WEST VIRGINIA CODE CHAPTER 11 ARTICLE 1B

WV Legislature

§11-1B-1. Legislative findings and intent.

(a) The Legislature hereby finds that many citizens and taxpayers of this state have the belief that an unacceptable number of errors and misinformation are included within the results of the statewide appraisement of property subject to ad valorem taxes pursuant to the amendment of Article X, Section 1b of the Constitution of West Virginia, adopted in 1982, which belief is sufficient to cast doubt over the results of such reappraisal in the mind of the general public.

(b) The Legislature recognizes that the Constitutionally mandated reappraisal required an unprecedented effort to be expended by the state and counties to identify and establish the value of all the property of this state in a fair, equal and uniform manner. The Legislature also finds that the success of such an ambitious and important program depends in large measure upon public confidence and assurance as to its fairness and accuracy. The revenues produced by ad valorem taxation are vital to county government, public education, and municipalities, and only upon full compliance with the purpose and intent of the Constitutional requirements may our citizens and their representatives determine the appropriate level of ad valorem taxation.

(c) It is therefore the intent of the Legislature to provide a process by which property owners, if they so desire, may inquire of and object to the results of such reappraisement and have the same reviewed and, in the proper cases, adjusted so as to reflect the true value of all property subject to ad valorem taxes prior to the implementation of such reappraisement by the Legislature. It is further intent of the Legislature that to these ends the Tax Commissioner, the several county commissioners, assessors and sheriffs shall expend the maximum efforts to addressing the inquiries and complaints of taxpayers with respect to the reappraisal and in an expeditiously and orderly manner seek to review and ascertain fair and accurate values for all properties.

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§11-1B-2. Application of article.

The provisions of this article shall apply only to the appraisement of property subject to ad valorem taxation and which was required by law to be appraised pursuant to the mandate set forth in Article X, Section 1b of the Constitution of this state as amended in the year one thousand nine hundred eighty-two, and shall not apply to any appraisement or reappraisement of any such property in any county or counties of this state prior to the adoption of such amendment nor subsequent to the year one thousand nine hundred eighty-seven.

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§11-1B-3. Definitions.

As used in this article, unless the context in which used requires otherwise:

(1) "Assessed property," "taxable property" or "property" shall mean and include all real estate and personal property or interests therein which were required to be appraised pursuant to Article X, Section 1b of the Constitution of this state, as amended in 1982 (except as may be exempted from ad valorem taxation by the provisions of Article X, Section 1a of the Constitution of this state as amended in 1984) and any statute or statutes subsequently enacted which would implement such amendment and, with respect to real property, any and all improvements or structures thereon or attached thereto.

(2) References to the term or terms "the appraisal" or "the appraisement," "appraisal" or "appraisement" shall mean the appraisement of property which was made or performed following the adoption of and pursuant to the amendment to Article X, Section 1b of the Constitution of West Virginia adopted in 1982 and also pursuant to article one-a of this chapter, and any modifications and revisions made thereto prior to the effective date of this article, subject however, to those exemptions subsequently granted by the amendments to Section 1a of said Article X of the Constitution adopted in 1984.

(3) "Market value" or "true and actual value" or the unqualified word "value" shall have the same meaning ascribed thereto by the provisions of subdivision (i), section three, article one-a of this chapter.

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§11-1B-4. Appraisal of property.

(a) All property as defined in section three of this article shall be appraised at its true and actual value as that term is defined in subdivision (i), section three, article one-a of this chapter.

(b) Any provision of article one-a of this chapter or of any other provision of law to the contrary notwithstanding, neither the appraisement nor the values ascertained thereby shall be used by the several county assessors, county commissions or the tax department for purposes of ad valorem tax assessments until after June 30, 1987 except in accordance with this article.

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§11-1B-5. Preparation of property list by Tax Commissioner; publication by sheriff.

(a) The Tax Commissioner shall compile a list of all separately assessed property which was subject to the appraisal. A separate list shall be compiled for each county, which list shall include the district in which the property is or was located at the time of appraisals, the owner or owners of such separately assessed item or parcel at that time and the appraisal value thereof. To the extent known by the Tax Commissioner, such list shall include and reflect the name of the current property owner to the extent ownership of the subject property has changed since its reappraisal. Such list shall be delivered to the several assessors, sheriffs and county commissions on or before June 15, 1986. All proposed final appraisals shall be included in such list and shall reflect all final revisions and modifications which are made or to be made prior to such date pursuant to sections sixteen and seventeen, article one-a of this chapter with respect to property which has been subject to revisions or modifications in the value thereof, or if an appeal is pending before the county commission with respect to the value of any such property then the list shall include the last value certified by the Tax Commissioner to the county commission as to such property or if the value has been established by order of the county commission and a petition for writ of certiorari is still pending before the circuit court and shall have not been finally determined by the court, then the value last adopted by the county commission shall be included in the list and such fact or facts shall be separately noted in such list.

