

Rec., Mar. 11, 1933

408

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 408

(By Mr. Hiner (Mr. Speaker))

Passed March 11, 1933

In Effect from Passage

Originated in the House
Spaulding
 Clerk.

Takes effect from
Spaulding
 Clerk of the House of Delegates.

passage

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 Chairman House Committee

Wm. A. H. ...
 Chairman Senate Committee

ENROLLED BILL

(H. B. No. 408)

[Passed March 11, 1933; in effect from passage.]

ACT to amend and reenact sections one, six, nine, fourteen, fifteen and nineteen, article three; to amend and reenact article four by substituting for sections one through sixteen, inclusive, as amended by chapter fifty-three of the acts of one thousand nine hundred thirty-one, sections one through twenty, inclusive; to amend and reenact article five by substituting for sections one through eleven, inclusive, sections one through ten, inclusive; and to amend and reenact sections fourteen and sixteen, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the method of determining the tax base and the procedure therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. Sections one, six, nine, fourteen, fifteen and nine-

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2 teen, article three, are hereby amended; for sections one through
3 sixteen, inclusive, article four, as amended by chapter fifty-three
4 of the acts of one thousand nine hundred thirty-one, sections
5 one through twenty, inclusive, are hereby substituted; for sec-
6 tions one through eleven, inclusive, article five, sections one
7 through ten, inclusive, are hereby substituted; and sections four-
8 teen and sixteen, article six, chapter eleven of the code of West
9 Virginia, one thousand nine hundred thirty-one, are hereby
10 amended to read as follows:

ARTICLE 3

Section 1. All property shall be assessed annually as of the
2 first day of January at its true and actual value; that is to say,
3 at the price for which such property would sell if voluntarily
4 offered for sale by the owner thereof, upon such terms as such
5 property, the value of which is sought to be ascertained, is
6 usually sold, and not the price which might be realized if such
7 property were sold at a forced sale, except that the true and
8 actual value of all property owned, used and occupied by the
9 owner thereof exclusively for residential purposes and upon
10 farms occupied and cultivated by their owners or bona fide
11 tenants shall be arrived at by giving primary, but not exclusive,

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12 consideration to the fair and reasonable amount of income which
13 the same might be expected to earn, under normal conditions
14 in the locality wherein situated, if rented. The taxes upon all
15 property shall be paid by those who are the owners thereof on
16 that day, whether it be assessed to them or others. If at any
17 time after the beginning of the assessment year, it be ascertained
18 by the tax commissioner that the assessor, or any of his deputies,
19 is not complying with this provision or that he has failed, neg-
20 lected or refused, or is failing, neglecting or refusing after five
21 days' notice to list and assess all property therein at its true
22 and actual value, the tax commissioner may order and direct
23 a reassessment of any or all of the property in any county, dis-
24 trict or municipality, where any assessor, or deputy, fails, neg-
25 lects or refuses to assess the property in the manner herein pro-
26 vided. And, for the purpose of making such assessment and
27 correction of values, the tax commissioner may appoint one or
28 more special assessors, as necessity may require, to make such
29 assessment in any such county, and any such special assessor
30 or assessors, as the case may be, shall have all the power and au-
31 thority now vested by law in assessors, and the work of such
32 special assessor or assessors shall be accepted and treated for all

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33 purposes by the county boards of review and equalization and
34 the levying bodies, subject to any revisions of value on appeal, as
35 the true and lawful assessment of that year as to all property
36 valued by him or them. The tax commissioner shall, with the
37 approval of the board of public works, fix the compensation of
38 all such special assessors as may be designated by him, which,
39 together with their actual expenses, shall be paid out of the
40 county fund by the county court of the county in which any such
41 assessment is ordered, upon the receipt of a certificate of the tax
42 commissioner filed with the clerk of the court showing the
43 amounts due and to whom payable, after such expenses have
44 been audited by the county court.

45 Any assessor who knowingly fails, neglects or refuses to assess
46 all the property of his county, as herein provided, shall be guilty
47 of malfeasance in office, and, upon conviction thereof, he shall
48 be fined not less than one hundred nor more than five hundred
49 dollars, or imprisoned in the county jail not less than three nor
50 more than six months or both, in the discretion of the court,
51 and upon conviction, he shall be removed from office.

Sec. 6. The assessor shall annually, not later than the twen-
2 tieth day of July, furnish to the recorder or clerk of the city or

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3 town council of every incorporated city and town in his county,
4 and also to the secretary of the various boards of education of
5 his county, a certified statement, showing in separate amounts
6 the aggregate value of all property, real and personal, and of
7 all property within each class as provided in section four, article
8 eight of this chapter, and the clerk of the county court shall,
9 in like fashion, certify the aggregate value of all property as-
10 sessed by the board of public works, or other board in lieu there-
11 of, in such city or districts, as ascertained from the land and
12 personal property books and from the statement furnished by
13 the auditor to the county clerk of the value of property as-
14 sessed in such county by the board for the current year.

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15 The statement so furnished shall be taken, by the council of
16 such city or town, as the proper valuation of all property situ-
17 ated therein and liable for taxation for municipal purposes not-
18 withstanding any provisions which may be contained in the
19 charter of any city or town. Upon receiving such statement the
20 recorder, or clerk of the council, shall present the same to the
21 council at a meeting to be held for the purpose of making the
22 estimate and laying the levy as hereinafter required; and, as
23 soon as the rate shall have been determined upon, the recorder,

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24 or secretary of the council, shall furnish the officer whose duty
25 it is to make out the land and personal property books a certi-
26 fied copy of the order of such city or town council fixing the
27 rate of tax, and such officer shall thereupon extend the tax
28 against the property situated in such city or town, in the land
29 book and the personal property book of his county, in separate
30 columns in such books, which columns shall be headed with the
31 words: "Town, or city, tax for the town, or city, of....."

