-four-a of this article; and any
30 other such clerical error or mistake involving the classification or taxability of property, may be corrected by
31 the county commission under the provisions of this section only when approved, in writing, by the county
32 assessor.

40 In the event it is ascertained that the applicant is
41 entitled to relief, any excess taxes already paid shall be
42 refunded and, if charged but not paid, the applicant shall
43 be released from the payment of such excess: *Provided*,

44 That in the event a mistake or error is discovered more
45 than one year after the property books for the year or
46 years in question are delivered to the sheriff, any relief
47 granted to the applicant shall be in the form of a credit
48 against taxes owing for the following year or years
49 until the debt is paid. Whenever any correction is made
50 by the county commission, the clerk shall certify copies
51 of the order to the auditor, to the sheriff and to the
52 assessor, and in the case of real estate, the assessor shall
53 thereupon make a correction in accordance with the order
54 in his landbook for the next year. Any such order deliv-
55 ered to the sheriff or other collecting officer shall restrain
56 him from collecting so much as is erroneously charged
57 against the taxpayer, and, if already collected, shall com-
58 pel him to refund the money if such officer has not
59 already paid it into the treasury. In either case, when
60 indorsed by the person exonerated, it shall be sufficient
61 voucher to entitle the officer to a credit for so much in
62 his settlement which he is required to make. If the appli-
63 cant be the state, the order certified to the sheriff shall
64 show the correct amount of taxes due the state, county
65 and districts and shall be sufficient to authorize collection
66 in the same manner as for other state, county and district
67 taxes.

See S. B. No. 609
Enr. Com. Sub.
for S. B. No. 609

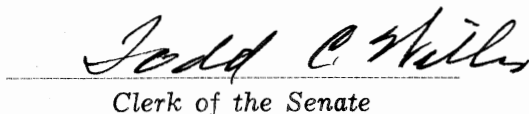
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

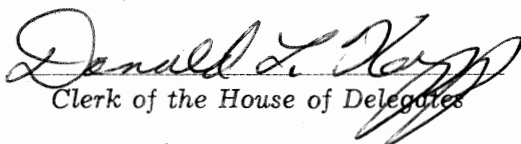

Chairman Senate Committee

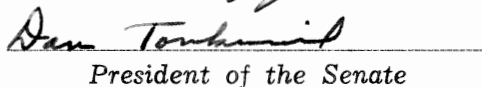

Chairman House Committee

Originated in the Senate.

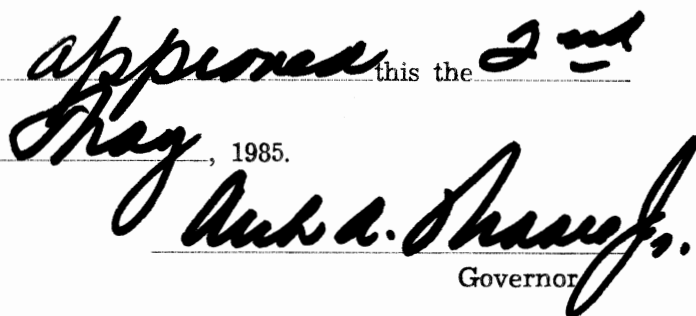
In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within  approved this the 2nd
May, 1985.
Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:25 p.m.