

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 858

By Senator Trump

[Introduced February 19, 2024; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §11-3-2a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f,
 2 §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a, §11-3-24, §11-3-24a, and §11-3-25b of the
 3 Code of West Virginia, 1931, as amended, all relating to clarifying filing requirements and
 4 deadlines for county assessors, county commissions, and the Office of Tax Appeals in
 5 property tax cases; and further clarifying the Office of Tax Appeals has jurisdiction over
 6 property tax cases.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-2a. Notice of increased assessment required for real property; exceptions to notice.

1 (a) If the assessor determines the assessed valuation of any item of real property
 2 appraised by him or her is more than 10 percent greater than the valuation assessed for that item
 3 in the last tax year, the increase is \$1,000 or more and the increase is entered in the property
 4 books as provided in §11-3-19 of this code, the assessor shall give notice of the increase to the
 5 person assessed or the person controlling the property as provided in §11-3-2 of this code. The
 6 notice shall be given on or before January 15 of the tax year and advise the person assessed, or
 7 the person controlling the property, of his or her right to appear and seek an adjustment in the
 8 assessment: *Provided*, That this notification requirement does not apply to industrial or natural
 9 resources property appraised by the Tax Commissioner under §11-6K-1 *et seq.* of this code which
 10 is assessed at 60 percent of its true and actual value. The notice shall be made by first-class
 11 United States postage mailed to the address of the person assessed or the person controlling the
 12 property for payment of tax on the item or items in the previous year, unless there was a general
 13 increase of the entire valuation in one or more of the tax districts in which case, the notice shall be
 14 by publication of the notice by a Class II-0 legal advertisement in compliance with ~~the provisions~~
 15 §59-3-1 *et seq.* of this code. The area for the publication is the county. The requirement of notice
 16 under this section is satisfied and waived if personal notice of the increase is shown by:

17 (1) The taxpayer having signed the assessment form after it had been completed showing
18 the increase;

19 (2) Notice was given as provided in §11-3-3a of this code; or

20 (3) The person assessed executing acknowledgment of the notice of the increase.

21 (b) If the assessor fails to mail the notices by the deadline in subsection (a) of this section,
22 the most recent assessment year values shall remain unchanged.

23 ~~(b)~~ (c) During the initial reappraisal of all property under §11-1C-7 of this code, the Tax
24 Commissioner and each county assessor shall send every person owning or controlling property
25 appraised by the Tax Commissioner or the county assessor, a pamphlet which explains the
26 reappraisal process and its equalization goal in a detailed, yet informal, manner. The property
27 valuation training and procedures commission, created under §11-1C-3 of this code, shall design
28 the pamphlet for use in all counties while allowing individual county information to be included if it
29 determines that the information would improve understanding of the process.

§11-3-15b. Notice of increase in assessed value of business personal property.

1 (a) On or before January 15 of the tax year, the assessor shall mail a notice of assessed
2 value to any corporation, partnership, limited partnership, limited liability company, firm,
3 association, company, or other form of organization engaging in business activity in the county
4 showing the aggregated assessed value of taxpayer's tangible personal property situated in the
5 county on the assessment date, if known, that is not appraised by the Tax Commissioner:
6 *Provided*, That notice is only required if:

7 (1) The aggregated assessed value of taxpayer's tangible personal property used in
8 business activity is more than 10 percent greater than the aggregated assessed value of the
9 property in the prior tax year; and

10 (2) The aggregated assessed value of property has increased by more than \$100,000
11 since the prior tax year.

12 However, this notification requirement does not apply to industrial or natural resources

13 personal property that is appraised by the Tax Commissioner under §11-6K-1 *et seq.* of this code
14 which is assessed at 60 percent of its true and actual value.

15 (b) The notice shall be made by first-class United States postage mailed to the address of
16 the person assessed or the person controlling the property for payment of tax on the item or items
17 in the previous year.

18 ~~(b)~~ (c) The assessor shall include in the assessment notice:

19 (1) The assessed value of the property for the preceding assessment year;

20 (2) The proposed assessed value of the property for the current assessment year;

21 (3) The classification of the property pursuant to section one, Article X of the Constitution of
22 this state;

23 (4) The mailing date of the notice; and

24 (5) The last date on which the taxpayer may file a petition for review with the assessor from
25 the valuation or classification assigned to the property.