Sec. 9. All property, real and personal, described in this
2 section, and to the extent herein limited, shall be exempt from
3 taxation, that is to say: Property belonging to the United
4 States; property belonging exclusively to the state; property
5 belonging exclusively to any county, district, city, village, or
6 town in this state, and used for public purposes; property used
7 exclusively for divine worship; parsonages, and the household
8 goods and furniture pertaining thereto; mortgages, bonds and
9 other evidence of indebtedness in the hands of bona fide owners
10 and holders hereafter issued and sold by churches and religious
11 societies for the purpose of securing money to be used in the
12 erection of church buildings used exclusively for divine wor-
13 ship, or for the purpose of paying indebtedness thereon; ceme-

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14 teries, property belonging to colleges, seminaries, academics and
15 free schools, if used for educational, literary or scientific pur-
16 poses, including books, apparatus, annuities, money and furni-
17 ture; public and family libraries; property used for charitable
18 purposes, and not held or leased out for profit; all real estate
19 not exceeding one-half acre in extent, and the buildings there-
20 on, and used exclusively by any college or university society as
21 a literary hall, or as a dormitory or club room, if not leased or
22 otherwise used with a view to profit; all property belonging to
23 benevolent associations, not conducted for private profit; prop-
24 erty belonging to any public institution for the education of the
25 deaf, dumb or blind, or any hospital not held or leased out for
26 profit; house of refuge, lunatic or orphan asylum; homes for
27 children or for the aged, friendless or infirm, not conducted for
28 private profit; fire engines and implements for extinguishing
29 fires, and property used exclusively for the safe-keeping thereof,
30 and for the meetings of fire companies; and all property on
31 hand to be used in the subsistence of live stock on hand at the
32 commencement of the assessment year, household goods to the
33 value of two hundred dollars, dead victuals laid away for family
34 use and any other property or security exempted by any other

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35 provision of law; but no property shall be exempt from tax
36 ation which shall have been purchased or procured for the pur-
37 pose of evading taxation, whether temporarily holding the same
38 over the first day of the assessment year or otherwise: *Pro-*
39 *vided, however,* That the property, both real and personal,
40 which is exempt from taxation by this section shall be entered
41 upon the assessor's books, together with the true and actual
42 value thereof, but no taxes shall be levied upon the same or ex-
43 tended upon the assessor's books: *Provided further,* That such
44 exemption from taxation shall apply to all property, including
45 the principal thereof, and the income therefrom, held for a term
46 of years or otherwise under a bona fide trust deed, transfer or
47 assignment, by a trustee or trustees required by the terms of
48 such trust to apply, annually, the income derived from such
49 property to education, religion, charity and cemeteries, when
50 not used for private purposes or profit. Such transfer or assign-
51 ment shall be in writing, and have the approval of the tax com-
52 missioner indorsed thereon; and a copy thereof shall be filed
53 in his office before such exemption shall apply to the property
54 embraced therein; and all books and papers showing the col-
55 lection and distribution of money or property under or by

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56 virtue of any such trust shall be open to the inspection of said
57 commissioner, his deputies or assistants, at all reasonable times.

58 And, whenever from any cause, such commissioner shall de-
59 termine that any such trust is not bona fide, or that it was cre-
60 ated or is carried on for the purpose of evading taxation, then

61 he shall withdraw his approval thereof by written notice served
62 upon any trustee in such trust, and thereafter all property

63 covered by such trust shall be subject to taxation; but any per-
64 son beneficially interested may appeal from any such decision

65 of said commissioner to the circuit court of the county wherein
66 the trustee resides, and if such trustee reside outside the State

67 of West Virginia, then to the circuit court of the county wherein
68 the seat of government is located; and with the further right of

69 appeal to the supreme court of appeals by any party to the
70 proceedings.

Sec. 14. Shares of stock in a banking institution, national
2 banking association or industrial loan company shall be assessed
3 at their true and actual value, according to the rules prescribed
4 in this chapter, to the several holders of such stock in the
5 county, district and town where such bank, company or asso-
6 ciation is located, and not elsewhere, whether such holders re-

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7 side there or not. The real and actual value of such shares
8 shall be ascertained according to the best information which the
9 assessor may be able to obtain, whether from any return made
10 by such bank, company or association to any officer of the state
11 or the United States, from actual sales of the stock, from
12 answers to questions by the assessor, as hereinafter provided,
13 or from other trustworthy sources. The cashier, secretary or
14 principal accounting officer of every such bank, company or
15 association shall cause to be kept a correct list of the names
16 and residences of all the shareholders therein, and the number
17 of shares held by each, which list shall be open to the inspec-
18 tion of the assessors of the county, and of the tax commissioner
19 or assistants; and such cashier, secretary or officer shall
20 answer under oath such questions as the assessor may ask him
21 concerning the matters shown by such list, and concerning the
22 value of such shares, and shall be subject to the same penalties,
23 for failure to do so, which are imposed by law upon individuals
24 failing to answer questions which the assessor is authorized to
25 ask. The taxes so assessed upon the shares of any such bank,
26 company or association shall be paid by the cashier, secretary
27 or proper accounting officer thereof, and in the same manner

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28 and at the same time as other taxes are required to be paid in
29 such county, district and town. In default of such payment
30 such cashier, secretary or accounting officer as well as such
31 bank, company or association shall be liable for such taxes, and
32 in addition, for a sum equal to ten per cent thereof. Any taxes
33 so paid upon any such share may, with interest thereon, be re-
34 covered from the owners thereof by the bank, company, asso-
35 ciation or officer paying them, or may be deducted from the
36 dividends accruing on such shares. The real estate of any
37 such bank, company or association shall be assessed as in other
38 cases, and a proportionate share of such assessed value shall be
39 deducted in ascertaining the market value of the shares. And
40 if the title to the building in which any such bank, company or
41 association does its business and the land on which such build-
42 ing stands is held by a separate corporation, in which such
43 bank, company or association alone or together with another
44 such bank or banks, company or companies, association or asso-
45 ciations owns stock, and such building and land be assessed to
46 such separate corporation, a proportionate share of the assessed
47 value of such real estate of such separate company shall be
48 deducted in ascertaining the market value of the shares of

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49 such bank, company or association. The return shall be made
50 as of the first day of the assessment year.

