

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 806

By Senators Rucker, Rose, and Thorne

[Introduced February 6, 2026; referred
to the Committee on Agriculture; and then to the
Committee on Finance]

A BILL to amend and reenact §11-1A-3, §11-1C-2, and §11-4-3 of the Code of West Virginia, 1931, as amended, relating to clarifying the definition of "farm" or "farmland" for real property tax assessment purposes; and modifying the definition of "farm" or "farmland" to allow for the operation of business activities other than farming by the owner or bona fide tenant of tracts of land deemed "farm" or "farmland" without disqualifying such tracts from that designation, provided the primary and predominant use of the specified acreage is the business of farming.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. APPRAISAL OF PROPERTY.

§11-1A-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:

(a) "Assessed value" of any item of property is its assessed value after the certification of the first statewide reappraisal and shall be sixty percent of the market value of such item of property regardless of its class or species, except as hereinafter specifically provided in this article;

(b) "Base year" shall have the meaning ascribed to that term by the provisions of section two of this article;

(c) "Commission" shall mean the West Virginia appraisal control and review commission;

(d) "Commissioner" or "Tax Commissioner" shall mean the chief executive officer of the state Tax Department except in those instances where the context clearly relates to the West Virginia appraisal control and review commission, in which case "commissioner" shall mean any member of such commission;

(e) "Designated agent" shall mean a person, not directly employed by the Tax Commissioner, who is designated by the Tax Commissioner to perform reappraisal functions authorized or required by this article. Such term shall include, but not be limited to, agents and independent contractors, and nothing in this article shall be construed to alter the relationship of

the State of West Virginia, or its officers, and such persons to create relationships not contemplated by agreements between the Tax Commissioner and such persons;

(f) "Farm" or "farmland" shall mean and include land currently being used primarily for farming purposes, whether by the owner thereof or by a tenant, and which has been so used for at least seasonally during the year next preceding the then current tax year, but shall not include lands used primarily in commercial forestry or the growing of timber for commercial purposes; and shall not include one acre surrounding the principal residence situate on a farm which shall be valued as a homesite in the same manner as surrounding homes and properties not situated on farmland, taking into consideration such variables as location, resale value and accessibility: Provided, That the growing of Christmas trees or orchards and nursery stock shall not be deemed to be commercial forestry or the growing of timber for commercial purposes: Provided further, That the operation of one or more business activities other than the business of farming by the owner or bona fide tenant thereof shall not disqualify a tract or tracts of land from the definition of farm, provided that the farming activity is the primary and predominant use of the specified acreage and there is in actual fact a distinction in use. Land shall not be deemed "primarily used for farming purposes" if the agricultural activity is conducted on acreage where the predominant use is for a separate commercial enterprise that fundamentally alters the character of the land or restricts its full agricultural productivity. The commissioner of agriculture shall formulate criteria upon which a parcel of land qualifies as a "farm." The county assessor may require the assistance of the commissioner of agriculture in making a determination of whether a parcel of land qualifies as a "farm."

(g) "Farming purposes" shall mean the utilization of land to produce for sale, consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit, vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco, syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes of ornamental trees, sod, seed and any and all similar commodities or products including farm wood lots and the parts of a

43 farm which are lands lying fallow, or in timber or in wastelands;

44 (h) "Property situate in this state" shall mean:

45 (1) Property having legal situs in this state; or

46 (2) In the case of persons with a place of business located in this state and authorized to do
47 business in this state and one or more other states of the United States or any foreign country:

48 (A) Any tangible property brought into this state from time to time or otherwise deemed to
49 have situs in this state for purposes of ad valorem property taxation, and

50 (B) Any intangible property held by such person, wherever evidence thereof is situate. In
51 the case of assessment of such intangible property for ad valorem property taxation after the first
52 statewide reappraisal only such part thereof as may be determined by applicable law or regulation
53 to be subject to such taxation shall be deemed to be situate in this state;

