WEST VIRGINIA CODE CHAPTER 11 ARTICLE 3

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

(a) All property, except public service businesses assessed pursuant to article six of this chapter, shall be assessed annually as of July 1 at sixty percent of its true and actual value; that is to say, at the price for which the property would sell if voluntarily offered for sale by the owner thereof, upon the terms as the property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if the property were sold at a forced sale.

(b) Any conflicting provisions of subsection (a) of this section notwithstanding, the true and actual value of all property owned, used and occupied by the owner thereof exclusively for residential purposes shall be arrived at by also giving consideration to the fair and reasonable amount of income which the same might be expected to earn, under normal conditions in the locality wherein situated, if rented: Provided, That the true and actual value of all farms used, occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the fair and reasonable value of the property for the purpose for which it is actually used regardless of what the value of the property would be if used for some other purpose; and that the true and actual value shall be arrived at by giving consideration to the fair and reasonable income which the same might be expected to earn under normal conditions in the locality wherein situated, if rented: Provided, however, That nothing herein shall alter the method of assessment of lands or minerals owned by domestic or foreign corporations.

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

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

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which, together with their actual expenses, shall be paid out of the county fund by the county commission of the county in which any such assessment is ordered, upon the receipt of a certificate of the Tax Commissioner filed with the clerk of the county commission showing the amounts due and to whom payable, after such expenses have been audited by the county commission. All of this subsection is subject to the following:

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

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

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

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

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

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

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

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

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

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

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§11-3-1a. Magisterial districts as tax districts; legislative findings; terms defined.

The Legislature recognizes that several counties have redistricted their magisterial districts in order to achieve as nearly as practicable equal numbers of population within each such district; that if the land books and personal property books of any such county must be changed following each such redistricting so as to reflect the newly established districts, very substantial costs to the counties would be occasioned thereby; that if the land books must be changed following each such redistricting so as to reflect the newly established districts, problems would arise in searching and abstracting titles to real property; and that there is no reason to require the land books and personal property books of a county for tax purposes to be on a magisterial district basis as such districts are established for voting purposes. Consequently, the terms "tax district" or "district," or the plural thereof, as used in this chapter, shall mean the magisterial district or districts and the subdivisions thereof as the same existed in any county on January 1, 1969: Provided, That in a county in which the county court has exercised the power formerly granted it under chapter one hundred seventeen, acts of the Legislature, regular session, 1972, by designating that county's magisterial districts as tax districts, the term "tax districts" shall mean the magisterial districts of that county as they existed on July 1, 1973.

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§11-3-1b. Recordation of plat or designation of land use not to be basis for assessment; factors for valuation; legislative rule; effective dates.

(a) The recordation of a plan or plat, or the designation of proposed land use by a county or municipal planning authority, shall not be used by the assessor as a basis in the valuation or assessment of real property for the purposes of taxation, except as hereafter provided. The valuation of real property contained in a recorded plan or plat is as follows:

(1) When a lot or parcel within a recorded plan or plat is sold, that lot shall be revalued by the county assessor or Tax Commissioner. In no event may the remaining lots within the recorded plan or plat be automatically revalued solely based upon the sale of other lots within the recorded plan or plat.

(2) When land contained within a recorded plan or plat is first developed and actually used for a commercial, residential or industrial purpose, the land shall be revalued by the county assessor or the Tax Commissioner, depending upon whoever has authority over the land, but in no event may the remaining lots within the recorded plan or plat be automatically revalued solely based upon the sale of other lots within the recorded plan or plat.

(b) For valuation of the remaining lots or parcels or undeveloped portion within the recorded plan or plat, the following factors shall be taken into consideration in determining the valuation: (1) Availability of improved roads; (2) availability of sewage disposal and drinking water supply, including, but not limited to, the use of such factors as availability of public water and sewage systems, private water systems, water wells, private sewage and septic systems or potential private sewage and septic systems; (3) availability of electrical, telephone and other utility services; and (4) percentage of completion of improvements and infrastructure development. The assessor shall annually determine the percentage of completion of improvements and infrastructure development. 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 methodology and use of the factors set out above, as well as any other factors determined by the Tax Commissioner to be applicable, for valuation of percentage of completion of improvements and infrastructure development. The remaining lots or parcels or undeveloped portion within the recorded plan or plat are not managed timberland for purposes of valuation of management timberland under sections eleven and eleven-a, article one-c of this chapter. For purposes of classification of property for levy purposes under section five, article eight of this chapter, developed lots or parcels shall not be reclassified from Class III to Class II or from Class IV to Class II until the developed lot or parcel is used and occupied by the owner thereof exclusively for residential purposes as defined in section three, article four of this chapter.

(c) The designation of proposed land use by a county or municipal planning authority may not be used or considered by an assessor in determining the appraised value of property included under a designation of proposed land use by a county or municipal planning authority until such time as the actual use of the real property has changed to correspond to

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the proposed use. For purposes of this subsection, the actual use of real property shall be treated as having changed to correspond to the proposed use as improvements on the property necessary for the proposed use are completed: Provided, That in valuing the property before its change to actual use, the assessor may consider the factors described in subsection (b) of this section.

(d) The amendments made to this section by the Legislature in 2000 shall become effective on July 1, 2000, and shall be effective as to all plans or plats filed after June 30, 2000. The provisions of the amendments made to this section in 2000 do not apply to unsold lots or parcels or undeveloped land contained within recorded plans or plats which were recorded prior to July 1, 2000: Provided, That in no event may the appraised value of unsold lots or parcels or undeveloped land contained within these recorded plans or plats be less than their appraised value as of July 1, 2000.

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§11-3-2. Canvass by assessor; lists of property.

On July 1, in each year, the assessors and their deputies shall begin the work of assessment in their respective counties, and shall, from that date, diligently and continuously pursue with all reasonable dispatch, their work of assessment until the same is completed: Provided, That the assessor and his deputies shall finish their work of assessment, and complete the land and personal property books not later than January 30. Beginning on July 1, as aforesaid, the assessor or a deputy shall obtain from every person in the county who is liable to assessment, a full and correct description of all of the personal property of which he was the owner on July 1, of the current year, fixing what he deems to be the true and actual value of each item of personal property for the guidance of the assessor, who shall finally settle and determine the actual value of each item of such property by the rule prescribed in section one of this article. The assessor or a deputy shall also obtain from such person separate, full and true statements, in like manner, and upon forms to be furnished him distinctly setting forth in each a correct description of all property, real and personal, held, possessed or controlled by him 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; and he shall fix what he deems the true and actual value thereof to each item of such property, which valuation shall be subject to revision and change by the assessor in like manner as property owned by such person in his own right: Provided, That no person shall be compelled to furnish the list mentioned in this section sooner than July 10, of the current year.

The assessor shall perform such other duties while making his assessment as may be required of him by law.

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§11-3-2a. Notice of increased assessment required for real property; exceptions to notice.

(a) If the assessor determines the assessed valuation of any item of real property appraised by him or her is more than ten percent greater than the valuation assessed for that item in the last tax year, the increase is $1,000 or more and the increase is entered in the property books as provided in section nineteen of this article, the assessor shall give notice of the increase to the person assessed or the person controlling the property as provided in section two of this article. The notice shall be given on or before January 15 of the tax year and advise the person assessed or the person controlling the property of his or her right to appear and seek an adjustment in the assessment: Provided, That this notification requirement does not apply to industrial or natural resources property appraised by the Tax Commissioner under article six-k of this chapter which is assessed at sixty percent of its true and actual value. The notice shall be made by first-class United States postage mailed to the address of the person assessed or the person controlling the property for payment of tax on the item in the previous year, unless there was a general increase of the entire valuation in one or more of the tax districts in which case the notice shall be by publication of the notice by a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The area for the publication is the county. The requirement of notice under this section is satisfied and waived if personal notice of the increase is shown by:

(1) The taxpayer having signed the assessment form after it had been completed showing the increase;

(2) Notice was given as provided in section three-a of this article; or

(3) The person assessed executing acknowledgment of the notice of the increase.

(b) During the initial reappraisal of all property under section seven, article one-c of this chapter, the Tax Commissioner and each county assessor shall send every person owning or controlling property appraised by the Tax Commissioner or the county assessor a pamphlet which explains the reappraisal process and its equalization goal in a detailed yet informal manner. The property valuation training and procedures commission, created under section three, article one-c of this chapter, shall design the pamphlet for use in all counties while allowing individual county information to be included if it determines that the information would improve understanding of the process.

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§11-3-3. Who to furnish property list.

The list required in the preceding section shall be made and information furnished: (a) With respect to property of a minor, by his guardian, if he has one, and if he has none, by his father, if living, or, if not, by his mother, if living, and if neither be living or be a resident of this state, by the person having charge of the property; (b) with respect to the separate property of a married woman, by herself or her husband in her name; (c) with respect to the property of a husband, who is out of the state or incapable of listing such property, by his wife; (d) with respect to the property held in trust, by the trustee, if in possession thereof, otherwise by the party for whose benefit it is held; (e) with respect to the personal property of a deceased person, by the personal representative; (f) with respect to the property of an insane person, or a person sentenced to confinement in the penitentiary, by his committee; (g) with respect to the property of a company, whether incorporated or not, whose assets are in the hands of an agent, factor or receiver, by such agent, factor or receiver, otherwise by the president or proper accounting officer, partner or agent within the state; (h) with respect to credits or investments, in the possession or under the charge of a receiver or commissioner, by such receiver or commissioner; and (i) with respect to shares in a banking institution or national banking association, by the cashier, secretary or principal accounting officer of such banking institution or national banking association, as provided in section fourteen of this article.

