WEST VIRGINIA CODE CHAPTER 11 ARTICLE 1A

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§11-1A-1. Tax Commissioner to appraise property to ascertain value; relating reappraisal to specified base year; powers and duties of Tax Commissioner regarding statewide reappraisals.

(a) In conducting the reappraisals of property mandated by the West Virginia Constitution and required by this article, the Tax Commissioner shall appraise all property so as to ascertain the value thereof for assessment purposes, relating such reappraisal to a specified base year in a manner which is uniform for all classes of property and all counties.

(b) It shall be the duty of the Tax Commissioner to see that the laws concerning the periodic statewide appraisal of property are faithfully enforced. He shall prepare all proper forms and books for the use and guidance of appraisers and assessors, and shall perform all such other duties as may be required by law. He shall from time to time visit the several counties and shall inspect the work of the appraisers and the several assessors and shall confer with them respecting such work for the future. In such conference, or by writing or otherwise, he may inquire into the proceedings of any such officer, make to him such suggestions respecting the discharge of his duty as may seem proper, and give such information and require such action as will cause all property subject to ad valorem property taxation to be appraised at its market value.

(c) The Tax Commissioner may appoint competent persons to appraise property values, and may employ experts to examine and report upon the different kinds and classes of property in the state, with a view to ascertaining the value thereof for appraisal and assessment purposes, to the end that he may furnish to county assessors, county commissions and the state board of public works more accurate information, and more effectively aid and supervise the assessors and the county commissions in their work of assessment and valuation of property for purposes of taxation.

(d) Upon the application of any officer concerned with the assessment or collection of taxes, the Tax Commissioner shall, as to any matter specified by such officer, make like suggestions and give like information. In case of the failure of any appraiser or assessing officer in the discharge of any duty imposed upon him by law, the said commissioner shall, after due notice to any such assessor or collecting officer, proceed to enforce such penalty as may be provided by law, including, in any proper case, the removal of such officer, and to that end the commissioner is authorized to appear before any court or tribunal having jurisdiction. In any proceeding to enforce a penalty, if a hearing for an assessor or collecting officer is not otherwise provided by law, then such assessor or collecting officer shall be afforded a hearing by the Tax Commissioner in accord with the provisions of article five, chapter twenty-nine-a of this code. The commissioner may cause the violation of any law respecting the appraisal of property subject to ad valorem property taxation to be prosecuted. He may also be heard before any court, council or tribunal, in any proceeding in which an abatement of taxes is sought. The commissioner shall, inter alia, have the power to accept bids, award contracts, requisition funds appropriated for his expenditure, and require the cooperation of other state and local officials. In awarding such contracts the Tax Commissioner shall require that provision be made for such indemnity, bond or contract of

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insurance as will be sufficient, in the Tax Commissioner's judgment, to hold the state harmless.

(e) For the efficient administration of the powers vested in the Tax Commissioner by this section, the commissioner shall have the power to issue subpoenas and subpoenas duces tecum, and compel the attendance of witnesses and the production of books, papers, records, documents and testimony at the time and place specified. Every such subpoena and subpoena duces tecum shall be served at least fifteen days before the return date thereof by personal service made by any person over eighteen years of age. Service of subpoenas and subpoenas duces tecum shall be the responsibility of the commissioner. Any persons, except a person in the employ of the state Tax Department, who serves any such subpoena or subpoena duces tecum shall be entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts of this state. Upon motion made promptly, and in any event before the time specified in a subpoena or subpoena duces tecum for compliance therewith, the circuit court of the county in which the person upon whom any such subpoena or subpoena duces tecum was served resides, has his or its principal place of business or is employed, or the circuit court of the county in which any such subpoena or subpoena duces tecum was served, or the judge of any such circuit court in vacation, may grant any relief with respect to any such subpoena or subpoena duces tecum which any such circuit court, under the "West Virginia Rules of Civil Procedure for Trial Courts of Record," could grant, and for any of the same reasons, with respect to any such subpoena or subpoena duces tecum issued from any such circuit court. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, the circuit court of Kanawha County or of the county in which such person resides, has his or its principal place of business or is employed, or the judge thereof in vacation, upon application by the commissioner shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from circuit court or a refusal to testify therein. Witnesses subpoenaed under this subsection shall testify under oath or affirmation.

(f) The Tax Commissioner may prescribe all necessary forms and promulgate such rules and regulations as he believes necessary to carry out and enforce the provisions of this article. Such rules and regulations shall be subject to the provisions and requirements of the state administrative procedures act in chapter twenty-nine-a of this code: Provided, That all rules and regulations of the Tax Commissioner regarding ad valorem property taxes presently in effect on the effective date of this article shall remain in full force and effect until amended or repealed by the commissioner in the manner prescribed by law, or abrogated by the enactment of this article or other statutory provisions of this code.