(b) The sheriff shall, upon receipt of the list required to be compiled and delivered by the Tax Commissioner, forthwith cause notice to be given owners that the appraisal of all property subject to ad valorem taxation within the county has been completed and that the results thereof are available to any person interested therein at the office of the assessor. Such notice shall be given in the form of a Class I-O legal advertisement in the accordance with article three, chapter fifty-nine of this code and the publication area shall be the county. The assessor shall simultaneously inform the Tax Commissioner of the fact that the notice was or has been published according to the requirements of this section.

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§11-1B-6. Notice of appraised values of real property to owner by Tax Commissioner; content; form.

(a) The Tax Commissioner shall also on or before August 15, 1986, first mail to each owner, a notice of the amount of such appraised value of all real property subject to ad valorem taxation, as modified or revised. Such notice shall be addressed and mailed to the person or persons in whose name any and all such real property is assessed or was assessed in 1983, or if the property has been transferred or replaced upon the tax books of the sheriff, then at the name and address reflected upon the tax tickets in the office of the sheriff of the county wherein such property is located. If such address be unknown to the Tax Commissioner, an alphabetical listing of such properties shall be forwarded to such sheriff on or before June 15, 1986, and such sheriff shall provide the appropriate mailing address for each such property in the list, such completed list to be returned to the Tax Commissioner on or before July 1, 1986.

(b) Any notice returned by the post office as undeliverable or returned to the tax department for lack of address shall be forwarded to the office of the sheriff of the county. The sheriff shall cause such notices to be delivered by certified mail, or in any manner reasonably designed to ensure that such property owners will be properly notified. It is the duty of the county assessors to assist in the discovery of proper mailing addresses necessary in order that appraisal notices may be delivered in a timely fashion. Any additional expenses or costs incurred by the sheriff or the assessor, or both, in completing the duties assigned to each by the provisions of this subsection shall be paid or reimbursed by the county commission upon certification by the Tax Commissioner to the county commission as to the amount and the reasonableness thereof.

(c) The notice required to be mailed by the provisions of subsection (a) of this section shall be upon uniform forms prepared by the Tax Commissioner and shall be of simple and readily understandable language and design. The notice shall advise each property owner that (i) an additional opportunity and final period of review is being afforded to request a review of the appraised value of the real property before the county commission prior to the final implementation of such values for ad valorem tax purposes, (ii) that an application or request for such review must be filed with the county commission not later than September 2, 1986, (iii) that all property owners have a right to petition for review of the value placed upon such property irrespective of whether such owners had previously petitioned for review by the county commission which had finally determined such value or whether such review process was currently pending either before the county commission or upon certiorari before the circuit court as provided in section eighteen, article one-a of this chapter, (iv) that the information and data relied upon in making the appraisal and in fixing the value of such property is available in the office of the county assessor at no cost to the property owner or other interested persons, (v) that such owner may in his or her petition or at any hearing held thereon, in addition to those matters relative to the reappraisal, present such factors or circumstances as, in the judgment of the owner, may have resulted in either an increase or decrease in the value of the property in question since the appraisal, and (vi) the description

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of the property which shall include, but not be limited to, the acreage and general landbook description on the landbook. Such factors or circumstances may be taken into consideration by the county assessor or county commission in fixing the assessed value thereof for the tax year for which a lien attaches on July 1, 1987: *Provided,* That such factors shall have no bearing upon the issues involved in establishing the true value of such property as established by the appraisal. Such notice shall include the information hereinbefore required, and for notices affecting surface real property values, shall set forth at least the following information in the form shown or as near thereto as may be practicable:

"NOTICE

YOU ARE HEREBY NOTIFIED OF THE VALUE PLACED UPON YOUR PROPERTY WHICH IS IDENTIFIED BELOW. THIS VALUE RESULTS FROM THE REAPPRAISAL OF ALL PROPERTY SUBJECT TO PROPERTY TAX AS REQUIRED BY THE STATE CONSTITUTION.

COUNTY_____ DIST_____MAP_PARCEL_____SPID

PROPERTY LOCATION: (Including address)

DATE

TAX CLASS:_ACCOUNT NO.