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§11-3-3a. Building or real property improvement notice; notice filed with assessors; when not required; penalties.

Any person, corporation, association or other owner of real property, subject to the payment of property tax, who shall hereafter erect any building or structure, or who shall add to, enlarge, move, alter, convert, extend, raze or demolish any building or structure, whereby the value of the said real property shall be improved more than $1,000, shall give notice in writing to the assessor within sixty days after the commencement of the improvement of such property. The notice shall be given upon such forms as may be prescribed by the Tax Commissioner who shall furnish the same to assessors. The notice shall contain the following information: (1) A statement that improvements are being or have been made; (2) the location or address of the property; and (3) the name of the owner or owners of the property. The information contained in such notice shall be advisory in nature and may be used by the assessor in performing his duties as otherwise provided by law: Provided, however, That a report made by or on behalf of any mine, mill, factory, or other industrial establishment and filed with the assessor on or before June 15 which discloses with certainty any construction, or improvement made during the previous twelve months, shall be deemed compliance with this section: And provided further, That within the area of any county or municipality where a building permit has been obtained prior to beginning such work, the delivery of a copy of the building permit to the assessor by the owner or the issuing authority shall be sufficient notice under this section. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $10 nor more than $100 in the discretion of the court. Justices of the peace shall have concurrent jurisdiction with other courts having jurisdiction for the trial of all misdemeanors arising under this section.

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§11-3-4.

Repealed.

Acts, 1983 1st. Ex. Sess., Ch. 15.

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§11-3-5. Correction of previous property books; entry of omitted property.

The assessor, in making out the land and personal property books, shall correct any and every mistake he or she discovers in the books for any previous year.

When the assessor ascertains that any real or personal property in his or her county liable to taxation, other than that mentioned in the next succeeding paragraph, has been omitted from the land or personal property books for a period of less than five years, he or she shall make an entry of the property in the proper book of the year in which the omission was discovered and assess the same, according to the rule prescribed in section one of this article, and shall charge the same with all taxes chargeable against it at the rate of levy for the year or years the same was omitted, together with interest at the rate of six percent per annum for the years the same was omitted from the books: Provided, That if the taxpayer, including any person, firm or corporation, and excluding public service corporations, requires proof of payment of personal property taxes then the taxpayer shall file a listing of all personal property owned on the assessment date preceding the tax year or years for which proof must be shown. The assessor shall then create a supplemental assessment for the year or years required for proof of payment for all personal property taxes provided on the listing and present the supplemental assessment to the sheriff who shall apply the levy rate or rates for the year or years so assessed and prepare a tax bill and collect the taxes together with interest thereon at the rate of six percent per annum for the years the same was omitted from the books and any penalties included thereon: Provided, however, That any person who has been a resident of the state less than one year prior to the assessment date is not required to pay any interest or penalty.

And when the assessor ascertains that any notes, bonds, bills and accounts receivable, stocks and other intangible personal property in his or her county liable to taxation has been omitted from the personal property books for a period of five years or less after December 31, 1932, he or she shall make entry of the property in the personal property book of the year in which the omission was discovered and assess the same at its true and actual value, according to the rule prescribed in section one of this article, and shall charge the same with all taxes chargeable against it after the year last aforesaid at the rate of levy for the year or years the same was omitted after the year aforesaid, together with interest thereon at the rate of six percent per annum for the years the same was omitted from the books.

Any assessor failing to make an entry as in this section provided, when discovered by him or her or called to his or her attention by any taxpayer interested therein, shall forfeit $100.

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§11-3-5a. Notification to assessor of changed use; independent action of director; penalties; effective date.

(a) Whenever property receiving preferential valuation as managed timberland is converted to a use that disqualifies the property from treatment as managed timberland, the person converting the real estate to another use shall immediately, in writing, notify the county assessor of the change in use. The county assessor or Tax Commissioner, as the case may be, shall then determine the value and classification of the property based upon its new use.

(b) If the director of the Division of Forestry has reason to believe that managed timberland was or is being converted to a use that disqualifies the property from treatment as managed timberland, the director shall investigate. If, upon investigation, the director determines that the property no longer qualifies for treatment as managed timberland, the director shall revoke the property's certification as managed timberland. The director shall give written notice to the owner of the property by certified mail, return receipt requested, to the Tax Commissioner and to the assessor of the county in which the property is located that the property no longer qualifies for valuation as managed timberland. If the property is located in two or more counties, notice shall be given to each assessor.

(c) If any person fails to give written notice of the change in use of managed timberland as required in subsection (a) of this section, the person owning the property shall be subject to a penalty in an amount equal to the amount of additional taxes the person would have paid on the property if written notice had been timely given, plus interest calculated at the rate of nine percent per annum: Provided, That the maximum penalty under this section shall be five years of additional taxes plus interest. This penalty may be assessed in the same manner as back taxes are assessed under section five of this article for omitted property and interest shall accrue until the day the penalty is paid.

(d) This section shall apply to tax years beginning on or after January 1, 1999, and to changes in use occurring on or after that day.

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§11-3-6. Statements of assessed valuations for municipalities and boards of education; extension of levies.

The assessor shall annually, not later than March 3, furnish to the recorder or clerk of the city or town council of every incorporated city and town in the county and also to the secretary of the board of Education of the county and to the state Board of Education, a certified statement, showing in separate amounts the aggregate value of all property, real and personal, and of all property within each class as provided in section five, article eight of this chapter, and the clerk of the county commission shall, in like fashion, certify the aggregate value of all property assessed by the board of public works, or other board in lieu thereof, in such city or district, as ascertained from the land and personal property books and from the statement furnished by the Auditor to the county clerk of the value of property assessed in such county by the board for the current year.

The statement so furnished shall be taken, by the council of such city or town, as the proper valuation of all property situated therein and liable for taxation for municipal purposes notwithstanding any provisions which may be contained in the charter of any city or town. Upon receiving such statement, the recorder or clerk of the council, shall present the same to the council at a meeting to be held for the purpose of making the estimate and laying the levy as hereinafter required; and, as soon as the rate shall have been determined upon, the recorder, or secretary of the council, shall furnish the officer whose duty it is to make out the land and personal property books a certified copy of the order of such city or town council fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in such city or town, in the land books and the personal property book of the county, in separate columns in such books, which columns shall be headed with the words: "Town, or city, tax for the town, or city, of _____."

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§11-3-7. Fixtures and machinery.

In assessing the value of buildings or structures, the assessor shall ascertain the value of all machinery and fixtures attached thereto, and include the same in the value of the building charged to the owner, unless it appears that such machinery and fixtures are owned by some person other than the owner of the building, in which case the value of such machinery and fixtures shall be assessed to their owner as personal property; and the value of such machinery or fixtures shall be thereafter increased or reduced according as they may have increased or decreased in actual value.

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§11-3-7a. Chattel interests in real and tangible personal property.

For ad valorem property tax purposes, chattel interests in real property and chattel interest in tangible personal property are hereby defined to be interests in tangible personal property and are to be assessed and taxed as such. As so defined, chattel interest in real property and chattel interests in tangible personal property are not intangible personal property for ad valorem property tax purposes.

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§11-3-8. Who deemed owner for purposes of taxation.

As to real property the person who by himself or his tenants has the freehold in his possession, whether in fee or for life, shall be deemed the owner for the purpose of taxation. A person who has made a mortgage or trust deed to secure a debt or liability shall be deemed the owner until the mortgagee or trustee takes possession, after which such mortgagee or trustee shall be deemed the owner. Personal property mortgaged or pledged shall, for the purpose of taxation, be deemed the property of the party who has the possession: Provided, however, That the reserve funds required in compliance with the terms and conditions of policies and contracts of domestic life insurance, annuity, investment and savings contract companies, complying with the requirements of chapter thirty-three of the code, shall not be deemed taxable property of such companies.

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§11-3-9. Property exempt from taxation.