Sec. 15. The value of the capital used by any individual or
2 firm not incorporated, in any trade or business taxable by law,
3 shall be ascertained in the following manner: The owner,
4 agent, or chief accountant of every such trade or business, ex-
5 cept the business of agriculture, carried on in any county of
6 the state, shall, annually, between the first day of the assess-
7 ment year and the first day of May of the current year, make
8 a written report as of the first day of the assessment year, to
9 the assessor, verified by his affidavit, showing the following
10 matters and things, viz:

11 (a) The amount, the true and actual value and classification of
12 all tangible personal property used in connection with such
13 trade or business, otherwise than such as is regularly kept for
14 sale therein, including chattels real; (b) the true and actual
15 value and classification of all goods and property kept for sale
16 and remaining unsold; (c) the amount of all money derived
17 from or belonging to such trade or business, on hand or re-
18 maining uninvested on that day, whether in or out of the
19 state, payable to such individual or firm; (d) the amount in

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20 value of all credits arising out of any such business and re-
21 maining unpaid on that date, whether due or not, and whether
22 in or out of the state; (e) the amount and true and actual
23 value of all money, notes, bonds, bills, accounts receivable,
24 stocks and other intangible property made by such person or
25 firm whether in or out of the state, other than those hereinbe-
26 fore specified; (f) the location, quantity, the true and actual
27 value and classification of all real estate owned by such in-
28 dividuals or firm and used in such trade or business. The
29 assessor shall, upon the receipt of such report, properly veri-
30 fied, if he is satisfied with the correctness thereof, enter the
31 real estate in the landbook of the county in the district where-
32 in the same is situated, and assess the same with taxes, if not
33 otherwise assessed, to the owner thereof; the personal property
34 mentioned in such report he shall enter in the personal prop-
35 erty book of his county for assessment with taxes as follows,
36 viz: Items (a) and (b) shall be entered in the magisterial dis-
37 tricts where they are for the greater part of the year kept or
38 located; and items (c) and (d), (e) and (g) shall be entered
39 under their appropriate headings, in the municipality or magis-
40 terial district wherein the principal place of business of such

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41 individual or firm is; if the assessor is not satisfied with the
42 correctness of such report he may proceed to ascertain a cor-
43 rect list of the property on which such individual or firm is
44 liable to be assessed with taxes, and to value the same as in
45 other cases; the person making such report shall take and
46 subscribe an oath in substantially the following form:

47 I,..... do solemnly swear (or affirm) that the fore-
48 going list is true and correct to the best of my knowledge; that
49 the value affixed to the property therein listed I believe to be
50 the true and actual value thereof; that none of the assets be-
51 longing to (here state the name of individual or firm) and
52 used in the business of (here describe the business) have to
53 my knowledge, since the first day of the assessment year, been
54 converted into nontaxable securities for the purpose of evading
55 the assessment of taxes thereon; so help me, God.

56 The officer administering said oath shall append thereto the
57 following certificate, viz:

58 Subscribed and sworn to before me by (here insert affiant's
59 name) this _____ day of _____, 19_____

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Sec. 19. The assessor shall complete his assessment and
 2 make up his official copy of the land and personal property
 3 books in time to submit the same to the board of equalization
 4 and review not later than July fifth of the assessment year.
 5 The assessor shall, as soon as practicable after the levy is laid,
 6 extend the levies on the land and personal property books, and
 7 shall forthwith make three copies of the land and personal
 8 property books with the levies extended, one of such copies he
 9 shall deliver to the sheriff not later than the tenth day of Sep-
 10 tember, one copy he shall deliver to the clerk of the county
 11 court not later than the first day of October, and one copy he
 12 shall send to the state auditor not later than the first day of
 13 October, and such copies so delivered shall be official records
 14 of the respective offices. He may require the written receipt
 15 of each of such officers for such copy. Before delivering any
 16 of such copies the assessor shall make and subscribe the follow-
 17 ing oath at the foot of each of them: I, _____, assessor
 18 of the county of _____, do solemnly swear, (or affirm)
 19 that in making the foregoing assessment I have to the best of
 20 my knowledge and ability pursued the law prescribing the

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21 duties of assessors and that I have not been influenced in mak-
22 ing the same by fear, favor or partiality; so help me, God.

23 _____
Assessor.

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

26 Subscribed and sworn to before me, a _____ for
27 the county of _____ and state of West Virginia,
28 by _____, assessor, for said county, this
29 the _____ day of _____, 19____.

ARTICLE 4

Section 1. The assessor shall make out the landbooks, in-
2 cluding all extensions, in such form as the tax commissioner
3 may prescribe. Such landbooks shall contain separate lists for
4 the different magisterial districts and separate lists for the
5 municipalities of the county, and, if there are independent
6 school districts which include municipalities and also lands
7 lying outside of such municipalities, there shall also be a sep-
8 arate list for so much of each of such independent school dis-
9 tricts as lies outside of such municipalities. There shall, for

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10 the purpose of taxation, be entered on the landbooks the town
 11 lots in the alphabetical order of the names of the owners there-
 12 of in the list arranged for them, and the assessor shall desig-
 13 nate such list as "town (or city) lots of the town (or city)
 14 of -----." There shall also be entered in like
 15 alphabetical order, in the separate lists for the independent
 16 school districts and magisterial districts, the tracts of land,
 17 the whole or greater part of which is situated therein; but no
 18 tract or lot of land shall be entered in more than one of such
 19 lists, and no part of any tract or lot of land which does not
 20 lie within the incorporated limits of a town shall be entered
 21 in the list or charged with municipal taxes for such town.

Sec. 2. The tax commissioner shall prescribe a form of land-
 2 book and the information and itemization to be entered
 3 therein, which shall include separate entries of:

- 4 (1) All real property owned, used and occupied by the
 5 owner exclusively for residential purposes; (2) all farms in-
 6 cluding land used for agriculture, horticulture and grazing oc-
 7 cupied by the owner or bona fide tenant; (3) all other real
 8 property; and, for each entry there shall be shown; (4) the
 9 value of land, the value of buildings, and the aggregate value;

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10 (5) the character and estate of the owners, the number of acres
11 or lots, and the local description of the tracts or lots; (6) the
12 amount of taxes assessed against each tract or lot for all pur-
13 poses.