54 (i) "Value," "market value" and "true and actual value" shall have the same meaning and
55 shall mean the price at or for which a particular parcel or species of property would sell if it were
56 sold to a willing buyer by a willing seller in an arm's length transaction without either the buyer or
57 the seller being under any compulsion to buy or sell: *Provided*, That in determining value, primary
58 consideration shall be given to the trends of price paid for like or similar property in the area or
59 locality wherein such property is situate over a period of not less than three nor more than eight
60 years next preceding the base year and in the case of a farm or farms shall be determined
61 assuming such land is being used for farming purposes. In addition, the commissioner may, for
62 purposes of appraisal of any tract or parcel of real property, or chattels, real or other species of
63 property, real or personal, take into account one or more of the following factors: (1) The location of
64 such property; (2) Its site characteristics; (3) The ease of alienation thereof, considering the state
65 of its title, the number of owners thereof, and the extent to which the same may be the subject of
66 either dominant or servient easements; (4) The quantity of size of the property and the impact
67 which its sale may have upon surrounding properties; (5) If purchased within the previous eight
68 years, the purchase price thereof and the date of each such purchase; (6) Recent sale of, or other

69 transactions involving comparable property within the next preceding eight years; (7) The value of
70 such property to its owner; (8) The condition of such property; (9) The income, if any, which the
71 property actually produces and has produced within the next preceding eight years; and (10) Any
72 commonly accepted method of ascertaining the market value of any such property, including
73 techniques and methods peculiar to any particular species of property if such technique or method
74 is used uniformly and applied to all property of like species.

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 ten
4 contiguous acres which is primarily in forest and which, in consideration of their size, has sufficient
5 numbers of commercially valuable species of trees to constitute at least forty percent normal
6 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 any
12 tract or parcel of real estate, regardless of its size, which is subject to contract, agreement, a deed
13 restriction, deed covenant, or zoning regulation which limits the use of that real estate in a way that
14 precludes the commercial production and harvesting of timber upon it may not be considered as
15 managed timberland within the meaning of this article: *Provided, however*, That a landowner
16 whose land is subject to, or may become subject to, a conservation or preservation easement may
17 not be prevented from entering into a timberland management plan with the West Virginia Division
18 of Forestry.

(c) "Tax Commissioner," "commissioner" or "tax department" means the State Tax Commissioner or a designee of the State Tax Commissioner.

(d) "Valuation commission" or "commission" means the commission created in section three of this article.

(e) "County board of education" or "board" means the duly elected board of education of each county.

(f) "Farm" or "farmland" means a tract or contiguous tracts of land currently being used as part of a farming operation, primarily for farming purposes, whether by the owner thereof, or by a tenant, and which has been so used at least seasonally during the year immediately preceding the then current tax year, but shall not include lands used primarily in commercial purposes: *Provided*, That the growing of Christmas trees or orchards and nursery stock shall not be deemed to be commercial forestry or the growing of timber for commercial purposes: *Provided further*, That the operation of one or more business activities other than the business of farming by the owner or bona fide tenant thereof shall not disqualify a tract or tracts of land from the definition of farm, provided that the farming activity is the primary and predominant use of the specified acreage and there is in actual fact a distinction in use. Land shall not be deemed "primarily used for farming purposes" if the agricultural activity is conducted on acreage where the predominant use is for a separate commercial enterprise that fundamentally alters the character of the land or restricts its full agricultural productivity.

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

~~(g)~~ (h) "Owner" means the person who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is deemed the owner until the mortgagee or trust takes possession, after which such

mortgagee or trustee shall be deemed the owner. A person who has an equitable estate of freehold or is a purchaser of a freehold estate who is in possession before transfer of legal title is also deemed the owner.

(h) (i) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(i) (j) "Paper" means a tax map or document that is not electronic.

~~The definitions in subdivisions (f) and (g) of this section shall apply to tax years beginning on or after January 1, 2004.~~ The definitions in subdivision (h) shall be applied to tax years beginning on or after January 1, 2027.

ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§11-4-3.

Definitions.

(a) For the purpose of giving effect to the Tax Limitations Amendment, this chapter shall be interpreted in accordance with the following definitions, unless the context clearly requires a different meaning:

"Owner" means the person, as defined in §2-2-10 of this code, who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is considered the owner until the mortgagee or trustee takes possession, after which the mortgagee or trustee shall be considered the owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession before transfer of legal title is also considered the owner. Owner includes the corporation or other organization possessed of the freehold of a qualified continuing care retirement community. Owner includes homeowners who have vacated their owner-occupied, single-family, residential property, which was their most recent primary residence, and have listed that property for sale with a licensed real estate broker, and have not leased said property to anyone since vacating said property. Owner means the person who is using and occupying all or a portion of a parcel of real estate the freehold of which is possessed by a family trust: *Provided*, That the parcel is used and

occupied by the owner thereof exclusively for residential purposes.