(a) All property, real and personal, described in this subsection, and to the extent limited by this section, is exempt from taxation:

(1) Property belonging to the United States, other than property permitted by the United States to be taxed under state law;

(2) Property belonging exclusively to the state;

(3) Property belonging exclusively to any county, district, city, village, or town in this state and used for public purposes;

(4) Property located in this state belonging to any city, town, village, county, or any other political subdivision of another state and used for public purposes;

(5) Property used exclusively for divine worship, or used exclusively for divine worship and the operation of a pre-K school, primary school, middle school, secondary school, daycare center, or church camp for children, which school, daycare center, or church camp is operated by the church which owns the property or is operated by another not-for-profit organization or entity;

(6) Parsonages and the household goods and furniture pertaining thereto;

(7) Mortgages, bonds, and other evidence of indebtedness in the hands of bona fide owners and holders hereafter issued and sold by churches and religious societies for the purposes of securing money to be used in the erection of church buildings used exclusively for divine worship or for the purpose of paying indebtedness thereon;

(8) Cemeteries;

(9) Property belonging to, or held in trust for, colleges, seminaries, academies, and free schools, if used for educational, literary, or scientific purposes, including books, apparatus, annuities, and furniture;

(10) Property belonging to, or held in trust for, colleges or universities located in West Virginia, or any public or private nonprofit foundation or corporation which receives contributions exclusively for such college or university, if the property or dividends, interest, rents, or royalties derived therefrom are used or devoted to educational purposes of such college or university;

(11) Public and family libraries;

(12) Property used for charitable purposes and not held or leased out for profit;

(13) Property used for the public purposes of distributing electricity, water or natural gas or

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providing sewer service by a duly chartered nonprofit corporation when such property is not held, leased out, or used for profit;

(14) Property used for area economic development purposes by nonprofit corporations when the property is not leased out for profit;

(15) All real estate not exceeding one acre in extent, and the buildings on the real estate, used exclusively by any college or university society as a literary hall, or as a dormitory or clubroom, if not used with a view to profit, including, but not limited to, property owned by a fraternity or sorority organization affiliated with a university or college or property owned by a nonprofit housing corporation or similar entity on behalf of a fraternity or sorority organization affiliated with a university or college, when the property is used as residential accommodations or as a dormitory for members of the organization;

(16) All property belonging to benevolent associations not conducted for private profit;

(17) Property belonging to any public institution for the education of the deaf, intellectually disabled, or blind or any hospital not held or leased out for profit;

(18) Houses of refuge and mental health facility or orphanage;

(19) Homes for children or for the aged, friendless, or infirm not conducted for private profit;

(20) Fire engines and implements for extinguishing fires, and property used exclusively for the safekeeping thereof, and for the meeting of fire companies;

(21) All property on hand to be used in the subsistence of livestock on hand at the commencement of the assessment year;

(22) Household goods to the value of $200, whether or not held or used for profit;

(23) Bank deposits and money;

(24) Household goods, which for purposes of this section means only personal property and household goods commonly found within the house and items used to care for the house and its surrounding property, when not held or used for profit;

(25) Personal effects, which for purposes of this section means only articles and items of personal property commonly worn on or about the human body or carried by a person and normally thought to be associated with the person when not held or used for profit;

(26) Dead victuals laid away for family use;

(27) All property belonging to the state, any county, district, city, village, town, or other political subdivision or any state college or university which is subject to a lease purchase

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agreement, and which provides that, during the term of the lease purchase agreement, title to the leased property rests in the lessee so long as lessee is not in default or shall not have terminated the lease as to the property;

(28) Personal property, including vehicles that qualify for a farm use exemption certificate pursuant to §17A-3-2 of this code and livestock, employed exclusively in agriculture, as defined in article X, section one of the West Virginia Constitution: *Provided*, That this exemption only applies in the case of such personal property used on a farm or farming operation that annually produces for sale agricultural products, as defined in rules of the Tax Commissioner;

(29) Real property owned by a nonprofit organization whose primary purpose is youth development by means of adventure, educational, or recreational activities for young people, which real property contains a facility built with the expenditure of not less than $100 million that is capable of supporting additional activities within the region or the state and which is leased or used to generate revenue for the nonprofit organization whether or not the property is used by the nonprofit organization for its nonprofit purpose, subject to the requirements, limitations, and conditions set forth in §11-3-9(h) of this code; and

(30) Any other property or security exempted by any other provision of law.

(b) Notwithstanding the provisions of §11-3-9(a) of this code, no property is exempt from taxation which has been purchased or procured for the purpose of evading taxation whether temporarily holding the same over the first day of the assessment year or otherwise.

(c) Real property which is exempt from taxation by §11-3-9(a) of this code shall be entered upon the assessor’s books, together with the true and actual value thereof, but no taxes may be levied upon the property or extended upon the assessor’s books.

(d) Notwithstanding any other provisions of this section, this section does not exempt from taxation any property owned by, or held in trust for, educational, literary, scientific, religious, or other charitable corporations or organizations, including any public or private nonprofit foundation or corporation existing for the support of any college or university located in West Virginia, unless such property, or the dividends, interest, rents, or royalties derived therefrom, is used primarily and immediately for the purposes of the corporations or organizations.

(e) The Tax Commissioner shall, by issuance of rules, provide each assessor with guidelines to ensure uniform assessment practices statewide to affect the intent of this section.

(f) Inasmuch as there is litigation pending regarding application of this section to property held by fraternities and sororities, amendments to this section enacted in the year 1998 shall apply to all cases and controversies pending on the date of such enactment.

(g) The amendment to §11-3-9(a)(27) of this code, passed during the 2005 regular session of

the Legislature, shall apply to all applicable lease purchase agreements in existence upon the effective date of the amendment.

(h) Nonprofit youth organization exemption. — Limitations, conditions, collection, and administration of one and one quarter percent fee, limitations, and distribution of moneys.

(1) The exemption from ad valorem taxation provided pursuant to the provisions of §11-3-9(a)(29) of this code does not apply to a property owned by a nonprofit organization otherwise qualifying for the exemption but which property or facilities are used for profit or outside the primary purpose of the owner which result in unrelated business taxable income as defined by Section 512 of the Internal Revenue Code of 1986, as amended, unless the income is generated by an activity upon which the one and one quarter percent fee authorized by §11-3-9(h)(2) of this code is applied as provided in §11-3-9(h)(3) of this code.

(2) The owner of real property exempt from ad valorem taxation under §11-3-9(a)(29) of this code shall pay an amount equal to one and one quarter percent of the gross revenues the owner receives in accordance with this subsection. For purposes of this subsection, "gross revenues" means the gross amount received by the owner as payment for use of the property or the facilities thereon.

(3) Gross revenues derived from the following facilities, uses, activities, and operations are subject to a fee of one and one quarter percent of such gross revenues:

(A) Gross revenues derived from the use of lodging and campground facilities by persons participating in meetings and multiday spectator sports or multiday recreational, celebratory, or ceremonial events held onsite where onsite lodging or camping is offered as part of the program. For purposes of this section the term "meeting" means, and is limited to, a gathering, assembly, or conference of two or more persons who have deliberately convened at a single specific location at a single specified time and date for a common specific purpose.

(B) Gross revenues derived from any retail store located at the facility that is open only to those persons who are attending meetings, spectator sports, recreational, celebratory, or ceremonial events held onsite at the facility.

(C) Gross revenues derived from operations of gift shops at a welcome or information center located adjacent to a public highway operated by the nonprofit organization which is open to the general public.

(D) Gross revenues derived from the leasing of zip-lines, canopy tours, wheeled sports, and climbing facilities used by the general public on a for-profit basis: (i) Under a written agreement with a licensed commercial outfitter operating a business utilizing zip-lines, canopy tours, wheeled sports, or climbing areas of a similar nature in the same or an adjacent county where the facilities are located; and (ii) when the property or facilities are used as part of a training or advanced experience offered by the licensed commercial

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outfitter.

(E) Gross revenues derived from the use or operation of zip-lines, canopy tours, wheeled sports facilities, or activities, climbing facilities or activities and the use or operation of other sporting facilities on the exempt property that are leased on a for-profit basis for spectator events, such as concerts, spectator sporting events, or exhibitions or similar mass gathering events.

(F) Gross revenues derived from leases or agreements for use of the property for meetings and multiday spectator sports or events or multiday recreational, celebratory, or ceremonial events, held onsite.

(4) Notwithstanding any other provision of this section to the contrary, programs or activities occurring on the property or its facilities held in conjunction with a government organization or sponsored by other nonprofit organizations serving youth, veterans, military services, public service agencies including, fire, police, emergency, and search and rescue services, government agencies, schools and universities, health care providers, and similar organizations or groups which are designed to provide opportunities for learning or training in the areas of leadership, character education, science, technology, engineering, arts, and mathematics (STEAM) programs, physical challenges, sustainability, conservation, and outdoor learning shall be considered a charitable or nonprofit use for the purposes of this section and not subject to the one and one quarter percent fee.

(5) Notwithstanding any other provision of this section to the contrary, activities open to the public through individual visitor passes allowing tours and access to the property and its facilities for the purpose of viewing or participating in demonstrations, programs, and facilities providing information and experiences consistent with the owner's nonprofit purposes where zip-lines, canopy tours, wheeled sports, or climbing facilities are merely components of the demonstrations, programs, and facilities used shall be considered a charitable or nonprofit use for the purposes of this section and not subject to the one and one quarter percent fee: *Provided*, That such individual visitor passes may not include the rental or use of onsite overnight lodging or camping facilities.

(6) Administration. —

(A) The sheriff of the county wherein the majority of the acreage of the property is located as specified in the deed to such property, shall collect, on a monthly basis, all moneys derived from the fee of one and one quarter percent of the gross revenues imposed under this subsection.

(B) The sheriff of the county wherein the majority of the acreage of the property is located as specified in the deed to such property, shall prescribe such forms and schedules as may be necessary for the efficient, accurate, and expeditious payment and reporting of the one and one quarter percent fee specified in this subsection on gross revenues.

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(C) The sheriff of the county wherein the majority of the acreage of the property is located as specified in the deed to such property, shall administer the fee imposed under this subsection, including refunds and adjustments.

(D) Payment, administration, and compliance of fee payers and administrators shall be subject to audit by the Office of Chief Inspector.

(E) All moneys so collected, net of refunds and adjustments, shall be paid into a special account in the State Treasury, which is hereby created, and the amount thereof shall be distributed and paid annually, by the State Treasurer, on October 1 of each year, into the funds and to the distributees specified in of this code in the amounts specified therein.

(7) Distribution. —

(A) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be paid annually to the Tourism Promotion Fund established pursuant to §5B-2-12 of this code.

