

1 **Senate Bill No. 99**

2 (By Senator Cann)

3 _____
4 [Introduced February 13, 2013; referred to the Committee on
5 Government Organization; and then to the Committee on Finance.]

6 _____
7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §11-3-1 of the Code of West Virginia,
11 1931, as amended, relating to prohibiting increases in the
12 assessed value of real property located in counties where a
13 maximum excess levy is in effect, the property has not changed
14 in tax classification and the increased value is more than two
15 percent over the assessed value of the same property for the
16 previous year.

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

18 That §11-3-1 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 3. ASSESSMENTS GENERALLY.**

21 **§11-3-1. Time and basis of assessments; true and actual value;**
22 **default; reassessment; special assessors; criminal**

1 **penalty.**

2 (a) All property, except public service businesses assessed
3 pursuant to article six of this chapter, shall be assessed annually
4 as of July 1 at sixty percent of its true and actual value. ~~that is~~
5 ~~to say, at~~ Sixty percent of its true and actual value is the price
6 for which the property would sell if voluntarily offered for sale
7 by the owner ~~thereof,~~ upon the terms as the property ~~the value of~~
8 ~~which is sought to be ascertained,~~ is usually sold and not the
9 price which might be realized if the property were sold at a forced
10 sale.

11 (b) Any conflicting provisions of subsection (a) of this
12 section notwithstanding, the true and actual value of ~~all~~ property
13 owned, used and occupied by the owner ~~thereof~~ exclusively for
14 residential purposes shall be arrived at by ~~also~~ giving
15 consideration to the fair and reasonable amount of income which the
16 ~~same might be expected to~~ property might earn under normal
17 conditions in the locality ~~wherein~~ situated, if rented. ~~Provided,~~
18 ~~That~~ The true and actual value of all farms used, occupied and
19 cultivated by their owners or bona fide tenants shall be arrived at
20 according to the fair and reasonable value of the property for the
21 purpose for which it is actually used regardless of what the value
22 of the property would be if used for some other purpose. ~~and that~~
23 The true and actual value shall be arrived at by giving

1 consideration to the fair and reasonable income which the ~~same~~
2 ~~might be expected to~~ farm property might earn under normal
3 conditions in the locality ~~wherein~~ situated, if rented. ~~Provided,~~
4 ~~however, That nothing herein shall alter~~ Nothing in this section
5 alters the method of assessment of lands or minerals owned by
6 domestic or foreign corporations.

7 (c) The taxes upon all property shall be paid by ~~those who are~~
8 ~~the owners thereof~~ the property owners on the assessment date
9 whether it be assessed to them or others. If the county in which
10 the property is located has an excess levy in effect set at the
11 maximum amount allowed under the provisions of section six-b,
12 article eight of this chapter, there may be no increase in assessed
13 value for real property which has not changed in tax classification
14 and which is more than two percent over the assessed value of the
15 same property for the previous year.

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

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

21 (e) ~~Any~~ An assessor who knowingly fails, neglects or refuses
22 to assess all the property of his or her county, as ~~herein~~ provided
23 by this section, shall be guilty of malfeasance in office and, upon

1 conviction thereof, shall be fined not less than \$100 nor more than
2 \$500, or ~~imprisoned~~ confined in jail for not less than three nor
3 more than six months, or both, in the discretion of the court, and
4 upon conviction, shall be removed from office.

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

9 (1) "Assessment date" means July 1 of the year preceding the
10 tax year.

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

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

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

NOTE: The purpose of this bill is to prohibit increases in the assessed value of real property which is located in a county where a maximum excess levy is in effect, the property has not changed in tax classification and the increased value is more than two percent over the assessed value of the same property for the previous year.

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