

Senate Bill No. 498

(By Senators Sypolt, Boso, Carmichael, Kessler,
Snyder, Prezioso and Facemire)

[Introduced February 16, 2015;
referred to the Committee on
Government Organization.]

A BILL to amend and reenact §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended, all relating to reproduction, distribution and sale of tax maps; defining terms; specifying powers of the Property Valuation Training and Procedures Commission to promulgate rules; specifying duties of county assessors; requiring that sale, reproduction and distribution of certain records be in accordance with specified legislative rules; and specifying certain fees.

Be it enacted by the Legislature of West Virginia:

That §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-2. Definitions.

1 For the purposes of this article, the following words shall have the meanings hereafter
2 ascribed to them unless the context clearly indicates otherwise:

[S. B. NO. 498]

3 (a) "Timberland" means any surface real property except farm woodlots of not less than ten
4 contiguous acres which is primarily in forest and which, in consideration of their size, has sufficient
5 numbers of commercially valuable species of trees to constitute at least forty percent normal stocking
6 of forest trees which are well distributed over the growing site.

7 (b) "Managed timberland" means surface real property, except farm woodlots, of not less than
8 ten contiguous acres which is devoted primarily to forest use and which, in consideration of their
9 size, has sufficient numbers of commercially valuable species of trees to constitute at least forty
10 percent normal stocking of forest trees which are well distributed over the growing site, and that is
11 managed pursuant to a plan provided for in section ten of this article: *Provided*, That none of the
12 following may be considered as managed timberland within the meaning of this article:

13 (1) Any tract or parcel of real estate, regardless of its size, which is part of any subdivision
14 that is approved or exempted from approval pursuant to the provisions of a planning ordinance
15 adopted under the provisions of article twenty-four of chapter eight of this code; or

16 (2) Any tract or parcel of real estate, regardless of its size, which is subject to a deed
17 restriction, deed covenant or zoning regulation which limits the use of that real estate in a way that
18 precludes the commercial production and harvesting of timber upon it.

19 (c) "Tax commissioner", "commissioner" or "tax department" means the State Tax
20 Commissioner or a designee of the State Tax Commissioner.

21 (d) "Valuation commission" or "commission" means the commission created in section three
22 of this article.

23 (e) "County board of education" or "board" means the duly elected board of education of each

[S. B. NO. 498]

24 county.

25 (f) "Farm woodlot" means that portion of a farm in timber but may not include land used
26 primarily for the growing of timber for commercial purposes, except that Christmas trees, or nursery
27 stock and woodland products, such as nuts or fruits harvested for human consumption, shall be
28 considered farm products and not timber products.

29 (g) "Owner" means the person who is possessed of the freehold, whether in fee or for life.
30 A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability
31 is deemed the owner until the mortgagee or trust takes possession, after which such mortgagee or
32 trustee shall be deemed the owner. A person who has an equitable estate of freehold, or is a
33 purchaser of a freehold estate who is in possession before transfer of legal title is also deemed the
34 owner.

35 (h) "Electronic" means relating to technology having electrical, digital, magnetic, wireless,
36 optical, electromagnetic or similar capabilities.

37 (i) "Paper" means a tax map or document that is not electronic.

38 The definitions in subdivisions (f) and (g) of this section shall apply to tax years beginning
39 on or after January 1, 2001.

40 **§11-1C-4. Commission powers and duties; rulemaking.**

41 (a) On or before October 1, 1990, and thereafter as necessary, the property valuation training
42 and procedures commission shall perform the following duties:

43 (1) Devise training and certification criteria for county assessors and their employees and
44 members of county commissions, which shall include a definition of "appropriate staff member" as

[S. B. NO. 498]

45 the term is used in section six of this article relating to required training, which definition shall
46 include deputy assessors as provided for in section three, article two of this chapter;

47 (2) Establish uniform, statewide procedures and methodologies for the mapping, visitation,
48 identification and collection of information on the different species of property, which procedures
49 and methodologies shall include reasonable requirements for visitation of property, including a
50 requirement that a good faith effort be made to contact any owner of owner-occupied residential
51 property: *Provided*, That the commission is not authorized to establish the methods to value real and
52 personal property, but shall have the authority to approve such methods;

53 (3) Develop an outline of items to be included in the county property valuation plan required
54 in section seven of this article, which shall include information to assist the property valuation
55 training and procedures commission in its determination of the distribution of state funds provided
56 pursuant to section eight of this article.