(B) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be paid annually to the sheriff of the county where the property is located which, but for the exemption provided in §11-3-9(a)(29) of this code, would be entitled to receive ad valorem taxes on the property. The sheriff shall treat all such payments in the same manner as payments in lieu of taxes, and such payments are subject to the adjustment mandated under §18-9A-12 of this code. For properties located in more than one county, the amount paid to the sheriff of the county shall be in proportion to the total number of acres located in each county at the close of the fiscal year, as specified in the deed to such property.

(C) Fifty percent of moneys so collected, net of refunds and adjustments, shall be divided equally and paid annually into separate accounts established and maintained by the sheriffs of the county or counties wherein the property is located and the sheriffs of any other county that is within the jurisdiction of the same economic development authority as the county or counties wherein the property is located to be used solely for the establishment and delivery of a science, technology, engineering, art, and math (STEAM) program in conjunction with the owner of the exempt property. The funds shall be divided equally for use in each county and the programs must be approved by the respective county superintendents of schools. Expenditures from the accounts shall be authorized by the county superintendent of schools.

(8) If lodging is furnished as part of a retreat, meeting, or multiday spectator sport or event being held onsite wherein onsite lodging or camping is offered as part of the program, any applicable hotel occupancy tax and state and local consumers sales and service tax and use tax shall be paid based upon the actual location of such lodging.

(9) If merchants are allowed to do business on the property, the owner or lessee of the property shall offer space to local merchants on terms at least as favorable as are offered to other merchants.

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(10) For the purposes of this subsection, owner includes the owner holding record title to the property and its affiliates to the extent they are commonly owned, controlled or have the power to appoint the governing body of the affiliate.

(11) The Tourism Commission shall include in its annual report submitted to the Governor and the Legislature a summary of funds paid into the Tourism Promotion Fund and recommendations pertaining to the administration of this section.

(12) This subsection may not be construed to prohibit the owner of property otherwise subject to this section from having portions of the property severed from the remainder of the property, assessed and taxed as if nonexempt and thereafter conducting business on such property the same as any other nonexempt property: *Provided*, That the area of property to be severed shall be approved by the county commission wherein the property lies so as to include in the severance all property substantially supporting the for-profit or business activity giving rise to the specific purpose of the severance and excluding all property entitled to the continued benefits of this act.

(i) To assure the implementation of §11-3-9(h) of this code does not harm local and regionally located businesses by use of the tax-exempt facility in a manner that cause unfair competition and unreasonable loss of revenue to those businesses, studies shall be periodically conducted to assure that further legislation is in order regarding the uses of the tax-exempt facility. The county commission of any county where such a property is located shall report to the Joint Committee on Government and Finance by the first day of January every five years after the effective date of this section. The report shall include information on any unfair business competition resulting from the establishment of the nonprofit status, and include a report of the costs and benefits to its county of the tax exemption and associated fee, including an audit of that county's use of the net revenues. The West Virginia University Bureau of Business and Economic Research in coordination of the Center for Business and Economic Research at Marshall University, by January 1, 2020, shall undertake a study and report to the committee, the economic impact of this tax exemption and fee to the county and that region of the state, and make any recommendations regarding the benefits and disadvantages for continuing the provision of this tax exemption and fee, included, but not limited to, the impacts to other small and large businesses in the county, the costs to the county has incurred as a result of use of the facility, and any other relevant data that the universities may deem relevant.

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§11-3-10. Failure to list property, etc.; collection of penalties and forfeitures.

(a) If any person, firm or corporation, including public service corporations, whose duty it is by law to list any real estate or personal property for taxation, refuses to furnish a proper list thereof or refuses to list within the time required by law, or if any person, firm or corporation, including public service corporations, refuses to answer or answers falsely any question asked by the assessor or by the Tax Commissioner, or fails or refuses to deliver any statement required by law, the person, firm or corporation may forfeit, at the discretion of the assessor or the Tax Commissioner for good cause shown, not less than $25 nor more than $100. If any person, firm or corporation willfully fails to furnish a proper list of real estate or personal property for taxation or refuses to answer or falsely answers any question asked by the assessor or by the Tax Commissioner, or fails or refuses to deliver any statement required by law, such person, firm or corporation shall be denied all remedy provided by law for the correction of any assessment made by the assessor or by the board of public works: Provided, That no person, firm or corporation shall be denied the remedy provided by law to contest any assessment unless the assessor or the Tax Commissioner has notified such person, firm or corporation in writing that this penalty will be asserted and the requested information is not provided within fifteen days of the date of receipt of the notice.

(b) If any person, firm or corporation, including public service corporations, required by law to make return of property for taxation, whether the return is to be made to the assessor, the board of Public Works, or any other assessing officer or body, fails to return a true list of all property which should be assessed in this state, the person, firm or corporation, in addition to all other penalties provided by law, shall forfeit one percent of the value of the property not yet returned and not otherwise taxed in this state.

(c) A forfeiture as to all property aforesaid may be enforced for any default occurring in any year not exceeding five years immediately prior to the time the default is discovered.

(d) Each failure to make a true return as herein required constitutes a separate offense, and a forfeiture shall apply to each of them, but all forfeitures, to which the same person, firm or corporation is liable, shall be enforced in one proceeding against the person, firm or corporation, or against the estate of any deceased person, and may not exceed five percent of the value of the property not returned that is required to be returned for taxation by this chapter.

(e) Forfeitures shall be collected as provided in article two, chapter eleven-a of this code, the same as any tax liability, against the defaulting taxpayer, or in case of a decedent, against his or her personal representative. The sheriff shall apportion such fund among the state, county, district, school district and municipalities which would have been entitled to the taxes upon the property if it had been assessed, in proportion to the rates of taxation for each levying unit for the year in which the judgment was obtained bears to the sum of rates for all.

(f) When the list of property returned by the appraisers of the estate of any deceased person

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shows an amount greater than the last assessment list of real and tangible personal property of the deceased person next preceding the appraisal of his or her estate, it is prima facie evidence that the deceased person returned an imperfect list of his or her property: Provided, That any person liable for the tax, or his or her personal representative, may always be permitted to prove by competent evidence that the discrepancy between the assessment list and the appraisal of the estate is caused by a difference of valuation returned by the assessor and that made by the appraisers of the same property or by property acquired after assessment, or that any property enumerated in the appraisers' list had been otherwise listed for taxation, or that it was not liable for taxation.

(g) Any judgment recovered under this section is a lien, from the time of the service of the notice, upon all real estate and personal property of the defaulting taxpayer, owned at the time or subsequently acquired, in preference to any other lien.

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§11-3-10a.

Repealed.

Acts, 1974 Reg. Sess., Ch. 130.

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§11-3-10b. Exemption of bank deposits and money from forfeitures and penalties.

No forfeiture or penalty imposed by the provisions of section ten of this article for failure to make a return of bank deposits or money shall be collectible unless the claim therefor shall have been reduced to judgment in favor of the state prior to November 4, 1958.

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§11-3-11. Making or correction of list by assessor.

If any person fail to furnish a proper list, or if the list furnished be, in the judgment of the assessor, incomplete or erroneous in any respect, the assessor shall proceed to list the property and assess its value, or to supply the omission and correct the errors, upon the best information he can obtain, and for that purpose the assessor may call upon any officer of the state, county or district for such proper information as it may be in his power to give, and may require any person having possession, charge or control of any property in the county to permit him to examine the same in order that a fair valuation thereof may be made, and if any person refuse to do so, he shall forfeit not less than $10 nor more than $50.

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§11-3-12. Assessment of corporate property; reports to assessors by corporations.

(a) Each incorporated company, banking institution and national banking association, foreign or domestic, having its principal office or chief place of business in this state, owning property subject to taxation in this state, except railroad, telegraph and express companies, telephone companies, pipeline, car line companies and other public utility companies, shall annually, between the assessment date and September 1, make a written report, verified by the oath of the president or chief accounting officer, to the assessor of the county in which its principal office or chief place of business is situated or in which property subject to taxation in this state is located if the corporation does not have a principal office or chief place of business in this state, showing the following items: (1) The quantity, location and fair market value of all of its real estate, and tax district or districts in which it is located; and (2) the kinds, quantity and fair market value of all its tangible personal property in each tax district in which it is located.

(b) The oath required for this section shall be substantially as follows:

State of West Virginia, County ....., 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 tangible personal property that the value affixed to such property is, in my opinion, its value, by which I mean the price at which it would sell if voluntarily offered for sale on such terms as are usually employed in selling such property, and not the price which might be realized at a forced or auction sale; and said corporation has not, to my knowledge, during the sixty-day period immediately prior to the assessment date converted any of its assets into nontaxable securities or notes or other evidence of indebtedness for the purposes of evading the assessment of taxes thereon; so help me, God.

The officer administering the oath shall append thereto the following certificate:

Subscribed and sworn to before me by ..... this the ..... day of ....., 20 .....

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§11-3-13. Entry of corporate property by assessor.

