

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

House Bill 4689

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[Introduced February 23, 2016; Referred
Introduced to the Committee on Finance.]

1 A BILL amend and reenact §11-1C-11b of the Code of West Virginia, 1931, as amended, relating
 2 generally to the valuation of managed timberland and timberland that is not managed
 3 timberland for *ad valorem* property tax purposes; establishing a specific methodology for
 4 such valuations; providing remedies to persons aggrieved by the valuations and for
 5 compliance inspections, notice of revocation, appeals; and effective date.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

**§11-1C-11b. Valuation; ~~rulemaking~~; aggrieved person and taxpayer protests; exhaustion
 of remedies; compliance inspection; notice of revocation; appeal; effective date.**

1 ~~(a) The Tax Commissioner shall establish by legislative rule two methodologies for~~
 2 ~~determining the appraised value of managed timberland, based upon the land's potential to~~
 3 ~~produce future income according to its use and productive potential as managed timberland and~~
 4 ~~whether the property is classified as Class II property or as Class III or IV property for property~~
 5 ~~tax purposes. These values shall be determined by discounting the potential future net income of~~
 6 ~~the timberland to its present value utilizing a discounted cash flow model based upon whether the~~
 7 ~~property is classified as Class II property or as Class III or IV property for property tax purposes.~~

8 ~~(b) The Tax Commissioner shall also establish by legislative rule a method to determine~~
 9 ~~the appraised value of timberland that is not certified as managed timberland. All timberland that~~
 10 ~~is not certified as managed timberland shall be valued at its market value, except for farm~~
 11 ~~woodlots which shall be valued as part of the farm.~~

12 ~~(c) Notwithstanding the provisions of section five a of this article, the legislative rules~~
 13 ~~required by subsections (a) and (b) of this section may be promulgated as emergency legislative~~
 14 ~~rules if they are filed in the state register on or before July 1, 1998.~~

15 (a) The appraised value of managed timberland shall be determined by the State Tax
16 Commissioner on the basis of the potential of the land to produce future income according to its
17 use and productive potential. Potential future net income is discounted to its present value
18 utilizing a discounted cash flow; this is the appraised value. The ability of a stand of timber to
19 produce wood products for sale or use depends primarily on the quality of the soil and certain
20 topographic and climatic features which can be expressed as a site index. Site index is the
21 principal criterion influencing the appraised value of managed timberland. These factors shall be
22 reviewed annually by the Tax Commissioner for necessary updating of the method described in
23 order to properly reflect future changes in the values of managed timberland.

24 (b) The appraised value of timberland consisting of woodland or wasteland which is not
25 managed timberland shall be determined on the basis of market comparable derived through
26 analysis of sales prices of comparable forested properties. Timberland appraisal value shall
27 always be more than the appraised value of equivalent grades of properties being classified as
28 managed timberland in the county. The appraised value of timberland shall be determined by the
29 county assessor based upon the classifications described in subsection (p) of this section.

30 (c) The county assessor shall collect and analyze market data, including sales of
31 timberland, segregated into the classes described in subsection (p) of this section. Based upon
32 this market analysis, the county assessor shall select the value for each class of timberland that
33 best reflects the market value of the property if exposed to the market for sale as timberland. The
34 values by class thus selected shall be entered, by the assessor, into the respective county land
35 pricing tables and shall be used by the assessor to estimate the appraised value of timberland for
36 property tax purposes.

37 (d) Definitions.

38 For the purposes of this section, and unless the context clearly requires a different
39 meaning, the following terms shall have the following meanings:

40 (1) "Capitalization rate" means the rate used to convert an estimate of income into an
41 estimate of present value. Details of the procedure for determining the capitalization rate are
42 found in subsection (m) of this section.

43 (2) "Certified managed timberland plan" means the managed timberland plan that is
44 certified by the landowner when the landowner certifies that the property is maintained as
45 managed timberland.

46 (3) "Cost" means a component of management costs and property taxes.

47 (4) "dbh" means the diameter of trees at breast height, which is fifty-four inches above
48 ground level.

49 (5) "Division of Forestry" means the West Virginia Bureau of Commerce, Division of
50 Forestry.