(g) The Tax Commissioner is hereby directed to cooperate with the Joint Committee on Government and Finance of the Legislature in its review, examination and study of the implementation of the property tax limitation and homestead exemption amendment of 1982, section one-b, article ten of the Constitution of West Virginia, and any other similar studies which may arise under the authority granted to the Joint Committee on Government and

Finance under the provisions of section three-b, article three, chapter four of this code. The Tax Commissioner shall continuously monitor and enforce the requirements of this article relating to the employment qualifications of employees of the state and its designated agents, and at least quarterly shall ascertain whether such requirements are being met and report thereon to the Joint Committee on Government and Finance. Not less than monthly, the Tax Commissioner shall report to the Joint Committee on Government and Finance or its designated subcommittee on any matters considered or action taken by the West Virginia appraisal control and review commission, or any matters relating to the reappraisal otherwise pertinent or of interest to the Joint Committee on Government and Finance. On or before January 15, 1984, the Tax Commissioner shall report to the Joint Committee on Government and Finance on the benefits, desirability and disadvantages, as well as the alternative methods available, for the possible implementation of section fifty-three, article VI of the Constitution of West Virginia, the forestry amendment.

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§11-1A-2. Base year for first reappraisal.

The base year for the first statewide reappraisal shall be the year 1983.

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§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" 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. 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 farm which are lands lying fallow, or in timber or in wastelands;

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

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

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

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

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

(i) "Value," "market value" and "true and actual value" shall have the same meaning and shall mean the price at or for which a particular parcel or species of property would sell if it were sold to a willing buyer by a willing seller in an arm's length transaction without either the buyer or the seller being under any compulsion to buy or sell: Provided, That in determining value, primary consideration shall be given to the trends of price paid for like or similar property in the area or locality wherein such property is situate over a period of not less than three nor more than eight years next preceding the base year and in the case of a farm or farms shall be determined assuming such land is being used for farming purposes. In addition, the commissioner may, for purposes of appraisement of any tract or parcel of real property, or chattels, real or other species of property, real or personal, take into account one or more of the following factors: (1) The location of such property; (2) its site characteristics; (3) the ease of alienation thereof, considering the state of its title, the number of owners thereof, and the extent to which the same may be the subject of either dominant or servient easements; (4) the quantity of size of the property and the impact which its sale may have upon surrounding properties; (5) if purchased within the previous eight years, the purchase price thereof and the date of each such purchase; (6) recent sale of, or other transactions involving comparable property within the next preceding eight years; (7) the value of such property to its owner; (8) the condition of such property; (9) the income, if any, which the property actually produces and has produced within the next preceding eight years; and (10) any commonly accepted method of ascertaining the market value of any such property, including techniques and methods peculiar to any particular species of property if such technique or method is used uniformly and applied to all property of like species.

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§11-1A-4. Identification of property to be appraised; persons required to make return.

(a) On or before December 1, 1983, every person who owns property which was situate in this state on July 1, 1983, shall prepare a return itemizing and describing such property, whether real or personal, and shall file such return with the assessor of the assessment district wherein such property is located, except in the case of a taxpayer whose annual return for the assessment of property is filed with some other public officer, then the return required by this section shall be filed with the Tax Commissioner who shall allocate the contents to the appropriate counties by such means as he determines appropriate. The form for the return shall be designed by the Tax Commissioner, and shall provide a means for the orderly listing of all property not excepted from listing under the provisions of section five of this article. A similar return, itemizing and listing such property, shall also be made, at the same time, by every person holding, possessing or controlling real or personal property as executor, administrator, guardian, trustee, receiver, agent, partner, attorney, president or accounting officer of a corporation, consignee, broker, or in any representative or fiduciary character.

(b) The return required by subsection (a) of this section shall be made and the information furnished:

(1) With respect to an individual who is deceased, the return of such individual required under subsection (a) shall be made by his or her executor, administrator, or other person charged with the property of such decedent;

(2) With respect to a person under a disability who is unable to make a return required under subsection (a), the return of such individual shall be made by a duly authorized agent, committee, guardian, fiduciary or other person charged with the care of the person or property of such individual: Provided, That this subdivision shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual;

(3) With respect to a case where a receiver, trustee in bankruptcy, or assignee by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all of the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return for such corporation in the same manner and form as corporations are required to make such returns;

(4) With respect to property of an estate or a trust, the return shall be made by the fiduciary thereof; and

(5) With respect to the property of a married person who is absent from the state, the return shall be made by his or her spouse.

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(c) A return made by one or two or more joint fiduciaries shall be sufficient compliance with the requirements of this section in any case where the return is required to be made by a fiduciary.

(d) With regard to real property not excepted from listing for appraisal under the provisions of section five of this article, a summary legal description sufficient to identify and locate the property shall be given for each parcel of real estate, and, if applicable, the name of the street and number, its area, and if improved, a short statement of the character of the improvements.

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§11-1A-5. Property excepted from listing for appraisal.

Bank deposits, money and household goods and personal effects, if such household goods and personal effects are not held or used for profit, are exempt from the ad valorem property taxation and shall not be described and listed on the forms required to be filed under the provisions of section four of this article: Provided, That the term "personal effects" shall include, but not be limited to, firearms and ammunition held for personal use and not for profit. A person shall also not list real property assessed and listed upon the landbooks of the several counties for the taxable year 1983, or on July 1, 1983, for the taxable year 1984.

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§11-1A-6. Supplemental information required to be filed.

Every person required to file a tax return under the provisions of article thirteen, twenty-one or twenty-four of this chapter for the period ending on December 31, 1982, or for income received or to be received during the calendar year 1983, shall file a copy of a depreciation schedule included in a federal or state tax return for income taxation for the taxpayer's tax year ending on or after June 1, 1982, or if the person did not prepare a depreciation schedule for such return or elects not to disclose the schedule from the tax return, a schedule showing property on which a deduction for depreciation could be claimed against gross or adjusted gross income received or receivable in the selected year, including a brief description of such property, its basis and, to the extent the taxpayer elects, any accumulated depreciation the taxpayer could have claimed in such year and prior years.