Upon receiving the verified report required by the preceding section, the assessor, if satisfied with the correctness thereof, shall assess the value of all the property of such corporation liable to taxation, and enter the same as follows, viz: All property in item (d) shall be entered with its valuation in the land books of the county and in the tax district in which the real estate is situated; all property mentioned in item (c) shall, together with its valuation, be entered in the personal property book of the county and in the tax district wherein is the principal office or chief place of business of such corporation, under the appropriate heads; and all property mentioned in item (e) shall, together with its valuation, be entered in the personal property book of the county and in the tax district wherein such property is on the first day of the assessment year; the property mentioned in items (c), (d) and (e) shall constitute all the property on which any such corporation shall be liable to pay taxes. If a company has branches, each branch shall be assessed separately in the county and tax district where its principal office for transacting its financial concerns is located; or, if there be no such office, then in the tax district where its operations are carried on. All locks and dams of navigation companies shall be assessed and taxed as real estate in the county and tax district wherein they are situated; and in case such locks and dams are located on any creek or river which is the dividing line between counties, or the dividing line between tax districts of the same county, one half of the value thereof shall be assessed in each of such counties or tax districts, as the case may be, and when the property of an incorporated company is assessed as aforesaid, no individual shareholder therein shall be required to list or be assessed with his share, portion or interest in the capital stock of such corporation.

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§11-3-14. Assessment of stock, realty and tangible personal property of banks.

(a) Shares of stock in a banking institution, national banking association or industrial loan company shall be assessed at their true and actual value, according to the rules prescribed in this chapter, to the several holders of such stock in the county, district and town where such bank, company or association is located, and not elsewhere, whether such holders reside there or not. The real and actual value of such shares shall be ascertained according to the best information which the assessor may be able to obtain, whether from any return made by such bank, company or association to any officer of the state or the United States, from actual sales of the stock, from answers to questions by the assessor, as hereinafter provided, or from other trustworthy sources. The cashier, secretary or principal accounting officer of every such bank, company or association shall cause to be kept a correct list of the names and residences of all the shareholders therein, and number of shares held by each, which list shall be open to the inspection of the assessors of the county, and of the Tax Commissioner or assistants; and such cashier, secretary or officer shall answer under oath such questions as the assessor may ask him concerning the matters shown by such list, and concerning the value of such shares, and shall be subject to the same penalties, for failure to do so, which are imposed by law upon individuals failing to answer questions which the assessor is authorized to ask. The taxes so assessed upon the shares of any such bank, company, or association shall be paid by the cashier, secretary or proper accounting officer thereof, and in the same manner and at the same time as other taxes are required to be paid in such county, district and town. In default of such payment such cashier, secretary or accounting officer as well as such bank, company or association shall be liable for such taxes, and in addition, for a sum equal to ten percent thereof. Any taxes so paid upon any such share may, with interest thereon, be recovered from the owners thereof by the bank, company, association or officer paying them, or may be deducted from the dividends accruing on such shares. The real estate of any such bank, company or association shall be assessed as in other cases, and a proportionate share of such assessed value shall be deducted in ascertaining the market value of the shares. The tangible personal property of any such bank, company, or association shall be assessed as in other cases and a proportional share of such assessed value shall be deducted in ascertaining the market value of the shares for tax years as follows: Such deduction shall be sixteen and sixty-six one hundredth percent of the assessed value of the tangible personal property for the tax year one thousand nine hundred ninety-eight; thirty-three and thirty-two one hundredth percent of the assessed value of the tangible personal property for the tax year one thousand nine hundred ninety-nine; forty-nine and ninety-eight hundredth percent of the assessed value of the tangible personal property for the tax year two thousand; sixty-six and sixty-four hundredth percent of the assessed value of the tangible personal property for the tax year two thousand one; eighty-three and twenty one hundredth percent for the tax year two thousand two with such personal property tax deduction being eliminated entirely for the tax year two thousand three and thereafter. And if such tangible personal property or if the title to the building in which any such bank, company or association does its business and the land on which such building stands is held by separate corporation in which such bank, company or association alone or together with another such bank or banks, company or

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companies, association or associations owns stock, and such tangible personal property or building and land be assessed to such separate corporation, a proportionate share of the assessed value of such tangible personal property or real estate of such separate company shall be deducted in ascertaining the market value of the shares of such bank, company or association. The return shall be made as of the first day of the assessment year.

(b) This section shall become inoperative beginning tax year two thousand three and thereafter.

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§11-3-14a. Taxation of building and loan associations and federal savings and loan associations.

(a) The capital of every building and loan association and federal savings and loan association shall include all of its assets and shall be assessed at its true and actual value according to the rules prescribed by this chapter, to such building and loan association or federal savings and loan association in the county, district and town where such association is located: Provided, That investment shares and investment share accounts in such associations representing money withdrawable therefrom are hereby defined as money for purposes of taxation under this section and, as such, shall not be taxed but shall be deducted by the assessor in determining the true and actual value of the capital of any such association. The real and actual value of such capital shall be ascertained according to the best information which the assessor may be able to obtain, whether from any return made by such association to any officer of this state, or the United States, or from answers to questions by the assessor, as hereinafter provided, or from other trustworthy sources.

The secretary or principal accounting officer of every such building and loan association and federal savings and loan association shall cause to be kept a complete accounting record, including a complete record of all such investment shares and investment share accounts, which shall be open to the inspection of the assessors of the counties, and the Tax Commissioner or his assistants, and such secretary or officer shall answer under oath such questions as the assessor may ask him concerning the matters shown by such records and accounts, and shall be subject to the same penalties for failure to do so, which are imposed by law upon individuals failing to answer questions which the assessor is authorized to ask. The tax levied and assessed upon the capital of every such building and loan association and federal savings and loan association shall be paid by such association in the manner and at the same time as other taxes are required to be paid in such county, district and town.

The real estate of any such building and loan association or federal savings and loan association shall be assessed as in other cases, and a proportionate share of such assessed value shall be deducted in ascertaining the value of such capital. The tangible personal property of any such building and loan association or federal savings and loan association shall be assessed as in other cases and a proportional share of such assessed value shall be deducted in ascertaining the value of the capital for tax years as follows: Such deduction shall be sixteen and sixty-six one hundredth percent of the assessed value of the tangible personal property for the tax year one thousand nine hundred ninety-eight; thirty-three and thirty-two one hundredth percent of the assessed value of the tangible personal property for the tax year one thousand nine hundred ninety-nine; forty-nine and ninety-eight hundredth percent of the assessed value of the tangible personal property for the tax year two thousand; sixty-six and sixty-four hundredth percent of the assessed value of the tangible personal property for the tax year two thousand one; eighty-three and twenty one hundredth percent for the tax year two thousand two with such personal property tax deduction being eliminated entirely for the tax year two thousand three and thereafter. If the title to the building in which any such association does its business and the land on which such building

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stands is held by a separate corporation, in which any such association alone or together with another such association or banking company or companies own stock, and such building and land be assessed in such separate corporation, a proportionate share of the assessed value of such real estate of such separate company shall be deducted in ascertaining the value of the capital of such association. Every such association shall make a return to the assessor as of the first day of the assessment year.

(b) This section shall become inoperative beginning tax year two thousand three and thereafter.

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§11-3-15. Assessment of capital used in trade or business by natural persons or unincorporated businesses.

(a) The value of the capital used by any individual or firm, not incorporated, in any trade or business taxable by law, shall be ascertained in the following manner: The owner, agent or chief accountant of every trade or business, except the business of agriculture, carried on in any county of the state shall annually, on or after the assessment date and on or before September 1, make a written report to the assessor, verified by his or her affidavit, showing the following matter and things determined as of the assessment date:

(1) The amount, the true and actual value and classification of all tangible personal property used in connection with the trade or business, other than that regularly kept for sale therein, including chattels real and personal;

(2) The true and actual value and classification of all goods and property kept for sale and remaining unsold; and

(3) The location, quantity, the true and actual value and classification of all real estate owned by the individual or firm and used in the trade or business.

(b) The assessor shall, upon the receipt of such report, properly verified, if the assessor is satisfied with the correctness thereof, enter the real estate in the land book of the county in the tax district wherein the same is situated and assess the same with taxes, if not otherwise assessed, to the owner thereof: Provided, That the personal property mentioned in the report shall be entered in the personal property book of the county for assessment with taxes as follows: Items (1) and (2) shall be entered in the tax districts where they are for the greater part of the year kept or located; and item (3) shall be entered under its appropriate heading in the municipality or tax district wherein the property is located.

(c) If the assessor is not satisfied with the correctness of the report, the assessor may proceed to ascertain a correct list of the property on which the individual or firm is liable to be assessed with taxes, and to value the same as in other cases.

(d) The person making the report shall take and subscribe an oath in substantially the following form:

I, ..., do solemnly swear (or affirm) that the foregoing list is true and correct to the best of my knowledge; that the value affixed to the property therein listed I believe to be the true and actual value thereof; that none of the assets belonging to (here state the name of individual or firm) and used in the business of (here describe the business) have to my knowledge, since the assessment date, been converted into nontaxable securities for the purpose of evading the assessment of taxes thereon; so help me, God.

The officer administering the oath shall append thereto the following certificate:

Subscribed and sworn to before me by (here insert affiant's name) this ..... day of

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....., 20 .....

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§11-3-15a. Assessment of property of limited liability companies.

Limited liability companies that elect to be treated as a corporation for federal income tax purposes shall make and file the report required of corporations in section twelve of this article. Limited liability companies treated as a partnership for federal income tax purposes shall make and file the report required in section fifteen of this article. A limited liability company that elects to be treated as a disregarded entity for federal income tax purposes shall be treated as a disregarded entity under this article and its owner shall make and file the report required by section twelve or section fifteen of this article depending upon whether the owner is a corporation, a firm or an individual.

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§11-3-15b. Notice of increase in assessed value of business personal property.