26 ~~(e)~~ (d) The notice required by this section shall be: (1) In writing, in the form prescribed by
27 the Tax Commissioner, and mailed to the taxpayer's last known mailing address; or (2) by
28 electronic notification.

29 ~~(d)~~ (e) No later than the 16th day of the tax year, the assessor shall certify to the county
30 commission and to the Tax Commissioner the date on which all notices under this section were
31 mailed.

32 ~~(e)~~ (f) If the assessor fails to mail the notices by the deadline in subsection (a) of this
33 section, the most recent assessment year values shall remain unchanged.

34 ~~(f)~~ (g) After the mailing date of the notice, any person who owns, claims, possesses, or
35 controls property that is valued by the assessor may inquire of, and be advised by, the assessor as
36 to the valuation of the property determined by the assessor.

37 ~~(g)~~ (h) The owner or person in possession of the tangible personal property may petition the
38 assessor for review as provided in §11-3-15d of this code.

§11-3-15c. ~~Petition~~ Request for assessor review of improper valuation of real property.

1 (a) A taxpayer who is of the opinion that his or her real property has been valued too high or
2 otherwise improperly valued or listed in the notice given as provided in § 11-3-2a of this code, may
3 ~~but is not required to, file a petition for review with the assessor on a written form prescribed by the~~
4 ~~Tax Commissioner~~ for reconsideration. This reconsideration request may be in writing, in person
5 or over the phone. This section ~~shall~~ may not apply to industrial and natural resource property
6 appraised by the Tax Commissioner.

7 (b) The ~~petition~~ taxpayer's request shall state the taxpayer's opinion of the true and actual
8 value of the property and ~~substantial~~ information that justifies that opinion of value for the assessor
9 to consider for purposes of basing a change in classification or correction of the valuation. For
10 purposes of this subsection, the taxpayer shall provide ~~substantial~~ information to justify the opinion
11 of value. The taxpayer may provide an appraisal of the property from a licensed real estate
12 appraiser stating its true and actual value for its current use.

13 (c) The ~~petition~~ taxpayer's request may include more than one parcel of property if they are
14 part of the same economic unit according to the Tax Commissioner's guidelines or if they are
15 owned by the same owner, have the same use, are appealed on the same basis, and are located
16 in the same tax district, or in contiguous tax districts of the county, ~~and are in a form prescribed by~~
17 ~~the Tax Commissioner.~~

18 (d) The ~~petition~~ taxpayer's reconsideration request shall be filed within the following
19 deadlines:

20 (1) Within eight business days after the date the taxpayer receives the notice of increased
21 assessment under §11-3-2a of this code or the notice of increased value was published as a Class
22 II-0 legal advertisement as provided in that section. For purposes of this section, "business day"
23 means any day other than Saturday, Sunday, or any legal holiday set forth in section one, article
24 two, chapter two of this code.

25 (2) For any taxpayer who did not receive a notice of increased assessment under §11-3-2a
26 of this code, but who believes their property is valued too high or incorrectly valued, the deadline
27 shall be January 31 of the property tax year in question.

28 (e) Any taxpayer whose property values have not changed from the most recent
29 assessment year is prohibited from filing a reconsideration request pursuant to subsection (a) of
30 this section or from making verbal complaints to assessor regarding valuation.

§11-3-15d. Administrative review of tangible personal property valuation by assessor.

1 (a) The owner of business tangible personal property that is valued by the assessor or the
2 person in whose possession it is found on the assessment date may ~~appeal to the assessor~~
3 petition the assessor for reconsideration within eight business days after the date the notice of
4 increased assessment required by §11-3-15b of this code was received. ~~by filing a petition with the~~
5 ~~assessor on a form prescribed by the Tax Commissioner~~ This reconsideration request may be in
6 writing, in person or over the phone. For purposes of this section, "business day" means any day
7 other than Saturday, Sunday or any legal holiday set forth in §2-2-1 of this code. ~~The petition shall~~
8 ~~set forth in writing~~ reconsideration request may be in writing, and if so shall state:

9 (1) The taxpayer's opinion of the value of the tangible personal property; and

10 (2) Substantial information that justifies the opinion of value in order for the assessor to
11 consider the information for the purpose of basing a change in the valuation.

