

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1990

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 201.....

(By Mr. Speaker, Mr. Chambers & Del. R. Bink)
[By Request of the Executive]

— ● —

Passed June 27, 1990

In Effect From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 201

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE R. BURK)
[By Request of the Executive]

[Passed June 27, 1990; in effect from passage.]

AN ACT to amend and reenact sections two, three and twelve, article six-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the homestead property tax exemption allowable to senior citizens and to persons who are permanently and totally disabled; definitions; amending the requirements, limitations and conditions for the homestead exemption; and specifying that such changes shall apply when determining the measure against which property taxes are levied for the current tax year.

Be it enacted by the Legislature of West Virginia:

That sections two, three and twelve, 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

3 determined under article three of this chapter.

4 (2) "Claimant" means a person who is age sixty-five
5 or older or who is certified as being permanently and
6 totally disabled, and who owns a homestead that is used
7 and occupied by the owner thereof exclusively for
8 residential purposes.

9 (3) "Homestead" means a single family residential
10 house, including a mobile or manufactured or modular
11 home, and the land surrounding such structure; or a
12 mobile or manufactured or modular home regardless of
13 whether the land upon which such mobile or manufac-
14 tured or modular home is situated is owned or leased.

15 (4) "Owner" means the person who is possessed of the
16 homestead, whether in fee or for life. A person seized
17 or entitled in fee subject to a mortgage or deed of trust
18 shall be deemed the owner. A person who has an
19 equitable estate of freehold, or is a purchaser of a
20 freehold estate who is in possession before transfer of
21 legal title shall also be deemed the owner. Personal
22 property mortgaged or pledged shall, for the purpose of
23 taxation, be deemed the property of the party in
24 possession.

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

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

36 (7) "Used and occupied exclusively for residential
37 purposes" means that the property is used as an abode,
38 dwelling or habitat for more than six consecutive
39 months of the calendar year prior to the date of
40 application by the owner thereof; and that the property
41 is used only as an abode, dwelling or habitat to the

42 exclusion of any commercial use: *Provided*, That failure
43 to satisfy this six-month period shall not prevent
44 allowance of a homestead exemption to a former
45 resident in accordance with section three of this article.

46 (8) "Tax year" means the calendar year following the
47 July first assessment day.

48 (9) "Resident of this state" means an individual who
49 is domiciled in this state for more than six months of
50 the calendar year.

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

1 (a) *General*.—An exemption from ad valorem prop-
2 erty taxes shall be allowed for the first twenty thousand
3 dollars of assessed value of a homestead that is used and
4 occupied by the owner thereof exclusively for residential
5 purposes, when such owner is sixty-five years of age or
6 older or is certified as being permanently and totally
7 disabled provided the owner has been or will be a
8 resident of the state of West Virginia for the two
9 consecutive calendar years preceding the tax year to
10 which the homestead exemption relates: *Provided*, That
11 an owner who receives a similar exemption for a
12 homestead in another state is ineligible for the exemp-
13 tion provided by this section. The owner's application for
14 exemption shall be accompanied by a sworn affidavit
15 stating that such owner is not receiving a similar
16 exemption in another state: *Provided, however*, That
17 when a resident of West Virginia establishes residency
18 in another state or country and subsequently returns
19 and reestablishes residency in West Virginia within a
20 period of five years, such resident may be allowed a
21 homestead exemption without satisfying the require-
22 ment of two years consecutive residency if such person
23 was a resident of this state for two calendar years out
24 of the ten calendar years immediately preceding the tax
25 year for which the homestead exemption is sought. Proof
26 of residency includes, but is not limited to, the owner's
27 voter's registration card issued in this state or a motor
28 vehicle registration card issued in this state. Addition-
29 ally, when a person is a resident of this state at the time

30 such person enters upon active duty in the military
31 service of this country and throughout such service
32 maintains this state as his or her state of residence, and
33 upon retirement from the military service, or earlier
34 separation due to a permanent and total physical or
35 mental disability, such person returns to this state and
36 purchases a homestead, such person is deemed to satisfy
37 the residency test required by this section and shall be
38 allowed a homestead exemption under this section if
39 such person is otherwise eligible for a homestead
40 exemption under this article; and the tax commissioner
41 may specify, by regulation promulgated under chapter
42 twenty-nine-a of this code, what constitutes acceptable
43 proof of these facts. Only one exemption shall be allowed
44 for each homestead used and occupied exclusively for
45 residential purposes by the owner thereof, regardless of
46 the number of qualified owners residing therein.