(a) On or before January 15 of the tax year, the assessor shall mail a notice of assessed value to any corporation, partnership, limited partnership, limited liability company, firm, association, company or other form of organization engaging in business activity in the county showing the aggregated assessed value of taxpayer's tangible personal property situated in the county on the assessment date, if known, that is not appraised by the Tax Commissioner: Provided, That notice is only required if:

(1) The aggregated assessed value of taxpayer's tangible personal property used in business activity is more than ten percent greater than the aggregated assessed value of the property in the prior tax year; and

(2) The aggregated assessed value of property has increased by more than $100,000 since the prior tax year.

However, this notification requirement does not apply to industrial or natural resources personal property that is appraised by the Tax Commissioner under article six-k of this chapter which is assessed at sixty percent of its true and actual value.

(b) The assessor shall include in the assessment notice:

(1) The assessed value of the property for the preceding assessment year;

(2) The proposed assessed value of the property for the current assessment year;

(3) The classification of the property pursuant to section one, Article X of the Constitution of this state;

(4) The mailing date of the notice; and

(5) The last date on which the taxpayer may file a petition for review with the assessor from the valuation or classification assigned to the property.

(c) The notice required by this section shall be: (1) In writing, in the form prescribed by the Tax Commissioner, and mailed to the taxpayer's last known mailing address; or (2) by electronic notification.

(d) No later than the sixteenth day of the tax year, the assessor shall certify to the county commission and to the Tax Commissioner the date on which all notices under this section were mailed.

(e) After the mailing date of the notice any person who owns, claims, possesses or controls property that is valued by the assessor may inquire of and be advised by the assessor as to the valuation of the property determined by the assessor.

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(f) The owner or person in possession of the tangible personal property may petition the assessor for review as provided in section fifteen-d of this article.

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§11-3-15c. Petition for assessor review of improper valuation of real property.

(a) A taxpayer who is of the opinion that his or her real property has been valued too high or otherwise improperly valued or listed in the notice given as provided in §11-3-2a of this code may, but is not required to, file a petition for review with the assessor on a written form prescribed by the Tax Commissioner. This section shall not apply to industrial and natural resource property appraised by the Tax Commissioner.

(b) The petition shall state the taxpayer's opinion of the true and actual value of the property and substantial information that justifies that opinion of value for the assessor to consider for purposes of basing a change in classification or correction of the valuation. For purposes of this subsection, the taxpayer shall provide substantial information to justify the opinion of value. The taxpayer may provide an appraisal of the property from a licensed real estate appraiser stating its true and actual value for its current use.

(c) The petition may include more than one parcel of property if they are part of the same economic unit according to the Tax Commissioner's guidelines or if they are owned by the same owner, have the same use, are appealed on the same basis, and are located in the same tax district or in contiguous tax districts of the county, and are in a form prescribed by the Tax Commissioner.

(d) The petition shall be filed within eight business days after the date the taxpayer receives the notice of increased assessment under §11-3-2a of this code or the notice of increased value was published as a Class II-0 legal advertisement as provided in that section. For purposes of this section, 'business day' means any day other than Saturday, Sunday, or any legal holiday set forth in section one, article two, chapter two of this code.

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§11-3-15d. Administrative review of tangible personal property valuation by assessor.

(a) The owner of business tangible personal property that is valued by the assessor or the person in whose possession it is found on the assessment date may appeal to the assessor within eight business days after the date the notice of increased assessment required by section fifteen-b of this article was received by filing a petition with the assessor on a form prescribed by the Tax Commissioner. For purposes of this section, >business day' means any day other than Saturday, Sunday or any legal holiday set forth in section one, article two, chapter two of this code. The petition shall set forth in writing:

(1) The taxpayer's opinion of the value of the tangible personal property; and

(2) Substantial information that justifies the opinion of value in order for the assessor to consider the information for the purpose of basing a change in the valuation.

(b) The assessor shall rule on each petition no later than February 10 of the tax year.

(c) The notice of the assessor's ruling provided under this section shall be given in the same manner as prescribed in section fifteen-h of this article.

(d) If the request of the petitioner is denied, in whole or in part, the notice required by subsection (c) of this section shall include the grounds for refusing to grant the request contained in the petition.

(e) This section shall not apply to tangible personal property appraised by the Tax Commissioner as part of an industrial or natural resource property appraisal.

WV Legislature

§11-3-15e. Contents of petition based on income approach to value of real property.

(a) A petition that is filed with the assessor under section fifteen-c or fifteen-d of this article based on the income approach to value shall include income and expense data relating to the property for the three most recent consecutive fiscal years of the petitioner ending on or before June 30 preceding the then current assessment year. If the income and expense data is not available to the petitioner, the petitioner shall file with the petition such income and expense data as is available. The Tax Commissioner, by rule, may establish additional information to be filed if the required income and expense data are not available.

(b) If a petitioner under this article uses the income approach to determine valuation, the petitioner, an officer of a corporate petitioner, a general partner or a designated agent shall file a sworn affidavit under penalty of perjury that the information contained in the petition is true and correct to the best of the petitioner's knowledge.

WV Legislature

§11-3-15f. Rejection of petition; amended petition; appeal options.

If the assessor rejects a petition filed pursuant to §11-3-15c, §11-3-15d, or §11-3-15e of this code, the petitioner may appeal to the county Board of Equalization and Review as provided in §11-3-24 of this code or the Office of Tax Appeals.

WV Legislature

§11-3-15g. Meeting between assessor and petitioner.

(a) At the petitioner's written request, the assessor or a member of his or her staff shall meet with the petitioner and the petitioner's representative, if any, at a time and place designated at least three working days in advance by the assessor after the petition is filed.

(b) If the petitioner is unable to appear and meet with the assessor at the time and place set by the assessor, the petitioner may submit written evidence to support the petition if it is submitted before the date of the meeting.

WV Legislature

§11-3-15h. Ruling on petition.

(a) In all cases the assessor shall consider the petition and shall rule on each petition filed pursuant to §11-3-15c, §11-3-15d, or §11-3-15e of this code by February 10 of the assessment year. Written notice shall be served by regular mail on the person who filed the petition.

(b) In considering a petition filed pursuant to §11-3-15c, §11-3-15d, or §11-3-15e of this code, the assessor shall consider the valuation fixed by the assessor on other similar property that is similarly situated.

(c) The consideration of a petition for review with the assessor is to be an informal process. Formal rules of evidence shall not be required; the assessor may consider all evidence presented and may give each item the weight, in his or her opinion, it commands.

(d) The standard of proof which a taxpayer must meet to defend his or her opinion of the true and actual value of the subject property during reviews by the assessor shall be no greater than a simple preponderance of the evidence standard.

WV Legislature

§11-3-15i. Petitioner's right to appeal.

(a) If the assessor grants the requested relief, the petitioner may not appeal the ruling of the assessor.

(b) If the petitioner and the assessor reach an agreement within five business days after the conclusion of the meeting held as provided in §11-3-15g of this code, both parties shall sign the agreement and both parties waive the right to further appeal.

(c) If all or part of the petitioner's request under §11-3-15c, §11-3-15d, or §11-3-15e of this code is denied, the assessor shall mail, on the date of the ruling, to the petitioner at the address shown on the petition notice of the grounds of the refusal to make the change or changes requested in the petition. A petitioner whose request is denied, in whole or in part, or a petitioner who does not receive a response from the assessor by February 10, as provided in §11-3-15h of this code, may file a protest with the county commission sitting as a board of equalization and review, as provided in §11-3-24 of this code, or the Office of Tax Appeals.

WV Legislature

§11-3-16. Totals of property books.

The assessor shall add up the columns of figures on each page of the land and personal property books so as to show, at the bottom of each page, the aggregate of each column; and at the end of each district list he shall enter the aggregate from the bottoms of the respective pages pertaining to such district, with reference to the pages from which he has transferred such aggregate, and shall there add up the same, so as to show the total of each column for the whole district. The totals thus ascertained for the several districts, shall be transferred, with proper references, to the end of such book and there added up so as to show the total of each column for the whole county.

WV Legislature

§11-3-17. Assessment of property of assessor and deputies.

The assessor and his deputies shall make the same returns under oath, of their property, required by other persons. The assessor shall personally assess the property of his deputies and one of the deputy assessors shall assess the property of the assessor; in all other respects the assessment shall be similar to the assessment of the property of other persons.

WV Legislature

§11-3-18. Tax assessment and collection when emergency exists.

When by reason of war, insurrection, riot, forcible resistance to the execution of the law or imminent danger thereof, an assessment in the regular way cannot be made, the assessor shall, nevertheless, either by the use of former land or personal property books, or upon the best information he can obtain, proceed to make an assessment, and in any case where in consequence of there being no assessor or from any other cause, a land or personal property book is not made out in any year, yet in either event taxes shall be extended and collected as if assessments had been regularly made or land and personal property books had been properly made out.

WV Legislature

§11-3-19. Property books; time for completing; extension of levies; copies.

The assessor shall complete the assessment and make up the assessor's official copy of the land and personal property books in time to submit the same to the board of equalization and review not later than February 1 of the tax year. The assessor shall, as soon as practicable after the levy is laid, extend the levies on the land and personal property books, and shall forthwith make three copies of the land books and two copies of the personal property books with the levies extended. One of the copies of the land books shall be delivered to the sheriff not later than June 7; one copy shall be delivered to the clerk of the county commission not later than July 1; and one copy shall be sent to the State Auditor not later than July 1. One of the copies of the personal property books shall be delivered to the sheriff and one copy shall be delivered to the clerk of the county commission on or before the same date fixed above for the delivery of the land books. The copies shall be official records of the respective officers. The assessor may require the written receipt of each of the officers for the copy. Before delivering any of the copies the assessor shall make and subscribe the following oath at the foot of each of them:

I, ..., assessor of the county of .....,do solemnly swear, (or affirm) that in making the foregoing assessment I have to the best of my knowledge and ability pursued the law prescribing the duties of assessors and that I have not been influenced in making the same by fear, favor or partiality; so help me, God.