12 (b) The assessor shall rule on each ~~petition~~ reconsideration request no later than February
13 10 of the tax year.

14 (c) The notice of the assessor's ruling provided under this section shall be given in the
15 same manner as prescribed in §11-3-15h of this code.

16 (d) If the request of the petitioner is denied, in whole or in part, the notice required by
17 subsection (c) of this section shall include the grounds for refusing to grant the request contained
18 in the ~~petition~~ reconsideration request.

19 (e) This section ~~shall~~ may not apply to tangible personal property appraised by the Tax
20 Commissioner as part of an industrial or natural resource property appraisal.

§11-3-15e. Contents of petition based on income approach to value of real property.

1 (a) A ~~petition~~ request for reconsideration that is filed with the assessor under §11-3-15c or
2 §11-3-15d of this code based on the income approach to value shall be in writing and shall include
3 income and expense data relating to the property for the three most recent consecutive fiscal
4 years of the petitioner ending on or before June 30 preceding the then current assessment year. If
5 the income and expense data is not available to the petitioner, the petitioner shall file with the
6 petition such income and expense data as is available. The Tax Commissioner, by rule, may
7 establish additional information to be filed if the required income and expense data are not
8 available.

9 (b) If a petitioner under this ~~article~~ section uses the income approach to determine
10 valuation, the petitioner, an officer of a corporate petitioner, a general partner or a designated
11 agent shall file a sworn affidavit under penalty of perjury that the information contained in the
12 petition is true and correct to the best of the petitioner's knowledge.

**§11-3-15f. Rejection of ~~petition request for reconsideration; amended petition; appeal~~
options.**

1 If the assessor rejects a ~~petition~~ the taxpayer's request for reconsideration filed made
2 pursuant to § 11-3-15c, or § 11-3-15d, or § 11-3-15e of this code, the petitioner may appeal to the
3 county Board of Equalization and Review as provided in ~~§ 11-3-24~~ §11-3-23a of this code or the
4 Office of Tax Appeals.

§11-3-15g. Meeting between assessor and petitioner.

1 (a) At the ~~petitioner's~~ taxpayer's written or verbal request, the assessor or a member of
2 his or her staff shall meet with the ~~petitioner~~ taxpayer and the ~~Petitioner's~~ taxpayer's
3 representative, if any, at a time and place designated at least three working days in advance by
4 the assessor after the ~~petition~~ taxpayer's request for reconsideration is filed.

5 (b) If the ~~petitioner~~ taxpayer is unable to appear and meet with the assessor at the time and
6 place set by the assessor, the ~~petitioner~~ taxpayer may submit written evidence to support the
7 ~~petition~~ request if it is submitted before the date of the meeting.

§11-3-15h. Ruling on ~~petition~~ request for reconsideration.

1 (a) In all cases, the assessor shall consider the ~~petition~~ request for reconsideration and
2 shall rule on each ~~petition~~ request filed pursuant to § 11-3-15c, or § 11-3-15d, ~~or § 11-3-15e~~ of this
3 code by February 10 of the assessment year. Written notice shall be served by regular mail on the
4 person who filed the ~~petition~~ request.

5 (b) In considering a ~~petition~~ request made pursuant to § 11-3-15c, or § 11-3-15d, ~~or §~~
6 ~~11-3-15e~~ of this code, the assessor shall consider the valuation fixed by the assessor on other
7 similar property that is similarly situated.

8 (c) The consideration of a ~~petition for review~~ request for reconsideration with the assessor
9 is to be an informal process. Formal rules of evidence shall not be required; the assessor may
10 consider all evidence presented and may give each item the weight, in his or her opinion, it
11 commands.

12 (d) The standard of proof which a taxpayer must meet to defend his or her opinion of the
13 true and actual value of the subject property during reviews by the assessor shall be no greater
14 than a simple preponderance of the evidence standard.

§11-3-15i. ~~Petitioner's~~ Taxpayer's right to appeal.

1 (a) If the assessor grants the requested relief, the ~~petitioner~~ taxpayer may not appeal the
2 ruling of the assessor.