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§11-1A-7. When valuations not certified.

If a person is required under the provisions of this article to fix what he deems to be the true and actual value of an item of property, whether real or personal, and if such valuation is not required to be made on any other tax return, then the valuation required by this article shall not be taken as certified or given under oath, but all other information required to be given under the provisions of this article shall be deemed to have been given under oath.

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§11-1A-8. Ascertainment of assessed value as of July 1, 1983.

(a) All real property assessed and listed upon the landbooks in the several counties as of July 1, 1983, and property required to be described and listed pursuant to section four of this article, shall as soon as the same be returned or, if not returned, listed on the landbooks or otherwise identified, be categorized and systematically inventoried by the assessor of the county wherein such property is returned or returnable and by the Tax Commissioner in the case of property returned or returnable to the Tax Commissioner, for the purpose of ascertaining what the previously assessed value for each such item was or would have been as of July 1, 1983.

The information shall be categorized and systematically inventoried in accord with requirements specified by the Tax Commissioner and entered into the statewide data bank established by the Tax Commissioner for such purpose by the officer with whom the return is to be filed. The Tax Commissioner shall provide for the receipt and permanent preservation of the information entered in the data bank under this section and under the provisions of section nine of this article. As to any such property not so assigned a previously assessed value, effort shall be made by the appropriate county assessor to cause a back assessment to be made for the assessment date of July 1, 1983, and subsequent assessment dates thereafter, if such assessment would have been proper as of July 1, 1983, or thereafter, under law applicable to assessments on such dates.

(b) Property which is exempt from taxation under the provisions of section nine, article three of this chapter shall nonetheless be listed pursuant to section four of this article, and categorized and inventoried pursuant to subsection (a) of this section, and the exemption confirmed or not confirmed.

(c) It is the intention of the Legislature in enacting this section to provide a mechanism for determining the previously assessed value of property as that term is used in subsection (D), section one-b, article X of the Constitution of West Virginia, in order that such previously assessed value may be compared with the assessed value of such property following the first statewide reappraisal to determine whether there is a resulting increase which should be allocated over a period of ten years in equal amounts annually, as required by the said Constitutional provision.

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§11-1A-9. Subsequent alterations in property; economic change.

In determining the previously assessed value of any property under the provisions of section eight of this article or in determining the market value or the assessed value of property as those terms are defined in section three of this article, the appraiser or assessor shall record any information evidencing alterations in the property subsequent to July 1, 1983, including, but not limited to, substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences. The economic impact on the property, whether inflationary or deflationary as to value, shall be noted, but not considered to have an effect upon the previously assessed value.

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§11-1A-10. Valuation of farm property.

(a) With respect to farm property, the Tax Commissioner shall appraise such property so as to ascertain its fair and reasonable value for farming purposes regardless of what the value of the property would be if used for some other purpose, and the value shall be arrived at by giving consideration to the fair and reasonable income which the property might be expected to earn in the locality wherein situated, if rented. The fair and reasonable value for farming purposes shall be deemed to be the market value of such property for appraisement purposes.

(b) A person is not engaged in farming if he is primarily engaged in forestry or growing timber. Additionally, a corporation is not engaged in farming unless its principal activity is the business of farming, and in the event that the controlling stock interest in the corporation is owned by another corporation, the corporation owning the controlling interest must also be primarily engaged in the business of farming.

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§11-1A-11. Valuation of certain classes or species of property; reserve coal properties; oil producing properties; gas producing properties; timberland; active mining mineral interest; commercial real property and industrial land; commercial and industrial furniture, fixtures, machinery and equipment; intangible personal property; public utility property; vehicles, watercraft and aircraft.

On or before September 1, 1983, the Tax Commissioner shall propose a legislative rule for submission to the Legislature pursuant to the provisions of article three, chapter twenty-nine-a of this code, which rule shall describe in detail the methods whereby the Tax Commissioner will determine the market value, during the first statewide reappraisal, of the following property:

(1) Active and reserve coal properties;

(2) Oil producing properties;

(3) Gas producing properties;

(4) Timberland;

(5) Active mining mineral interests including limestone, fireclay, dolomite, sandstone and other actively mined minerals;

(6) Commercial real property and industrial land;

(7) Commercial and industrial furniture, fixtures, machinery and equipment;

(8) Intangible personal property, including stock, accounts receivable and stocks in banks and capital of savings and loan associations;

(9) Public utility property; and

(10) Vehicles, watercraft and aircraft.

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§11-1A-12. Division of functions between the Tax Commissioner and assessor; local exceptions to value; revisions by Tax Commissioner; participation by assessor in hearings and appeals.

(a) It is the intent of the Legislature that in carrying out the appraisal functions required by this article, the Tax Commissioner shall utilize the county assessors and their employees. The county clerk shall prepare a list of all transfers of real property recorded during the calendar year one thousand nine hundred eighty-three for which payment of the excise tax on the privilege of transferring real property, required by article twenty-two of this chapter was required, and forward such list to the Tax Commissioner during the second month following such transfers' recording with the clerk of the county commission. The assessor shall review the landbooks for his county for the tax year one thousand nine hundred eighty-three and one thousand nine hundred eighty-four, and shall prepare a written property description of every parcel of real property not previously described on a property record card provided to the assessor by the Tax Commissioner under the provisions of section eleven, article nine-a, chapter eighteen of this code. The assessors may compile lists of comparable property sales and recommend appraisal values with respect to any property in their districts to which the Tax Commissioner shall give consideration when he fixes values for such property for reappraisement purposes to the extent such recommended values are supported by competent evidence.

