

# WEST VIRGINIA CODE: §19-12A-1a

## **§19-12A-1a. Farm management commission abolished; property transferred; powers and duties of commissioner of agriculture.**

(a) The farm management commission previously established by this article is abolished. The real and personal property held by the commission, including all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities, operating revenue funds for those operations, and all employees of the farm management commission, are hereby transferred to the Department of Agriculture. The Commissioner of the Department of Agriculture shall have all those powers, duties and responsibilities previously vested in the farm management commission and the farm management director pursuant to this article.

(b) Not later than January 1, 1995, the Commissioner of the Department of Agriculture shall report to the Legislature on the optimum use or disposition of each institutional farm transferred pursuant to this section. The commissioner shall set forth the objectives of the agency with respect to the land, the criteria by which the agency has determined the optimum use or disposition of the property, and determinations as to whether the land shall be used in the production of food products, the production or development of natural resources, held for recreational or other specified uses, or sold, or leased in whole or in part. With respect to each institutional farm, the commissioner shall report on which properties are subject to reversionary clauses or other restrictions in deeds of conveyance which may affect permitted uses, or proposed sales or leases. With respect to each institutional farm, the commissioner shall report on projected revenues and expenses from operations. Planned activities and uses with respect to the land shall be detailed for at least five years specifically and at least ten years generally and shall include a cost benefit analysis of options or alternatives for action. In the case of land managed for production of timber, the commissioner shall report on projections for timber harvesting on a sustained-yield basis, income estimates, and the years in which income will be generated. The report shall detail planned actions to protect the land from erosion, fire, plant and animal pests, noxious insects, noxious weeds and plant and animal diseases. In the case of land subject to rights granted by existing contracts, leases, licenses or easements, the report shall include a determination as to whether the interest granted should be continued or withdrawn. In the case of land managed under land management plans adopted prior to the effective date of this section, land management plans shall be reviewed and amended as may be necessary. When appropriate, the commissioner shall consult with the secretaries of the various departments of state government and shall request from the secretaries suggestions for land use and resource development on the land. In the case of land recommended for sale, lease, or transfer, the report shall include the review and approval of the director of the West Virginia Development Office of the proposed use and alternate suggestions for use of any institutional farm which may be in the public interest. Notwithstanding any other provision of this subsection to the contrary, title to the Weston State Hospital Institutional Farm,

located at Weston, Lewis County, is transferred from the Department of Agriculture to the Department of Health Facilities, including all buildings thereon: *Provided*, That the Department of Agriculture shall retain all oil, gas and mineral rights, interests and title underlying the surface of the real property being transferred to the Department of Health Facilities under this subsection.

The Secretary of the Department of Health Facilities is authorized to sell, lease, donate or otherwise transfer the Weston State Hospital Institutional Farm, as well as the grounds of the former Weston State Hospital including the improvements and appurtenances belonging thereto: *Provided*, That notice of the sale of the real estate at auction shall include the right of the state to reject any and all bids: *Provided, however*, That the deed conveying title to the real estate shall contain a reservation in it providing that the communications tower, located on the real estate and owned and maintained by the county commission of Lewis County, shall remain the property of the Lewis county commission and shall remain on the real estate free of any cost or rent and the county commission of Lewis County shall have an easement for ingress and egress and for the maintenance of the tower in perpetuity unless agreed otherwise in writing by the county commission of Lewis County.

(c) Nothing in this section shall be construed to limit the duties imposed on the Department of Health and the Division of Corrections to purchase food products pursuant to section five of this article and to make interdepartmental transfers pursuant to section six of this article: *Provided*, That purchases shall be made from and transfers made to the Department of Agriculture.

(d) Nothing in this section shall be construed to invalidate any action or contractual obligation of the farm management commission prior to the effective date of this section.

(e) Notwithstanding the provisions of subsection (b) of this section, in any case where the farm management commission has determined by motion adopted prior to the effective date of this article that an institutional farm or part thereof should be transferred or disposed of, or authorized any formal agreement for this purpose, whether or not any documents related to the agreement have been reduced to writing or executed, the commissioner shall execute all documents and take all necessary actions to implement the transfer or disposition of the property.

(f) For any land transferred to the public land corporation for sale, exchange or transfer pursuant to section five of this article, the farm property shall be offered for sale in both small parcels of land and as whole farms and shall be sold in the form which brings the highest price for the total property. For purposes of this subsection, "small parcels" means parcels of no more than five acres.