3 (b) If the ~~petitioner~~ taxpayer and the assessor reach an agreement within five business
4 days after the conclusion of the meeting held as provided in § 11-3-15g of this code, both parties
5 shall sign the agreement and both parties waive the right to further appeal.

6 (c) If all or part of the ~~petitioner's~~ taxpayer's request under § 11-3-15c, or § 11-3-15d, ~~or §~~
7 ~~11-3-15e~~ of this code is denied, the assessor shall mail, on the date of the ruling, to the ~~petitioner~~

8 ~~taxpayer~~ at the address ~~shown on the petition~~ of the person assessed, or the person controlling
 9 the property, notice of the grounds of the refusal to make the change or changes requested in the
 10 ~~petition~~ by the taxpayer. A ~~petitioner~~ taxpayer whose request is denied, in whole or in part, or a
 11 ~~petitioner~~ taxpayer who does not receive a response from the assessor by February 10, as
 12 provided in § 11-3-15h of this code, may file a protest with the county commission sitting as a
 13 board of equalization and review, as provided in ~~§11-3-24~~ §11-3-23a of this code, or the Office of
 14 Tax Appeals.

§11-3-23a. Informal review and resolution of classification, taxability and valuation issues.

1 (a) *General.* -- ~~Anytime after real or tangible personal property is returned for taxation, the~~
 2 ~~taxpayer may apply to the assessor of the county in which the property was situated on the~~
 3 ~~assessment date for information about the classification, taxability, or valuation of the property for~~
 4 ~~property tax purposes for the tax year following the July 1 assessment date~~ Any taxpayer who has
 5 filed a written petition or a verbal complaint with their county assessor pursuant to §11-3-15c or
 6 §11-3-15d of this code, and ~~A taxpayer~~ who is not satisfied with the response of the assessor and
 7 wants to further pursue the matter, shall follow the procedures set forth in this section.

8 (b) *Classification or taxability.* -- A taxpayer who wants to contest the classification or
 9 taxability of property must follow the procedures set forth in § 11-3-24a of this code.

10 (c) *Valuation issues--property appraised and assessed by county assessor.* --

11 (1) A taxpayer who is dissatisfied with the response of the assessor on a question of
 12 valuation ~~and who receives a notice of increase in the assessed value of real property as provided~~
 13 ~~in § 11-3-2a of this code, or a notice of increase in the assessed value of business personal~~
 14 ~~property as provided in § 11-3-15b of this code, who disagrees with the assessed value stated in~~
 15 ~~the notice,~~ may use the informal review process specified in this article if the taxpayer decides to
 16 challenge the assessed value.

17 (2) A taxpayer may apply for relief to the county commission sitting as a board of
 18 equalization and review pursuant to ~~§ 11-3-24~~ of this code, or to the Office of Tax Appeals not later

19 than February 20 of the tax year by filing a written protest with the clerk of the county commission
20 ~~or the Office of Tax Appeals~~ that identifies the amount of the assessed value the taxpayer believes
21 to be in controversy and states generally the taxpayer's reason or reasons for filing the protest.
22 The board ~~or the Office of Tax Appeals~~ shall then set a date and time to hear the taxpayer's protest.
23 The taxpayer shall timely pay first and second half installment payments of taxes levied for the
24 current tax year on or before they become due and any reduction in assessed value that is
25 administratively ~~or judicially~~ determined in a decision that becomes final will result in a credit being
26 established against taxes that become due for a tax year subsequent to the tax year in which the
27 decision becomes final, except as otherwise stated in the decision or as otherwise provided in this
28 article. In the event the Board of Equalization and Review adjourns sine die before February 20 of
29 the tax year, a taxpayer may file its written protest and the acknowledgment described in this
30 subdivision with the Office of Tax Appeals. pursuant to §11-3-25b of this code. ~~If a taxpayer fails to~~
31 ~~provide its written protest on or before February 20, and the Board of Equalization and Review~~
32 ~~unilaterally increases the assessed value subsequent to that date, the taxpayer may file a written~~
33 ~~protest and the acknowledgment described in this subdivision with the Office of Tax Appeals.~~

34 (3) Alternatively, a taxpayer may file a petition for appeal to the Office of Tax Appeals by
35 March 31, as provided in §11-3-25b of this code. The appeal shall comport with the provisions of
36 §11-10a-1 et seq. of this code. The taxpayer shall timely pay first and second half installment
37 payments of taxes levied for the current tax year on or before they become due and any reduction
38 in assessed value that is administratively determined in a decision that becomes final will result in
39 a refund or a credit being provided to the taxpayer as provided in any order issued by the Office of
40 Tax Appeals.

