

# West Virginia Property Tax Reform Strategy - Consolidated Document

## JUDICIAL STRATEGY TO CHALLENGE PROPERTY TAXES IN WEST VIRGINIA

### Objective:

Argue that property taxes on home/land violate "Life, Liberty, or Property" rights under the Fifth and Fourteenth Amendments and the WV Constitution.

### Legal Basis:

- Takings Clause: Ongoing taxation is a continuous government appropriation of private property.
- Due Process: Permanent taxation affects your liberty and property rights without proper recourse.

### Supporting Case Law:

- Tyler v. Hennepin County (2023): Government cannot keep tax-sale surplus.
- Pennsylvania Coal Co. v. Mahon (1922): Overreaching regulations can be considered takings.
- Londoner v. Denver (1908): Tax assessments require due process.
- Lingle v. Chevron (2005): Economic impact of regulation evaluated under Takings Clause.

### Legal Actions:

1. Retain constitutional attorney or engage a liberty-based legal foundation (e.g. Pacific Legal Foundation).
2. File declaratory judgment seeking:
  - Declaration of taxation as unconstitutional
  - Injunction halting future property taxation
  - Optional damages or refund
3. Present supporting expert testimony on:
  - Perpetual taxation model
  - Value deprivation or risk of seizure

# CONSTITUTIONAL AMENDMENT PROPOSAL: WEST VIRGINIA PROPERTY TAX REFORM

TITLE: West Virginia Homestead Property Tax Elimination Amendment

## SUMMARY:

This amendment seeks to amend the Constitution of West Virginia to prohibit ad valorem taxation on owner-occupied primary residences (homesteads), recognizing the natural and constitutional right to own private property free from perpetual government levy.

## TEXT OF AMENDMENT:

Be it resolved by the Legislature of West Virginia, two-thirds of the members elected to each house concurring therein:

That the following amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election:

§12. Homestead Protection from Property Taxation.

(a) The legislature shall make no law imposing ad valorem property tax upon real property that constitutes a citizen's primary residence and is wholly owned without encumbrance.

(b) Property qualifying under subsection (a) shall be exempt from all county, municipal, or state property taxes.

(c) Nothing in this section shall prohibit reasonable user fees or assessments specifically tied to optional or elective services provided by the government.

(d) This section shall become effective on January 1 of the year following ratification by the voters.

EFFECTIVE DATE: January 1, [year following adoption]

EXPLANATORY NOTE:

This measure affirms the right of West Virginia citizens to own their homes free from ongoing taxation, aligning with natural rights doctrine and protections under the U.S. and state constitutions.

PETITION TO ELIMINATE PROPERTY TAXES ON PRIMARY RESIDENCES IN WEST VIRGINIA

We, the undersigned residents of the State of West Virginia, petition our legislators and public officials to uphold our fundamental rights under the U.S. and West Virginia Constitutions by reforming the current property tax structure. We urge immediate action to eliminate all ad valorem property taxes levied upon fully owned, owner-occupied primary residences (homesteads).

WHEREAS:

- Property taxation creates a perpetual obligation on homeowners, violating the spirit of true ownership;
- Citizens can lose their homes through tax foreclosure, even after the mortgage is fully paid;
- The U.S. Constitution protects the right to property under the Fifth and Fourteenth Amendments;
- The principle of "life, liberty, and the pursuit of happiness" is compromised when ownership is conditional on perpetual state payments;
- The Supreme Court ruling in *Tyler v. Hennepin County* (2023) affirms that property rights cannot be unreasonably violated by the state;

THEREFORE, WE REQUEST:

1. That the West Virginia Legislature sponsor and advance a constitutional amendment exempting all primary residences, once paid in full, from ad valorem taxation;

- 2. That the Legislature enact statutory reforms immediately suspending property taxes on homesteads for low- and fixed-income residents;
- 3. That this matter be prioritized for public hearing and legislative debate in the next session.

SIGNATURES

| Full Name | Address | County | Email/Phone (Optional) | Signature | Date |

|-----|-----|-----|-----|-----|-----|