51 (6) "Farm wood lot" means that portion of a farm in timber but may not include land used
52 primarily for the growing of timber for commercial purposes except that Christmas trees, or
53 nursery stock and woodland products, such as nuts or fruits harvested for human consumption,
54 shall be considered farm products and not timber products.

55 (7) "Harvest income per acre" means the expected after tax revenue and accrued interest
56 for each harvesting interval. Interest is assumed to accrue at the rate of return from the period of
57 harvest to the end of the eighty year rotation cycle.

58 (8) "Integrated Moisture Index" means soil moisture data derived from a methodology
59 described in "A GIS-Derived Integrated Moisture Index"; by Louis R. Iverson and Anantha M.
60 Prasad; USDA Forest Service, Northeastern Research Station, Delaware, Ohio; 43015, as the
61 same is refined and applied, from time to time, by subsequent professional studies conducted, or
62 contracted for, by the Division of Forestry to determine current measures of the same.

63 (9) "MBF" means thousand board feet.

64 (10) "Management cost" means the cost determined tri-annually by the Tax Commissioner
65 to be the average annual cost of maintaining and protecting a producing forest. Maintenance

66 costs may include costs of inventory, boundary survey, security, maps, and any other items as
67 can be shown to have been necessary. Protection may include costs of protection against forest
68 fires; harmful insect and tree diseases; costs of repair and replacement resulting from damages
69 reported to appropriate police agencies, including all-terrain vehicles and other vehicular
70 damages, and costs of replacing and replanting forest production and/or plantations destroyed or
71 injured by deer or other wild animals whose populations exceed the maximum carrying capacity
72 of the site. Management costs shall be determined as an average for the entire state or by
73 regions, by Managed Timberlands Productivity Grades or by parcel acreage and shall be
74 deducted from gross annual income per acre to obtain net annual income per acre.

75 (11) "Managed Timberland" means surface real property, except farm woodlots, of not
76 less than ten contiguous acres which is devoted primarily to forest use and which, in consideration
77 of their size, has sufficient numbers of commercially valuable species of trees to constitute at least
78 forty percent normal stocking of forest trees which are well distributed over the growing site, and
79 that it is managed pursuant to a managed timberland plan.

80 (12) "Managed Timberland Plan" means the planned timberland management program
81 that conforms to the following standards established by the Division of Forestry in the plan:

82 (A) Includes the owner's multipurpose objectives for the property;

83 (B) Provides for the land:

84 (i) To remain in at least forty percent or greater forest cover of well distributed commercially
85 important trees,

86 (ii) To produce continuous crops of timber according to the site's productivity, and,

87 (iii) To be monitored for and action taken against threats from injurious agencies;

88 (C) Ensures that harvesting will be done in a manner that assures regeneration of the
89 landowner's preferred species; and

90 (D) Assures sustainability of forest resources and compliance with the Logging Sediment
91 Control Act, in article one-b, chapter nineteen of this code.

92 (13) "Managed Timberland Productivity Grades" means timberland classified as Grade
93 One (excellent to very good), Grade Two (good to fair), or Grade Three (poor), according to the
94 table in subsection (s) of this section.

95 (14) "Owner of surface less timber" means any person who owns an interest in the surface
96 where the timber rights have been sold to someone else.

97 (15) "Owner of Timber" means any person who owns an interest in timber, including a
98 lessor or sublessor and an owner of a contract right to cut timber. The owner of timber must have
99 a right to cut timber for sale on his, her or its own account for use in his, hers, or its trade or
100 business in order to have property rights that are subject to ad valorem property taxes.

101 (16) "Site Index" means a method of measuring the potential of a site to grow trees to the
102 height of upland oaks at fifty years of age. The site index will be determined using the applicable
103 Integrated Moisture Index.

