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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3012

(By Mr. Speaker, Mr. Kiss, and Delegates
Michael, Kominar, H. White and Palumbo)



Passed April 6, 2005

In Effect from Passage

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H. B. 3012

(BY MR. SPEAKER, MR. KISS, AND DELEGATES
MICHAEL, KOMINAR, H. WHITE AND PALUMBO)

[Passed April 6, 2005; in effect From Passage.]

AN ACT to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting property acquired by lease purchase agreement by the state, a county, district, city, village, town or other political subdivision, state college or university, from property tax.

Be it enacted by the Legislature of West Virginia:

That §11-3-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

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

1 (a) All property, real and personal, described in this
2 subsection, and to the extent herein limited, is exempt from
3 taxation:

4 (1) Property belonging to the United States, other than
5 property permitted by the United States to be taxed under state
6 law;

7 (2) Property belonging exclusively to the state;

8 (3) Property belonging exclusively to any county, district,
9 city, village or town in this state, and used for public purposes;

10 (4) Property located in this state, belonging to any city,
11 town, village, county or any other political subdivision of
12 another state, and used for public purposes;

13 (5) Property used exclusively for divine worship;

14 (6) Parsonages and the household goods and furniture
15 pertaining thereto;

16 (7) Mortgages, bonds and other evidence of indebtedness in
17 the hands of bona fide owners and holders hereafter issued and
18 sold by churches and religious societies for the purposes of
19 securing money to be used in the erection of church buildings
20 used exclusively for divine worship, or for the purpose of
21 paying indebtedness thereon;

22 (8) Cemeteries;

23 (9) Property belonging to, or held in trust for, colleges,
24 seminaries, academies and free schools, if used for educational,
25 literary or scientific purposes, including books, apparatus,
26 annuities and furniture;

27 (10) Property belonging to, or held in trust for, colleges or
28 universities located in West Virginia, or any public or private

29 nonprofit foundation or corporation which receives contribu-
30 tions exclusively for such college or university, if the property
31 or dividends, interest, rents or royalties derived therefrom are
32 used or devoted to educational purposes of such college or
33 university;

34 (11) Public and family libraries;

35 (12) Property used for charitable purposes, and not held or
36 leased out for profit;

37 (13) Property used for the public purposes of distributing
38 water or natural gas, or providing sewer service by a duly
39 chartered nonprofit corporation when such property is not held,
40 leased out or used for profit;

41 (14) Property used for area economic development pur-
42 poses by nonprofit corporations when such property is not
43 leased out for profit;

44 (15) All real estate not exceeding one acre in extent, and the
45 buildings thereon, used exclusively by any college or university
46 society as a literary hall, or as a dormitory or clubroom, if not
47 used with a view to profit, including, but not limited to,
48 property owned by a fraternity or sorority organization affili-
49 ated with a university or college, or property owned by a
50 nonprofit housing corporation or similar entity on behalf of a
51 fraternity or sorority organization affiliated with a university or
52 college, when the property is used as residential accommoda-
53 tions, or as a dormitory for members of the organization;

54 (16) All property belonging to benevolent associations, not
55 conducted for private profit;

56 (17) Property belonging to any public institution for the
57 education of the deaf, dumb or blind, or any hospital not held or
58 leased out for profit;

59 (18) Houses of refuge and mental health facility or orphan-
60 age;

61 (19) Homes for children or for the aged, friendless or
62 infirm, not conducted for private profit;

63 (20) Fire engines and implements for extinguishing fires,
64 and property used exclusively for the safekeeping thereof, and
65 for the meeting of fire companies;

66 (21) All property on hand to be used in the subsistence of
67 livestock on hand at the commencement of the assessment year;

68 (22) Household goods to the value of two hundred dollars,
69 whether or not held or used for profit;

70 (23) Bank deposits and money;

71 (24) Household goods, which for purposes of this section
72 means only personal property and household goods commonly
73 found within the house and items used to care for the house and
74 its surrounding property, when not held or used for profit;

75 (25) Personal effects, which for purposes of this section
76 means only articles and items of personal property commonly
77 worn on or about the human body, or carried by a person and
78 normally thought to be associated with the person when not
79 held or used for profit;

80 (26) Dead victuals laid away for family use;

81 (27) All property belonging to the state, any county,
82 district, city, village, town or other political subdivision, or any
83 state college or university which is subject to a lease purchase
84 agreement and which provides that, during the term of the lease
85 purchase agreement, title to the leased property rests in the

86 lessee so long as lessee is not in default or shall not have
87 terminated the lease as to the property; and

88 (28) Any other property or security exempted by any other
89 provision of law.

90 (b) Notwithstanding the provisions of subsection (a) of this
91 section, no property is exempt from taxation which has been
92 purchased or procured for the purpose of evading taxation,
93 whether temporarily holding the same over the first day of the
94 assessment year or otherwise.

95 (c) Real property which is exempt from taxation by
96 subsection (a) of this section shall be entered upon the asses-
97 sor's books, together with the true and actual value thereof, but
98 no taxes may be levied upon the property or extended upon the
99 assessor's books.

100 (d) Notwithstanding any other provisions of this section,
101 this section does not exempt from taxation any property owned
102 by, or held in trust for, educational, literary, scientific, religious
103 or other charitable corporations or organizations, including any
104 public or private nonprofit foundation or corporation existing
105 for the support of any college or university located in West
106 Virginia, unless such property, or the dividends, interest, rents
107 or royalties derived therefrom, is used primarily and immedi-
108 ately for the purposes of the corporations or organizations.

109 (e) The Tax Commissioner shall, by issuance of rules,
110 provide each assessor with guidelines to ensure uniform
111 assessment practices statewide to effect the intent of this
112 section.

113 (f) Inasmuch as there is litigation pending regarding
114 application of this section to property held by fraternities and
115 sororities, amendments to this section enacted in the year one

116 thousand nine hundred ninety-eight shall apply to all cases and
117 controversies pending on the date of such enactment.

118 (g) The amendment to subdivision (27), subsection (a) of
119 this section, passed during the two thousand five regular session
120 of the Legislature, shall apply to all applicable lease purchase
121 agreements in existence upon the effective date of the amend-
122 ment.

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

Randy White
Chairman Senate Committee

W. R. Bury
Chairman House Committee

Originating in the House.

In effect from passage.

Russell Holmes
Clerk of the Senate

Gregg W. Bury
Clerk of the House of Delegates

Carl Roy Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *is approved* this the *18th*
day of *April* 2005.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

Date 4/12/05

Time 3:05 p