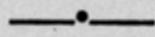


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WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1985



ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 609

(By Mr. *Turner and Mrs. Spears*)



PASSED April 13 1985

In Effect ninty days from Passage



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 609

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

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(Originating in the Committee on Finance.)

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

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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 uninten-  
7 tional or inadvertent act as distinguished from a mistake  
8 growing out of negligence or the exercise of poor judg-  
9 ment, may, within one year from the time the property  
10 books are delivered to the sheriff or within one year from  
11 the time such clerical error or mistake is discovered or  
12 reasonably could have been discovered, apply for relief  
13 to the county commission of the county in which such  
14 books are made out: *Provided*, That upon the discovery  
15 of any such clerical error or mistake by the sheriff or the  
16 assessor, or either officer having knowledge thereof, the  
17 sheriff or assessor shall cause notice to be sent to any  
18 taxpayer affected by the clerical error or mistake by first-  
19 class United States mail advising the taxpayer of the  
20 right to make application from relief from the erroneous  
21 assessment. Before the application is heard, the taxpayer  
22 shall give notice to the prosecuting attorney of the  
23 county, or the state shall give notice to the taxpayer, as  
24 the case may be. The application, whether by the tax-  
25 payer or the state, shall have precedence over all other  
26 business before the court; but any order or judgment  
27 shall show that either the prosecuting attorney or the tax  
28 commissioner was present defending the interests of the  
29 state, county and districts: *Provided, however*, That the  
30 provisions of this section shall not be construed as giving  
31 county commissions jurisdiction to consider any question  
32 involving the classification or taxability of property which  
33 has been the subject matter of an appeal under the pro-  
34 visions of section twenty-four-a of this article; and any  
35 other such clerical error or mistake involving the classi-  
36 fication or taxability of property, may be corrected by  
37 the county commission under the provisions of this sec-  
38 tion only when approved, in writing, by the county  
39 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.

*Approved & signed*  
*James R. [unclear]*

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

*Nassir B. Khan*  
Chairman Senate Committee

*Floyd Fuller*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Jedd C. Mills*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Don Tombrail*  
President of the Senate

*Joseph F. Allright*  
Speaker House of Delegates

The within *approved* this the *2<sup>nd</sup>*  
day of *May*, 1985.

*Arch A. Shavers, Jr.*  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:25 p.m.