NOTICE:

OWNERS NAME

MAILING ADDRESS

CITY, STATE, ZIP

DEAR PROPERTY OWNER,

IN COMPLIANCE WITH THE PROVISIONS OF THE WEST VIRGINIA STATE CONSTITUTION, ALL PROPERTY HAS BEEN REAPPRAISED BASED ON FAIR MARKET VALUE AS OF JULY, 1983.

STATE LAW REQUIRES THAT ALL ASSESSMENTS BE 60% OF FAIR MARKET VALUE AND THAT ANY INCREASES IN ASSESSMENTS BE PHASED-IN OVER A 10-YEAR PERIOD.

FOLLOWING ARE THE RESULTS OF THE REVALUATION AND THE ESTIMATED TAX IMPACT FOR THE PROPERTY LISTED ABOVE.

YOUR PROPERTY'S 1983

MARKET/VALUE . = $ _____

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X60%

ASSESSMENT VALUE = $ _____

LESS YOUR CURRENT

ASSESSED VALUE = $ _____

DIFFERENCE IN VALUE = $ _____

ASSUMING THE TAX RATES IN YOUR COUNTY DO NOT CHANGE AND ALSO ASSUMING THAT THERE HAVE BEEN NO CHANGES IN YOUR PROPERTY SINCE 1983, YOUR CURRENT ASSESSED VALUE OF $_____ WILL BE INCREASED TO $_____ FOR THE YEAR_____ AND WILL BE INCREASED $_____ EACH YEAR THEREAFTER FOR A TOTAL PERIOD OF TEN YEARS. BASED ON CURRENT ASSESSMENTS YOUR TAX FOR THE NEXT YEAR WILL BE $_____. IF YOUR ASSESSOR DETERMINES THAT YOUR PROPERTY HAS THE SAME VALUATION AS IN 1983, AND THAT THE LEVY RATES REMAIN THE SAME, THEN IN THAT EVENT YOUR TAX THE TENTH YEAR WILL BE $_____. THE VALUES, ASSESSMENTS AND AMOUNT OF TAXES SHOWN ABOVE DO NOT INCLUDE OR TAKE INTO ACCOUNT ANY CREDIT FOR THE HOMESTEAD EXEMPTION. IF YOU ARE ELIGIBLE FOR THE HOMESTEAD EXEMPTION, NEXT YEAR'S PROPERTY TAX SHOULD BE REDUCED OR ELIMINATED.

THE VALUES SHOWN ABOVE DO NOT INCLUDE OR REFLECT ANY INCREASES OR DECREASES IN VALUE BECAUSE OF REPLACEMENT, ADDITIONS OR OTHER FACTORS OR CIRCUMSTANCES OCCURRING SINCE 1983.

IF YOU DISAGREE WITH THE VALUE PLACED UPON THE ABOVE DESCRIBED PROPERTY OR IF YOU BELIEVE CHANGES HAVE OCCURRED IN SUCH PROPERTY SINCE 1983 WHICH WOULD IN YOUR OPINION REDUCE THE VALUE OF YOUR PROPERTY, THEN YOU SHOULD PETITION THE COUNTY COMMISSION FOR REVIEW."

(d) In addition to any other notice required to be given to property owners by any provisions of this article, the sheriff shall give or provide a notice which shall advise the property owners of the fact that the right to petition for review of the value will expire on September 2, 1986, that such petition must be filed or presented to the county commission on or before that date, and that no such petition shall be received thereafter. Such notice shall be included as a separate document within the same envelope in which tax tickets are mailed, or be delivered with such tax tickets to property owners pursuant to section eight, article one, chapter eleven-a of this code.

(e) The fact that an owner failed to receive any notice pursuant to the provisions of this article shall not affect the right of the property owner to petition for review within the time prescribed, and shall not extend the period by or during which any such petition is permitted to be filed, as provided by this article, nor serve to toll the time by which any such petition is

required to be filed, nor invalidate any value otherwise correct: *Provided,* That nothing herein shall be construed to limit the rights and remedies provided in article three, chapter eleven: *Provided, however,* That the failure to receive notice shall give rise to review under section twenty-four, article three of chapter eleven.

(f) The sheriff, assessor, clerk of the county commission and all other county officers shall cooperate and assist the Tax Commissioner in locating and ascertaining proper, correct and current addresses of all owners of property subject to ad valorem taxes in order that the mailing of the notices required by the provisions of this section or of any other provision of this article may achieve the greatest degree of proficient and accurate delivery.

