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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

Committee Substitute for

SENATE BILL NO. 191

(By Senators Minard and Sharpe)



PASSED March 9, 2000

In Effect July 1, 2000 ~~Passage~~

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 191

(SENATORS MINARD AND SHARPE, *original sponsors*)

[Passed March 9, 2000; to take effect July 1, 2000.]

AN ACT to amend and reenact section twenty-seven, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to correcting erroneous assessments generally; providing for the authority of the sheriff or assessor to initiate an application for relief on behalf of the taxpayer; providing the sheriff or county commission the option of refunding taxes erroneously assessed instead of crediting amount towards future tax liability when more than one year has passed since property books were delivered to the sheriff; limiting the time in which taxpayer is repaid in the form of a credit; and providing for refund of uncredited balance.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-27. Relief in county commission from erroneous assessments.

1 (a) Any taxpayer, or the prosecuting attorney or tax
2 commissioner, upon behalf of the state, county and
3 districts, claiming to be aggrieved by any entry in the
4 property books of the county, including entries with
5 respect to classification and taxability of property,
6 resulting from a clerical error or a mistake occasioned by
7 an unintentional or inadvertent act as distinguished from
8 a mistake growing out of negligence or the exercise of poor
9 judgment, may, within one year from the time the property
10 books are delivered to the sheriff or within one year from
11 the time such clerical error or mistake is discovered or
12 reasonably could have been discovered, apply for relief to
13 the county commission of the county in which such books
14 are made out: *Provided*, That upon the discovery of any
15 such clerical error or mistake by the sheriff or assessor, or
16 either officer having knowledge thereof, the sheriff or
17 assessor shall initiate an application for relief from the
18 erroneous assessment on behalf of the taxpayer or cause
19 notice to be sent to any taxpayer affected by the clerical
20 error or mistake by first-class United States mail advising
21 the taxpayer of the right to make application for relief
22 from the erroneous assessment. Before the application is
23 heard, the taxpayer shall give notice to the prosecuting
24 attorney of the county, or the state shall give notice to the
25 taxpayer, as the case may be. The application, whether by
26 the taxpayer or the state, shall have precedence over all
27 other business before the court; but any order or judgment
28 shall show that either the prosecuting attorney or tax
29 commissioner was present defending the interests of the

30 state, county and districts: *Provided, however,* That the
31 provisions of this section shall not be construed as giving
32 county commissions jurisdiction to consider any question
33 involving the classification or taxability of property which
34 has been the subject matter of an appeal under the provi-
35 sions of section twenty-four-a of this article; and any other
36 such clerical error or mistake involving the classification
37 or taxability of property, may be corrected by the county
38 commission under the provisions of this section only when
39 approved, in writing, by the county assessor.

40 (b) In the event it is ascertained that the taxpayer is
41 entitled to relief, any excess taxes already paid shall be
42 refunded and, if charged but not paid, the applicant shall
43 be released from the payment of such excess: *Provided,*
44 That in the event a mistake or error is discovered more
45 than one year after the property books for the year or
46 years in question are delivered to the sheriff, any relief
47 granted to the taxpayer shall be in the form of a credit
48 against taxes owing for up to the following two years:
49 *Provided,* That if there are insufficient future taxes to
50 credit or if the sheriff or county commission determines
51 that a refund is appropriate, then the sheriff or county
52 commission shall refund the uncredited balance to the
53 taxpayer.

54 (c) Whenever any correction is made by the county
55 commission, the clerk shall certify copies of the order to
56 the auditor, sheriff and assessor, and in the case of real
57 estate, the assessor shall thereupon make a correction in
58 accordance with the order in his or her landbook for the
59 next year. Any such order delivered to the sheriff or other
60 collecting officer shall restrain him or her from collecting
61 so much as is erroneously charged against the taxpayer,
62 and, if already collected, shall compel him or her to refund
63 the money if such officer has not already paid it into the
64 treasury. In either case, when indorsed by the person

65 exonerated, it shall be sufficient voucher to entitle the
66 officer to a credit for so much in his or her settlement
67 which he or she is required to make. If the applicant is the
68 state, the order certified to the sheriff shall show the
69 correct amount of taxes due the state, county and districts
70 and shall be sufficient to authorize collection in the same
71 manner as for other state, county and district taxes.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *5th*
Day of..... *[Signature]* 2000.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/00

Time 2:45pm