HB2121

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

FILED
2025 APR 28 P 4: 49
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Committee Substitute

for

House Bill 2121

BY DELEGATES D. SMITH, COOPER, CRISS, HECKERT, HILLENBRAND, MCGEEHAN, SHEEDY, HITE, HORNBY, GEARHEART, AND ZATEZALO

[Passed April 12, 2025; in effect 90 days from passage (July 11, 2025)]

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AN ACT to amend and reenact §11-13MM-2 and §11- 13MM-4 of the Code of West Virginia, 1931, as amended, relating to providing for a real property tax credit for eligible widowed spouses of disabled veteran taxpayers.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.

§11-13MM-2. Definitions.

(a) *General.* — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used.

(b) *Terms defined.* –

(1) "Ad valorem property tax" means and is limited to the West Virginia ad valorem property tax.

(2) "Business" means any activity taxable under article §11-12-1 *et seq.* of this code, which is engaged in by any person in this State.

(3) "Disabled veteran taxpayer" means a person given an honorable discharge from any branch of the armed services of the United States and who is considered at least 90 percent totally and permanently disabled due solely to service-connected disabilities by the United States Department of Veterans Affairs.

(4) "Eligible motor vehicle" means a motor vehicle on which the ad valorem property tax has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined in this article.

(5) "Eligible widowed spouse" means the unmarried surviving spouse of a disabled veteran taxpayer who had previously received the disabled veteran real property tax credit authorized by §11-13MM-4 of this code.

(6) "Flow-through entity", "conduit entity", or "pass through entity" means an S Corporation, partnership, limited partnership, limited liability partnership, or limited liability

company. The term "flow-through entity", "conduit entity", or "pass through entity" includes a publicly traded partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 781: *Provided*, That a publicly traded partnership as defined in section 7704 of the Internal Revenue Code having equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 781, and any other person or entity that is treated as a C corporation for federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et seq.* of this code for purposes of this article.

(7) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility terrain vehicles as defined in §20-15-2 of this code.

(8) "Person" means and includes an individual, a trust, estate, partnership, pass through entity, association, company, or corporation.

(9) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code: *Provided*: That, for the purposes of this article, the term "personal property" shall not include a working interest in any oil, natural gas, or natural gas liquid producing property or any property of a public service company.

(10) "Personal property taxes paid" means the aggregate of regular levies, excess levies, and bond levies extended against personal property that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Personal property taxes paid" does not include any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

(11) "Public service company" means a corporation or other business entity which delivers services considered essential to the public interest that are regulated by the applicable federal or state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas, telecommunications, and water, and those transporting personal property or passengers, including, but not limited to, airlines, railroads, trucking, and bus companies, and which are centrally assessed by the state for property tax purposes.

(12) "Real property taxes paid" means the aggregate of regular levies, excess levies, and bond levies that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Real property taxes paid" does not include any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes, or any penalty or interest for late payment of property taxes.

§11-13MM-4. Disabled veteran and eligible widowed spouse of a disabled veteran real property tax credit.

(a) *Credit allowed.* — A disabled veteran taxpayer or eligible widowed spouse may receive a tax credit against the tax imposed under §11-21-1 *et seq.* of this code in the amount of West Virginia ad valorem property tax timely paid on his or her homestead during the personal income taxable year.

(b) *Amount of credit.* — Any taxpayer meeting the definition of a disabled veteran taxpayer or eligible widowed spouse under this article shall be allowed a refundable credit against the taxes imposed by §11-21-1 *et seq.* of this code equal to the amount of West Virginia ad valorem real property taxes timely paid a county sheriff on a homestead which is used or occupied exclusively for residential purposes, as those terms are defined in §11-6B-2, during the personal income taxable year: *Provided*, That in no case shall any credit be allowed under this article for any untimely real property tax paid, or any payment of delinquent real property tax, or payment of "back tax" real property taxes.

(c) *Application of credit against personal income tax*. — The amount of credit allowed under this section shall be taken against the personal income tax liability, imposed by article §11-21-1 *et seq*. of this code, of the disabled veteran taxpayer or eligible widowed spouse.

(d) *Refundable portion of annual credit allowance*. — If the annual tax credit allowed under this article exceeds the amount of personal income tax subject to offset under this article in any taxable year, the disabled veteran taxpayer or eligible widowed spouse may claim, for that taxable year, the excess amount as a refundable tax credit.

(e) *Termination of tax credit*. — Any tax credit approved in accordance with the provisions of this section shall terminate immediately when any of the following events occur:

(1) The death of the disabled veteran taxpayer for which the tax credit was authorized: *Provided*, That an eligible widowed spouse may continue to receive the tax credit until his or her death or remarriage;

(2) The sale of the property for which the tax credit was approved; or

(3) A determination by the assessor that the property for which the tax credit was approved no longer qualifies for the tax credit in accordance with the provisions of this section.

(f) *Forms and instructions*. — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

FILED
2025 APR 28 P 4: 49
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

....
Speaker of the House of Delegates

....
President of the Senate

The within is ......approved...... this the......28th......

Day of ......April......, 2025.

....
Governor

PRESENTED TO THE GOVERNOR

APR 22 2025

Time 12:00pm