(g) Nothing in this article shall be construed to diminish to any extent any responsibility on the part of any property owner or taxpayer to see to the proper, accurate and timely return of any property required to be returned or to see that any such property is assessed and taxed according to law and to the extent provided by law.

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§11-1B-7. Additional newspaper, radio and television advertising required.

(a) In addition to the legal advertisement required by section five of this article and the notice requirements of section six of this article, the Tax Commissioner shall cause retail display advertisements, as opposed to and other than legal and classified advertisements, to be published in every newspaper of general circulation within each county of this state which shall generally and plainly inform the property owners and taxpayers of each county that the period to file their petition for review of the appraised value of their property for ad valorem property tax purposes expires on September 2, 1986 and that such petitions must be filed with the county commission on or before that date. Such advertisements shall be of a size sufficient to be readily visible and apparent to the readers of such newspaper and shall be at least fifteen column inches or its equivalent and shall appear in each such newspaper in some portion thereof other than that portion devoted to legal and classified advertising. The Tax Commissioner shall solicit the running of such advertisement as a public service or at a reduced cost, but, in any event, the cost of all such advertising shall be paid for by the State Tax Commissioner. Such advertisements shall be run at least three times between July 1, 1986 and August 20, of said year, but not more often than once per week during such period, and shall be run a fourth and final time no earlier than August 30, or, in the case of weekly newspapers, the edition next preceding that date. Further, the commissioner shall provide news stories to be carried and asked to be published which would inform the public of the matters required to be advertised and of which notice is required to be given by this article.

(b) In addition to the advertisement required by section six of this article and subsection (a) of this section, the Tax Commissioner shall arrange for radio and television advertisements to be carried by a sufficient number of stations to assure statewide coverage, which advertisements shall be designed to plainly inform the public that the period during which property owners and taxpayers are permitted to petition for review of the appraised value of their property for ad valorem property tax purposes expires on September 2, 1986, and that such petitions must be filed with the county commission on or before that date. Such advertisements shall likewise be broadcast at least three times between July 1, 1986 and August 20, of said year and shall, if possible to arrange, be broadcast as public service advertisements, and, in any event, shall be broadcast at such hours or times calculated to maximize their exposure to the viewing and listening public. To the extent that the Tax Commissioner cannot arrange for such advertisements to be broadcast as public service advertisements, the cost shall be paid for by the Tax Commissioner.

(c) The paid advertisements required to be seen or broadcast by the provisions of this section shall not include the name of the Tax Commissioner or of any other public official or employee, whether elected or appointed, and such person may be referred to in such advertisements, if at all, by their title or office only.

(d) Failure of any newspaper, radio and television advertising to be published or broadcast as provided by subsections (a) or (b) shall not invalidate or impair the additional review of property appraisals provided for by this article.

§11-1B-8. Review by county commission; petition therefore; hearing; decision.

(a) Not later than September 2, 1986, the owner of any assessed property may petition for review of the appraised value of his or her property. Such petition shall be filed with the county commission of the county wherein such property or the greater portion thereof is situate. No hearing shall be held with respect to any such petition filed or received by the county commission after the date hereinabove specified or which has not been deposited in the regular course of the United States mail, postage prepaid, and properly addressed to the county commission on or before such date. Such county commission shall forthwith mail or deliver at least weekly true copies of all such petitions to the Tax Commissioner and to the county assessor which shall reflect the date of filing.

(b) The State Tax Commissioner shall devise and make available a form which may be used as a petition by any owner or taxpayer seeking review of the appraised value of any such property. The petition shall set forth the name of the petitioner, the address or identification of the property in question, preferably reflected upon the most recent tax ticket, and the county and district wherein such property is located and shall state in general terms all matters of or to which the owner or owners take exception or believe to be in error with respect to the proposed appraised value of such property and such other matters as the owner or petitioner deems necessary to inform the county commission and the parties of the nature of such owner's complaint. The owner may also petition with respect to and raise at any time any issue, fact or circumstance which has occurred with respect to the subject property since 1983. The petitioner may use such form as provided by the Tax Commissioner or may use his or her own petition which need not be in any specific form so long as the nature of the complaint and request for review can be ascertained. Such forms as are prepared by the Tax Commissioner shall be made available at the offices of the county commission, the county clerk, the assessor and the sheriff and at such other places in the community as the Tax Commissioner may deem appropriate and may be included in or with the notice required by section six of this article.

