

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 588

BY SENATOR SYPOLT

[Introduced March 13, 2017; Referred
to the Committee on Government Organization]

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; and to amend and reenact §59-1-10 of said code, all relating to the
 3 reproduction, distribution and sale of tax maps; defining terms; specifying powers of the
 4 Property Valuation Training and Procedures Commission to promulgate rules; specifying
 5 duties of county assessors; requiring that sale, reproduction and distribution of certain
 6 records be in accordance with specified legislative rules; and 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; and that §59-1-10 of said code be amended and reenacted, all to
 3 read as follows:

CHAPTER 11. TAXATION.

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,
8 visitation, identification and collection of information on the different species of property, which
9 procedures and methodologies shall include reasonable requirements for visitation of property,
10 including a requirement that a good faith effort be made to contact any owner of owner-occupied
11 residential property: *Provided*, That the commission is not authorized to establish the methods to
12 value real 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~~ and use of paper
 27 and electronic tax maps but specifically excluding rules that relate to the sale, reproduction and
 28 distribution of the maps and associated data. Any rules adopted by the commission prior to
 29 October 1, 1990, under subsection (a) of this section are exempt from the provisions of article
 30 three of chapter twenty-nine-a of this code: *Provided*, That the commission shall file a copy of any
 31 rule so exempted from the provisions of chapter twenty-nine-a of this code with the Legislative
 32 Rule-Making Review Committee created pursuant to section eleven, article three of said chapter
 33 prior to November 30, 1990.

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

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

43 (g) The commission shall be required, ~~in the event that~~ if the Tax Commissioner has failed
 44 to do so, to appoint one or more special assessors if it is the determination of the commission that
 45 an assessor has substantially failed to perform the duties required by sections seven and eight of
 46 this article. A writ of mandamus shall be the proper remedy if the commission fails to perform any
 47 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~~ the statewide electronic data
13 processing system network and usage of the information on ~~such~~ the files as an aid to proper
14 valuation ~~shall~~ does not constitute an implementation of the statewide mass reappraisal of
15 property.

16 (c) Before beginning the valuation process, each assessor shall develop a county
17 valuation plan for using information currently available, for checking its accuracy and for correcting
18 any errors found. The plan must be submitted to the Tax Commissioner on or before December
19 1, 1990, for review and approval and ~~such~~ the plan must be revised as necessary and resubmitted
20 every three years thereafter. Whenever a plan is submitted to the Tax Commissioner, a copy shall
21 also be submitted to the county commission of that county and the property valuation training and
22 procedures commission and that county commission and the property valuation training and
23 procedures commission may forward comments to the Tax Commissioner. The Tax
24 Commissioner shall respond to any plan submitted or resubmitted within sixty days of its receipt.
25 The valuation process shall not begin nor shall funds provided in section eight of this article be
26 available until the plan has received approval by the Tax Commissioner: *Provided*, That any initial
27 plan that has not received approval by the commissioner prior to May 1, 1991, shall be submitted

28 on or by such date to the valuation commission for resolution prior to July 1, 1991, by which date
29 all counties shall have an approved valuation plan in effect.

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

49 (e) (1) The county assessor shall establish and maintain as official records of the county
50 tax maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property
51 and lot lines, set forth dimensions or areas, indicate whether the land is improved and identify the
52 respective parcels or lots by a system of numbers or symbols and numbers, whereby the
53 ownership of such parcels and lots can be ascertained by reference to the appropriate records:

54 ~~Provided, That all such records shall be established and maintained and the sale or reproduction~~
55 ~~of microfilm, photography and maps shall be in accordance with legislative rules promulgated by~~
56 ~~the commission.~~