57 (b) On or before July 1, 1991, the commission shall establish objective criteria for the
58 evaluation of the performance of the duties of county assessors and the Tax Commissioner.

59 (c) In the event the Tax Commissioner and a county assessor cannot agree on the content of
60 the plan required under section seven of this article, the commission shall examine the plan and the
61 objections of the Tax Commissioner and shall resolve the dispute on or before the first day of the
62 fiscal year following the fiscal year in which the plan was submitted to the commission for
63 resolution.

64 (d) The commission ~~shall have the power to~~ may make such rules as it ~~deems~~ considers
65 necessary to carry out the provisions of this section, which rules shall include procedures for the

[S. B. NO. 498]

66 maintenance, use, sale and ~~reproduction of microfilm, photography and tax maps~~ reproduction of
67 paper and electronic tax maps. Any rules adopted by the commission prior to October 1, 1990, under
68 subsection (a) of this section are exempt from the provisions of article three of chapter twenty-nine-a
69 of this code: *Provided*, That the commission shall file a copy of any rule so exempted from the
70 provisions of chapter twenty-nine-a of this code with the legislative rule-making review committee
71 created pursuant to section eleven, article three, ~~of said chapter~~ twenty-nine-a of this code prior to
72 November 30, 1990.

73 (e) The commission ~~shall have the authority to~~ may make and enter into all contracts and
74 agreements necessary or incidental to the performance of its duties and the execution of its powers
75 under this article.

76 (f) In order to fund the costs of the requirements of this article, the valuation commission
77 ~~shall have the authority~~, on a one-time basis, ~~to~~ borrow \$5 million and to distribute ~~such~~ those funds
78 according to need and the valuation plan submitted by the counties. Upon request of the valuation
79 commission, the state Board of Investments shall loan, under commercially reasonable terms to be
80 determined by the parties, up to \$5 million to the valuation commission, on a one-time basis, from
81 one of the various funds administered by the state Board of Investments.

82 (g) The commission shall, ~~be required, in the event that~~ if the Tax Commissioner has failed
83 to do so, ~~to~~ appoint one or more special assessors if it is the determination of the commission that
84 an assessor has substantially failed to perform the duties required by sections seven and eight of this
85 article. A writ of mandamus shall be the proper remedy if the commission fails to perform any of
86 its duties required by law.

87 **§11-1C-7. Duties of county assessors; property to be appraised at fair market value;**
88 **exceptions; initial equalization; valuation plan.**

89 (a) Except for property appraised by the State Tax Commissioner under section ten of this
90 article and property appraised and assessed under article six of this chapter, all assessors shall, within
91 three years of the approval of the county valuation plan required pursuant to this section, appraise
92 all real and personal property in their jurisdiction at fair market value except for special valuation
93 provided for farmland and managed timberland. They shall utilize the procedures and methodologies
94 established by the property valuation training and procedures commission and the valuation system
95 established by the Tax Commissioner.

96 (b) In determining the fair market value of the property in their jurisdictions, assessors may
97 use as an aid to valuation any information available on the character and values of such property,
98 including, but not limited to, the updated information found on any statewide electronic data
99 processing system network established pursuant to section twenty-one, article one-a of this chapter.
100 Valuations ~~shall~~ may not be based exclusively on such statewide electronic data processing system
101 network and usage of the information on such files as an aid to proper valuation does not constitute
102 an implementation of the statewide mass reappraisal of property.

