

**Senate Bill No. 190**

(By Senators Palumbo, Minard, Foster, Nohe, McCabe, Jenkins,  
Klempa, Miller, Yost and Beach)

\_\_\_\_\_

[Introduced January 16, 2012; referred to the Committee on  
Finance.]

\_\_\_\_\_

A BILL to amend and reenact §11-1C-9 of the Code of West Virginia,  
1931, as amended; and to amend and reenact §11-3-1 of said  
code, all relating to limiting the amount a property  
reappraisal can increase over the previous amount; and  
clarifying the limitation does not apply to natural resources  
property.

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

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

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

**§11-1C-9. Periodic valuations.**

(a) After completion of the initial valuation required under  
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 except that any increases  
11 in valuations may not result in more than a fifteen percent  
12 increase in assessment in any one year. This limitation does not  
13 apply to natural resources property, as defined in section ten of  
14 this article, and does not apply when improvements made on the  
15 property resulted in the increased assessment.

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

1 resulted in the increased assessment. If any assessor fails to  
2 comply with the provisions of this section, the Tax Commissioner  
3 may, at the county commission's expense, take reasonable steps to  
4 remedy the assessment deficiencies.

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

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

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

23 (b) Any conflicting provisions of subsection (a) of this

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

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

21 (d) If at any time after the beginning of the assessment year,  
22 it be ascertained by the Tax Commissioner that the assessor, or any  
23 of his or her deputies, is not complying with this provision or

1 that they have failed, neglected or refused, or is failing,  
2 neglecting or refusing after five days' notice to list and assess  
3 all property therein at sixty percent of its true and actual value  
4 as determined under this chapter, the Tax Commissioner may order  
5 and direct a reassessment of any ~~or all~~ of the property in any  
6 county, district or municipality, where any assessor, or deputy,  
7 fails, neglects or refuses to assess the property in the manner  
8 herein provided. ~~And,~~ For the purpose of making assessment and  
9 correction of values, the Tax Commissioner may appoint one or more  
10 special assessors, as necessity may require, to make assessment in  
11 any county and any such special assessor or assessors, as the case  
12 may be, has the power and authority now vested by law in assessors,  
13 and the work of such special assessor or assessors shall be  
14 accepted and treated for all purposes by the county boards of  
15 review and equalization and the levying bodies, subject to any  
16 revisions of value on appeal, as the true and lawful assessment of  
17 that year as to all property valued by him or her or them. The Tax  
18 Commissioner shall fix the compensation of all special assessors  
19 appointed, which, together with their actual expenses, shall be  
20 paid out of the county fund by the county commission of the county  
21 in which any such assessment is ordered, upon the receipt of a  
22 certificate of the Tax Commissioner filed with the clerk of the  
23 county commission showing the amounts due and to whom payable,

1 after such expenses have been audited by the county commission.

2 (e) Any assessor who knowingly fails, neglects or refuses to  
3 assess all the property of his or her county, as herein provided,  
4 ~~shall be~~ is guilty of malfeasance in office and, upon conviction  
5 thereof, shall be fined not less than \$100 nor more than \$500 or  
6 ~~imprisoned~~ confined in jail not less than three nor more than six  
7 months, or both, in the discretion of the court, and upon  
8 conviction, shall be removed from office.

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

13 (1) "Assessment date" means July 1 of the year preceding the  
14 tax year.

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

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

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

NOTE: The purpose of this bill is to limit the amount a property reappraisal can increase over the previous amount and to clarify that the limitation does not apply to natural resources

property.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.