.....

Assessor.

The officer administering the foregoing oath shall append thereto a certificate in substantially the following form:

Subscribed and sworn to before me, a ..... for the County of ..... and State of West Virginia, by ....., assessor for said county, this the ..... day of ....., 20 .....

WV Legislature

§11-3-20. False entries in property books.

If any assessor knowingly make a false entry, addition or recapitulation in the personal property book or landbook, or in any copy of either, he shall for every such offense forfeit $300.

WV Legislature

§11-3-21. Violations where no penalty prescribed.

If any officer fail to perform any duty required of him by this chapter and there be no other penalty imposed by law for such failure, he shall forfeit for every such failure not less than $10 nor more than $50.

WV Legislature

§11-3-22. Expenses of assessors.

The county court shall pay the necessary postage and express charges incurred by the assessor in the performance of his official duties.

WV Legislature

§11-3-23. Alterations in property books.

After the copies of the landbook or personal property book have been verified and delivered, no alteration shall be made in them, or either of them, affecting the taxes of that year, except on the final order of a successful review or appeal from the assessment.

WV Legislature

§11-3-23a. Informal review and resolution of classification, taxability and valuation issues.

(a) *General.* — Anytime after real or tangible personal property is returned for taxation, the taxpayer may apply to the assessor of the county in which the property was situated on the assessment date for information about the classification, taxability, or valuation of the property for property tax purposes for the tax year following the July 1 assessment date. A taxpayer who is not satisfied with the response of the assessor and wants to further pursue the matter shall follow the procedures set forth in this section.

(b) *Classification or taxability.* — A taxpayer who wants to contest the classification or taxability of property must follow the procedures set forth in §11-3-24a of this code.

(c) *Valuation issues - property appraised and assessed by county assessor.* —

(1) A taxpayer who is dissatisfied with the response of the assessor on a question of valuation and who receives a notice of increase in the assessed value of real property as provided in §11-3-2a of this code, or a notice of increase in the assessed value of business personal property as provided in §11-3-15b of this code, who disagrees with the assessed value stated in the notice, may use the informal review process specified in this article if the taxpayer decides to challenge the assessed value.

(2) A taxpayer may apply for relief to the county commission sitting as a Board of Equalization and Review pursuant to §11-3-24 of this code, or to the Office of Tax Appeals not later than February 20 of the tax year by filing a written protest with the clerk of the county commission or the Office of Tax Appeals that identifies the amount of the assessed value the taxpayer believes to be in controversy and states generally the taxpayer's reason or reasons for filing the protest. The board or the Office of Tax Appeals shall then set a date and time to hear the taxpayer's protest.. The taxpayer shall timely pay first and second half installment payments of taxes levied for the current tax year on or before they become due and that any reduction in assessed value that is administratively or judicially determined in a decision that becomes final will result in a credit being established against taxes that become due for a tax year subsequent to the tax year in which the decision becomes final, except as otherwise stated in the decision or as otherwise provided in this article. In the event the Board of Equalization and Review adjourns sine die before February 20 of the tax year, a taxpayer may file its written protest and the acknowledgment described in this subdivision with the Office of Tax Appeals. If a taxpayer fails to provide its written protest on or before February 20, and the Board of Equalization and Review unilaterally increases the assessed value subsequent to that date, the taxpayer may file a written protest and the acknowledgment described in this subdivision with the Office of Tax Appeals.

(d) *Valuation issues.* — property appraised by Tax Commissioner and assessed by county assessor. -

(1) A taxpayer who receives a notice of tentative appraised value of natural resource

WV Legislature

property or industrial property from the Tax Commissioner pursuant to §11-6K-1 *et seq.* of this code.

(2) A taxpayer may apply for relief to the county commission sitting as a board of equalization and review pursuant to §11-3-24 of this code or to the Office of Tax Appeals no later than February 20 of the tax year by filing a written protest with the clerk of the county commission or to the Office of Tax Appeals that identifies the amount of the assessed value the taxpayer believes to be in controversy and states generally the taxpayer's reason or reasons for filing the protest. The board or the Office of Tax Appeals shall then set a date and time to hear the taxpayer's protest. The taxpayer shall timely pay first and second half installment payments of taxes levied for the current tax year on or before they become due and that any reduction in assessed value that is administratively or judicially determined in a decision that becomes final will result in a credit being established against taxes that become due for a tax year subsequent to the tax year in which the decision becomes final, except as otherwise stated in the decision or as otherwise provided in this article. In the event the Board of Equalization and Review adjourns sine die before February 20 of the tax year, a taxpayer may file its written protest and the acknowledgment described in this subdivision with the Office of Tax Appeals. If a taxpayer fails to provide its written protest on or before February 20, and the Board of Equalization and Review unilaterally increases the assessed value subsequent to that date, the taxpayer may file a written protest and the acknowledgment described in this subdivision with the Office of Tax Appeals.

(e) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

WV Legislature

§11-3-24. Review and equalization by county commission.

(a) The county commission shall annually, not later than February 1 of the tax year, meet as a board of equalization and review for the purpose of reviewing and equalizing the assessment made by the assessor. The board shall not adjourn for longer than three business days at a time, not including a Saturday, Sunday or legal holiday in this state, until this work is completed. The board may adjourn sine die anytime after February 15 of the tax year and shall adjourn sine die not later than the last day of February of the tax year.

(b) At the first meeting of the board, the assessor shall submit the property books for the current year, which shall be complete, except that the levies shall not be extended. The assessor and the assessor's assistants shall attend and render every assistance possible in connection with the value of property assessed by them.

(c) The board shall proceed to examine and review the property books, and shall add on the books the names of persons, the value of personal property and the description and value of real estate liable to assessment which was omitted by the assessor. The board shall correct all errors in the names of persons, in the description and valuation of property, and shall cause to be done whatever else is necessary to make the assessed valuations comply with the provisions of this chapter. But in no case shall any question of classification or taxability be considered or reviewed by the board.

(d) If the board determines that any property or interest is assessed at more or less than 60 percent of its true and actual value as determined under this chapter, it shall fix it at 60 percent of its true and actual value: *Provided*, That no assessment shall be increased without giving the taxpayer at least five days' notice, in writing, of the intention to make the increase and no assessment shall be greater than 60 percent of the true and actual value of the property.

(e) Service of notice of the increase upon the taxpayer shall be sufficient, or upon his or her agent or attorney, if served in person, or if sent by registered or certified mail to the property owner, his or her agent, or attorney, at the last known mailing address of the person as shown in the records of the assessor or the tax records of the county sheriff. If such person cannot be found and has no last known mailing address, then notice shall be given by publication thereof as a Class I legal advertisement in compliance with the provisions of §59-3-1, *et seq.* of this code and the publication area shall be the county. The date of the publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the day the board acts on the increase. When the board intends to increase the entire valuation in any one tax district by a general increase, notice shall be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1, *et seq.* of this code and the publication area shall be the county. The date of the last publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the meeting at which the increase in valuation is acted on by the board. When an increase is made, the same valuation shall not again be changed unless notice is again given as provided.

WV Legislature

The clerk of the county commission shall publish notice of the time, place, and general purpose of the meeting as a Class II legal advertisement in compliance with the provisions of §59-3-1, *et seq.* of this code and the publication area shall be the county. The expense of publication shall be paid out of the county treasury.

(f) Any person who receives notice as provided in subsection (e) of this section may appear before the board at the time and place specified in the notice to object to the proposed increase in the valuation of taxpayer's property. After hearing the board's reason or reasons for the proposed increase, the taxpayer may present his or her objection or objections to the increase and the reason or reasons for the objections.

(g) The board may approve an agreement signed by the taxpayer or taxpayer's representative and the assessor, and by a representative of the Tax Commissioner when the property is industrial property or natural resources property, that resolves a valuation matter while the land and personal property books are before the Board for Equalization and Review.

(h) If any person fails to apply for relief at this meeting, he or she shall have waived the right to ask for correction in the assessment list for the current year, and shall not thereafter be permitted to question the correctness of the list as finally fixed by the board, except on appeal to the Office of Tax Appeals, or as otherwise provided in this article.

(i) After the board completes the review and equalization of the property books, a majority of the board shall sign a statement that it is the completed assessment of the county for the tax year. Then the property books shall be delivered to the assessor and the levies extended as provided by law.

(j) A taxpayer who elects to have a hearing before the Board of Equalization and Review may appeal the board's order to the Office of Tax Appeals.

(k) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

WV Legislature

§11-3-24a. Protest of classification or taxability to assessor; appeal to Tax Commissioner, appeal to Office of Tax Appeals.

(a) At any time after property is returned for taxation, and up to and including the time the property books are before the county commission sitting as a board of equalization and review, any taxpayer may apply to the assessor for information regarding the classification and taxability of the taxpayer's property. In case the taxpayer is dissatisfied with the classification of property assessed to the taxpayer or believes that the property is exempt or otherwise not subject to taxation, the taxpayer shall file objections in writing with the assessor. The assessor shall decide the question by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for refusal to grant the protest.

