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Senate Bill No. 480

(By Senators Barnes, Helmick, Sypolt, Williams, Plymale and
Minard)

[Introduced February 10, 2011; referred to the Committee on
Natural Resources; and then 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 in imposing the
severance tax on the privilege of producing timber; and
providing for this clarification to be applied
retrospectively.

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.**

(a) *Definition.* - For purposes of this section, the term

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

5 (b) *Legislative intent and retroactive effect.* - This section
6 is intended to clarify the intent of the Legislature as to the
7 measure of tax imposed by this article on a person who produces
8 timber and further saws, mills or otherwise manufactures the same
9 into green lumber or other wood products for sale, profit or
10 commercial use. This clarification shall be applied
11 retrospectively to the effective date of the enactment of section
12 three-b during the first extraordinary session of the Legislature
13 in the year 1993.

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

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

20 (2) A person who produces timber and further saws, mills, or
21 otherwise manufactures the timber into green lumber but does not
22 sell the green lumber and further processes or manufactures the
23 green lumber, including but not limited to, drying, in a dry kiln,
24 or otherwise, shall report twenty-five percent of the value of the
25 green lumber before such 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 the provisions of section
3 two of this article applicable to determining the value of similar
4 green lumber in the area of the saw mill, or by use of data
5 contained in regularly published independent market reports of the
6 current, arms-length sale of similar green lumber in the area of
7 the saw mill. In no event may any value added to green lumber by
8 any further processing or manufacturing, including but not limited
9 to value added by drying the green lumber in a dry kiln, or
10 otherwise, be included in the measure of tax for purposes of the
11 tax imposed by section three-b of this article.

NOTE: The purpose of this bill is to clarify the measure of the severance tax imposed on the privilege of producing timber in the case of a person who does not sell the timber he severs and produces, but further processes such timber into other wood products for sale, profit or commercial use.

This section is new; therefore, strike-throughs and underscoring have been omitted.