103 (c) Before beginning the valuation process, each assessor shall develop a county valuation
104 plan for using information currently available, for checking its accuracy and for correcting any errors
105 found. The plan must be submitted to the Tax Commissioner on or before December 1, 1990, for
106 review and approval, and ~~such~~ the plan must be revised as necessary and resubmitted every three
107 years thereafter. Whenever a plan is submitted to the Tax Commissioner, a copy shall also be

[S. B. NO. 498]

108 submitted to the county commission of that county and the property valuation training and
109 procedures commission, and that county commission and the property valuation training and
110 procedures commission may forward comments to the Tax Commissioner. The Tax Commissioner
111 shall respond to any plan submitted or resubmitted within sixty days of its receipt. The valuation
112 process ~~shall~~ may not begin nor shall funds provided in section eight of this article be available until
113 the plan has received approval by the Tax Commissioner: *Provided*, That any initial plan that has
114 not received approval by the commissioner prior to May 1, 1991, shall be submitted on or by such
115 date to the valuation commission for resolution prior to July 1, 1991, by which date all counties ~~shall~~
116 have an approved valuation plan in effect.

117 (d) Upon approval of the valuation plan, the assessor shall immediately begin implementation
118 of the valuation process. Any change in value discovered subsequent to the certification of values
119 by the assessor to the county commission, acting as the board of equalization and review, in any
120 given year shall be placed upon the property books for the next certification of values: *Provided*,
121 That notwithstanding any other provision of this code to the contrary, the property valuation training
122 and procedures commission may authorize the Tax Commissioner to approve a valuation plan and
123 the Board of Public Works to submit such a plan which would permit the placement of
124 proportionately uniform percentage changes in values on the books that estimate the percentage
125 difference between the current assessed value and sixty percent of the fair market value for classes
126 or identified subclasses of property and distribute the change between the two tax years preceding
127 the tax year beginning on July 1, 1993. This procedure may be used in lieu of placing individual
128 values on the books at sixty percent of value as discovered or may be in addition to ~~such~~ the

[S. B. NO. 498]

129 valuation. If ~~such~~ this procedure is adopted by a county, then property whose reevaluation is the
130 responsibility of the board of public works and the State Tax Commissioner shall have its values
131 estimated and placed on the books in like manner. ~~Such~~ The estimates shall be based on the best
132 information obtained by the assessor, the board of public works and the Tax Commissioner and the
133 changes shall move those values substantially toward sixty percent of fair market value, ~~such~~ the
134 sixty percent to be reached on or before July 1, 1993.

135 (e) (1) The county assessor shall establish and maintain as official records of the county tax
136 maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property and
137 lot lines, set forth dimensions or areas, indicate whether the land is improved and identify the
138 respective parcels or lots by a system of numbers or symbols and numbers, whereby the ownership
139 of such parcels and lots can be ascertained by reference to the appropriate records: *Provided*, That
140 all such records shall be established and maintained and the sale, ~~or reproduction of microfilm,~~
141 ~~photography and maps~~ reproduction and distribution of paper and electronic tax maps shall be in
142 accordance with legislative rules promulgated by the commission.

143 (2) The following fees apply in addition to any fee charged by the assessor or the map sales
144 unit of the property Tax Division of the Department of Revenue for the sale or reproduction of
145 ~~microfilm, photography and~~ paper and electronic tax maps pursuant to the legislative rules
146 referenced in subdivision (1) of this subsection:

147 (A) For a full map sheet, an additional fee of \$3 per copy shall be charged, which shall be
148 deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six,
149 chapter twenty-nine of this code;

[S. B. NO. 498]

150 (B) For a parcel reproduction on 8 ½ x 11" or 8 ½ x 14" paper, an additional fee of \$1.50 per
151 copy shall be charged, which shall be deposited in the Courthouse Facilities Improvement Fund
152 created by section six, article twenty-six, chapter twenty-nine of this code; and

153 (C) For all other map sizes, an additional fee of \$2 per copy shall be charged, which shall be
154 deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six,
155 chapter twenty-nine of this code.

156 (f) Willing and knowing refusal of the assessor or the county commission to comply with and
157 effect the provisions of this article, or to correct any deficiencies as may be ordered by the Tax
158 Commissioner with the concurrence of the valuation commission under any authority granted
159 pursuant to this article or other provisions of this code, ~~shall constitute~~ are grounds for removal from
160 office. ~~Such~~ A removal may be appealed to the circuit court.

(NOTE: The purpose of this bill is to clarify that the tax map rules apply to both paper and digital tax maps, and to create conformity between the language of the statute and the supporting legislative rule.

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