Sec. 3. For the purpose of giving effect to the "tax limita-
2 tion amendment" this chapter shall be interpreted in accord-
3 ance with the following definitions, unless the context clearly
4 requires a different meaning:

5 "Owner" shall mean the person who is possessed of the
6 freehold, whether in fee or for life. A person seized or en-
7 titled in fee subject to a mortgage or deed of trust securing a
8 debt or liability shall be deemed the owner until the mortgagee
9 or trustee takes possession, after which such mortgagee or
10 trustee shall be deemed the owner. A person who has an equi-
11 table estate of freehold, or is a purchaser of a freehold estate
12 who is in possession before transfer of legal title shall also be
13 deemed the owner.

14 "Used and occupied by the owner thereof exclusively for
15 residential purpose" shall mean actual habitation by the owner
16 as a place of abode to the exclusion of any commercial use. If
17 a license is required for an activity on the premises or if an

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18 activity is conducted thereon which involves the use of equip-
19 ment of a character not commonly employed solely for domestic
20 as distinguished from commercial purposes, the use shall not
21 be construed to be exclusively residential.

22 "Farm" shall mean a tract or contiguous tracts of land used
23 for agriculture, horticulture or grazing.

24 "Occupied and cultivated" shall mean subjected as a unit
25 to farm purposes, whether used for habitation or not, and al-
26 though parts may be lying fallow, in timber or in waste lands.

Sec. 4. The landbooks for every county shall be made out by
2 the assessor of such county. In making such landbooks in
3 each year such officer shall be governed, as far as is proper,
4 by the copy of the land books last made out in his county. But
5 he shall correct errors and mistakes which he may have made
6 in any such land books as to the names of persons properly
7 chargeable with taxes on any tract or lot of land therein, and
8 enter and charge the same with taxes thereon to the person or
9 persons properly chargeable therewith, whether such correction
10 be rendered necessary by the conveyance of such tract or lot
11 by the person last charged with taxes thereon or otherwise.
12 He shall also correct all errors and mistakes he may find in

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13 such landbooks as to the local description thereof, and all clerical errors of every sort which he may find therein.

Sec. 5. The assessor and his deputies shall annually when listing and assessing personal and real property, make diligent inquiry of every resident landowner, and of the resident agents of nonresident landowner, as to the number of acres of land owned by them, the number of acres in each tract, and the number of town lots owned by them, and the value per acre of each tract and the local description thereof, and the value and location of the town lots.

9 They shall determine the nature and extent of the interest of the owner whether in fee and undivided or otherwise, and the character of use to which the property is put, whether exclusively residential or agricultural or otherwise. They shall also inquire of such owners or agents whether the entries charged against them in the land books of the previous year are correct, whether any part thereof ought to be transferred to any other person, and if so to whom, and the nature of the evidence to authorize such transfer; also, whether any other land in the county ought to be charged to such resident or non-resident, and whether the description given to any tract of

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20 land or town lot in the book of the previous year is incorrectly
21 given. It shall be the duty of such owners and agents to an-
22 swer all of such inquiries on oath. The assessor shall provide
23 for himself, and for each one of his deputies, a copy of so much
24 of the land book of the previous year as contains a list of the
25 land in the magisterial districts severally apportioned to them,
26 and shall note in such copies such changes and corrections as
27 ought to be made in the land book of the previous year, accord-
28 ing to the information obtained. The deputy assessors shall
29 report any such changes and corrections, as appear to them
30 should be made, to the assessor at some of the stated meetings
31 provided for. The assessor shall make such use of the infor-
32 mation so obtained as he can properly make, consistently with
33 the other provisions of this chapter, in making out the land-
34 book of the county for the current year.

Sec. 6. Land which has been properly charged to one per-
2 son upon the landbook for any assessment year shall not after-
3 wards, within that assessment year, be transferred on such
4 book to another person.

Sec. 7. If the owner of a tract or lot of land has derived
2 title thereto by several conveyances from the same person, or

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3 from different persons, such tract or lot shall be entered and
4 charged with taxes on the land books as a whole, and not in
5 different parcels.

Sec. 8. The clerk of the county court shall annually, not
2 later than fifteen days after the beginning of the assessment
3 year, make out a certified list and deliver the same to the asses-
4 sor, showing all the transfers of title of land made in his county
5 prior to the first day of the assessment year; such list shall
6 show whether the transfer was made by will or by deed of con-
7 veyance, or by judgment or decree, the names of the devisors
8 and devisees, the names of the grantors and grantees and the
9 names of the parties in favor of and against whom such judg-
10 ment or decree was rendered, with the title of the cause, the
11 nature of the estate transferred, the character of interest in the
12 land conveyed, the quantity and location of the land or interest
13 transferred, and, if a part of a tract, of what tract it was a
14 part when the whole tract was transferred, and reference to
15 the book and page showing such transfer; from the list thus
16 furnished the assessor shall make the necessary changes in the
17 landbooks for the current year, and shall value each tract of
18 land or interest therein so transferred, at its true and actual

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19 value according to the rule established in this chapter. Such
20 clerk shall also, within such period of fifteen days, make out
21 a list of all lands, if any, lying in another county and devised
22 by wills recorded in his office and not before reported, stating
23 in such list the date of the will in each case, when admitted
24 to record, the names of the devisor and devisee, and the descrip-
25 tion of the land devised; and, upon completion, such list shall
26 be delivered or transmitted by mail, by such clerk, to the as-
27 sessor of the county or counties where such lands are situated.

Sec. 9. When a tract of land becomes the property of differ-
2 ent owners in several parcels, the assessor shall assess the sev-
3 eral parcels separately to the individual owners thereof, giving
4 to each of such parcels its true and actual value according to
5 the rule prescribed in this chapter. When any person becomes
6 the owner of the surface, and another or others become the
7 owner or owners of the coal, oil, gas, ore, limestone, fireclay, or
8 other minerals or mineral substances in and under the same,
9 or of the timber thereon, the assessor shall assess such respec-
10 tive estates to the respective owners thereof at their
11 true and actual value, according to the rule prescribed
12 in this chapter. When any person or persons are, or be-

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13 comes, the owner or owners of any undivided interest or
14 interests in land, or in the surface, coal, oil, gas, ore, lime-
15 stone, fireclay, timber or other estates, therein, the owner
15 or owners of such undivided interest or interests may,
16 on request of the assessor, and without consent or acquiescence
17 of the other joint owner or owners of the other undivided in-
18 terest or interests, have such undivided interest or interests
19 assessed to him or them separately and independently of other
20 undivided interest or interests therein; and all such assess-
21 ments and undivided interests heretofore entered on the as-
22 sessment books are hereby validated.