41 (d) *Valuation issues--property appraised by Tax Commissioner and assessed by county*
42 *assessor. –*

43 ~~(1) A taxpayer who receives a notice of tentative appraised value of natural resource~~
44 ~~property or industrial property from the Tax Commissioner pursuant to § 11-6K-1 et seq. of this~~
45 ~~code.~~

46 ~~(2) A taxpayer may apply for relief to the county commission sitting as a board of~~
47 ~~equalization and review pursuant to § 11-3-24 of this code or to the Office of Tax Appeals no later~~
48 ~~than February 20 of the tax year by filing a written protest with the clerk of the county commission~~
49 ~~or to the Office of Tax Appeals that identifies the amount of the assessed value the taxpayer~~
50 ~~believes to be in controversy and states generally the taxpayer's reason or reasons for filing the~~
51 ~~protest. The board or the Office of Tax Appeals shall then set a date and time to hear the taxpayer's~~
52 ~~protest. The taxpayer shall timely pay first and second half installment payments of taxes levied for~~
53 ~~the current tax year on or before they become due and that any reduction in assessed value that is~~
54 ~~administratively or judicially determined in a decision that becomes final will result in a credit being~~
55 ~~established against taxes that become due for a tax year subsequent to the tax year in which the~~
56 ~~decision becomes final, except as otherwise stated in the decision or as otherwise provided in this~~
57 ~~article. In the event the Board of Equalization and Review adjourns sine die before February 20 of~~
58 ~~the tax year, a taxpayer may file its written protest and the acknowledgment described in this~~
59 ~~subdivision with the Office of Tax Appeals. If a taxpayer fails to provide its written protest on or~~
60 ~~before February 20, and the Board of Equalization and Review unilaterally increases the assessed~~
61 ~~value subsequent to that date, the taxpayer may file a written protest and the acknowledgment~~
62 ~~described in this subdivision with the Office of Tax Appeals.~~

63 (1) A taxpayer who receives a notice of tentative appraised value of natural resource
64 property or industrial property from the Tax Commissioner pursuant to § 11-6K-1 et seq. of this
65 code, may apply for relief to the county commission sitting as a board of equalization and review
66 not later than February 20 of the tax year by filing a written protest with the clerk of the county
67 commission that identifies the amount of the assessed value the taxpayer believes to be in
68 controversy and states generally the taxpayer's reason or reasons for filing the protest. The board

69 shall then set a date and time to hear the taxpayer's protest. The taxpayer shall timely pay first and
 70 second half installment payments of taxes levied for the current tax year on or before they become
 71 due and any reduction in assessed value that is administratively determined in a decision that
 72 becomes final will result in a credit being established against taxes that become due for a tax year
 73 subsequent to the tax year in which the decision becomes final, except as otherwise stated in the
 74 decision or as otherwise provided in this article. If the Board of Equalization and Review adjourns
 75 sine die before February 20 of the tax year, a taxpayer may file its written protest and the
 76 acknowledgment described in this subdivision with the Office of Tax Appeals. pursuant to §11-3-
 77 25b of this code.

78 (2) Alternatively, a taxpayer may file a petition for appeal to the Office of Tax Appeals by
 79 March 31, as provided in §11-3-25b of this code. The appeal shall comport with the provisions of
 80 §11-10a-1 et seq. of this code The taxpayer shall timely pay first and second half installment
 81 payments of taxes levied for the current tax year on or before they become due and any reduction
 82 in assessed value that is administratively determined in a decision that becomes final will result in
 83 a refund or a credit being provided to the taxpayer as provided in any order issued by the Office of
 84 Tax Appeals.

85 (e) The standard of proof which a taxpayer must meet at all levels of review and appeal
 86 under this section shall be a preponderance of the evidence standard.

§11-3-24. Review and equalization by county commission.