(b) In each county during the reappraisal function, the Tax Commissioner shall designate a tax department employee as the coordinator of reappraisal functions among the commissioner's personnel, the commissioner's designated agents, and the assessor's personnel so as to ensure that the resulting appraisal shall be complete, equal and uniform. In each county, the Tax Commissioner or his designated agent shall prepare a description of the number, job description and minimum qualifications of personnel needed to accomplish the reappraisal, other than permanent employees of the Tax Commissioner or employees of the assessor. The Tax Commissioner or his designated agent shall employ qualified individuals to fill the positions giving first preference to persons registered with the Bureau of Employment Programs' job service program, but all such persons shall be residents of the county, or if the Tax Commissioner finds it necessary for efficiency, any contiguous county, or if none be available, the state. The Tax Commissioner shall make reasonable efforts to assure that the additional employment required by this article is allocated equitably among the several counties, with attention to the level of unemployment in and the population of each county.

(c) To the extent that the Tax Commissioner concludes that assessors and local employees have overemphasized or underemphasized local aspects in determining value, the Tax Commissioner may revise information concerning such values so as to achieve uniformity in the statewide reappraisal: Provided, That in any hearings or appeals under the provisions of this article the assessor or employee who participated in the gathering of such information may be a competent witness as to how tentative values were arrived at in the process of reappraisal before any such revision.

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§11-1A-13. Assurance of fair treatment.

The Tax Commissioner shall require that his employees and any designated agent visit each parcel of land to be reappraised and perform other functions to assure a competent appraisal.

Upon any visit to land, no such employee, agent or employee of the agent shall enter into a dwelling house or the curtilage thereof, if any, unless the employee or agent shall give written notice to an adult person then present of the right of residents thereof to refuse such entry, nor insist upon entry upon any other land except at reasonable times, nor in any manner harass a person for refusing such entry or refusing entry at an unreasonable time, nor in any other manner intentionally harass or abuse any person incident to any such visit.

The Tax Commissioner shall assure that his employees and agents afford to all taxpayers before he certifies the reappraisal reasonable opportunity to review and comment in writing upon the accuracy of all real property descriptions and other reappraisal property listings and use reasonable means to resolve differences in such descriptions and listings, including informal hearings, reinspections where indicated, and written notice to any aggrieved taxpayer of the results of such review.

Failure to comply with requirements of this section shall not be construed to invalidate a reappraisal value once determined and certified by the commissioner but upon any appeal or review of such certified reappraisal any evidence obtained in violation of the requirements of this section may be excluded unless corroborated.

The Tax Commissioner shall assure that his employees and agents maintain written records of all changes made in property descriptions or values by reason of informal reviews with taxpayers and all visits to land, including the dates thereof, names of participating persons present and a fair summary of the reasons for any changes. Such records shall be subject to inspection and production in any consideration of the propriety of the appraised value and may be admissible in evidence if otherwise probative upon the issue under consideration.

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§11-1A-14. Release of results of statewide reappraisal; legislative rule regarding changes in quality or quantity of property; publication and certification of statewide reappraisal.

(a) As the Tax Commissioner completes the appraisal process he may make the information concerning the reappraised values available, either upon request or by notice as hereinafter provided for in this article: Provided, That no such information shall be made available by the Tax Commissioner unless and until the same information is available throughout the assessment district for all property within the same class or species as the particular property for which appraisal values are to be made available.

(b) On or before September 1, 1984, the Tax Commissioner shall propose a legislative rule for submission to the Legislature pursuant to the provisions of article three, chapter twenty-nine-a of this code which rule shall describe in detail the method whereby the Tax Commissioner will adjust appraised values determined by the statewide reappraisal on account of substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences.

(c) At the time of making available information as to appraised value as provided for in this section which shall not be later than March 31, 1985, the Tax Commissioner shall certify and publish such results for use when directed by the Legislature. As certifications are made and notice is given to taxpayers as provided for in section sixteen of this article, request for review, hearing and appeal under said section may proceed notwithstanding the fact that the statewide reappraisal is not completed for all classes and species of property in all counties of the state. However, none of the appraised values ascertained during the course of the statewide reappraisal of property shall be utilized for assessment purposes unless and until the statewide reappraisal is completed for all classes and species of property in all counties and the use of the results have been directed by the Legislature.

(d) Inasmuch as it is the intent of the Legislature that the Tax Commissioner concentrate his reappraisal efforts upon the first statewide reappraisal until it is completed, and because prior reappraisal methods and results may not be wholly consistent with the methods and results of the statewide reappraisal, the Tax Commissioner shall not complete, deliver or certify appraisals of nonutility real property and nonutility personal property under the provisions of section eleven, article nine-a, chapter eighteen of this code, after the effective date of this article and prior to the completion, publication and certification of the first statewide reappraisal under this article: Provided, That the Tax Commissioner shall not be precluded from correction of prior appraisals under the provisions of current or prior law, but this proviso shall not be construed to avoid the other provisions of this paragraph.