104 (17) "Stumpage Price" means the market value of standing trees (on the stump) prior to
105 felling and removal, and is expressed in dollars per unit of volume whether expressed as thousand
106 board feet or as cords. For appraisal purposes, real stumpage price will be adjusted to real price
107 changes over various harvest periods, being thirty-five, forty-five, fifty-five or eighty years during
108 the eighty-year rotation cycle. The real price change shall be determined using historical West
109 Virginia saw timber and pulpwood prices based upon sixteen inch (dbh) logs provided by the West
110 Virginia Division of Forestry from data for the last twenty years or more depending on availability.
111 Stumpage price projections over various harvest periods shall be calculated using the real price
112 change derived from historical saw timber and pulpwood prices in West Virginia. Thus, since
113 stumpage prices provided by the Division of Forestry are in nominal terms, those prices shall be
114 converted to real dollars (i.e. real terms) before stumpage projections are calculated. A five-year
115 weighted moving average shall be computed in order to minimize the effects of short-term
116 fluctuations. Stumpage prices shall be computed for each stumpage price region in order to
117 reflect regional differences in markets, topography, and accessibility.

118 (18) "Stumpage Price Region" means a geographical region of the state, usually
119 consisting of several counties, in which conditions of the timber, timber markets, topography, and
120 accessibility are sufficiently similar to result in similar stumpage prices at any given time. The
121 counties involved in each stumpage price region have been identified by the Division of Forestry
122 and are found in subsection (r) of this section.

123 (19) "Timber" means trees of any marketable species, whether planted or of natural
124 growth, standing or down, located on public or privately owned land, which are suitable for
125 commercial or industrial use.

126 (20) "Timberland (Woodland/Wasteland)" means any surface real property, except
127 managed timberland and farm woodlots of not less than ten contiguous acres, which is primarily
128 in forest and which has, in consideration of their size, sufficient numbers of commercially-valuable
129 species of trees to constitute at least forty percent normal stocking of forest trees, as provided in
130 subsection (q) of this section, which are well distributed over the growing site. Additionally, land
131 that has been recently harvested of merchantable timber and is growing into or being planted as
132 a new forest may be classified as timberland.

133 (e) Classification of Timberland and Managed Timberland.

134 (1) Managed Timberland. -- For property to qualify for managed timberland valuation, the
135 owner of the surface real property identified on the county tax mapping system shall annually
136 certify in writing to the Division of Forestry that the property satisfies the requirements of managed
137 timberland, as defined in this section and enter into a contract with the Division of Forestry to use
138 the real estate in a planned program of multiple purpose forest management, including erosion
139 control during timbering operations, as specified in the West Virginia Forest Practices Standards
140 and the West Virginia Silvicultural Nonpoint Source Management Program, and as provided in
141 subsection (n) of this section. Multipurpose forest management contemplates the periodic
142 selection of timber on the property for harvesting as an integral part of silvicultural management
143 practices. The silvicultural manipulation subjects the property to periodic commercial use that

144 may have an effect on the property's classification for property tax purposes. Therefore, in
145 recognition of the silvicultural manipulation, the following guidelines shall be observed by the
146 Division of Forestry when classifying managed timberland for property tax purposes.

147 (A) Property containing managed timberland, which may have been properly taxed as
148 Class II property prior to the managed timberland application, shall remain as Class II property
149 unless there is some other event or change in the use of the property that disqualifies it from being
150 taxed as Class II property.

151 (B) Property containing managed timberland, which may have been properly taxed as
152 Class III or Class IV property prior to the managed timberland application, shall be taxed as Class
153 III or Class IV property depending upon location.

154 (2) Timberland. -- Timberland shall be taxed as Class II, Class III, or Class IV property in
155 accordance with provisions of section five, article eight of this chapter. In order for timberland to
156 be taxed as Class II property, the timberland shall be used and occupied by the owner exclusively
157 for residential purposes.

158 (3) Surface less timber -- Property where the owner of the surface does not include the
159 timber rights is not eligible for managed timberland classification and shall be valued by the
160 assessor.

161 (4) Timber -- Property where the owner of the timber rights does not include the surface,
162 is not eligible for managed timberland classification and shall be valued by the assessor.

163 (f) Farm wood lots shall be included in the valuation of farm property under section ten,
164 article one-a of this chapter except when the farm wood lot is a separate parcel or tract entered
165 in the land books, and/or except when the primary use of the farm wood lot is in commercial
166 forestry or in a managed timberland contract.

167 (g) Improvements such as roads and service buildings that are a required (usual) part of
168 timber management operations are not subject to an additional market value appraisal over and
169 above the appraisal of the managed timberland. Improvements that are not a necessary part of

170 the timber management operations, such as dwellings, cottages, hunting camps, other
171 recreational facilities, and associated real estate are subject to additional market value appraisals.
172 Additionally, haul roads, strip and/or mountaintop removal mines, plant facilities, powerline and
173 gas/oil pipeline rights-of-way, and gas/oil well pads shall not be valued as managed timberland.