47 (b) *Attachment of exemption.*—This exemption shall
48 attach to the homestead occupied by the qualified owner
49 on the July first assessment date and shall be applicable
50 to taxes for the following tax year. An exemption shall
51 not be transferred to another homestead until the
52 following July first. If the homestead of an owner
53 qualified under this article is transferred by deed, will
54 or otherwise, the twenty thousand dollar exemption
55 shall be removed from the property on the next July
56 first assessment date unless the new owner qualifies for
57 the exemption.

58 (c) *Construction.*—The residency requirement speci-
59 fied in subsection (a) is enacted pursuant to the
60 Legislature's authority to prescribe by general law
61 requirements, limitations and conditions for the homes-
62 tead exemption, as set forth in section one-b, article ten
63 of the constitution of this state. Should the supreme
64 court of appeals or a federal court of competent
65 jurisdiction determine that this residency requirement
66 violates federal law in a decision that becomes final, this
67 section shall then be construed and applied, beginning
68 with the July first assessment day immediately follow-
69 ing the date the decision became final, as if the
70 residency requirement had not been enacted, thereby


71 preserving the availability of the homestead exemption
72 and the fiscal integrity of local government levying
bodies.

§11-6B-12. Effective date.

1 (a) The provisions of this article enacted in the year
2 one thousand nine hundred eighty-one took effect on the
3 first day of July, one thousand nine hundred eighty-one.

4 (b) Amendments to this article enacted in the year one
5 thousand nine hundred ninety shall, regardless of the
6 effective date of this act, be used to determine the
7 assessed value of property on which ad valorem property
8 taxes are levied for tax years beginning on or after the
9 first day of January, one thousand nine hundred ninety.
10 Assessors and county commissioners are hereby autho-
11 rized and directed to review the claims for homestead
12 exemption for the current tax year filed in their counties
13 prior to the second day of October, one thousand nine
14 hundred eighty-nine, and to make such changes in their
15 books for the current tax year as may be needed to give
16 these amendments their intended effect, regardless of
17 any other provision in this chapter that may prohibit
18 such action. Any person who has already paid property
19 taxes for tax year one thousand nine hundred ninety,
20 and who is considered eligible for homestead exemption
21 under this article, may apply pursuant to section
22 twenty-seven, article three of this chapter for a refund
23 for property taxes erroneously paid.

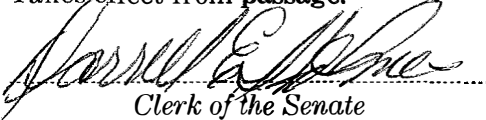
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

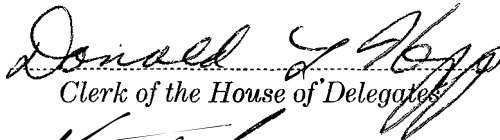

Chairman Senate Committee

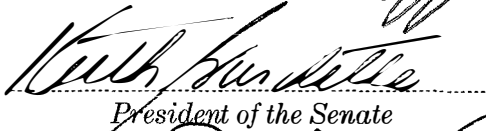

Chairman House Committee


Originating in the House.

Takes effect from passage.

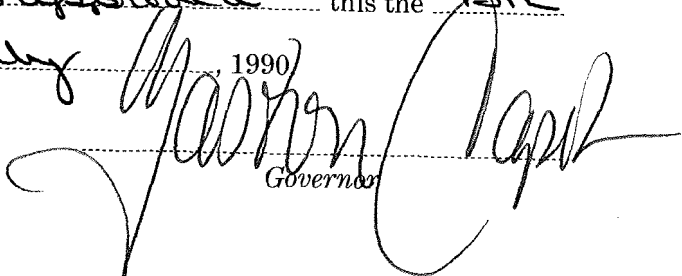

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 13th
day of July 1990


Governor

PRESENTED TO THE

GOVERNOR

Date 6-29-90

Time 3:16pm

52

RECEIVED

1990 JUL 13 PM 1:31

OFFICE OF LIAISON
SECRETARY OF STATE