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§11-1A-15. Appraisal of property; lists to county officials.

(a) All real property assessed, or which should have been assessed, as of July 1, 1983, and all property described and listed pursuant to section four of this article, shall be appraised by the Tax Commissioner at its value as defined in this article, in order that the Tax Commissioner may comply with the requirement of section one of this article.

(b) As appraisals are completed and notices given in accordance with the provisions of section sixteen of this article, lists of the property appraised, the owners and valuations shall be delivered to the assessor, the county commission and the sheriff of the county wherein the appraised property is liable to assessment.

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§11-1A-16. Administrative review of appraisal.

(a) Upon receipt by the assessor of the lists of property appraised and the owners and the valuations thereof, as provided by section fifteen of this article, the assessor shall forthwith cause a notice to be given in the form of a Class I-O legal advertisement which advises that the appraisal of property within the county is or has been completed and that the results thereof are available to any person interested therein in the office of sheriff of the county wherein the property is located. After such advertisement has been made, the assessor shall forthwith mail to each owner, a notice of the amount of such valuation. The notice shall be addressed to the person or persons in whose name any such property is assessed or who is liable, and shall be mailed to the address of such person or persons as reflected upon the tax tickets in the office of the sheriff of the county wherein such property is located. Such notice shall be in a form prescribed by the Tax Commissioner and shall inform the owner that if he desires to challenge such valuation he must inform the Tax Commissioner within twenty-one days of the date of such notice, in writing, of his intention to so challenge the valuation.

(b) If the owner mails such writing to the Tax Commissioner within twenty-one days of the date of the notice of valuation, the Tax Commissioner shall, within thirty-five days after the date of the notice of valuation, provide the owner and the assessor with a written statement of the information upon which the Tax Commissioner relied in making such appraisal.

(c) Within twenty-one days after the date of the written statement of information furnished by the Tax Commissioner as provided in subsection (b) of this section, the owner may request the Tax Commissioner to review the valuation of this property. Such request shall be in writing, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the Tax Commissioner to make the redetermination described in subsection (d) of this section.

(d) After a request for review is made under subsection (c) of this section, the Tax Commissioner shall determine whether or not (1) the process of making the appraisal is reasonable under the circumstances, and (2) the amount of valuation of the appraised property is appropriate under the circumstances. In determining whether the appraisal is reasonable and the amount of the valuation appropriate, the Tax Commissioner shall take into account not only information available at the time the appraisal was made but also information which subsequently becomes available. The Tax Commissioner shall notify the owner and the assessor of his determination made under this subsection.

(e) If, at any time prior to making the determination required by subsection (d) of this section, the Tax Commissioner shall conclude that an appraised value is incorrect as a result of a clerical error, or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of the exercise of judgment, he may correct such error or mistake and shall give notice thereof to the taxpayer, and the appropriate assessor, county commission and sheriff to whom lists of appraisals have been provided in accordance with section fifteen of this article.

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(f) The assessor shall be reimbursed by the Tax Commissioner for the postage expended to mail the notices required by this section. Such forms and envelopes as may be required shall be furnished by the Tax Commissioner.

(g) Whenever the property has been returned or is returnable to the Tax Commissioner, the Tax Commissioner shall perform the duties imposed upon the assessor by this section. In such case, the Tax Commissioner shall specify in such notice the county in which a review of such appraisal shall be heard. The Tax Commissioner shall specify the county in which he determines that a larger portion of the property appraised is or is usually situate and his determination thereof shall be final.

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§11-1A-17. Review of appraisal by the county commission sitting as an administrative appraisal review board.

(a) Within thirty days after the earlier of (1) the day the Tax Commissioner notifies the owner of his determination described in subsection (d) of the preceding section, or (2) the twenty-first day after the request described in subsection (c) of the preceding section was made, the owner may petition for a hearing of record before the county commission of the county in which the larger portion of the appraised property is liable to assessment for ad valorem property taxation. Contemporaneously with the filing of the petition with the county commission, the owner shall mail a copy of the petition to the Tax Commissioner and the assessor, and the petition shall have endorsed or appended to it a certificate by the owner or his attorney that such copies were mailed.

(b) The county commission shall sit as an administrative appraisal review board, shall hear such testimony, under oath, as the owner, the Tax Commissioner and other witnesses may offer, and shall make a true record of the testimony by nonstenographic electronic recording suitable to assure that the recorded testimony will be accurate and trustworthy. Upon making such true record and preserving the other evidence presented, the commission shall determine whether the amount of value fixed by the appraisal of the property is correct under the circumstances. If the county commission finds the appraisal to be correct it shall enter an order approving the value as appraised and adopting by reference the determination and reasons made by the commissioner under subsection (d), section sixteen of this article. If the county commission determines that the amount of value fixed by the appraisal of the property is incorrect, and if sufficient evidence has been presented to permit correction of the appraisal, the county commission shall correct the appraisal and fix the value of the appraised property. If the county commission shall find that the evidence is not sufficient to determine the correct value, the county commission shall direct the parties to develop and present such evidence, and may continue the hearing from time to time for this purpose until there be evidence before it sufficient to fix the correct value. Upon making a determination, the county commission shall enter an order and inform the parties in writing, setting forth in summary form the reasons for such determination.