174 (h) The appraised value per acre of timberland shall be determined based upon market
175 comparables and shall be estimated by the county assessor. There are at least five various
176 timberland rates based on the classifications described in subsection (p) of this section.
177 Assessors shall tri-annually review and grade these nonmanaged timberland properties in order
178 to assign the proper rate per acre to the property. The rate per acre shall be established by the
179 assessor in conformity with requirements of subsection (b) of this section.

180 (i) A parcel, or contiguous parcels, of timberland totaling less than ten acres shall not be
181 considered for classification as managed timberland and shall be valued by the county assessor
182 based upon market comparables.

183 (j) Harvest Volumes per acre shall be based on site index and the ability of the site to yield
184 timber measured in thousands of board feet per acre, based on the Scribner rule, or cords per
185 acre with harvest intervals at thirty-five, fifty-five and eighty years for Grade One and Grade Two
186 soils, and at forty-five and eighty years for Grade Three soil.

187 (k) The appraised value per acre of managed timberland is the present worth of an infinite
188 periodic net income from the land less a property tax adjustment for Class II, and a blend of Class
189 III and Class IV tax rates for Class III and Class IV properties. However, subject to the provisions
190 of subsection (b) of this section, the appraised value per acre for any grade of managed
191 timberland in any county will not be less than eighty percent of the value per acre of the
192 comparable grade of managed timberland in the immediately preceding tax year in that same
193 county. The appraised value is the net present worth of all revenues and costs associated with
194 growing timber on the land in perpetuity. Net income is the difference between projected

195 revenues, for example, harvest revenues in years thirty-five, fifty-five and eighty and projected
196 costs, including for example management costs .

197 (l) The following is a step-by-step procedure for determining the appraised value per acre
198 of managed timberland.

199 (1) The Tax Commissioner shall enter the surface ownership maps (typically one inch
200 equals four hundred feet or one inch equals eight hundred feet) into a Geographic Information
201 System. The Geographic Information System shall be used to register the surface ownership
202 parcels to the same geographic coordinate system and scale as that of the Integrated Moisture
203 Index. This process allows the calculation of the area of each soil productivity grade in each
204 parcel.

205 (2) Average stumpage price (five year weighted moving average) is determined by the
206 State Tax Commissioner, based on stumpage price reports from the Division of Forestry and other
207 available sources.

208 (3) Total harvest income per acre over a rotation cycle of thirty-five years, fifty-five years
209 and eighty years for Grade One and Two soils, and forty-five years and eighty years for Grade
210 Three soils shall be compounded at the end of the rotation being the harvest income value at year
211 eighty less applicable state and federal severance tax payments, if any.

212 (4) End of eighty year rotation total management costs per acre shall be determined by
213 compounding the annual management costs at the end of the rotation being the management
214 cost value in year eighty using the after severance-tax management costs and accrued interest
215 on those costs.

216 (5) Appraised value per acre for managed timberland shall be determined by first
217 deducting the cumulative end of rotation total management costs from the cumulative end of
218 rotation total harvest income per acre as defined in this section; second, calculating the present
219 worth of that difference, assuming an infinite periodic income from the managed timberland; and

220 third, adjusting that value by the annual ad valorem property tax rate (either Class II or a blended
221 Class III/IV).

222 (6) The Geographic Information System shall be used to calculate the appraised value of
223 managed timberland property on an annual basis. The appraised value of each managed
224 timberland property shall be calculated using the formula provided in subsection (v) of this section.
225 Those acreages involved in a managed timberland application where the use of the property is
226 not for managed timberland purposes such as a homesite, for pasture, or tillable farmland, for
227 recreation or for a strip mine, for example, may not be classified as managed timberland and shall
228 be appraised by the county assessor.