(c) The county commission shall sit as an administrative appraisal review board as required by the provisions of section seventeen, article one-a of this chapter in review of the appraised value of the property in question. In so doing, the county commission shall hear such testimony under oath, and receive such other evidence as the county commission may deem pertinent, as the owner, the Tax Commissioner or other interested person may offer, including the assessor, and shall make a true record of the hearing and evidence presented by nonstenographic electronic recording or other device which will assure that the recorded testimony will be accurately preserved. The county commission shall also receive evidence of any substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences or any similar factors or occurrences which have caused or resulted in any change in value of any property subject to reappraisal for use by the assessor and the county commission in fixing values for 1987. Copies or transcriptions of the records shall be available at the request of any of the parties who shall bear the cost thereof. The provisions of subsections (b), (c) and (d) of said section seventeen, article one-a shall apply to hearings held pursuant to this article, except to the

extent the same are in direct conflict with the provisions of this article.

(d) Any other provision of present law to the contrary notwithstanding, the prosecuting attorney of the county shall serve in the capacity of law advisor only to the county commission when called upon by the county commission to assist it with respect to questions of law of which they may be concerned in any hearing held pursuant to this article and shall not represent the Tax Commissioner in any capacity with respect to any such hearing.

(e) Any other provision of present law to the contrary notwithstanding, the Tax Commissioner may, at his request, be represented in any proceeding under either article one-a or one-b of this chapter by the Attorney General, by an attorney permanently or temporarily employed by the Tax Commissioner, or by an attorney with whom the Tax Commissioner has contracted for such service.

(f) The Tax Commissioner shall be a party to every hearing held pursuant to this article and it shall be his duty in such capacity to see to the equal and uniform taxation of all species, types, items and parcels of property subject to ad valorem taxation.

(g) Upon making such true record and preserving as part of the record the other evidence presented, the county 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 information provided by the Tax Commissioner. 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 additional evidence as may be necessary and may continue the hearing to a date and time, not to exceed ten days, for the purpose of receiving such evidence sufficient to fix the true and correct appraised value. If either of the parties need more time in which to further develop or prepare such additional evidence then, upon so informing the other party or parties and the county commission, a further period of time, not to exceed an additional period of ten days, shall be granted for that purpose. Upon making its determination as to the true and correct appraised value, the county commission shall enter its order establishing such value, which order shall include the commission's findings and its reason or reasons therefor, and shall forward a true copy of such order to all the parties. The county commission shall transmit to the assessor those circumstances and matters which would cause a change in the value of any property for such use as may be appropriate in fixing assessed value in 1987. Such matters shall include, but not be limited to, those situations or circumstances required to be received by the county commission pursuant to subsection (c) of this section.

(h) Any owner whose property has been the subject of review to determine the proper value thereof pursuant to this article or article one-a of this chapter shall not be precluded from

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pursuing or exercising any other right or procedure, or appearing before any forum for the purpose of fixing the value of property for ad valorem tax purposes, and for that purpose neither the provisions of this article or of article one-a of this chapter shall be deemed to afford remedies which are severally or jointly exclusive.

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§11-1B-9. Agreements by owner, Tax Commissioner and assessor; stipulations; agreed values to be used as appraised values.

(a) At any time prior to the rendering of a decision by the county commission pursuant to section eight of this article, if the Tax Commissioner concludes that the appraised value of any property is incorrect or improper because of a clerical error or error of fact or mistake occasioned by inadvertence or an unintentional act as distinguished from errors or mistakes resulting from the exercise of judgment, the Tax Commissioner may correct such error or mistake and give notice thereof to the property owner, the appropriate assessor, county commission and sheriff of the county wherein the property is assessed for ad valorem tax purposes.

(b) If after receipt of the copy of the owner's petition for review before the county commission, the Tax Commissioner determines that the facts set forth by the property owners in his or her petition are correct, the Tax Commissioner may modify such value accordingly. The commissioner shall notify the owner or owners of his or her action as well as the appropriate assessor, county commission and sheriff, and in such notice shall include a new appraised value. If the owner agrees to such new appraised value he or she shall so notify the Tax Commissioner and the county commission. The county commission shall enter its order adopting such value as the appraised value of the property for ad valorem tax purposes. If the owner further objects to the new appraised value arrived at by the Tax Commissioner, he or she shall forthwith so inform the Tax Commissioner and the county commission, setting forth his or her reasons therefor, and the matter shall proceed to final conclusion as provided for in section eight of this article.