(c) Any person who is a taxpayer of ad valorem property taxes in any West Virginia county may protest an appraisal of property under this article for good cause alleged and shown. A person desiring to protest a reappraisal of property shall petition for a hearing before the administrative appraisal review board in the same manner as an owner would petition for hearing with regard to the appraisal of his property under the provisions of subsection (a) of this section: Provided, That a petition for protest must be filed with the county commission within forty-five days after the publication of the notice required in subsection (a), section sixteen of this article. The hearing of a protest shall be governed by the same procedures described for hearings in subsection (b) of this section.

(d) Upon a showing of good cause, any person who is a taxpayer of ad valorem property taxes in any West Virginia county may be permitted to intervene in the hearing provided for in this section.

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§11-1A-18. Review by circuit court on certiorari.

Within thirty days after the day the county court notifies the parties of a final determination of value made pursuant to section seventeen of this article, the owner, Tax Commissioner, protestor or intervenor may request the county commission to certify the evidence and remove and return the record to the circuit court of the county on a writ of certiorari instituted in accordance with the provisions of article three, chapter fifty-three of this code. For purposes of this article, the recorded testimony of the hearing, when certified by the county commission, may be used by the circuit court as the transcript of testimony.

WV Legislature

§11-1A-19. Subsequent statewide reappraisals required.

After the first statewide reappraisal, to be completed on or before March 31, 1985, the commissioner shall require that periodic reviews of property valuation shall take place so as to ensure that all property is valued at market value as set forth herein at all times: Provided, That statewide reappraisals of property shall take place at least every ten years after 1985.

WV Legislature

§11-1A-20. Cooperation of other agencies of state and local government.

The several departments and agencies of state government, county commissions and county assessors are hereby authorized, required and directed to render such necessary aid and assistance to the Tax Commissioner as is required to enable the commissioner to complete the first statewide reappraisal of all property by March 31, 1985.

WV Legislature

§11-1A-21. Electronic data processing system network for property tax administration.

(a) The Tax Commissioner shall devise and cause to be established a statewide electronic data processing system network, to facilitate administration of the ad valorem property tax on real and personal property, through the timely sharing of property tax information among county assessors and the Tax Commissioner.

(b) Each county shall lease, at its expense, the data processing equipment required by the commissioner to be located in each county. Additionally, each county shall provide, at its expense, the necessary staffing and operating personnel and all other necessary facilities, including telephone and other communications equipment, to allow on-line interaction with the host computer or such other computer as the commissioner may designate. Each county shall be charged by the commissioner for its proportionate share of the cost for use of the host computer and other related services. Such data processing and communications equipment must be installed and tested and county personnel trained to use the equipment on or before July 1, 1985.

(c) To ensure equipment compatibility and the efficient operation and maintenance of the statewide electronic data processing system network, the commissioner shall select and may, from time to time, change equipment suppliers at the state and any county level. All equipment for the system shall be acquired under the purchasing procedures specified in article three, chapter five-a of this code.

(d) The commissioner may promulgate reasonable rules governing the operation of the statewide electronic data processing system network. Such rules shall, at a minimum, specify that each assessor shall enter all changes in the description, status, classification and value not later than the calendar month following the month during which the changes took place. The rules shall provide for thorough and adequate safeguards to prevent unauthorized access to the system network and the database. The commissioner shall make available to every taxpayer, upon his request, through the system, the description and appraised value of each parcel valued and the method used in determining the appraised value. The system shall be capable of providing for the assessment of each parcel and item of property at sixty percent of its appraised value and for the phasing-in of the first statewide reappraisal, as to each parcel and item of property and the phasing-in of any subsequent reappraisal as may be authorized by the Legislature.

(e) County assessors shall convert or cause to be converted, at county expense, any current assessment information not in the data files of the Tax Commissioner for purposes of the first statewide reappraisal and the preparing of a system of assessments utilizing the results of the reappraisal, to be phased in as required in section twenty-two of this article. Such conversion shall be completed on or before July 1, 1985.

(f) The commissioner may offer to county sheriffs, as an optional service, a uniform computerized property tax billing and accounting system using the assessed values and

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taxpayer information generated through the statewide system. Each sheriff using such optional services shall be charged the proportionate cost for use of the host computer and related services and materials, which charge shall be paid by the county commission.

(g) The commissioner is hereby specifically authorized and empowered to enter into such contracts as may be necessary and for which funds may be available to establish the electronic data processing system provided for in this section.

(h) The cost of any service or act performed by the commissioner under the provisions of this section shall be paid by the county commission of the county for which the service or act was provided. The cost of any service or act shall be the actual cost and expense incurred by the commission to provide the service or act. The commissioner shall render to the county commission a statement of the costs as soon after the same were incurred as practicable. It shall be the duty of the county commission to allow the same and to cause it to be paid promptly in the manner that other claims and accounts are allowed and paid and the amount owed to the Tax Commissioner shall constitute a debt due the state which may be satisfied from any money owed the county commission by the state for any reason.

(i) Payments received for the cost of services or acts performed by the commissioner under this system shall be deposited in a revolving fund which shall be known as the "county tax fund," hereby created in the state Treasurer's office.

(j) As used in this section, the following terms mean:

(1) "System" means the statewide electronic data processing system network for administration of the ad valorem property tax on real and personal property provided for in this section.