Sec. 10. Land and the buildings or structures erected
2 thereon shall be assessed separately and the value of each en-
3 tered separately in the landbooks. Land, except town lots,
4 shall be valued by the acre, and town lots shall be designated
5 by the number of the lot and the name of the street on which
6 it fronts, provided the lots be numbered and the streets of the
7 town designated by name. Every assessor shall, in each year,
8 in arriving at the value of the buildings, take into account any
9 improvements or changes affecting the value of such buildings.
10 If the assessor shall discover any building which has been

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11 omitted from the landbook for any previous years, he may back
12 tax the same in the same manner and to the same extent as in
13 the case of personal property.

Sec. 11. No new building, addition or improvement shall
2 be assessed until it is so far finished as to be fit for use, but the
3 material in the same shall be entered in the personal property
4 books and assessed as provided by this chapter.

Sec. 12. When the owner dies intestate his undivided real
2 estate may be listed to his heirs, without designating any of
3 them by name, until division of same and each heir shall be
4 liable for the whole tax assessed upon such land while it is so
5 listed; but when he pays the same he may recover of the others
6 their proper proportion of the amount so paid, and the propor-
7 tion thereof for which such other or others are liable shall be
8 a lien on the interest owned by him or them in such lands; and
9 such liens, when the amount so paid exceeds twenty dollars in
10 all, may be enforced in a court of equity. When the owner has
11 devised the lands or a freehold estate therein absolutely, such
12 land shall be charged to the devisee. If under the will the
13 land is to be sold, it shall be charged to the decedent's estate
14 and the assets in the hands of the personal representative shall

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15 be liable for the taxes until a sale and conveyance thereof be
16 made.

Sec. 13. Real estate purchased for the state, at a sale for
2 taxes, shall not be omitted from the landbooks, but no taxes
3 shall be assessed thereon while the same remains the property
4 of the state; there shall be noted on the landbooks, and by the
5 officer whose duty it is to make out the same, opposite the name
6 of the former owner, the time when the same was purchased
7 by the state, and such officer shall continue such memorandum
8 in the landbooks for succeeding years, and until such real es-
9 tate is redeemed or until it is otherwise disposed of by the
10 state; the auditor shall also keep a record of such purchase.
11 When real estate so purchased appears to have been redeemed,
12 the officer whose duty it is to make out the landbooks shall note
13 the fact therein for the year in which the redemption was
14 made, and shall value the same at its value according to the
15 rule prescribed in this chapter, and taxes shall thereafter be
16 assessed against the same. The auditor shall, in the first month
17 of the assessment year, certify to the officer whose duty it is to
18 make out the landbooks, a list of such lands in his county as
19 have been so redeemed within the preceding year; when real

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20 estate is sold to an individual for taxes, the officer whose duty
21 it is to make out the landbooks shall continue the same upon
22 the landbooks in the name of the former owner until the pur-
23 chaser obtains a deed therefor; such officer shall then enter
24 the same so purchased in the name of the purchaser and shall
25 value the same according to the rule prescribed for the valuing
26 of other lands.

Sec. 14. Every tract of land of one thousand acres or less,
2 lying in more than one county, may be entered for taxation
3 on the landbook of the county where the greater part thereof
4 in value, lies, but the entry thereof and payment of taxes
5 thereon, in any county where any part thereof is situated, shall,
6 for the time during which the same is so entered and paid, be
7 a discharge of the whole of the taxes and levies charged and
8 chargeable thereon. Every tract of land of more than one
9 thousand acres, lying in two or more counties, shall, for the
10 purpose of taxation, be entered and charged with all taxes in
11 each magisterial district of the several counties in which any
12 part of it is, to the extent, as near as may be, that the same
13 lies in such district. When any such tract of more than one
14 thousand acres is thus assessed, partly in one county and partly

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15 in another, the several officers of such counties whose duty it is
16 to make out the landbooks of the respective counties shall value
17 the part lying in his county without regard to the value of the
18 whole tract, and he shall ascertain its value, as in other cases,
19 according to the rule prescribed in this chapter.

Sec. 15. When land lying in more than one county has
2 been assessed in one of such counties only, if the owner convey
3 that portion, or any part thereof, lying in the county wherein
4 the same is not assessed, such officer in such county shall enter
5 the part so conveyed in the landbooks of his county, and shall
6 assess it to its owner at its proper value according to the rule
7 prescribed in this chapter. And such officer of the county in
8 which the whole of such land has been previously assessed shall
9 deduct the part so conveyed and assess the remainder accord-
10 ing to its proper value.

Sec. 16. In like manner, when a tract or lot of land lies
2 in more than one district, and the owner conveys any portion
3 thereof situated in a district wherein such land was not as-
4 sessed, the part so conveyed shall be thereafter entered in the
5 proper district, and the proper value thereof ascertained, as in
6 other cases, according to the rule prescribed in this chapter,

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7 and the quantity thereof shall be deducted from the entire tract
8 or lot as it was before entered.