(c) Nothing in this section shall prevent the owners, the Tax Commissioner, any intervenors, the assessor or any of them from stipulating any issue or issues included in the review, nor shall any provision of this article or other provision of law prevent such parties from agreeing upon a settlement of the matters and jointly recommending to the county commission such agreements and stipulations which may be accepted or rejected by the county commission. If accepted, such agreements or stipulations shall be entered by the county commission in the manner provided in subsection (d) of this section. If the county commission rejects the agreement it shall so inform the parties and proceed with the hearing.

(d) Any agreement reached or stipulation agreed upon pursuant to this section or authorized thereby shall be presented by the parties in open hearing before the county commission or be filed with the county commission in writing to be jointly agreed upon by the parties and to be made available for public inspection. Such presentation or writing shall include the reasons or rationale for the agreement or stipulation, and the county commission shall set forth the same in brief form in any order ratifying or confirming the same. Any agreement reached or stipulation agreed upon which shall have the direct effect of fixing the value of any property shall not be entered or accepted by the county commission and entered of record as finally fixing such value until a period of five days shall have elapsed since the day of presentation, nor shall the same be the subject of objection thereafter.

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§11-1B-10. Property tax appraisement consultants; assignment; duties; recommendations to Tax Commissioner.

As soon as may be practicable after the effective date of this section, the Tax Commissioner may employ four persons as public property tax appraisement consultants to be of assistance to the public and available to it. The Tax Commissioner may assign such persons to any county or area of the state in which their assistance is required. Such consultants shall provide information, guidance, assistance and instructions to any residential, farm or other noncommercial owner or taxpayer regarding real estate and personal property tax appraisement matters. For this purpose, the consultant is authorized (i) to examine and review the records of the assessor, the sheriff and the Tax Commissioner upon request, (ii) to investigate matters of complaint by such residential owners or taxpayers who request his or her assistance, (iii) to make reports and recommendations to the Tax Commissioner with respect to any pertinent information or proposed corrections for consideration by the Tax Commissioner in arriving at the true and correct value of such property as hereinafter provided, and (iv) to act with respect to such other matters as may be of assistance to any such residential owners or taxpayers in understanding and resolving issues concerning such value. Such persons shall be individuals who are experienced in dealing with the public in a congenial and courteous manner and who are knowledgeable with property and property values in the area in which he or she serves.

If at any time the Tax Commissioner determines, based upon, or as a result of, reports of or consultations with the consultants, that a modification or adjustment of the appraised value of any property is indicated, the Tax Commissioner shall so notify the taxpayer, consultant and assessor of the proposed modification or adjustment. If the residential owner shall agree to the proposed modification or adjustment, the Tax Commissioner shall modify or adjust the value accordingly. If the Tax Commissioner disagrees with the recommendations or reports of the consultant, he or she shall immediately so notify the owner and consultant of that fact, and the matter shall be resolved as otherwise provided in this article.

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§11-1B-11. The right of other property owners or assessor to petition for review or intervene.

(a) 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 an appraisal of property shall petition for a hearing before the county commission in the same manner as an owner would petition for review and hearing with regard to the appraisal of his property as provided in this article: Provided, That a petition for protest must be filed with the county commission no later than September 2, 1986. The hearing of a protest shall be governed by the same procedures described for hearings before the county commission in section eight of this article and notice of such shall be given as required by subsection (d) of this section.

(b) 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 by petition in writing in the hearing provided for in this section.

(c) In the event any person shall petition for review of or protest to the appraisal value of or given to the property of another, or, in the event of intervention pursuant to this section, the owner of such property shall be given all rights afforded by this article, including the right to protection for review by cross petition or otherwise, to the same extent as if the owner had appealed or petitioned timely in the first instance.

(d) Any petition filed pursuant to subsection (a) or (b) of this section shall be filed in writing and shall set forth the objections of the petitioner or intervenor to the appraisal in question or at issue. A copy of such petition shall be served upon, mailed to or delivered to the property owner and the Tax Commissioner, and there shall be appended thereto the certificate of the petitioner or intervenor or of his or her attorney stating that true copies of such petition have been served upon or mailed or delivered to such property owner and Tax Commissioner no later than the same date upon which such copies were so mailed, delivered or served.

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§11-1B-12. Time of decision by county commission.

All review hearings conducted by county commissions sitting for the purposes of this article shall be completed and determinations rendered thereon by December 1, 1986. The county commissioner may consolidate hearings and reviews in order to avoid duplication and unnecessary repetition where the same or similar facts or issues are in dispute.

