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WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

Senate Bill No. 101

(BY SENATOR MINARD)

[Passed March 4, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to providing an exemption from property taxation for property used by nonprofit corporations for providing electricity to residents of this state.

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 limited by this section, is
3 exempt from taxation:

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

7 (2) Property belonging exclusively to the state;

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

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

14 (5) Property used exclusively for divine worship;

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

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

24 (8) Cemeteries;

25 (9) Property belonging to, or held in trust for, colleges,
26 seminaries, academies and free schools, if used for

27 educational, literary or scientific purposes, including
28 books, apparatus, annuities and furniture;

29 (10) Property belonging to, or held in trust for,
30 colleges or universities located in West Virginia, or any
31 public or private nonprofit foundation or corporation
32 which receives contributions exclusively for such
33 college or university, if the property or dividends,
34 interest, rents or royalties derived therefrom are used or
35 devoted to educational purposes of such college or
36 university;

37 (11) Public and family libraries;

38 (12) Property used for charitable purposes and not
39 held or leased out for profit;

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

45 (14) Property used for area economic development
46 purposes by nonprofit corporations when the property
47 is not leased out for profit;

48 (15) All real estate not exceeding one acre in extent,
49 and the buildings on the real estate, used exclusively by
50 any college or university society as a literary hall, or as
51 a dormitory or clubroom, if not used with a view to
52 profit, including, but not limited to, property owned by
53 a fraternity or sorority organization affiliated with a
54 university or college or property owned by a nonprofit
55 housing corporation or similar entity on behalf of a

56 fraternity or sorority organization affiliated with a
57 university or college, when the property is used as
58 residential accommodations or as a dormitory for
59 members of the organization;

60 (16) All property belonging to benevolent associations
61 not conducted for private profit;

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

65 (18) Houses of refuge and mental health facility or
66 orphanage;

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

69 (20) Fire engines and implements for extinguishing
70 fires, and property used exclusively for the safekeeping
71 thereof, and for the meeting of fire companies;

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

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

77 (23) Bank deposits and money;

78 (24) Household goods, which for purposes of this
79 section means only personal property and household
80 goods commonly found within the house and items used
81 to care for the house and its surrounding property,

82 when not held or used for profit;

83 (25) Personal effects, which for purposes of this
84 section means only articles and items of personal
85 property commonly worn on or about the human body
86 or carried by a person and normally thought to be
87 associated with the person when not held or used for
88 profit;

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

90 (27) All property belonging to the state, any county,
91 district, city, village, town or other political subdivision
92 or any state college or university which is subject to a
93 lease purchase agreement and which provides that,
94 during the term of the lease purchase agreement, title to
95 the leased property rests in the lessee so long as lessee
96 is not in default or shall not have terminated the lease
97 as to the property;

98 (28) Personal property, including vehicles that qualify
99 for a farm use exemption certificate pursuant to section
100 two, article three, chapter seventeen-a of this code and
101 livestock, employed exclusively in agriculture, as
102 defined in article ten, section one of the West Virginia
103 Constitution: *Provided*, That this exemption only
104 applies in the case of such personal property used on a
105 farm or farming operation that annually produces for
106 sale agricultural products, as defined in rules of the Tax
107 Commissioner; and

108 (29) Any other property or security exempted by any
109 other provision of law.

110 (b) Notwithstanding the provisions of subsection (a)

111 of this section, no property is exempt from taxation
112 which has been purchased or procured for the purpose
113 of evading taxation whether temporarily holding the
114 same over the first day of the assessment year or
115 otherwise.

116 (c) Real property which is exempt from taxation by
117 subsection (a) of this section shall be entered upon the
118 assessor's books, together with the true and actual
119 value thereof, but no taxes may be levied upon the
120 property or extended upon the assessor's books.

121 (d) Notwithstanding any other provisions of this
122 section, this section does not exempt from taxation any
123 property owned by, or held in trust for, educational,
124 literary, scientific, religious or other charitable
125 corporations or organizations, including any public or
126 private nonprofit foundation or corporation existing for
127 the support of any college or university located in West
128 Virginia, unless such property, or the dividends,
129 interest, rents or royalties derived therefrom, is used
130 primarily and immediately for the purposes of the
131 corporations or organizations.

132 (e) The Tax Commissioner shall, by issuance of rules,
133 provide each assessor with guidelines to ensure uniform
134 assessment practices statewide to effect the intent of
135 this section.

136 (f) Inasmuch as there is litigation pending regarding
137 application of this section to property held by
138 fraternities and sororities, amendments to this section
139 enacted in the year one thousand nine hundred
140 ninety-eight shall apply to all cases and controversies
141 pending on the date of such enactment.

142 (g) The amendment to subdivision (27), subsection (a)
143 of this section, passed during the two thousand five
144 regular session of the Legislature, shall apply to all
145 applicable lease purchase agreements in existence upon
146 the effective date of the amendment.

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

Randy White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Samuel Williams
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved..... this
the 20th Day of March..... 2008
[Signature]

.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2008

Time 11:05 AM