WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

Com. Sb. for
HOUSE BILL No. 2703

(By Del. Mezzatesta & Murphy)

Passed April 8, 1989

In Effect July 1, 1989
AN ACT to amend and reenact sections two and three, article six-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the homestead property tax exemption; requiring an owner to legally reside in the state for the four consecutive taxable years and have paid taxes on any homestead in this state for the four consecutive taxable years prior to filing of exemption claim in order to receive such exemption and providing an exception thereto, requiring proof of residence, defining legally resided.

Be it enacted by the Legislature of West Virginia:

That sections two and three, 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-2. Definitions.

1 For purposes of this article, the term:

2 (1) "Assessed value" means the value of property as determined under article three of this chapter.
(2) "Claimant" means a person who is age sixty-five or older or who is certified as being permanently and totally disabled, and who owns a homestead that is used and occupied by the owner thereof exclusively for residential purposes.

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

(4) "Legally resided" means the person shall have been domiciled in this state for more than six consecutive months of the taxable year.

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

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

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

(8) "Used and occupied exclusively for residential purposes" means that the property is used as an abode, dwelling or habitat for more than six consecutive
months of the year by the owner and that the property
is used only as an abode, dwelling or habitat to the
exclusion of any commercial use: Provided, That this
six-month period shall not prevent a prior resident from
filing a claim to exemption in accordance with section
three, article six-b, chapter eleven of this code.

(9) "Tax year" means the calendar year following the
July first assessment day.

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

(a) General.—An exemption from ad valorem prop-
terty taxes shall be allowed for the first twenty thousand
dollars of assessed value of a homestead that is used and
occupied by the owner thereof exclusively for residential
purposes, when such owner is sixty-five years of age or
older or is certified as being permanently and totally
disabled: Provided, That the owner has legally resided
in the state of West Virginia for the four consecutive
taxable years and has paid taxes on any homestead in
this state for the four taxable years prior to filing a
claim for exemption: Provided, however, That when a
resident of West Virginia establishes residency out of
West Virginia and subsequently returns and reestab-
lishes residency in West Virginia within a period of five
years, such resident may file a claim for exemption
without regard to the requirement of four years
consecutive residency: Provided further, That such
resident show proof of residency including, but not
limited to, either a voter's registration card issued in
this state or a motor vehicles registration card issued in
this state. Only one exemption shall be allowed for each
homestead used and occupied exclusively for residential
purposes by the owner thereof, regardless of the number
of qualified owners residing therein.

(b) Attachment of exemption.—This exemption shall
attach to the homestead occupied by the qualified owner
on the July first assessment date and shall be applicable
to taxes for the following tax year. An exemption shall
not be transferred to another homestead until the
following July first. If the homestead of an owner
31 qualified under this article is transferred by deed, will
32 or otherwise, the twenty thousand dollar exemption
33 shall be removed from the property on the next July
34 first assessment date unless the new owner qualifies for
35 the exemption.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick P. Warner
Chairman Senate Committee

T. Settle
Chairman House Committee

Originating in the House.

Takes effect July 1, 1989.

Joseph A. Smith
Clerk of the Senate

Donald J. Kepp
Clerk of the House of Delegates

Larry N. Tanega
President of the Senate

Barnett C. Sayers
Speaker of the House of Delegates

The within bill approved this the 7th
day of April, 1989.