229 (m) The average statewide capitalization rate, based on a five-year weighted moving
230 average of various components, for managed timberland shall be determined annually by the Tax
231 Commissioner through the use of generally accepted methods of determining those rates. The
232 rate shall be based on the assumption of a discounted cash flow model based upon harvest
233 intervals provided in subsection (s) of this section. The capitalization rate used to value managed
234 timberland shall be developed considering the following:

235 (1) Discount Component. -- The summation technique shall be used in developing a
236 discount component of the capitalization rate. The five subcomponents of the discount
237 component are:

238 (A) Safe Rate. -- The safe rate shall reflect a rate of return that an investor could expect
239 on an investment of minimal risk. This rate shall be developed through weighted averages of
240 interest rates offered on five-year United States Treasury Bills for the five years immediately
241 preceding the appraisal date.

242 (B) Nonliquidity Premium. -- The nonliquidity premium rate shall be developed through an
243 annual review to determine a reasonable estimate of time that timberland, when exposed for sale,
244 remains on the market before being sold. The time thus determined shall be used to identify
245 United States Treasury Bills with similar time differentials in excess of thirteen-week Treasury

246 Bills. The interest differential between these securities shall be used to represent the nonliquidity
247 rate. For example, if it is determined that a tract of timberland remains on the market for an
248 average of thirty-nine weeks before being sold, the nonliquidity rate shall be derived by subtracting
249 the rate on thirteen-week Treasury Bills from the rate on one year Treasury Bills. This review
250 shall consider the weighted average of these differences for a five year period immediately
251 preceding the appraisal date.

252 (C) Default Risk Premium – The Default Risk Premium, being the premium added to the
253 safe rate to compensate for the chance that the obligor will default on a loan, is the difference
254 between the rate on a United States Treasury Bond and the average rate on investment grade
255 corporate bonds, being the rate on triple A, double A, A and triple B rated bonds of equal maturity
256 and marketability. The Default Risk Premium will take into account the weighted average of
257 these differences for a five-year period immediately preceding the appraisal date.

258 (D) Management Rate. -- The management rate represents the cost of managing the
259 investment, not the cost of managing the timberland. Historically, the management rate has been
260 one-half of one percent; therefore, this rate shall be considered the industry standard for current
261 applications.

262 (E) Discount Component. -- In determining the discount component of the capitalization
263 rate, the Tax Commissioner shall take the sum of the safe rate, the nonliquidity rate, the default
264 risk rate, and the management rate. The resulting discount rate is a nominal discount rate.

265 (2) Property Tax Component. -- The property tax component shall be derived by
266 multiplying the assessment rate by the statewide five year weighted average of tax rates on Class
267 II and on a blended rate for Class III and Class IV properties. The discounted property tax rates
268 shall be deducted from the discounted difference between total cumulative harvest income and
269 end of rotation management costs.

270 (n) In order to qualify, under the provisions of this rule, for managed timberland valuation
271 purposes, the owner of the timberland shall, before September 1, enter into a contract with the

272 Division of Forestry. The contract shall state that the real estate is being used in a planned
273 program of timber management and erosion control practices intended to enhance the growth of
274 commercially desirable species through generally accepted silvicultural practices and the use of
275 Best Management Practices as specified in the West Virginia Forest Practice Standards and the
276 West Virginia Nonpoint Source Management Program. The contract shall be assignable with the
277 sale of the land when the land is sold to be used for managed timberland purposes. Annually,
278 before September 1, the owner shall file an application for certification as managed timberland
279 with the Division of Forestry. The application shall include either a commitment to maintain and
280 protect timberland certified as managed timberland by demonstrating land-use objectives to
281 include resource management and soil and water protection; or a written plan prepared by a
282 professional forester. Falsification of certification or failure to follow a professionally prepared plan
283 shall result in loss of valuation as managed timberland. In any event, the following information
284 shall be provided:

285 (1) The county, district, map, parcel number, deed book surface acreage and actual
286 surveyed surface acreage, if available, for each parcel that is to be valued as managed
287 timberland;

288 (A) The amount of acreage in each parcel that should be classified as managed
289 timberland. For those properties where managed timberland acreage is different than deed
290 acreage, information identifying the use of the nonmanaged acreage is required;

291 (B) The signature of owner, including all fractional interests, acknowledging that the
292 contract with the Division of Forestry has been annually reviewed and approved and that the
293 property is being managed in accordance with the Best Management Practices for forestry as
294 outlined in the West Virginia Forest Practice Standards and the Best Management Practices for
295 water quality as outlined in the West Virginia Nonpoint Source Management Program. If a written
296 plan is provided in accordance with this subsection, that plan shall be approved and signed by a
297 registered timber management forester.