1 (a) The county commission shall annually, not later than February 1 of the tax year, meet as
 2 a board of equalization and review for the purpose of reviewing and equalizing the assessment
 3 made by the assessor. The board shall may not adjourn for longer than three business days at a
 4 time, not including a Saturday, Sunday or legal holiday in this state, until this work is completed.
 5 The board may adjourn sine die anytime after February 15 of the tax year and shall adjourn sine
 6 die not later than the last day of February of the tax year.

7 (b) At the first meeting of the board, the assessor shall submit the property books for the

8 current year, which shall be complete, except that the levies shall not be extended. The assessor
9 and the assessor's assistants shall attend and render every assistance possible in connection with
10 the value of property assessed by them.

11 (c) The board shall proceed to examine and review the property books, and shall add on
12 the books the names of persons, the value of personal property and the description and value of
13 real estate liable to assessment which was omitted by the assessor. The board shall correct all
14 errors in the names of persons, in the description and valuation of property, and shall cause to be
15 done whatever else is necessary to make the assessed valuations comply with the provisions of
16 this chapter. But in no case shall any question of classification or taxability be considered or
17 reviewed by the board.

18 (d) If the board determines that any property or interest is assessed at more or less than 60
19 percent of its true and actual value as determined under this chapter, it shall fix it at 60 percent of
20 its true and actual value: *Provided*, That no assessment shall may be increased without giving the
21 taxpayer at least five days' notice, in writing, of the intention to make the increase and no
22 assessment shall be greater than 60 percent of the true and actual value of the property.

23 (e) Service of notice of the increase upon the taxpayer shall be sufficient, or upon his or her
24 agent or attorney, if served in person, or if sent by registered or certified mail to the property owner,
25 his or her agent, or attorney, at the last known mailing address of the person as shown in the
26 records of the assessor or the tax records of the county sheriff. If such person cannot be found and
27 has no last known mailing address, then notice shall be given by publication thereof as a Class I
28 legal advertisement in compliance with the provisions of §59-3-1, *et seq.* of this code and the
29 publication area shall be the county. The date of the publication shall be at least five days, not
30 including a Saturday, Sunday or legal holiday in this state, prior to the day the board acts on the
31 increase. When the board intends to increase the entire valuation in any one tax district by a
32 general increase, notice shall be given by publication thereof as a Class II-0 legal advertisement in
33 compliance with the provisions of §59-3-1, *et seq.* of this code and the publication area shall be the

34 county. The date of the last publication shall be at least five days, not including a Saturday, Sunday
35 or legal holiday in this state, prior to the meeting at which the increase in valuation is acted on by
36 the board. When an increase is made, the same valuation shall not again be changed unless
37 notice is again given as provided.

38 The clerk of the county commission shall publish notice of the time, place, and general
39 purpose of the meeting as a Class II legal advertisement in compliance with the provisions of §59-
40 3-1, *et seq.* of this code and the publication area shall be the county. The expense of publication
41 shall be paid out of the county treasury.

42 (f) Any person who receives notice as provided in subsection (e) of this section may appear
43 before the board at the time and place specified in the notice to object to the proposed increase in
44 the valuation of taxpayer's property. After hearing the board's reason or reasons for the proposed
45 increase, the taxpayer may present his or her objection or objections to the increase and the
46 reason or reasons for the objections.

47 (g) The board may approve an agreement signed by the taxpayer or taxpayer's
48 representative and the assessor, and by a representative of the Tax Commissioner when the
49 property is industrial property or natural resources property, that resolves a valuation matter while
50 the land and personal property books are before the Board for Equalization and Review.

51 (h) If any person fails to apply for relief at this meeting, he or she shall have waived the right
52 to ask for correction in the assessment list for the current year, and shall not thereafter be
53 permitted to question the correctness of the list as finally fixed by the board, except on appeal to
54 the Office of Tax Appeals, pursuant to §11-3-25b of this code or as otherwise provided in this
55 article.

56 (i) After the board completes the review and equalization of the property books, a majority
57 of the board shall sign a statement that it is the completed assessment of the county for the tax
58 year. Then the property books shall be delivered to the assessor and the levies extended as
59 provided by law.

60 (j) A taxpayer who elects to have a hearing before the Board of Equalization and Review
61 may appeal the board's order to the Office of Tax Appeals pursuant to §11-3-25b of this code.

