

1
2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 277**

5 (By Senators Palumbo, McCabe, Jenkins, Foster, Minard, Nohe and
6 Klempa)

7 _____
8 [Originating in the Committee on Government Organization;
9 reported February 17, 2011.]
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11
12 A BILL to amend and reenact §11-1C-9 of the Code of West Virginia,
13 1931, as amended; and to amend and reenact §11-3-1 of said
14 code, all relating to limiting the amount a property
15 reappraisal can increase over the previous amount; and
16 clarifying the limitation does not apply to natural resources
17 property.

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

19 That §11-1C-9 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted; and that §11-3-1 of said code be amended
21 and reenacted, all to read as follows:

22 **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

23 **§11-1C-9. Periodic valuations.**

24 (a) After completion of the initial valuation required under
25 section seven of this article, each assessor shall maintain current

1 values on the real and personal property within the county. In
2 repeating three-year cycles, every parcel of real property shall be
3 visited by a member of the assessor's staff who has been trained
4 pursuant to section six of this article to determine if any changes
5 have occurred which would affect the valuation for the property.
6 With this information and information such as sales ratio studies
7 provided by the Tax Commissioner, the assessor shall make ~~such~~
8 adjustments ~~as are~~ necessary to maintain accurate, current
9 valuations of all the real and personal property in the county and
10 shall adjust the assessments accordingly: Provided, That any
11 increases in valuations may not result in more than a fifteen
12 percent increase in assessment in any one year: Provided, however,
13 That this limitation does not apply to natural resources property
14 as defined in section ten of this article: Provided, further, That
15 this limitation does not apply when improvements made on the
16 property resulted in the increased assessment.

17 (b) In any year the assessed value of a property or species of
18 property ~~be is~~ less than or ~~exceed~~ exceeds sixty percent of current
19 market value, the Tax Commissioner shall direct the assessor to
20 make the necessary adjustments: Provided, That any increases in
21 valuations may not result in more than a fifteen percent increase
22 in assessment in any one year: Provided, however, That this
23 limitation does not apply to natural resources property as defined
24 in section ten of this article: Provided, further, That this
25 limitation does not apply when improvements made on the property
26 resulted in the increased assessment. If any assessor fails to

1 comply with the provisions of this section, the Tax Commissioner
2 may, at the county commission's expense, take reasonable steps to
3 remedy the assessment deficiencies.

4 **ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.**

5 **§11-3-1. Time and basis of assessments; true and actual value;**
6 **default; reassessment; special assessors; criminal**
7 **penalty.**

8 (a) All property, except public service businesses assessed
9 pursuant to article six of this chapter, shall be assessed annually
10 as of July 1 at sixty percent of its true and actual value, that is
11 to say, at the price for which the property would sell if
12 voluntarily offered for sale by the owner thereof, upon the terms
13 as the property, the value of which is sought to be ascertained, is
14 usually sold, and not the price which might be realized if the
15 property were sold at a forced sale: Provided, That an annual
16 assessment shall not increase the assessed value of the property by
17 more than fifteen percent of the previously assessed value:
18 Provided, however, That this limitation does not apply to natural
19 resources property as defined in section ten, article one-c of this
20 chapter: Provided, further, That this limitation does not apply
21 when improvements made on the property resulted in the increased
22 assessment.

23 (b) Any conflicting provisions of subsection (a) of this
24 section notwithstanding, the true and actual value of all property
25 owned, used and occupied by the owner thereof exclusively for

1 residential purposes shall be arrived at by also giving
2 consideration to the fair and reasonable amount of income which the
3 same might be expected to earn, under normal conditions in the
4 locality wherein situated, if rented: *Provided*, That the true and
5 actual value of all farms used, occupied and cultivated by their
6 owners or bona fide tenants shall be arrived at according to the
7 fair and reasonable value of the property for the purpose for which
8 it is actually used regardless of what the value of the property
9 would be if used for some other purpose; and that the true and
10 actual value shall be arrived at by giving consideration to the
11 fair and reasonable income which the same might be expected to earn
12 under normal conditions in the locality wherein situated, if
13 rented: *Provided, however*, That nothing herein shall alter the
14 method of assessment of lands or minerals owned by domestic or
15 foreign corporations.

16 (c) The taxes upon all property shall be paid by those who are
17 the owners thereof on the assessment date whether it be assessed to
18 them or others.

19 (d) If at any time after the beginning of the assessment year,
20 it be ascertained by the Tax Commissioner that the assessor, or any
21 of his or her deputies, is not complying with this provision or
22 that they have failed, neglected or refused, or is failing,
23 neglecting or refusing after five days' notice to list and assess
24 all property therein at sixty percent of its true and actual value
25 as determined under this chapter, the Tax Commissioner may order
26 and direct a reassessment of any or all of the property in any

1 county, district or municipality, where any assessor, or deputy,
2 fails, neglects or refuses to assess the property in the manner
3 herein provided. And, for the purpose of making assessment and
4 correction of values, the Tax Commissioner may appoint one or more
5 special assessors, as necessity may require, to make assessment in
6 any county and any such special assessor or assessors, as the case
7 may be, has the power and authority now vested by law in assessors,
8 and the work of such special assessor or assessors shall be
9 accepted and treated for all purposes by the county boards of
10 review and equalization and the levying bodies, subject to any
11 revisions of value on appeal, as the true and lawful assessment of
12 that year as to all property valued by him or her or them. The Tax
13 Commissioner shall fix the compensation of all special assessors
14 appointed, which, together with their actual expenses, shall be
15 paid out of the county fund by the county commission of the county
16 in which any such assessment is ordered, upon the receipt of a
17 certificate of the Tax Commissioner filed with the clerk of the
18 county commission showing the amounts due and to whom payable,
19 after such expenses have been audited by the county commission.

20 (e) Any assessor who knowingly fails, neglects or refuses to
21 assess all the property of his or her county, as herein provided,
22 shall be guilty of malfeasance in office and, upon conviction
23 thereof, shall be fined not less than \$100 nor more than \$500, or
24 imprisoned not less than three nor more than six months, or both,
25 in the discretion of the court, and upon conviction, shall be
26 removed from office.

1 (f) For purposes of this chapter and chapter eleven-a of this
2 code, the following terms have the meanings ascribed to them in
3 this section unless the context in which the term is used clearly
4 indicates that a different meaning is intended by the Legislature:

5 (1) "Assessment date" means July 1 of the year preceding the
6 tax year.

7 (2) "Assessment year" means the twelve-month period that
8 begins on the assessment date.

9 (3) "Tax year" or "property tax year" means the next calendar
10 year that begins after the assessment date.

11 (4) "Taxpayer" means the owner and any other person in whose
12 name the taxes on the subject property are lawfully assessed.