

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

**Introduced**

### **House Bill 4605**

**FISCAL  
NOTE**

BY DELEGATES CAMPBELL, LYNCH, MOYE, ROWE,

BOGGS, CAPUTO AND THOMPSON

[Introduced February 13, 2018; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §11-3-1 of the Code of West Virginia, 1931, as amended, and to  
 2 amend and reenact §11-4-2 of said code, all relating to the assessment of nonoccupied  
 3 property owned by out-of-state individuals or other legal entities; and requiring that there  
 4 be an additional \$4 an acre assessed against this real property, with the revenue  
 5 dedicated to the Public Employees Insurance Agency to reduce costs of insurance.

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

### **ARTICLE 3. ASSESSMENTS GENERALLY.**

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

1 (a) All property, except public service businesses assessed pursuant to §11-6-1 *et seq.* of  
 2 this code, shall be assessed annually as of July 1 at 60 percent of its true and actual value; that  
 3 is to say, at the price for which the property would sell if voluntarily offered for sale by the owner  
 4 thereof, upon the terms as the property, the value of which is sought to be ascertained, is usually  
 5 sold, and not the price which might be realized if the property were sold at a forced sale: *Provided,*  
 6 That notwithstanding any other provision of this code to the contrary, there shall be added an  
 7 additional \$4 an acre for all nonoccupied real property owned by out-of-state individuals or other  
 8 legal entities assessed under this article: *Provided, however,* That the revenue collected from the  
 9 additional \$4 an acre shall be dedicated to the Public Employees Insurance Agency to reduce the  
 10 costs of insurance.

11 (b) Any conflicting provisions of subsection (a) of this section notwithstanding, the true and  
 12 actual value of all property owned, used and occupied by the owner thereof exclusively for  
 13 residential purposes shall be arrived at by also giving consideration to the fair and reasonable  
 14 amount of income which the same might be expected to earn, under normal conditions in the  
 15 locality wherein situated, if rented: *Provided,* That the true and actual value of all farms used,  
 16 occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the  
 17 fair and reasonable value of the property for the purpose for which it is actually used regardless

18 of what the value of the property would be if used for some other purpose; and that the true and  
19 actual value shall be arrived at by giving consideration to the fair and reasonable income which  
20 the same might be expected to earn under normal conditions in the locality wherein situated, if  
21 rented: *Provided, however,* That nothing herein shall alter the method of assessment of lands or  
22 minerals owned by domestic or foreign corporations.

23 (c) The taxes upon all property shall be paid by those who are the owners thereof on the  
24 assessment date whether it be assessed to them or others.

25 (d) If at any time after the beginning of the assessment year it be ascertained by the Tax  
26 Commissioner that the assessor, or any of his or her deputies, is not complying with this provision  
27 or that they have failed, neglected or refused, or is failing, neglecting or refusing after five days'  
28 notice to list and assess all property therein at 60 percent of its true and actual value as  
29 determined under this chapter, the Tax Commissioner shall order and direct a reassessment of  
30 any or all of the property in any county, district or municipality where any assessor or deputy fails,  
31 neglects or refuses to assess the property in the manner herein provided. And, if the Tax  
32 Commissioner has determined that the assessor has not complied or has so failed, neglected or  
33 refused to list and assess property as aforesaid for two or more consecutive years, for the purpose  
34 of making assessment and correction of values, the Tax Commissioner shall appoint one or more  
35 special assessors, unless the Tax Commissioner determines that such appointment should be  
36 made earlier, as necessity may require, to make assessment in any county and any such special  
37 assessor or assessors, as the case may be, has the power and authority now vested by law in  
38 assessors, and the work of such special assessor or assessors shall be accepted and treated for  
39 all purposes by the county boards of review and equalization and the levying bodies, subject to  
40 any revisions of value on appeal, as the true and lawful assessment of that year as to all property  
41 valued by him or her or them. The Tax Commissioner shall fix the compensation of all special  
42 assessors appointed, which, together with their actual expenses, shall be paid out of the county  
43 fund by the county commission of the county in which any such assessment is ordered, upon the

44 receipt of a certificate of the Tax Commissioner filed with the clerk of the county commission  
45 showing the amounts due and to whom payable, after such expenses have been audited by the  
46 county commission. All of this subsection is subject to the following:

47 (1) Notwithstanding any other provision of this subsection to the contrary, if the Tax  
48 Commissioner has determined that the assessor has not complied or has so failed, neglected or  
49 refused to list and assess property as aforesaid for two consecutive years, but the assessor can  
50 show that the criteria established by rule pursuant to this subsection are met, the Tax  
51 Commissioner is not required to appoint one or more special assessors pursuant to this section,  
52 and in lieu of appointing one or more special assessors, may again order and direct a  
53 reassessment of any or all of the property pursuant to this subsection;

54 (2) For any third or succeeding consecutive year or years that the Tax Commissioner  
55 determines that the assessor has not complied or has so failed, neglected or refused to list and  
56 assess property as aforesaid, the Tax Commissioner shall appoint one or more special assessors  
57 pursuant to the provisions of this subsection regardless of whether or not the assessor can show  
58 that he or she will list and assess property as aforesaid the next year; and

59 (3) For the purposes of determining consecutive years pursuant to this subsection, only  
60 tax years beginning on and after the July 1, 2013, assessment date may be considered a first  
61 year.

62 (4) For purposes of subdivision (1) of this subsection, criteria for determining whether the  
63 assessor has made a satisfactory showing that he or she will list and assess property as aforesaid  
64 for the year next succeeding the two assessment years specified in subdivision (1) of this  
65 subsection, the Tax Commissioner shall apply criteria based on: (A) Sales validity; (B) appraisal  
66 uniformity; (C) appraisal evaluation; and (D) such other criteria as the Tax Commissioner may  
67 prescribe. The Tax Commissioner shall promulgate a legislative rule to specify criteria for the  
68 treatment authorized herein for any such third year or succeeding consecutive year or years, and  
69 such administrative and procedural requirements and criteria as the Tax Commissioner may

70 prescribe.

71 (e) Any assessor who knowingly fails, neglects or refuses to assess all the property of his  
72 or her county, as herein provided, shall be guilty of malfeasance in office and, upon conviction  
73 thereof, shall be fined not less than \$100 nor more than \$500, or imprisoned not less than three  
74 nor more than six months, or both, in the discretion of the court, and upon conviction, shall be  
75 removed from office.

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

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

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

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

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

#### **ARTICLE 4. ASSESSMENT OF REAL PROPERTY.**

##### **§11-4-2. Form of landbooks.**

1 The Tax Commissioner shall prescribe a form of landbook and the information and  
2 itemization to be entered therein, which shall include separate entries of:

3 (1) All real property or whatever portion thereof in square feet that is owned, used and  
4 occupied by the owner exclusively for residential purposes, including mobile homes, permanently  
5 affixed to the land and owned by the owner of the land; (2) all farms including land used for  
6 agriculture, horticulture and grazing occupied by the owner or bona fide tenant; (3) all other real  
7 property; and, for each entry there shall be shown; (4) the value of land, the value of buildings

8 and the aggregate value; (5) the character and estate of the owners, the number of acres or lots  
9 and the local description of the tracts or lots; (6) the amount of taxes assessed against each tract  
10 or lot for all purposes; and (7) the value of all nonoccupied real property, owned by out-of-state  
11 individuals or other legal entities assessed under §11-3-1 of this code

NOTE: The purpose of this bill is to assess nonoccupied property owned by out-of-state individuals or other legal entities with an additional \$4 an acre with the revenue dedicated to the Public Employees Insurance Agency to reduce costs of insurance.

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