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§11-1B-13. Duty of assessor to assist county commission; inventory of flood damaged property.

(a) The county commission, sitting in review of appraisals pursuant to this article, may require the assistance of the county assessor in making its determinations under this article. Further, the assessor shall be competent to testify as to values of property generally or as to the value of a specific item or property when called upon to do so by either of the parties or the county commission.

(b) It shall be the additional duty of the assessor in the counties of Barbour, Berkeley, Braxton, Calhoun, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Preston, Randolph, Summers, Taylor, Tucker, Tyler, Upshur and Webster to prepare an inventory of all property damaged as a result of the flood which occurred in those counties during the month of November, 1985 to the extent of damage thereto, which shall be noted for such use as maybe proper with respect to any future assessments of any such property.

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§11-1B-14. Review by circuit court on certiorari.

Within thirty days after the day the county commission notifies the parties of a final determination of value made pursuant to section eight 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. If the petition for review be made by the Tax Commissioner or the assessor as to two or more separate items or parcels of property and for separate property owners, all such matters may be included within one petition if each separate owner is notified thereof and given opportunity to respond thereto. Except to the extent the same is in direct conflict with the provisions of this section, the provisions of section eighteen, article one-a of this chapter shall govern reviews by circuit courts of any proceedings brought under this article.

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§11-1B-15. Right of Tax Commissioner, assessor or property owner to review of newly discovered matters; limitations.

(a) The Tax Commissioner, the assessor or any property owner at any time after September 2, 1986, and before October 1, of said year shall have the right to petition the county commission to reopen and review in accordance with the provisions of this article. In the event the Tax Commissioner or assessor so petitions the county commission, the owner of the property shall forthwith be notified of the petition by mailing or delivering a true copy thereof to such owner. Similarly, if the owner petitions the county commission in accordance herewith, he or she shall likewise notify the Tax Commissioner and the assessor of that fact. It shall be the affirmative burden of the petitioning party to clearly show that the matters raised in the petition were newly discovered since September 1, 1986, and were theretofore unknown to the parties so petitioning.

(b) The assessor shall petition the county commission to adjust the appraised value of any parcel where that value appears to be clearly in error or based upon inconsistencies in valuation procedures, trends in valuation, clerical errors or other cause. Notice of any petition filed by the assessor shall be given to any affected owner and the Tax Commissioner. A hearing held pursuant to such petition shall be governed by the same procedures described for review and hearings as provided for in section eight of this article.

(c) In the event the Tax Commissioner or assessor changes the base year value of property as a result of matters discovered subsequent to October 1, 1986, the owner of the property shall forthwith be notified of the change by mailing or delivering a notice thereof to such owner. The owner has forty-five days from the date on the notification to file an objection in writing with the county commission. The county commission may only hear and determine the matter when meeting after the year 1987 for the purpose of reviewing and equalizing in accordance with section twenty-four, article three of this chapter.

WV Legislature

§11-1B-16. Reimbursement of costs to assessor and sheriff.

Except for the mailing required by subsection (c) of section six of this article, the assessor and sheriff shall be reimbursed by the Tax Commissioner for the postage expended by either of them to mail any notices required to be mailed by such assessor or sheriff by this article. Such forms and envelopes as may be required shall be furnished by the Tax Commissioner.

WV Legislature

§11-1B-17. Report by county commission required; reports to Legislature.

The county commission shall make a report to the Tax Commissioner on or before June 30, 1987, of the number of hearings held by it in review of any and all appraisals and any adjustments in valuation made by the county commission. The Tax Commissioner shall provide a summary of such reports to the President of the Senate and the Speaker of the House of Delegates on or before July 15, 1987.

WV Legislature

§11-1B-18. Appraisal of property; date of implementation; assessor to make assessments.

(a) All property as defined in section three of this article shall be appraised at its true and actual value as that term is defined in subsection (i), section three, article one-a of this chapter.

(b) County commissions shall proceed in a timely manner to hold the review hearings and issue determinations in accordance with the provisions of this article and the guidelines and regulations of the Tax Commissioner. If all hearings have not been held, or completed, or determinations thereon have not been issued, by June 1, 1987, the Tax Commissioner shall deem the values appealed from, and the results thereof, substantially correct and the review procedures substantially complied with, for purposes of subsection (c) of this section. In such instances, the county commission shall proceed to hold review hearings and issue determinations in accordance with the provisions of this article and the guidelines and regulations of the Tax Commissioner, and shall complete all hearings and issue all determinations on or before August 1, 1987, at which time it is the duty of the county commissions to have all hearings held and completed, all determinations issued, and the results thereof reported to the Tax Commissioner.

