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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



# ENROLLED

SENATE BILL NO. 623

(By Senator TOMBLIN, MR. PRESIDENT)



PASSED MARCH 10, 1999

In Effect FROM Passage

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OFFICE OF THE CLERK OF THE SENATE  
STATE OF WEST VIRGINIA

**ENROLLED**

**Senate Bill No. 623**

(BY SENATOR TOMBLIN, MR. PRESIDENT)

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[Passed March 10, 1999; in effect from passage.]

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AN ACT to amend article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-g, relating to providing a tax credit from the personal income tax to encourage preservation of West Virginia's historic houses and neighborhoods.

*Be it enacted by the Legislature of West Virginia:*

That article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-g, to read as follows:

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-8g. Credit for qualified rehabilitated residential buildings investment.**

- 1 (a) A credit against the tax imposed by the provisions of
- 2 this article is allowed for residential certified historic
- 3 structures. The credit is equal to twenty percent of eligible
- 4 rehabilitation expenses in the rehabilitation of a certified

5 historic structure. The credit is available for residential  
6 certified historic structures located in this state that are  
7 reviewed by the West Virginia division of culture and  
8 history and designated by the national park service,  
9 United States department of the interior as "certified  
10 historic structures" as defined in 26 U.S.C. §47.

11 (b)(1) "Certified historic structure" means any building  
12 located in this state that is listed individually in the  
13 national register of historic places or located in a regis-  
14 tered historic district, reviewed by the West Virginia  
15 division of culture and history and certified by the na-  
16 tional park service as being of historic significance to the  
17 district.

18 (2) "Certified rehabilitation" means any rehabilitation of  
19 a certified historic structure that is reviewed by the West  
20 Virginia division of culture and history, and certified by  
21 the national park service as being consistent with the  
22 historic character of the property and, where applicable,  
23 the district in which it is located.

24 (3) "Eligible rehabilitation expenses" means expenses  
25 incurred in the material rehabilitation of a certified  
26 historic structure and added to the property's basis for  
27 income tax purposes.

28 (4) "Historic district" means any district that is listed in  
29 the national register of historic places or designated under  
30 a state or local statute which has been certified as contain-  
31 ing criteria which will substantially achieve the purpose of  
32 preserving and rehabilitating buildings of significance to  
33 the district and which is certified as substantially meeting  
34 all of the requirements for listing of districts in the  
35 national register of historic places.

36 (5) "Historic preservation application" means applica-  
37 tion forms published by the national park service, United  
38 States department of the interior, Parts 1, 2 and 3, Form  
39 No. 1-168, or its successor.

40 (6) "Material rehabilitation" means improvements or  
41 reconstruction consistent with the "Secretary of the  
42 Interior's Standards for Rehabilitation," the actual cost of

43 which amounts to at least twenty percent of the assessed  
44 value of a certified historic structure for ad valorem real  
45 estate tax purposes for the year before such rehabilitation  
46 expenses were incurred, exclusive of the assessed value of  
47 the land.

48 (7) "Residential certified historic structure" means any  
49 certified historic structure that is:

50 (A) Classified as Class II property for levy purposes  
51 pursuant to section five, article eight, chapter eleven of  
52 this code for the year in which the rehabilitation expenses  
53 are incurred; or

54 (B) Not classified as Class II property for levy purposes  
55 for the year in which the rehabilitation expenses are  
56 incurred but will satisfy the requirements for classification  
57 as Class II for real property assessment purposes pursuant  
58 to section five, article eight, chapter eleven of this code as  
59 of the first day of July of the year following the year in  
60 which the rehabilitation expenses are incurred.

61 (8) "Secretary of the interior standards" means stan-  
62 dards and guidelines adopted and published by the  
63 national park service, United States department of the  
64 interior, for rehabilitation of historic properties.

65 (9) "State historic preservation office" means the state  
66 official designated by the governor pursuant to provisions  
67 in the National Historic Preservation Act of 1966, as  
68 amended and further defined in section six, article one,  
69 chapter twenty-nine of this code.

70 (c)(1) Application and processing procedures for provi-  
71 sions of this section shall be the same or substantially  
72 similar as any required under provisions of 36 C.F.R., Part  
73 67, and to the extent applicable, 26 C.F.R., Part 1. Obtain-  
74 ing historic preservation certification by proper applica-  
75 tion automatically qualifies the applicant to be considered  
76 for tax credits under this section.

77 (2) The state historic preservation officer's role in the  
78 application procedure shall be identical, or substantially  
79 similar, to that in 36 C.F.R., Part 67 and 26 C.F.R., Part 1,  
80 to the extent applicable.

81 (d) All standards including the secretary of the interior  
82 standards and provisions in 36 C.F.R., Part 67 and 26  
83 C.F.R, Part 1 that apply to tax credits available from the  
84 United States government apply to this section, except  
85 that the property eligible for the tax credit under this  
86 article may not be income producing property or property  
87 for which depreciation is allowed under 26 U.S.C. §168.

88 (e) If the amount of the credit for qualified rehabilitated  
89 residential buildings investment exceeds the taxpayer's  
90 tax liability for the taxable year to which the credit  
91 applies, the amount that exceeds the tax liability for the  
92 taxable year may be carried over for credits against the  
93 income taxes of the taxpayer in each of the ensuing five  
94 tax years or until the full credit is used, whichever occurs  
95 first. In no event, may the amount of the credit taken in a  
96 taxable year exceed the tax liability due for the taxable  
97 year.

98 (f) The tax commissioner shall require disclosure of  
99 information regarding credits granted pursuant to this  
100 section in accordance with the provisions of section five-s,  
101 article ten of this chapter. The commissioner of the West  
102 Virginia division of culture and history may establish by  
103 rule the requirements to implement the credit for qualified  
104 rehabilitated residential buildings investment, including  
105 reasonable fees to defray the necessary expenses of  
106 administration of the credit.

107 (g) The credit authorized by this section shall be avail-  
108 able for tax years beginning after the thirty-first day of  
109 December, one thousand nine hundred ninety-nine.

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

*[Signature]*  
.....

Chairman Senate Committee

*[Signature]*  
.....

Chairman House Committee

Originating in the Senate.

In effect ~~inserted~~ from passage.

*[Signature]*  
.....

Clerk of the Senate

*[Signature]*  
.....

Clerk of the House of Delegates

*[Signature]*  
.....

President of the Senate

*[Signature]*  
.....

Speaker House of Delegates

The within *approved* this the *29<sup>th</sup>*

Day of *March*, 1989

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/99

Time 11:50 am