(2) "Electronic data processing" means the use of the computer for operations which include the storing, retrieving, sorting, merging, calculating and reporting data for use in preparing assessment rolls, tax list, tax bills and other reports for use in property tax administration.

WV Legislature

§11-1A-22. Phase-in, determination thereof, application and limitations.

The Legislature hereby finds that the "Property Tax Limitation and Homestead Exemption Amendment of 1982" intended to provide that the increased valuation of property, both real and personal, resulting from the first statewide reappraisal be allocated over a period of ten years in equal amounts annually.

The Legislature further finds and ascertains that the only fair and equitable manner to achieve the allocation of increased valuation over a period of ten years in equal amounts annually is to provide that upon determination by the first statewide reappraisal of the appraised value of each parcel of land or interest therein and each item of personal property, sixty percent of each appraised value shall be compared with its corresponding assessed value for the base year as adjusted to establish the assessed value for the year next preceding the first year of the phase-in. If sixty percent of the appraised value is larger than the previously assessed value for the year next preceding the first year of the phase-in, the difference shall be divided into ten equal parts. For the tax year one thousand nine hundred eighty-six and for each subsequent year through the tax year one thousand nine hundred ninety-five, the assessed value for the base year shall be increased by one such tenth part. The result plus sixty percent of any subsequent annual increases in appraised value or less sixty percent of any annual decreases in appraised value shall be the assessed value for each such year: Provided, That such assessed value shall not exceed sixty percent of the market value in any year.

WV Legislature

§11-1A-23. Confidentiality and disclosure of property tax returns and return information; offenses; penalties.

(a) Secrecy of returns and return information. -- Property tax returns and return information filed or supplied pursuant to this article and articles three, four, five and six of this chapter and information obtained by subpoena or subpoena duces tecum issued under the provisions of this article shall be confidential and except as authorized in this section, no officer or employee of the state Tax Department, county assessors, county commissions and the board of public works shall disclose any return or return information obtained by him or her, including such return information obtained by subpoena, in any manner in connection with his or her service as such an officer, member or employee: Provided, That nothing herein shall make confidential the itemized description of the property listed, in order to ascertain that all property subject to assessment has been subjected to appraisal: Provided, however, That the commissioner and the assessors shall withhold from public disclosure the specific description of burglar alarms and other similar security systems held by any person, stocks, bonds and other personal property held by a natural person, except motor vehicles and other tangible property utilized publicly, and shall withhold from public disclosure information claimed by any taxpayer to constitute a trade secret or confidential patent information: Provided further, That such property descriptions withheld from public disclosure shall be subject to production and inspection in connection with any review, protest or intervention in the appraisal or assessment process, under such reasonable limitations as the board of review, board of equalization and review or court shall require. The term officer or employee includes a former officer, member or employee.

(b) Disclosure. -- (1) Information made confidential by subsection (a) of this section shall be open to inspection by or disclosure to officers, members and employees of the state Tax Department, county assessors, county commissions, county sheriffs, municipal financial officers and to members of the board of public works whose official duties require such inspection or disclosures for property tax administration purposes. Disclosure may be made to persons, or officers or employees thereof, who are employed by the State Tax Commissioner by contract or otherwise, provided such person, or officer or employee thereof, shall be subject to the provisions of this section as fully as if he or she was an officer or employee of the state Tax Department. Information made confidential by subsection (a) of this section shall be open to inspection by the property owner providing such information and to his or her duly authorized representative.

(2) Information made confidential by subsection (a) of this section may be disclosed in a judicial or administrative proceeding to collect or ascertain the amount of tax due, but only if: (i) The taxpayer is a party to the proceedings or; (ii) such return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

(c) Reciprocal exchange. -- The Tax Commissioner may permit the proper officer of the United States, or the District of Columbia, or any other state, or his or her authorized representative, to inspect reports, declarations or returns filed with the Tax Commissioner

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or may furnish to such officer or representative a copy of any such document provided such other jurisdiction grants substantially similar privileges to the Tax Commissioner or to the Attorney General of this state.

(d) Penalties. -- Any officer, member or employee of the state Tax Department, county assessors, county commissions, county sheriffs, municipal financial officers and the board of public works who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(e) Limitations. -- Any person protected by the provisions of this article may, in writing, waive the secrecy provision of this section for such purpose and such period as he or she shall therein state, and the officer with whom such waiver is filed, if he or she so determines may thereupon release to designated recipients such taxpayer's return or other particulars filed under the provisions of the tax articles administered under the provisions of this article.

This section shall not be construed to prohibit the publication or release of statistics so classified so as to prevent the identification of particular reports and the items thereof nor to prevent the publication and release of assessments and appraised values of property.

WV Legislature

§11-1A-24. Creation and use of appraisal manual.

The Tax Commissioner shall develop, or cause to be developed, appraisal manuals for all species of property, for use in making statewide reappraisals. These manuals shall be used by the Tax Commissioner, county assessors, county commissions, the board of public works and any property appraisal firm or firms employed to assist in making statewide reappraisals. These manuals shall, at a minimum: (1) Provide guidelines for determining the appraised value of all species of property that are consistent with this article; (2) establish work procedures; and (3) promote uniformity of approach to tasks. The Tax Commissioner and his designated agents shall consult with each of the county assessors in the preparation of all such manuals.

WV Legislature

§11-1A-25.

Repealed.

Acts, 1998 Reg. Sess., Ch. 285.