57 (2) The paper and electronic tax maps including mineral boundary maps shall be made
58 available for sale by the assessor and the map sales unit of the property Tax Division of the
59 Department of Revenue. In connection with these sales the assessor and map sales unit of the
60 property Tax Division of the Department of Revenue shall offer the electronic tax maps in all
61 available formats and with all underlying map data including that necessary to tie electronic parcel
62 data to associated land book ownership and related data. Sales of paper and electronic tax maps
63 shall be without limitation as to the reproduction or disclosure of information contained therein or
64 thereon by the purchaser. The following fees apply in addition to any fee charged by the assessor
65 or the map sales unit of the property Tax Division of the Department of Revenue. The fees charged
66 for the sale or reproduction of microfilm, photography and maps pursuant to the legislative rules
67 referenced in subdivision (1) of this subsection paper and electronic tax maps by the assessor or
68 the map sales unit of the property Tax Division of the Department of Revenue shall be limited to
69 those reasonably calculated to reimburse it for its actual cost in making reproductions of the
70 records (i.e., the charge shall be no more than what is reasonable for disclosure of the information
71 under a Freedom of Information Act request under article one, chapter twenty-nine-b of this code).
72 Tax maps are prepared for taxation purposes only and the assessor and map sales unit of the
73 property Tax Division of the Department of Revenue may have no liability to any third party for
74 any errors or omissions associated therewith or in connection with the use of tax maps for any
75 other purpose.

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

79 ~~(B) For a parcel reproduction on 8 2 x 11" or 8 2 x 14" paper, an additional fee of \$1.50~~

80 per copy shall be charged, which shall be deposited in the courthouse facilities improvement fund
 81 created by section six, article twenty-six, chapter twenty-nine of this code; and

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

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

**CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS;
 LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-10. Fees to be charged by clerk of county commission.

1 For the purpose of this section, the word "page" is defined as being a paper or electronic
 2 writing of not more than legal size, 8 1/2" x 14".

3 (a) When a writing is admitted to record, for receiving proof of acknowledgment thereof,
 4 entering an order in connection therewith, endorsing clerk's certificate of recordation thereon and
 5 indexing in a proper index, the clerk of the county commission shall charge and collect the
 6 following fees:

7 (1) ~~Fifteen dollars~~ Twenty-five dollars for a deed of conveyance (with or without a plat),
 8 trust deed, fixture filing or security agreement concerning real estate lease.

9 (2) Forty dollars for a trustee's report of sale for any property for which additional
 10 information and filing requirements are required by section eight-a, article one, chapter thirty-eight
 11 of this code. Twenty dollars of each recording fee received pursuant to this subdivision shall be

12 deposited into the county's General Revenue Fund and \$20 paid quarterly by the clerk of the
13 county commission to the West Virginia Housing Development Fund established in article
14 eighteen, chapter thirty-one of this code.

15 (3) Ten dollars for a financing, continuation, termination or other statement or writing
16 permitted to be filed under chapter forty-six of this code.

17 (4) Ten dollars for a plat or map (with no deed of conveyance).

18 (5) No charge for a service discharge record.

19 (6) Ten dollars for any document or writing other than those referenced in subdivisions
20 (1), (2), (3), (4) and (5) of this subsection.

21 (7) One dollar for each additional page for documents or writings containing more than
22 five pages.

23 For any of the documents admitted to record pursuant to this subsection, if the clerk of the
24 county commission has the technology available to receive these documents in electronic form
25 or other media, the clerk shall set a reasonable fee to record these writings not to exceed the cost
26 for filing paper documents.

27 (8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10
28 shall be deposited in the county general fund in accordance with section twenty-eight of this article
29 and \$4 \$5 shall be deposited in the county reappraisal fund and dedicated to the operation of the
30 assessor's office mapping division, \$3 shall be deposited in the Courthouse Facilities
31 Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code and
32 \$3 shall be deposited in the county general fund and dedicated to the operation of the county
33 clerk's office. Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this
34 section and \$5 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall
35 be paid by the county clerk into the State Treasury and deposited in equal amounts for deposit
36 into the Farmland Protection Fund created in article twelve, chapter eight-a of this code for the
37 benefit of the West Virginia Agricultural Land Protection Authority and into the Outdoor Heritage

38 Conservation Fund created in article two-g, chapter five-b of this code. The funds deposited in
39 the State Treasury pursuant to this subdivision may only be used for costs, excluding personnel
40 costs, associated with purpose of land conservation, as defined in subsection (f), section seven,
41 article two-g, chapter five-b of this code.