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Sec. 17. Any owner of two or more contiguous tracts of
2 land, or the surface of land, or of any estate in the coal, oil,
3 gas, ore, limestone, fireclay, or other minerals or mineral sub-
4 stances, in and under the same, or of the timber thereon, sit-
5 uated in whole or in part in the same magisterial district of any
6 county, may upon application to the county court of such
7 county and duly showing the relative location of such tracts,
8 their ownership and present description on the landbook, have
9 the same, by order of such court, consolidated with other like
10 tracts or parts of tracts, and charged by aggregating the quan-
11 tities thereof, so far as lying in the same magisterial district,
12 as one tract upon the landbook of such county for the succeed-
13 ing year and thereafter: *Provided*, That for the purpose of con-
14 solidation of lands or the surface of lands or any estate in the
15 coal, oil, gas, ore, limestone, fireclay, or other minerals, or min-
16 eral substances in and under the same, or of the timber there-
17 on, on the landbooks, any tract heretofore charged separately
18 thereon, whether as fee (by which is meant not only the estate
19 of the owner therein, but also the entire body of the land), or

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20 as one or more mineral interests, or other interests herein speci-
21 fied, or surface, or timber only, may be divided, and the divi-
22 sions thereof be charged separately or be consolidated with
23 other like tracts or parts of tracts.

24 In every case of consolidation the order directing the con-
25 solidation to be made shall so describe the several properties
26 consolidated as to enable the same to be therein identified as
27 separate parcels or to be so identified by reference therein made
28 to a recorded instrument, or recorded instruments, or both by
29 description and reference to such instrument or instruments.

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30 The officer whose duty it is to make out the landbooks, upon
31 presentation to him of a certified copy of such order showing
32 the consolidation of designation of such several tracts or parts
33 of tracts of land, surface or timber, or estates in the coal, oil,
34 gas, ore, limestone, fireclay, or other minerals or mineral sub-
35 stances herein mentioned, shall enter the same as one upon
36 the landbook for the year next ensuing, and make a proper
37 note opposite the last entry of each of such several tracts so
38 consolidated or designated in whole or in part, referring to
39 such order, and a like note opposite the entry or the tract so
40 consolidated or designated. He shall value such tract at its

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41 proper value according to the rule prescribed in this chapter.
42 Any such officer, failing to comply promptly with any of the
43 several duties imposed by this section, shall be deemed guilty
44 of a misdemeanor, and, upon conviction thereof, shall be fined
45 not less than twenty-five nor more than fifty dollars: *Provided,*
46 That this section shall not apply to any undivided interest in
47 any estate in any land, coal, oil, gas, ore, limestone, fireclay,
48 or other mineral substances in or under lands or of the timber
49 on land.

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Sec. 18. In the manner prescribed in section seventeen of
2 this article, the county court may, upon the application of the
3 owner, divide, consolidate, or both, as the case may be, any
4 tracts or lots for the purpose of entry upon the land books of
5 the county. This shall apply solely to the segregation of real
6 property according to the classification contemplated by the
7 "tax limitation amendment." No such division shall be made
8 unless there is in actual fact a distinction in use, and unless
9 the division requested is one which the owner would make for the
10 separate conveyance of portions of the tract or lot, but in no
11 case shall any single structure be divided and only contiguous
12 tracts or lots shall be consolidated.

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Sec. 19. Any person through whose lands a public road has
2 been or may hereafter be established according to law, or
3 through whose lands a railroad company has acquired or may
4 hereafter acquire a right-of-way, by purchase or condemna-
5 tion, may have the number of acres so taken for such public
6 road or railroad deducted from the whole number of acres in the
7 tract of land, and if such deduction is made on account of land
8 taken for a railroad, the amount so deducted shall be trans-
9 ferred and charged to the railroad company until such time as
10 the railroad is constructed and assessed by the board of public
11 works under the provisions of this chapter, and when such rail-
12 road is so assessed by the board of public works the land occu-
13 pied by its right-of-way and assessed to it under the provisions
14 of this section shall be stricken from the land books, and be no
15 longer assessed under this section. The reduction, provided for
16 in this section, shall be made only by the county court of the
17 county wherein such land is assessed at the time the reduction
18 is applied for, after ten days' notice in writing to the prose-
19 cuting attorney of such county and upon satisfactory proof
20 of the number of acres in any such public road or railroad, and
21 of the number of acres in the whole tract or tracts of land from

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22 which the deduction is desired to be made. If the reduction
23 is made on account of land taken for a public road, such reduc-
24 tion shall continue only so long as the land is used as a public
25 highway, after which time the officer, whose duty it is to make
26 out the landbooks, shall increase the quantity of land in the
27 tract by adding to it the number of acres included in that part
28 of the public road running through such land, with the proper
29 value thereof, which has ceased to be used as such public road.
30 Any order made by the county court upon such application
31 shall direct such officer to correct the landbooks according to the
32 facts established by such order.

Sec. 20. The assessor shall, upon the best information he
2 can obtain, ascertain for the purpose of taxation, the annual
3 value of all ferries upon which a toll or fare is charged, located
4 in his county, except such as are by law exempt from taxation;
5 he shall value each of such ferries each year at ten times its an-
6 nual value, and enter the same in the landbook in the name of
7 the owner in the magisterial district wherein the same is lo-
8 cated, if such ferry is on a line dividing two counties, or two
9 districts in the same county; one-half of the value so ascertained
10 shall be assessed in each county or district as the case may be.

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ARTICLE 5

Section 1. All personal property belonging to persons residing in this state, whether such property be in or out of the state, and all personal property in the state, though owned by persons residing out of the state, shall be entered in the personal property book, and be subject to equal and uniform taxation, except as classified in section four, article eight of this chapter, unless especially exempted by law; but personal property of all classes, except as hereinbefore provided, belonging to the residents of this state, which is actually and permanently located in another state, and by the laws of such other state is subject to taxation and is actually taxed in such other state, shall not be entered on the personal property book, or be taxed in this state. But the shares of capital stock owned by residents of this state in corporations actually located in other states, and whose property is taxed by the laws of such other state, shall not be required to be listed for taxation. All moneys belonging to citizens of this state, and loaned to any person or deposited out of the state, shall be subject to taxation the same as if loaned or deposited in this state. Any person who at any time before the assessment year transfers by loan, deposit or gift, any

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22 money, notes, bonds, bills and accounts receivable, stocks and
23 other intangible personal property, which are subject to tax-
24 ation to anyone, who does not return a list of taxation as of the
25 day on which the assessment year commences including such
26 property, transfers, loans, deposits or gifts, if made with the in-
27 tention of evading taxation, shall be deemed and treated as
28 illegal and fraudulent and the assessor shall assess such prop-
29 erty for taxation to the party who makes such transfers, loans,
30 deposits or gifts as aforesaid.