(b) The assessor may, and if the taxpayer requests, the assessor shall, certify the question to the State Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements, giving a full description of the property and any other information which the Tax Commissioner requires. The Tax Commissioner shall prescribe forms on which the question shall be certified and the Tax Commissioner may pursue any inquiry and procure any information necessary for the disposition of the issue.

(c) The Tax Commissioner shall, as soon as possible on receipt of the question, but in no case later than February 28 of the assessment year, instruct the assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the assessor shall be binding upon the assessor, but either the assessor or the taxpayer may apply to the Office of Tax Appeals within 30 days after receiving written notice of the Tax Commissioner's ruling for review of the question of classification or taxability.

(d) The amendments to this section enacted in the year 2010 apply to classification and taxability rulings issued for taxes levied after December 31, 2011.

(e) The standard of proof which a taxpayer must meet at all levels of review and appeal under this section shall be a preponderance of the evidence standard.

WV Legislature

§11-3-24b. Board of Assessment Appeals.

[Repealed.]

WV Legislature

§11-3-25. Relief in circuit court against erroneous assessment.

[Repealed.]

WV Legislature

§11-3-25a. Payment of taxes that become due while appeal is pending.

(a) All taxes levied and assessed against the property for the year on which a protest or an appeal has been filed by the taxpayer as provided in §11-3-24 or §11-3-24a of this code shall be paid before they become delinquent. If the taxes are not paid before becoming delinquent, the governing body having jurisdiction of the appeal, as appropriate, shall dismiss the appeal unless the delinquent taxes and interest due are paid in full within 30 days after taxes for the second half of the tax year become delinquent.

(b) In the event the order of a court or other governing body becomes final and the order results in an overpayment of taxes levied for the tax year that have been paid to the sheriff, the amount of the overpayment shall be refunded to the taxpayer if the overpayment is $25,000 or less within 30 days after the time for appealing the decision or order expires or, if the decision or order is appealed, within 30 days of the date the appeals court or other governing body turns down the appeal. If the overpayment is more than $25,000, a credit in the amount of the overpayment shall be established by the county sheriff and allowed as a credit against taxes owed up to the following two tax years: *Provided*, That the county commission may elect to refund the amount of overpayment rather than having a credit established as provided in this section: *Provided*, however, if any portion of the overpayment remains unused after the date on which taxes payable for the second half of the second tax year following the tax year of the overpayment become delinquent, that portion shall be refunded to the taxpayer by the county sheriff no later than 30 days after that date, or 30 days from the date that the order becomes final, whichever date occurs later. Whenever an overpayment is refunded or credited under this section, the county shall pay interest at the rate established in §11-10-17 and §11-10-17a of this code for overpayments of taxes collected by the Tax Commissioner, which interest shall be computed from the date the overpayment was received by the sheriff to the date of the refund check or the date the credit is actually taken against taxes that become due after the order of the court becomes final.

WV Legislature

§11-3-25b. Appeal to Office of Tax Appeals.

(a) In all cases involving appeal to the Office of Tax Appeals from a property tax valuation pursuant to §11-3-15i or §11-3-23a of this code, or from an order of a County Commission sitting as a Board of Equalization and Review pursuant to §11-3-24 of this code, the appeal petition must be filed with the Office of Tax Appeals by March 31 of the property tax year as defined in §11-3-1 of this code to be considered timely filed. If a petition of appeal is not filed with the Office of Tax Appeals by March 31 of the property tax year, then it shall be dismissed as untimely.

(b) In all cases involving appeal to the Office of Tax Appeals from a property tax ruling on taxability or classification by the Tax Commissioner pursuant to §11-3-24a of this code, the appeal petition must be filed within 30 days after receiving written notice of the Tax Commissioner's ruling. If a petition of appeal is not timely filed with the Office of Tax Appeals, then it shall be dismissed.

(c) In all cases involving property tax matters brought before the Office of Tax Appeals pursuant to subsections (a) and (b) of this section, the hearing before the Office of Tax Appeals shall be de novo as provided in §11-10A-10 of this code. Notwithstanding the provisions of §11-10A-10 of this code, a property tax appeal to the Office of Tax Appeals involving valuation, classification, or taxability may be set for hearing within 90 days of the due date of the answer unless continued by order of the Office of Tax Appeals for good cause.

(d) The provisions of this section shall be effective for all property tax appeals to the Office of Tax Appeals made on or after January 1, 2023.

(e) Notwithstanding any provisions of this article to the contrary, failure to file a petition in writing, register a complaint, or request an informal review, as provided in §11-3-15c, §11-3-15d, §11-3-23a, §11-3-24, or §11-3-24a shall not bar the Office of Tax Appeals' jurisdiction to hear any such property tax appeal. This provision is to clarify that the Office of Tax Appeals will have original property tax jurisdiction to hear such appeals.

WV Legislature

§11-3-26. Contents and effect of order granting relief.

Whenever the circuit court, on appeal, shall grant relief to any such applicant against the taxes, or any part of them, assessed against him either on the land or the personal property books, an order shall be made by such court exonerating such applicant from the payment of so much of such taxes as are erroneously charged against him if the same have not been paid; and if paid, that the sum so erroneously charged be refunded to him Such order, delivered to the assessor, sheriff or other collecting officer shall restrain him from collecting so much as is erroneously charged, and, if the same has been already collected, shall compel him to refund the money, if such officer has not already paid it into the treasury, and in either case, when indorsed by the person exonerated, it shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement, which he is required to make. If what was erroneously charged has been paid into the state Treasury, the order of the circuit court, attested by its clerk, shall entitle the claimant to a warrant on the state Treasury for the amount thereof, if application for the same be made to the Auditor within one year after the date of such order.

WV Legislature

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

(a) Any taxpayer, or the prosecuting attorney or Tax Commissioner, upon behalf of the state, county and districts, claiming to be aggrieved by any entry in the property books of the county, including entries with respect to classification and taxability of property, resulting from a clerical error or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of negligence or the exercise of poor judgment, may, within one year from the time the property books are delivered to the sheriff or within one year from the time such clerical error or mistake is discovered or reasonably could have been discovered, apply for relief to the county commission of the county in which such books are made out: Provided, That upon the discovery of any such clerical error or mistake by the sheriff or assessor, or either officer having knowledge thereof, the sheriff or assessor shall initiate an application for relief from the erroneous assessment on behalf of the taxpayer or cause notice to be sent to any taxpayer affected by the clerical error or mistake by first-class United States mail advising the taxpayer of the right to make application for relief from the erroneous assessment. Before the application is heard, the taxpayer shall give notice to the prosecuting attorney of the county, or the state shall give notice to the taxpayer, as the case may be. The application, whether by the taxpayer or the state, shall have precedence over all other business before the court; but any order or judgment shall show that either the prosecuting attorney or Tax Commissioner was present defending the interests of the state, county and districts: Provided, however, That the provisions of this section shall not be construed as giving county commissions jurisdiction to consider any question involving the classification or taxability of property which has been the subject matter of an appeal under the provisions of section twenty-four-a of this article; and any other such clerical error or mistake involving the classification or taxability of property, may be corrected by the county commission under the provisions of this section only when approved, in writing, by the county assessor.

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

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

WV Legislature

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

WV Legislature

§11-3-28. Definitions.

The words "tax," "taxes," "taxable," and "taxation," in this chapter, shall be deemed to include county, district, independent school district and municipal corporation levies in all cases not inconsistent with the context.

WV Legislature

§11-3-29. Levies to be based only on values ascertained.

Taxes for county, district, independent school district and municipal purposes shall be levied only upon the value of property ascertained under the provisions of this chapter.

WV Legislature

§11-3-30. Exception.

Notwithstanding the provisions of sections one, two, six, twelve, fifteen, nineteen, twenty-four and twenty-four-a of this article, the provisions of this article as of January 1, 1961, shall govern assessment generally for the assessment year 1961.

WV Legislature

§11-3-31. Generally applied, and usual and customary practices and procedures utilized by assessors prior to July 2, 1982; limit of liability.

To the extent that any generally applied, usual and customary practice or procedure utilized by the assessors of the several counties prior to July 2, 1982, for the return, listing, appraisement and assessment of property for ad valorem property taxation did not violate the then existing statutory law, interpretations thereof by the courts or the State Tax Commissioner, or regulations promulgated under such statutory law, and to that extent only, the use of such practice or procedure, in good faith, shall not be the sole basis for, or be considered in, the removal of any public officer or the imposition of any civil liability upon such official. The State Tax Commissioner shall be competent to offer testimony as to whether the practice or procedure utilized was generally applied, was a usual and customary practice among the several counties, and may offer testimony regarding formal or informal interpretations, rules or practice employed by him and his predecessors in office at the time such alleged usual and customary practice or procedures were utilized in several counties.

WV Legislature

§11-3-32. Effective date of amendments.

(a) Unless specified otherwise in this article, all amendments to this article adopted in the year 2010 apply to the assessment years beginning on or after July 1, 2011.

(b) Unless specified otherwise in this article, all amendments to this article adopted in the year 2021 apply to the assessment years beginning on or after July 1, 2022.

WV Legislature

§11-3-33. Rules.

The Tax Commissioner is hereby authorized to promulgate emergency rules and other rules in accordance with the provisions of article three, chapter twenty nine-a of this code as necessary or convenient for administration and interpretation of this article.

WV Legislature