WV Legislature

§11-1A-26. Appraisal of corporate property; reports to Tax Commissioner by corporations.

Each incorporated company, foreign or domestic, having its principal office or chief place of business in this state, or owning property subject to taxation in this state, shall include with the return required by this article, a list of the following items: (a) The amount of capital authorized to be employed by it; (b) the amount of cash capital paid on each share of stock; (c) the amount of credits and investments other than its own capital stock held by it on said date, with their true and actual value; (d) the quantity, location and value of all its real estate, and the tax district or districts in which it is located; and (e) the kinds, quantity and value of all of its tangible property in each tax district in which it is located.

The list required by this section shall be under oath, which oath shall be substantially as follows:

State of West Virginia, County of _____, ss.

I, _____, president (treasurer or manager) of (here insert name of corporation), do solemnly swear (or affirm) that the foregoing is, to the best of my knowledge and judgment, true in all respects; that it contains a statement of all the real estate and personal property, including credits and investments belonging to said corporation; and said corporation has not, to my knowledge, during the sixty-day period immediately prior to the first day of the assessment year converted any of its assets into nontaxable securities or notes or other evidence of indebtedness for the purpose of evading the assessment of taxes thereon; so help me God.

_____

The officer administering such oath shall append thereto the following certificate, viz:

Subscribed and sworn to before me by _____ this the _____ day of _____, 19___.

_____

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§11-1A-27.

Repealed.

Acts, 1997 Reg. Sess., Ch. 60.

WV Legislature

§11-1A-28. Review appraisal requirements; qualifications of review appraisers with respect to residential property; review appraisers to be competent witnesses.

In the conduct of mass appraisal of residential real property the Tax Commissioner shall assure that the person who evaluates the collected data with respect to any parcel of real property subject to such appraisal and visits the property for the purpose of reviewing such data, actual conditions, and estimated value is in the first instance, with respect to residential property containing eight or fewer dwelling units, a bona fide resident of West Virginia for at least one year prior to employment in such capacity and is a person familiar with the area in which such property is located, including the amenities of the area and general trend of market values over the period during which the trend is required by law to be considered. Such person shall, if qualified under this section, be a competent witness in all proceedings relating to the appraisal of such property, notwithstanding any further review or refinement of the data or other consideration in such appraisement.

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§11-1A-29. Requirements for state employees and employees of designated agents; legislative findings; modification of existing contract for mass appraisal; exemption of certain appraisal employees of Tax Commissioner from civil service.

Of the whole number of persons engaged in the reappraisement process, ninety-five percent of all persons employed by the state and its designated agents in this state to conduct any part of the reappraisal shall be residents of the state. The Legislature finds that the process of reappraisement, the acceptance of the results by the public, and the deeply held attitudes and outlook of the citizens of the state require, for the success of the reappraisement and the acceptance of the widespread resulting adjustments in assessment values, that this stringent requirement be strictly adhered to, to the end that school revenues and other local income and taxation have the benefit of the reappraisement as promptly as possible.

On the effective date of this section, the contract of the state for mass appraisal of residential properties and other reappraisal services shall be modified as follows:

(1) To conform with this article; and

(2) To remove from the contract data encoders and other clerical help, at an aggregate reduction in cost under the contract of at least $3 million.

After investigation, the Legislature finds that the contractor is amenable to the modification of its contract to conform with the requirements of this article. The Tax Commissioner is directed to conform such contract to the requirements of this article within ten days after the effective date of this section.

The data encoders and other clerical employee positions required to be transferred from the contract to state employment pursuant to this section, being temporary positions requiring prompt employment of limited duration are hereby classified exempt for the purposes of article six, chapter twenty-nine of this code. The Tax Commissioner is hereby granted plenary authority, subject only to the supervision of the Governor, to determine all terms and conditions of employment of such employees.

WV Legislature

§11-1A-29a. Duty of Tax Commissioner, assessors, sheriffs and county commissions in valuation of property.

Except as to hearing and deciding petitions for review by the several county commissions, it shall be the responsibility and duty of the Tax Commissioner to see to the proper and accurate valuation of all property subject to appraisal pursuant to this article or article one-b of this chapter, except for nonutility personal property. It is likewise the duty of the several county assessors, sheriffs and county commissions to assist the Tax Commissioner in his efforts to ascertain the true value of all such property and it is likewise their individual and collective duties to see to the proper and fair valuation of property within their respective counties. It shall be the responsibility and duty of each county assessor to see to the proper and accurate valuation of all nonutility personal property appraised pursuant to this article. The assessor shall review the initial appraisal of such personal property and shall make such adjustments as will render said appraisal equal and uniform. The Tax Commissioner shall provide such necessary guidelines and instructions, in accordance with chapter twenty-nine-a of this code to assessors as will ensure fair and uniform values of such property within each county and among all counties in this state. The Tax Commissioner shall review each assessor's work to ensure that such guidelines and instructions have been uniformly followed. Any changes in appraised values shall be entered into the computer network required by section twenty-one of this article, and notice of such change shall be mailed to the property owner. The failure of any such county official so to do or to carry out his or her duties with respect thereto shall constitute grounds for the removal from office of any such official.

WV Legislature

§11-1A-30. Severability.

The provisions of subsection (cc), section ten, article two, chapter two of this code regarding severability shall be deemed to be included herein as if set forth in extenso in this section.

WV Legislature