Sec. 2. In his personal property books the assessor shall
2 enter the names and post office addresses of the owners of per-
3 sonal property and of other persons liable to capitation tax,
4 alphabetically arranged by districts, showing separately the
5 values of:

- 6 (1) All tangible personal property employed exclusively
7 in agriculture including horticulture and grazing;
- 8 (2) All products of agriculture (including live stock) while
9 owned by the producer;
- 10 (3) All money, notes, bonds, bills and accounts receivable,
11 stocks and any other intangible personal property;
- 12 (4) The total of one, two and three;

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13 (5) All other tangible personal property.
14 The tax commissioner may prescribe such itemization and
15 further information as he deems necessary. The assessor shall
16 make the same number of copies and extend the levies in the
17 same way as he does with the landbook.

Sec. 3. The words "personal property," as used in this
2 chapter, shall include all fixtures attached to land, if not in-
3 eluded in the valuation of such land entered in the proper land-
4 book; all things of value, movable and tangible, which are the
5 subjects of ownership; all chattels, real and personal; all money,
6 notes, bonds, and accounts receivable, stocks and other intan-
7 gible property.

8 The word "money" includes not only coin, but all notes,
9 tokens or papers which circulate or are used in ordinary trans-
10 actions as money or currency, and deposits, which either in
11 terms or effect are payable in money on demand.

12 "Agriculture" shall mean the cultivation of the soil, includ-
13 ing the planting and harvesting of crops and the breeding and
14 management of live stock.

15 "Horticulture" shall mean plant production of every char-
16 acter except forestry.

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17 "Grazing" shall mean the use of land for pasturage.
18 "Products of agriculture" shall mean those things the exist-
19 ence of which follows directly from the activity of agriculture,
20 horticulture or grazing, including dairy, poultry, bee and any
21 other similar products, whether in the natural form or processed
22 as an incident to the marketing of the raw material.

23 "Producer" shall mean the person who is actually engaged
24 in the agriculture, horticulture and grazing which gives exist-
25 ence and fruition to products of agriculture as distinguished
26 from the broker or middleman.

27 "While owned by the producer" shall mean while title is in
28 the producer as above defined.

29 "Employed exclusively" shall mean that the preponderant,
30 and the sole gainful, use is for the designated purpose.

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Sec. 4. Every person required by law to list personal prop-
erty for taxation shall list the tangible personal property in the
magisterial district wherein it is on the first day of the assess-
ment year, and chattels real in the magisterial district wherein
the land to which they relate is located; and he shall list for tax-
ation in the magisterial district in which he resides the money,
notes, bonds, bills and accounts receivable, stocks and other in-

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8 tangible personal property subject to taxation belonging to him-
9 self or under his charge or control, whether the same, or the
10 evidence thereof be in or out of the state; but capital, money and
11 intangible property (except real estate and chattels real) em-
12 ployed in any trade or business (other than agriculture) be-
13 longing to a company whether it is incorporated or not, or to an
14 individual, shall be assessed for taxation in the magisterial dis-
15 trict wherein the principal office for the transaction of the
16 financial concerns pertaining to such trade or business is lo-
17 cated; or, if there be no such office, then in the district where
18 the operations are carried on. Goods and chattels and other
19 tangible personal property not exempt from taxation which
20 may not be assessed for taxation in the magisterial district
21 where the same were on the first day of the assessment year,
22 but which have been removed therefrom, shall be assessed in the
23 magisterial district where the same were on the first day of the
24 assessment year; but the assessment and payment of taxes in any
25 county or district in any year shall exonerate the owner of
26 such property in any other county or district for such year:
27 *Provided, however,* That in cases of the assessment of lease-
hold estates a sum equal to the valuations placed upon such

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28 leasehold estates shall be deducted from the total value of the
29 estate, to the end that the valuation of such leasehold estate
30 and the remainder shall aggregate the true and actual value of
31 the estate.

Sec. 5. The value of any credit, if the solvency of the party
2 liable therefor be doubtful or if the claim be disputed, shall be
3 estimated at its probable worth; if it be payable in anything but
4 money, its probable value in money, to be fixed by the assessor,
5 is to be listed; if a solvent credit bear interest which has not
6 been paid, the amount of principal and interest, calculated up
7 to the first day of the assessment year of the year for which the
8 assessment is made shall be listed; but if it do not bear interest,
9 and be not due, the interest for the time it has run from the
10 first day of the assessment until it be due and payable, may be
11 deducted. Investment, in notes, bonds, bills, stocks and other
12 intangible property, shall be rated by the assessor at their
13 market price, or if there be no known market price, then at their
14 proper value, according to the rule prescribed in this chapter.

Sec. 6. When the property, stock or capital of any company,
2 whether incorporated or not, is assessed to such company, no
3 person owning any share, portion or interest therein, shall be

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4 required to list the same or be assessed with the valuation
5 thereof.

Sec. 7. Nothing contained in this chapter shall be construed
2 to require any person to furnish, or the assessor to take, a list
3 of the several articles of such person's household and kitchen
4 furniture, except as required under the provisions of section
5 two of this article.

Sec. 8. Any transient person desiring to offer or furnish for
2 sale, either by auction or otherwise, any goods or merchandise
3 not assessed for the purpose of taxation in any county in this
4 state, shall apply to the assessor of the county in which such
5 goods or merchandise is about to be offered or furnished for sale,
6 and have the value thereof ascertained and assessed with taxes,
7 as like property is valued and assessed, and shall, before selling
8 any of such goods or merchandise, pay to such assessor the taxes
9 levied for the current year. If at the time of such valuation
10 any payment of taxes the levies for the current year shall not
11 have been ascertained, the assessor shall assess such valuation
12 according to the rate of taxation levied for the previous assess-
13 ment year, for all purposes for which such goods or merchan-
14 dise is liable to be assessed for the current year, in the place