42 (b) Five dollars for administering any oath other than oaths by officers and employees of
43 the state, political subdivisions of the state or a public or quasi-public entity of the state or a
44 political subdivision of the state, taken in his or her official capacity.

45 (c) Fifty-five dollars for issuance of marriage license and other duties pertaining to the
46 marriage license (including preparation of the application, administering the oath, registering and
47 recording the license, mailing acknowledgment of minister's return to one of the licensees and
48 notification to a licensee after sixty days of the nonreceipt of the minister's return). This fee is
49 reduced to \$35 if the applicants present a premarital education course completion certificate
50 issued pursuant to section seven hundred one, article two, chapter forty-eight of this code, and
51 dated within one year of the application for a marriage license.

52 (1) One dollar of the marriage license fee received pursuant to this subsection shall be
53 paid by the county clerk into the State Treasury as a state registration fee in the same manner
54 that license taxes are paid into the Treasury under article twelve, chapter eleven of this code;

55 (2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall
56 be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act
57 in the same manner that license taxes are paid into the Treasury under article twelve, chapter
58 eleven of this code;

59 (3) Ten dollars of the marriage license fee received pursuant to this subsection shall be
60 deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-
61 six, chapter twenty-nine of this code; and

62 (4) If a premarital education course completion certificate is not presented, the county
63 clerk shall, on or before the tenth day of each month, transmit \$20 of the marriage license fee

64 received pursuant to this subsection to the State Treasurer for deposit in the State Treasury as
65 follows:

66 (A) Five dollars to the credit of the Family Protection Shelter Support Act in the same
67 manner that license taxes are paid into the Treasury under article twelve, chapter eleven of this
68 code;

69 (B) Five dollars to the credit of the special revenue account, hereby created, designated
70 the "Fund for Civil Legal Services for Low Income Persons," which shall consist of all gifts, grants,
71 bequests, transfers, appropriations or other donations or payments which may be received and
72 administered by the Division of Justice and Community Services from any governmental entity or
73 unit or any person, firm, foundation, or corporation for the purposes of this section, and all interest
74 or other return earned from investment of the fund. Expenditures from the fund shall be made by
75 the Director of the Division of Justice and Community Services and shall be limited to grants to
76 nonprofit agencies which provide civil legal services to low income persons made at his or her
77 discretion. Any balance in the fund at the end of each fiscal year shall not revert to the General
78 Revenue Fund but shall remain in the fund and be expended as provided by this section.

79 (C) Ten dollars to the credit of the Marriage Education Fund created pursuant to section
80 seven hundred two, article two, chapter forty-eight of this code.

81 (d) (1) One dollar and fifty cents for a copy of any writing or document, if it is not otherwise
82 provided for.

83 (2) One dollar for each additional page if the writing or documents contains more than two
84 pages.

85 (3) One dollar for annexing the seal of the commission or clerk to any paper.

86 (4) Five dollars for a certified copy of a birth certificate, death certificate or marriage
87 license.

88 (e) For copies of any record in electronic form or a medium other than paper, a reasonable
89 fee set by the clerk of the county commission not to exceed the costs associated with document

90 search and duplication.

NOTE: The purpose of this bill is to: (i) Create a stable funding source for each county assessor to maintain and update paper and digital tax maps, (ii) promote the sale and distribution of the paper and digital tax maps for the benefit of the public and (iii) override any nonconformity between the language of the statute and the associated legislative rule.

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