298 (2) The Division of Forestry shall, on October 1, of each year, provide to the State Tax
299 Commissioner a copy of the certifications and a list of those properties certified as managed
300 timberland and those denied certification. Thereafter, the Division of Forestry has until January
301 15 of the next calendar year to review any applications questioned by the State Tax Commissioner
302 or county officials.

303 (3) Any property owner whose managed timberland application was denied or who has
304 been refused certification pending demonstration of specific facts may, on November 1, of the
305 assessment year, file an appeal of the denial or file the requested data with the Director of the
306 Division of Forestry. On December 1, the Division of Forestry shall advise the Tax Commissioner
307 of any changes of application denials.

308 (o) The appraised value of property categorized as managed timberland shall be
309 determined by use of the formula provided in subsection (t) in the case of Class II parcels and in
310 subsection (u) in the case of Class III and IV parcels.

311 (p) For purposes of this section, timberland shall be classified as follows:

312 (1) Class "A" is land adaptable for use as forest property. It may be adaptable to other
313 profitable uses. There is a stand of trees of commercial species, the size being from fourteen to
314 twenty inches dbh, and above.

315 (2) Class "B" is land also adaptable for use as forest property. It may be adaptable for
316 other profitable uses. There is a stand of trees of commercial species, the size being from ten to
317 fourteen inches dbh.

318 (3) Class "C" is land adaptable for use as forest property and there is a stand of trees of
319 commercial species on it of a size being from six to ten inches dbh.

320 (4) Class "D" is land adaptable for use as forest property and there is a stand of trees of
321 commercial species on it of a size being from four, to six inches dbh.

322 (5) Class "E" is land adaptable for use as forest property and there are trees of commercial
323 species on it of a size less than four inches dbh. This class of timberland also includes clear cut

324 property and property subjected to total harvest where the remaining commercial species are less
 325 than four inches dbh.

326 (q) The minimum number of trees required per acre to determine thirty square feet of tree
 327 basel area of forty percent stocking for classification as forest land shall be as follows:

| <u>D.B.H</u> <u>Range</u> | <u>D.B.H. in 2"</u> <u>Classes</u> | <u>Basel Area</u> <u>Per Tree</u> | <u>Per Acre</u> | <u>Per</u> <u>1/5 Acre</u> | <u>Per</u> <u>1/10 Acre</u> |
|------------------------------|---------------------------------------|--------------------------------------|-----------------|-------------------------------|--------------------------------|
| <u>Up to 2.9"</u> | <u>Seedlings</u> | | <u>400</u> | <u>80</u> | <u>40</u> |
| <u>3.0-4.9"</u> | <u>4</u> | <u>0.0873</u> | <u>400</u> | <u>80</u> | <u>40</u> |
| <u>5.0-6.9"</u> | <u>6</u> | <u>0.1964</u> | <u>153</u> | <u>31</u> | <u>15</u> |
| <u>7.0-8.9"</u> | <u>8</u> | <u>0.3491</u> | <u>86</u> | <u>17</u> | <u>9</u> |
| <u>9.0-10.9"</u> | <u>10</u> | <u>0.5454</u> | <u>55</u> | <u>11</u> | <u>6</u> |
| <u>11.0-12.9"</u> | <u>12</u> | <u>0.7854</u> | <u>38</u> | <u>8</u> | <u>4</u> |
| <u>13.0-14.9"</u> | <u>14</u> | <u>1.0690</u> | <u>28</u> | <u>6</u> | <u>3</u> |
| <u>15.0"+</u> | <u>16+</u> | <u>1.3983+</u> | <u>21</u> | <u>4</u> | <u>2</u> |

328 NOTE:

329 1. Area 1/5 acre, circle, diameter 105'4 inches; square 93.4 inches per side.

330 2. Area 1/10 acre; circle, diameter 74'6 inches; square 66 feet.

331 3. Number of seedlings present may qualify on a percentage basis; Example, one
 332 hundred seedlings would be equivalent of seven and one half square feet of basal area (25% x
 333 30 - 7.5).

