

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 110**

4 (By Senators Palumbo, Jenkins and McCabe)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported March 28, 2013.]
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11 A Bill to amend and reenact §11-1C-9 of the Code of West Virginia,
12 1931, as amended; and to amend and reenact §11-3-1, §11-3-15c
13 and §11-3-15d of said code, all relating to phasing in any
14 assessment of property if there is an increase in the
15 assessment after valuation for the property of more than
16 twenty-five percent; clarifying that the limitation does not
17 apply to natural resources property or to property upon which
18 improvements have been made; and increasing the time to file
19 a petition in response to notice of an increased assessment of
20 certain real and personal property.

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

22 That §11-1C-9 of the Code of West Virginia, 1931, as amended,
23 be amended and reenacted; and that §11-3-1, §11-3-15c and §11-3-15d
24 of said code be amended and reenacted, all to read as follows:

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

2 **§11-1C-9. Periodic valuations.**

3 (a) After completion of the initial valuation required under
4 section seven of this article, each assessor shall maintain current
5 values on the real and personal property within the county. In
6 repeating three-year cycles, every parcel of real property shall be
7 visited by a member of the assessor's staff who has been trained
8 pursuant to section six of this article to determine if any changes
9 have occurred which would affect the valuation for the property.
10 With this information and information such as sales ratio studies
11 provided by the Tax Commissioner, the assessor shall make ~~such~~
12 adjustments ~~as are~~ necessary to maintain accurate, current
13 valuations of all the real and personal property in the county and
14 shall adjust the assessments accordingly. If any increase in
15 valuation for the property results in more than a twenty-five
16 percent increase in the assessment, the assessor shall phase in the
17 assessment over a period of two years. This phase in of the
18 assessment does not apply to natural resources property, as defined
19 in section ten of this article, and does not apply when
20 improvements made on the property resulted in the increased
21 assessment.

22 (b) In any year the assessed value of a property or species of
23 property ~~be is~~ less than or ~~exceed~~ exceeds sixty percent of current
24 market value, the Tax Commissioner shall direct the assessor to

1 make the necessary adjustments. If any increase in valuation for
2 the property results in more than a twenty-five percent increase in
3 the assessment, the assessor shall phase in the assessment over a
4 period of two years. This phase in of the assessment does not
5 apply to natural resources property, as defined in section ten of
6 this article, and does not apply when improvements made on the
7 property resulted in the increased assessment. If any assessor
8 fails to comply with the provisions of this section, the Tax
9 Commissioner may, at the county commission's expense, take
10 reasonable steps to remedy the assessment deficiencies.

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

12 **§11-3-1. Time and basis of assessments; true and actual value;**
13 **default; reassessment; special assessors; criminal**
14 **penalty.**

15 (a) All property, except public service businesses assessed
16 pursuant to article six of this chapter, shall be assessed annually
17 as of July 1 at sixty percent of its true and actual value, that is
18 to say, at the price for which the property would sell if
19 voluntarily offered for sale by the owner thereof, upon the terms
20 as the property, the value of which is sought to be ascertained, is
21 usually sold, and not the price which might be realized if the
22 property were sold at a forced sale. If any increase in valuation
23 for the property results in more than a twenty-five percent
24 increase in the assessment, the assessor shall phase in the

1 assessment over a period of two years. This phase in of the
2 assessment does not apply to natural resources property, as defined
3 in section ten of this article, and does not apply when
4 improvements made on the property resulted in the increased
5 assessment.

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

24 (c) The taxes upon all property shall be paid by those who are

1 the owners thereof on the assessment date whether it be assessed to
2 them or others.

