

H. B. 3101

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(By Delegates Hartman, Michael, Perry, Evans,
Azinger and Williams)

[Introduced February 11, 2011; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-13A-4a, relating
to clarifying the intent of the Legislature as to the measure
of tax imposed on a person who produces timber and saws, mills
or otherwise manufactures it into green lumber; requiring the
producer to report twenty-five percent of the gross proceeds
from the sale of the green lumber for severance tax purposes;
permitting the change in tax be retroactive to 1993; and
defining the term "green lumber."

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §11-13A-4a, to read as
follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

**§11-13A-4a. Measure of tax on integrated producer and processor
of timber products.**

1 (a) Definition. -- For purposes of this section, the term
2 "green lumber" means boards of wood that have been sawed from one
3 or more species of logs into various lengths, widths and
4 thicknesses but have not undergone any further processing,
5 including, but not limited to, drying in a dry kiln or otherwise.

6 (b) Legislative intent and retroactive effect. -- This section
7 clarifies the intent of the Legislature as to the measure of tax
8 imposed by this article on a person who produces timber and saws,
9 mills or otherwise manufactures it into green lumber or other wood
10 products for sale, profit or commercial use. This clarification
11 applies retrospectively to the effective date of section three-b of
12 this article during the First Extraordinary Session of the
13 Legislature in the year 1993.

14 (c) Measure of tax on integrated producer-processor. --

15 (1) A person who produces timber and saws, mills or otherwise
16 manufactures the timber into green lumber for sale, profit or
17 commercial shall report twenty-five percent of the persons's gross
18 proceeds from the sale of the green lumber as the value subject to
19 tax under section three-b of this article.

20 (2) A person who produces timber and saws, mills or otherwise
21 manufactures the timber into green lumber but does not sell the
22 green lumber and further processes or manufactures the green
23 lumber, including, but not limited to, drying in a dry kiln or
24 otherwise shall report twenty-five percent of the value of the
25 green lumber before further processing or manufacturing as the

1 value subject to tax under section three-b of this article. This
2 value shall be determined according to section two of this article
3 applicable to determining the value of similar green lumber in the
4 area of the saw mill, or by use of data contained in regularly
5 published independent market reports of the current, arms-length
6 sale of similar green lumber in the area of the saw mill. In no
7 event may any value added to green lumber by any further processing
8 or manufacturing, including, but not limited to value added by
9 drying the green lumber in a dry kiln, or otherwise, be included in
10 the measure of tax for purposes of the tax imposed by section
11 three-b of this article.

NOTE: The purpose of this bill is to clarify the intent of the Legislature as to the measure of tax imposed on a person who produces timber and saws, mills or otherwise manufactures it into green lumber. The bill requires the producer to report twenty-five percent of the gross proceeds from the sale of the green lumber for severance tax purposes. The bill permits the change in tax be retroactive to 1993. The bill also defines the term "green lumber."

This section is new; therefore, it has been completely underscored.