334 4. Seedlings per acre are based on total pine and hardwood stems. Where intensive pine
 335 management is practiced a minimum of two hundred fifty well distributed pine seedlings will
 336 qualify.

337 (r) For the purposes of this section, the stumpage price regions shall be as follows:

| | | | | |
|------------------|-------------------|-------------------|------------------|-----------------|
| <u>Region 1</u> | <u>Region 2</u> | <u>Region 3</u> | <u>Region 4</u> | <u>Region 5</u> |
| <u>Brooke</u> | <u>Braxton</u> | <u>Barbour</u> | <u>Berkeley</u> | <u>Boone</u> |
| <u>Cabell</u> | <u>Calhoun</u> | <u>Greenbrier</u> | <u>Grant</u> | <u>Fayette</u> |
| <u>Hancock</u> | <u>Clay</u> | <u>Monroe</u> | <u>Hampshire</u> | <u>Kanawha</u> |
| <u>Jackson</u> | <u>Doddridge</u> | <u>Nicholas</u> | <u>Hardy</u> | <u>Lincoln</u> |
| <u>Marshall</u> | <u>Gilmer</u> | <u>Pendleton</u> | <u>Jefferson</u> | <u>Logan</u> |
| <u>Mason</u> | <u>Harrison</u> | <u>Pocahontas</u> | <u>Mineral</u> | <u>McDowell</u> |
| <u>Ohio</u> | <u>Lewis</u> | <u>Preston</u> | <u>Morgan</u> | <u>Mercer</u> |
| <u>Pleasants</u> | <u>Marion</u> | <u>Randolph</u> | | <u>Mingo</u> |
| <u>Putnam</u> | <u>Monongalia</u> | <u>Tucker</u> | | <u>Raleigh</u> |
| <u>Tyler</u> | <u>Ritchie</u> | <u>Upshur</u> | | <u>Summers</u> |
| <u>Wetzel</u> | <u>Roane</u> | <u>Webster</u> | | <u>Wayne</u> |
| <u>Wood</u> | <u>Taylor</u> | | | <u>Wyoming</u> |
| | <u>Wirt</u> | | | |

338 (s) For the purposes of this section, the grades of harvest volumes per acre, measured
 339 by the Scribner Rule as described by G. Luther Schnur in United States Department of
 340 Agriculture Technical Bulletin No. 560, issued in the year one thousand nine hundred thirty, with
 341 harvest intervals over an eighty year rotation cycle shall be as follows

| | <u>35 Years</u> | <u>55 Years</u> | <u>80 Years</u> | <u>Total</u> |
|----------------------------------|------------------|-------------------|-------------------|-------------------|
| <u>Grade 1</u> | | | | |
| <u>Site Index (75 or more)</u> | <u>4.6 Cords</u> | <u>2.6 Cords</u> | <u>3.3 Cords</u> | <u>10.5 Cords</u> |
| <u>(Very Good to Excellent)</u> | <u>1.5 MBFs</u> | <u>4.4 MBFs</u> | <u>8.6 MBFs</u> | <u>14.5 MBFs</u> |
| <u>Grade 2</u> | | | | |
| <u>Site Index (65-74)</u> | <u>3.3 Cords</u> | <u>7.0 Cords</u> | <u>4.6 Cords</u> | <u>14.9 Cords</u> |
| <u>(Fair to Good)</u> | <u>1.0 MBFs</u> | <u>4.4 MBFs</u> | <u>8.6 MBFs</u> | <u>14.5 MBFs</u> |
| <u>Grade 3</u> | | | | |
| <u>Site Index (less than 65)</u> | <u>3.1 Cords</u> | <u>15.4 Cords</u> | <u>18.5 Cords</u> | |
| <u>(Poor)</u> | <u>8 MBFs</u> | <u>3.7 MBFs</u> | <u>4.5 MBFs</u> | |

343

344 (t) The formula to determine the managed timberland value for Class II parcels shall be
 345 as follows:

346 Appraised Value Per Acre = ((Future Value of Harvest Revenues – Future Value of
 347 Management Costs) ((1 + Real Discount Rate)) - 1)) less discounted property tax Class II rate.