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15 where they are to be offered or furnished for sale. If the
16 amount thus ascertained and paid is afterward ascertained to
17 be in excess of the taxes levied for the current year, he shall
18 have such excess refunded to him. The assessor shall at the
19 time he so values such goods or merchandise and collects the
20 taxes thereon, if his personal property book has not been com-
21 pleted and certified, enter such valuation therein, under the
22 appropriate heading in the name of the owner of such goods or
23 merchandise. If at the time of such valuation and collection of
24 taxes thereon such personal property books shall have been com-
25 pleted and certified, he shall enter the same in the supplement to
26 the copy of such book retained by him, and in either event he
27 shall furnish to the auditor, to the clerk of the county court
28 and to the municipality, if any, interested therein, respectively,
29 certifies of such valuation and of the amount of taxes collected
30 thereon by him. The auditor and such clerk shall preserve such
31 certificates in their respective offices, and, if the entry of such
32 valuation and assessment of taxes thereon shall not have been
33 made in the personal property book before copies thereof have
34 been certified, they shall also enter the amount of such valuation
35 so certified to them in the supplements to their respective copies

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36 of such personal property book. The assessor shall deliver to
37 such person a receipt for the amount of taxes paid by by him,
38 stating therein the character of the goods or merchandise on
39 which such taxes were paid, the value assessed thereon, and the
40 amount of taxes and the year for which the same were paid.
41 Such receipt shall be signed by the assessor and attested by the
42 clerk of the county court, and when so signed and attested shall
43 operate as a discharge to such person holding the same for any
44 further liability for taxes in any county of the state on account
45 of such goods or merchandise for that year; but it shall not re-
46 lieve him from all liability for taxes on account of goods or
47 merchandise which he has not reported to the assessor to be
48 valued, and on which he has not paid the taxes as herein pro-
49 vided. The assessor shall report to the clerk of the county court all
50 taxes collected by him, under this and the preceding section, upon
51 property assessed by him after he has completed and certified
52 his personal property book, and it shall be the duty of such
53 clerk to charge the same against him in the supplement to the per-
54 sonal property book filed with such clerk. Any such person
55 who shall violate any of the provisions of this section shall be
56 guilty of a misdemeanor, and shall be fined not less than fifty

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57 nor more than five hundred dollars. The assessor shall appor-
58 tion the taxes collected by him under the provisions of this sec-
59 tion, and shall account therefor to the county, district and mu-
60 nicipality entitled thereto, according to the rate levied for the
61 current year for each of them. Any assessor who shall fail to
62 perform the duty required of him by this section shall forfeit
63 not less than twenty-five nor more than one hundred dollars.
64 If he shall fail to account for any taxes collected by him under
65 the provisions of this section he shall be guilty of embezzle-
66 ment, and shall, in addition to the foregoing penalty, be pun-
67 ished therefor according to law.

Sec. 9. The assessor shall ascertain from each person in his
2 county, who acts under the order of any court as receiver or
3 commissioner, the amount of all moneys and bonds, or other
4 evidence of debt, under his control, and the style of the suit
5 in which such fund belongs and, from the clerk of such court,
6 the amount deposited by order of such court in any banking
7 institution or national banking association to the credit of any
8 suit in such court, and the style of such suit.

Sec. 10. If the assessor discover that any taxes on personal

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2 property were omitted in any former years, he shall proceed as
3 provided in section five of article three of this chapter.

ARTICLE 6

Section 14. The clerk of the county court of every county
2 in which any property lies which was so assessed shall, within
3 thirty days after the county and district levies are laid by such
4 court, certify to the auditor the amount levied upon each one
5 hundred dollars' value of the property of each class in the
6 county for county purposes, and on each one hundred dollars
7 of the value of the property of each class in each magisterial
8 district for the district purposes. It shall be the duty of the
9 secretary of the board of education of every school district
10 and independent district in which any part of the property
11 lies, within thirty days after the levies are laid therein for
12 free school and building purposes, or either, to certify to the
13 auditor the amount so levied on each one hundred dollars'
14 value of the property of each class therein for each of such
15 purposes; and it shall be the duty of the recorder, clerk or
16 other recording officer of every municipal corporation in which
17 any part of the property lies, within the same time, after levies
18 are laid therein for any of the purposes authorized by law, to

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19 certify to the auditor the amount levied upon each one hundred
20 dollars' value of the property of each class therein for each
21 and every purpose.

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See. 16. As soon as possible after the valuation of the prop-
2 erty of such owner or operator is fixed by the board of public
3 works or by the circuit court on appeal as aforesaid, and after
4 he shall have obtained the information herein provided for to
5 enable him to do so, the auditor shall assess and charge each
6 class of property of every such owner or operator with the
7 taxes properly chargeable thereon, in a book to be kept by him
8 for that purpose, as follows: (a) With the whole amount of
9 taxes upon such property for state and state school purposes,
10 if any such taxes are levied; (b) with the whole amount of
11 taxes on such property in each county for county purposes;
12 (c) with the whole amount of taxes on such property in each
13 magisterial district for road and other district purposes, other
14 than free school and building purposes; (d) with the whole
15 amount of taxes on such property in each school district and
16 independent school district for free school and building pur-
17 poses; (e) with the whole amount of taxes on such property
18 in each municipal corporation for each and all of the purposes

Chairman House Committee.

CORRECTLY ENROLLED

James L. Smith
Henry D. Abner

Chairman House Committee.

Chairman Senate Committee.

19 for which a levy therein was made by the municipal authorities
20 of such corporation.

Sec. 2. The various provisions of this article shall be con-
2 strued as separable and several and should any of the provi-
3 sions or parts thereof be construed or held to be unconstitu-
4 tional or, for any other reason, invalid, the remaining provi-
5 sions of this act shall not be thereby affected.

6 All acts, general or special, inconsistent with the provisions
7 of this act are hereby repealed.

CORRECTLY ENROLLED

John A. Smith
Chairman Senate Committee

Wm. M. Hunter
Speaker of the House of Delegates.

Wm. Hall
Clerk of the House of Delegates.

A. S. Mansur
President of the Senate.

Wm. Amely
Clerk of the Senate.

James A. Smith
Chairman House Committee

The within is... *approved*

this *16th* day of *March* 1933.

H. S. Kemp
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1933**
Wm. S. O'BRIEN,
Secretary of State