

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2838

2015 Carryover

(BY DELEGATES LYNCH, CADLE, COOPER, AMBLER,
CANTERBURY, WALTERS, D. EVANS, BORDER, HAMILTON
AND ROMINE)

[Introduced January 13, 2016; referred to the
Committee on Political Subdivisions then Finance.]

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

Be it enacted by the Legislature of West Virginia:

1 That §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended,
 2 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:

3 (a) "Timberland" means any surface real property except farm woodlots of not less than
 4 ten contiguous acres which is primarily in forest and which, in consideration of their size, has
 5 sufficient numbers of commercially valuable species of trees to constitute at least forty percent
 6 normal stocking 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
 8 than ten contiguous acres which is devoted primarily to forest use and which, in consideration of
 9 their size, has sufficient numbers of commercially valuable species of trees to constitute at least
 10 forty percent normal stocking of forest trees which are well distributed over the growing site, and
 11 that is managed pursuant to a plan provided for in section ten of this article: *Provided*, That none
 12 of the 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
18 that 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
22 three of this article.

23 (e) "County Board of Education" or "board" means the duly elected Board of Education of
24 each 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
27 nursery stock and woodland products, such as nuts or fruits harvested for human consumption,
28 shall be 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
32 or 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
34 the 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.

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

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

3 (1) Devise training and certification criteria for county assessors and their employees and
4 members of county commissions, which shall include a definition of "appropriate staff member"
5 as the term is used in section six of this article relating to required training, which definition shall
6 include deputy assessors as provided ~~for~~ in section three, article two of this chapter;

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

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

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

19 (c) In the event the Tax Commissioner and a county assessor cannot agree on the content
20 of the plan required under section seven of this article, the commission shall examine the plan
21 and the objections of the Tax Commissioner and shall resolve the dispute on or before the first

22 day of the fiscal year following the fiscal year in which the plan was submitted to the commission
23 for resolution.

24 (d) The commission ~~shall have the power to~~ may make such rules as it ~~deems~~ considers
25 necessary to carry out the provisions of this section, which rules shall include procedures for the
26 maintenance, use, sale, and ~~reproduction of microfilm, photography and tax maps~~ reproduction
27 of paper and electronic tax maps. Any rules adopted by the commission prior to October 1,
28 1990, under subsection (a) of this section are exempt from the provisions of article three of chapter
29 twenty-nine-a of this code: *Provided*, That the commission shall file a copy of any rule so
30 exempted from the provisions of chapter twenty-nine-a of this code with the legislative rule-making
31 review committee created pursuant to section eleven, article three of ~~said~~ chapter twenty-nine-a
32 of this code prior to November 30, 1990.

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

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

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

46 any of its duties required by law.

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

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

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

15 (c) Before beginning the valuation process, each assessor shall develop a county
16 valuation plan for using information currently available, for checking its accuracy and for correcting
17 any errors found. The plan must be submitted to the Tax Commissioner on or before December
18 1, 1990, for review and approval and ~~such~~ the plan must be revised as necessary and resubmitted
19 every three years thereafter. Whenever a plan is submitted to the Tax Commissioner, a copy
20 shall also be submitted to the county commission of that county and the property valuation training
21 and procedures commission and that county commission and the property valuation training and

22 procedures commission may forward comments to the Tax Commissioner. The Tax
23 Commissioner shall respond to any plan submitted or resubmitted within sixty days of its receipt.
24 The valuation process ~~shall~~ may not begin nor shall funds provided in section eight of this article
25 be available until the plan has received approval by the Tax Commissioner: *Provided*, That any
26 initial plan that has not received approval by the commissioner prior to May 1, 1991, shall be
27 submitted on or by such date to the valuation commission for resolution prior to July 1, 1991, by
28 which date all counties ~~shall~~ have an approved valuation plan in effect.

29 (d) Upon approval of the valuation plan, the assessor shall immediately begin
30 implementation of the valuation process. Any change in value discovered subsequent to the
31 certification of values by the assessor to the county commission, acting as the board of
32 equalization and review, in any given year shall be placed upon the property books for the next
33 certification of values: *Provided*, That notwithstanding any other provision of this code to the
34 contrary, the property valuation training and procedures commission may authorize the Tax
35 Commissioner to approve a valuation plan and the board of public works to submit such a plan
36 which would permit the placement of proportionately uniform percentage changes in values on
37 the books that estimate the percentage difference between the current assessed value and sixty
38 percent of the fair market value for classes or identified subclasses of property and distribute the
39 change between the two tax years preceding the tax year beginning on July 1, 1993. This
40 procedure may be used in lieu of placing individual values on the books at sixty percent of value
41 as discovered or may be in addition to ~~such~~ the valuation. If ~~such~~ this procedure is adopted by
42 a county, then property whose reevaluation is the responsibility of the board of public works and
43 the State Tax Commissioner shall have its values estimated and placed on the books in like
44 manner. ~~Such~~ The estimates shall be based on the best information obtained by the assessor,
45 the board of public works and the Tax Commissioner and the changes shall move those values

46 substantially toward sixty percent of fair market value, ~~such~~ the sixty percent to be reached on or
47 before July 1, 1993.

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

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

60 (A) For a full map sheet, an additional fee of \$3 per copy shall be charged, which shall be
61 deposited in the courthouse facilities improvement fund created by section six, article twenty-six,
62 chapter twenty-nine of this code;

63 (B) For a parcel reproduction on 8 ½ x 11" or 8 ½ x 14" paper, an additional fee of \$1.50
64 per copy shall be charged, which shall be deposited in the courthouse facilities improvement fund
65 created by section six, article twenty-six, chapter twenty-nine of this code; and

66 (C) For all other map sizes, an additional fee of \$2 per copy shall be charged, which shall
67 be deposited in the courthouse facilities improvement fund created by section six, article
68 twenty-six, chapter twenty-nine of this code.

69 (f) Willing and knowing refusal of the assessor or the county commission to comply with

70 and effect the provisions of this article, or to correct any deficiencies as may be ordered by the
71 Tax Commissioner with the concurrence of the valuation commission under any authority granted
72 pursuant to this article or other provisions of this code, ~~shall constitute~~ are grounds for removal
73 from 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.