3 (d) If at any time after the beginning of the assessment year,
4 it be ascertained by the Tax Commissioner that the assessor, or any
5 of his or her deputies, is not complying with this provision or
6 that they have failed, neglected or refused, or is failing,
7 neglecting or refusing after five days' notice to list and assess
8 all property therein at sixty percent of its true and actual value
9 as determined under this chapter, the Tax Commissioner may order
10 and direct a reassessment of any ~~or all~~ of the property in any
11 county, district or municipality, where any assessor, or deputy,
12 fails, neglects or refuses to assess the property in the manner
13 herein provided. ~~And,~~ For the purpose of making assessment and
14 correction of values, the Tax Commissioner may appoint one or more
15 special assessors, as necessity may require, to make assessment in
16 any county and any such special assessor or assessors, as the case
17 may be, has the power and authority now vested by law in assessors,
18 and the work of such special assessor or assessors shall be
19 accepted and treated for all purposes by the county boards of
20 review and equalization and the levying bodies, subject to any
21 revisions of value on appeal, as the true and lawful assessment of
22 that year as to all property valued by him or her or them. The Tax
23 Commissioner shall fix the compensation of all special assessors
24 appointed, which, together with their actual expenses, shall be

1 paid out of the county fund by the county commission of the county
2 in which any such assessment is ordered, upon the receipt of a
3 certificate of the Tax Commissioner filed with the clerk of the
4 county commission showing the amounts due and to whom payable,
5 after such expenses have been audited by the county commission.

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

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

17 (1) "Assessment date" means July 1 of the year preceding the
18 tax year.

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

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

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

1 **§11-3-15c. Petition for assessor review of improper valuation of**
2 **real property.**

3 (a) A taxpayer who is of the opinion that his or her real
4 property has been valued too high or otherwise improperly valued or
5 listed in the notice given as provided in section two-a of this
6 article may, but is not required to, file a petition for review
7 with the assessor on a written form prescribed by the Tax
8 Commissioner. This section shall not apply to industrial and
9 natural resource property appraised by the Tax Commissioner.

10 (b) The petition shall state the taxpayer's opinion of the
11 true and actual value of the property and substantial information
12 that justifies that opinion of value for the assessor to consider
13 for purposes of basing a change in classification or correction of
14 the valuation. For purposes of this subsection, the taxpayer
15 ~~provides~~ shall provide substantial information to justify the
16 opinion of value by stating the method or methods of valuation on
17 which the opinion is based:

18 (1) Under the income approach, including the information
19 required in section fifteen-e of this article;

20 (2) Under the market approach, including the true and actual
21 value of at least three comparable properties in the same
22 geographic area or the sale of the subject property; or

23 (3) Under the cost approach, including the replacement cost or
24 the cost to build or rebuild the property, plus the true and actual

1 value of the land.

2 (c) The petition may include more than one parcel of property
3 if they are part of the same economic unit according to the Tax
4 Commissioner's guidelines or if they are owned by the same owner,
5 have the same use, are appealed on the same basis and are located
6 in the same tax district or in contiguous tax districts of the
7 county, and are in a form prescribed by the Tax Commissioner.

8 (d) The petition shall be filed within ~~five~~ eight business
9 days after the date the taxpayer receives the notice of increased
10 assessment under section two-a of this article or the notice of
11 increased value was published as a Class II-0 legal advertisement
12 as provided in that section.

13 **§11-3-15d. Administrative review of tangible personal property**
14 **valuation by assessor.**

15 (a) The owner of business tangible personal property that is
16 valued by the assessor or the person in whose possession it is
17 found on the assessment date may appeal to the assessor within ~~five~~
18 eight business days after the date the notice of increased
19 assessment required by section fifteen-b of this article was
20 received by filing a petition with the assessor on a form
21 prescribed by the Tax Commissioner. The petition shall set forth
22 in writing:

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

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

4 (b) The assessor shall rule on each petition no later than
5 February 10 of the tax year.

6 (c) The notice of the assessor's ruling provided under this
7 section shall be given in the same manner as prescribed in section
8 fifteen-h of this article.

9 (d) If the request of the petitioner is denied, in whole or in
10 part, the notice required by subsection (c) of this section shall
11 include the grounds for refusing to grant the request contained in
12 the petition.

13 (e) This section shall not apply to tangible personal property
14 appraised by the Tax Commissioner as part of an industrial or
15 natural resource property appraisal.