"Used and occupied by the owner thereof exclusively for residential purpose" means actual habitation by the owner, or the owner's spouse, an immediate family member of the owner, or a qualified resident of all or a portion of a parcel of real property as a place of abode to the exclusion of any commercial use: *Provided*, That if the parcel of real property was unoccupied at the time of assessment and either:

(A) Was used and occupied by the owner thereof exclusively for residential purposes on July 1, of the previous year assessment date;

(B) Was unimproved on July 1, of the previous year but a building improvement for residential purposes was subsequently constructed thereon between that date and the time of assessment; or

(C) Is retained by the property owner for noncommercial purposes and was most recently used and occupied by the owner, or the owner's spouse, or an immediate family member of the owner as a residence and the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident in a nursing home, personal care home, rehabilitation center or similar facility, then the property shall be considered "used and occupied by the owner thereof exclusively for residential purpose": *Provided*, That nothing herein contained permits an unoccupied or unimproved property to be considered "used and occupied by the owner thereof exclusively for residential purposes" for more than one year unless the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident of a nursing home, personal care home, rehabilitation center or similar facility. Except in the case of a qualified continuing care retirement community, if a license is required for an activity on the premises or if an activity is conducted thereon which involves the use of equipment of a character not commonly employed solely for domestic as distinguished from commercial purposes, the use may not be considered to be exclusively residential. I Qualified continuing care retirement community uses attendant to the functioning of the qualified continuing care retirement community, including, without limitation,

cafeteria, laundry, personal and health care services, may not be considered commercial uses even if such activity or equipment requires a separate license or payment.

"Family member" means a person who is related by common ancestry, adoption or marriage including, but not limited to, persons related by lineal and collateral consanguinity.

"Family trust" means a trust the beneficiaries of which include only the person who is possessed of the freehold and his or her immediate family members.

"Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, and adoptive relationships.

"Farm" means a tract or contiguous tracts of land used for agriculture, horticulture, or grazing and includes all real property designated as "wetlands" by the United States Army Corps of Engineers or the United States Fish and Wildlife Service: Provided, That the operation of one or more uses other than for agriculture, horticulture, or grazing by the owner or bona fide tenant thereof shall not disqualify a tract or tracts of land from the definition of farm, provided that agriculture, horticulture, or grazing is the primary and predominant use of the specified acreage and there is in actual fact a distinction in use. Land shall not be deemed primarily used for agriculture, horticulture, or grazing if such uses are conducted on acreage where the predominant use is for a separate commercial enterprise that fundamentally alters the character of the land or restricts its full agricultural, horticultural, or grazing productivity.

"Occupied and cultivated" means subjected as a unit to farm purposes, whether used for habitation or not, and although parts may be lying fallow, in timber or in wastelands.

"Qualified continuing care retirement community" means a continuing care retirement community:

(A) Owned by a corporation or other organization exempt from federal income taxes under the Internal Revenue Code;

(B) Used in a manner consistent with the purpose of providing housing and health care for

68 residents; and

69 (C) Which receives no Medicaid funding under the provisions of §9-4B-1 *et seq.* of this
70 code. For purposes of this section, a continuing care retirement community is a licensed facility
71 under the provisions of §16-5C-1 *et seq.* and §16-5D-1 *et seq.* of this code at which independent
72 living, assisted living, and nursing care, if necessary, are provided to qualified residents.

73 "Qualified resident" means a person who contracts with a qualified continuing care
74 retirement community to reside therein, in exchange for the payment of an entrance fee or deposit,
75 or payment of periodic charges, or both.

76 (b)(1) Amendments to this section enacted during the 2006 regular session of the
77 Legislature shall have retroactive effect to and including July 1, 2005, and shall apply in
78 determining tax for tax years beginning January 1, 2006, and thereafter.

79 (2) Amendments to this section enacted during the 2007 regular session of the Legislature
80 shall take effect on July 1, 2007.

81 (3) Amendments to this section enacted during the 2024 regular session of the Legislature
82 shall take effect on July 1, 2024.

NOTE: The purpose of this bill is to clarify the definition of farm for property tax assessment purposes to prevent disqualification of certain acreage in which other business activities not farming are performed.

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