(c) Upon completion of the review procedures provided in this article, and after certification by the Tax Commissioner to the Governor, President of the Senate and Speaker of the House of Delegates that, with the exception of those matters pending under subsection (b) of this section or in the circuit courts of this state or on appeal to the Supreme Court of Appeals, said review procedures have been substantially complied with and further that the results thereof are substantially correct, the final valuations arrived at, by, and through the appraisal process to establish value of all property for the year 1983, as provided for in article one-a of this chapter and by this article, shall be and the same are hereby directed to be used for ad valorem property taxation in the year for which lien would attach on July 1, 1987. Such valuations shall be adjusted and maintained by the assessor in accordance with regulations governing the appraisal of property for property tax purposes and instructions provided by the State Tax Commissioner to reflect consideration of such substitutions, alterations, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or like occurrences or circumstances, as well as economic and other factors which result in or cause an increase or decrease in the value of any such property or any other divisions, redivision or other change in such property since its reappraisal for the year 1983.

In the implementation of such values, the assessor of each of the several counties shall assess the property subject to ad valorem taxation (other than public utility property) in the manner and subject to the procedures for return, assessment, equalization and review heretofore provided in this code, at sixty percent of the market value less such exemptions and allowance for phase-in which may be applicable.

With respect to property, the market value of which has changed since the reappraisal, the

assessor shall enter on the computer network provided for by section twenty-one, article one-a of this chapter, the basis of any change in value utilized in such assessment.

With respect to property not subject to reappraisal at the time of the reappraisal, or property on which improvements have been made, the assessor shall use as a basis for phase-in of the reappraisal, the statewide phase-in rate promulgated by the Tax Commissioner for like property.

(d) The Tax Commissioner shall be provided by the assessor with any information, findings, or reasons relied upon by the assessor in increasing or decreasing values as a result of economic or other factors if applied by the assessor to any species or class of property generally or uniformly.

WV Legislature

§11-1B-19. Extending the period for hearings in certain cases; limitations; extending period of final determination of certain cases; validation of certain determinations; duty of assessor and Tax Commissioner with respect to certain overvalued or undervalued property; construction of section.

(a) The provisions of section twelve of this article or of any other provision of this article to the contrary notwithstanding, the period during which the final determination by the county commission in any matter upon or in which a petition for review of the appraised value of any taxable property was timely filed under the provisions of either section eight or fifteen of this article or any other provision thereof, was to be finally determined is hereby extended to and through June 1, 1987. The time period during which hearings may be conducted with respect to any such timely-filed petitions for review is hereby extended until and through May 1, 1987, with respect to those matters in which hearings have not been previously concluded prior to the effective date of this section. Further, in any such matter in which the petition for review had been filed timely and in which either the hearing or the final determination or both was held or shall be made after December 1, 1986, such determination shall nonetheless be deemed timely heard or determined for all intents and purposes, including, but not limited to, the intents and purposes of this article.

(b) After the final determination of values has been made in accordance with the provision of subsection (a) of this section and the results certified for use in the tax year for which the ad valorem tax lien attaches on July 1, 1987, the assessor and the Tax Commissioner shall review the list of all property subject to ad valorem taxation (and it shall be the joint, several and coexisting duty of the assessor and the Tax Commissioner so to do) for the purpose of ascertaining, identifying and listing any and all items of such property which are obviously grossly or significantly overvalued or undervalued; which list, together with their recommendation as to the true and actual value of each such item of such property, shall be certified to the county commission not later than January 4, 1988, for the use and consideration of the respective boards of equalization and review in February of that year. The assessor shall be reimbursed by the state Tax Department in an amount not to exceed seventy-five percent of the costs and expenses incurred by the assessor in the review of such lists and the preparation and certification of such report to the board of equalization and review: Provided, That prior approval of the Tax Commissioner is obtained in advance of the incurring of such costs or expenses. The percentage of reimbursement as to each assessor shall be of a uniform amount as to all assessors.

(c) The provisions of section fourteen of this article shall apply to any matter decided or validated pursuant to this section, as shall the provisions of section eighteen, article one-a of this chapter, to the extent the same are not in conflict with this section.

(d) All other provisions of this article enacted by the Legislature, at the first extraordinary session of 1986 which are not in conflict with this section shall apply to all matters, circumstances and situations which may be subject to this article, and to the extent of any such conflict, the provisions of this section shall apply.

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