348 Where:

349 n = 80 years

350 Future Value of Harvest Revenues – value of harvest revenues in year 80 using compounding
 351 formula below

352 $V_n = V_o (1 + i)^n - 1$

353 Where: V_o = harvest revenue in year o (i.e. 35, 45, 55 or 80)

354 i = capitalization rate

355 n = rotation length

356 V_n = future value of harvest revenues

357 Future Value of Management Costs – value of management costs in year 80 using the formula
 358 for calculating the future value of a terminating annual series as given below:

359 $V_n = a\{(1 + i)^n - 1/i\}$

360 Where: a = annual management costs

361 i = capitalization rate

362 n = rotation length

363 V_n = future value of management costs

364 (u) The formula to establish the appraised value of managed timberland for Class III and
 365 IV parcels shall be the same formula as used in subsection (t) for Class II parcels except the
 366 discounted property tax rate for Class III and Class IV properties is used; *Provided*, That if the
 367 present natural resource and county computer systems cannot be programmed to change
 368 appraisals based on tax classifications or until a new computerized appraisal system can be put
 369 into effect, the property tax discount shall be a blended rate including both Class II and Class III
 370 rates.

371 (v) The total appraised value of the managed timberland on a given parcel shall be
372 determined by application of the following formula: $AV = (P1V1) + (P2V2) + (P3V3)$ where: AV
373 is Property Appraised Value, P1 is Total Acreage of Parcel in Soil Productivity Grade One, P2 is
374 Total Acreage of Parcel in Soil Productivity Grade Two, P3 is Total Acreage of Parcel in Soil
375 Productivity Grade Three, V1 is Value of Soil Productivity Grade One, V2 is Value of Soil
376 Productivity Grade Two and V3 is Value of Soil Productivity Grade Three.

377 ~~(d)~~ (w) The value of an acre of managed timberland in a county shall always be less than
378 the value of an acre of timberland of comparable soil quality in the county that is not certified as
379 managed timberland.

380 ~~(e)~~ (x) Any person aggrieved by any valuation of timberland may file a written objection to
381 the valuation with the county assessor on or before January 15, of the assessment year. The
382 written objection shall then be treated as a protest filed by the taxpayer under section twenty-four-
383 a, article three of this chapter. If any person fails to exhaust the administrative and judicial
384 remedies provided in ~~said that~~ section, that person ~~shall be~~ is barred from taking any further
385 administrative or judicial action regarding the classification of the property for that assessment
386 year.

387 ~~(f)~~ (y) Upon request of the Tax Commissioner or the assessor or county commission of
388 the county in which the managed timberland is located, the director of the Division of Forestry
389 shall inspect the property and determine whether or not the property continues to qualify for
390 preferential valuation as managed timberland under this article. ~~In the event~~ If the director of
391 forestry determines that a property does not qualify as managed timberland due to a change in
392 its use, or it is discovered that a material misstatement of fact was made by the owner of the
393 property in the certification of the property as managed timberland under subdivision (1),
394 subsection (d), section ten of this article, or it is discovered that the property owner is not
395 complying with the terms of the managed timberland plan, including any period of time for coming
396 into compliance granted the owner by the director of forestry, the director shall give written notice

397 to the owner of the property by certified mail, return receipt requested, the Tax Commissioner and
398 the assessor of each county in which the property is located that the certification of the property
399 as managed timberland is revoked.

400 ~~(g)~~ (z) The aggrieved owner of the property which had its managed timberland certification
401 revoked pursuant to any provision of this code may, at any time up to sixty days from the date of
402 notification from the director of forestry, petition the circuit court of the county in which the property
403 is located for relief.

404 ~~(h)~~ (aa) The provisions of this section enacted in the year 1998 shall apply to tax years
405 beginning on or after January 1, 1999. The provisions of this section as amended and reenacted
406 in the year 2016 shall apply to tax years beginning on or after the first day of January, 2017 and
407 shall, then and thereafter, supersede the legislative rules previously promulgated for the valuation
408 of managed timberland and timberland for *ad valorem* property tax purposes.

NOTE: The purpose of this bill is to establish a specific valuation of managed timberland and timberland that is not managed timberland for *ad valorem* property tax purposes. The bill provides remedies to persons aggrieved by the valuations and for compliance inspections and notice of revocation. The bill provides for appeals and an effective date.

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