62 (k) The standard of proof which a taxpayer must meet at all levels of review and appeal
63 under this section shall be a preponderance of the evidence standard.

**§11-3-24a. Protest of classification or taxability to assessor; appeal to Tax Commissioner,
appeal to Office of Tax Appeals.**

1 (a) ~~At any time after property is returned for taxation, and up to and including the time the~~
2 ~~property books are before the county commission sitting as a board of equalization and review,~~
3 ~~any taxpayer may apply to the assessor for information regarding the classification and taxability~~
4 ~~of the taxpayer's property. In case the~~ Any taxpayer who is dissatisfied with the classification of
5 property assessed to the taxpayer or believes that the property is exempt or otherwise not subject
6 to taxation, ~~the taxpayer shall file objections in writing with the assessor~~ petition the assessor for
7 reconsideration no later than January 15 of the property tax year. This reconsideration request
8 may be in writing, in person, or over the phone. The assessor shall decide the question by either
9 sustaining the protest and making proper corrections, or by stating, in writing ~~if requested,~~ the
10 reasons for refusal to grant the protest. The assessor's written determination shall be provided to
11 the taxpayer by January 31 of the property tax year.

12 (b) The assessor may, and if the taxpayer requests, the assessor shall certify the question
13 to the State Tax Commissioner no later than January 31 of the property tax year. The request shall
14 be in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn
15 statements, giving a full description of the property and any other information which the Tax
16 Commissioner requires. The Tax Commissioner shall prescribe forms on which the question shall
17 be certified and the Tax Commissioner may pursue any inquiry and procure any information
18 necessary for the disposition of the issue.

19 (c) The Tax Commissioner shall, as soon as possible on receipt of the question, but in no
20 case later than February 28 of the property tax assessment year, instruct the assessor as to how

21 the property shall be treated. The instructions issued and forwarded by mail to the assessor shall
22 be binding upon the assessor, but either the assessor or the taxpayer may apply to the Office of
23 Tax Appeals within 30 days after receiving written notice of the Tax Commissioner's ruling for
24 review of the question of classification or taxability.

§11-3-25b. Appeal to Office of Tax Appeals.

1 (a) In all cases involving appeal to the Office of Tax Appeals from a property tax valuation
2 pursuant to §11-3-15i or §11-3-23a of this code, or from an order of a county commission sitting as
3 a board of equalization and review pursuant to §11-3-24 of this code, the appeal petition must be
4 filed with the Office of Tax Appeals by March 31 of the property tax year as defined in §11-3-1 of
5 this code to be considered timely filed. If a petition of appeal is not filed with the Office of Tax
6 Appeals by March 31 of the property tax year, then it shall be dismissed as untimely.

7 (b) In all cases involving appeal to the Office of Tax Appeals from a property tax ruling on
8 taxability or classification by the Tax Commissioner pursuant to §11-3-24a of this code, the appeal
9 petition must be filed within 30 days after receiving written notice of the Tax Commissioner's ruling.
10 If a petition of appeal is not timely filed with the Office of Tax Appeals, then it shall be dismissed.

11 (c) In all cases involving property tax matters brought before the Office of Tax Appeals
12 pursuant to subsections (a) and (b) of this section, the hearing before the Office of Tax Appeals
13 shall be de novo as provided in §11-10A-10 of this code. Notwithstanding the provisions of §11-
14 10A-10 of this code, a property tax appeal to the Office of Tax Appeals involving valuation,
15 classification, or taxability may be set for hearing within 90 days of the due date of the answer
16 unless continued by order of the Office of Tax Appeals for good cause.

17 (d) The provisions of this section shall be effective for all property tax appeals to the Office
18 of Tax Appeals made on or after January 1, 2023.

19 (e) Failure to make a request for reconsideration, as provided in §11-3-15c, §11-3-15d, or
20 §11-3-24a of this code shall bar the Office of Tax Appeals' jurisdiction to hear any such property tax
21 appeal case. This provision is to clarify the Office of Tax Appeals' property tax jurisdiction on or

- 22 after July 1, 2024. Further, it is clarified that the Office of Tax Appeals has property tax jurisdiction
23 prior to enactment of this subsection subject to the deadline in subsection (a) of this section.