WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED

HOUSE BILL No. 1109

(By Mr. Teets and Mr. Shiflet)

Passed April 11, 1981
In Effect July 1, 1981
AN ACT to amend and reenact section five, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing criteria for the determination of the market value of certain property for inheritance tax purposes.

Be it enacted by the Legislature of West Virginia:

That section five, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 11. INHERITANCE AND TRANSFER TAXES.

§11-11-5. Determination of market value.

The market value of property is its actual market value after deducting debts and encumbrances for which the same is liable, and to the payment of which it shall actually be subjected, except that the market value of all property owned, used and occupied by the decedent at the time of his death exclusively for residential purposes shall be arrived at by giving primary, but not exclusive, 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 market value of all farms used, occupied and cultivated by decedents at the time of their death 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 market value shall be arrived at by given 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.

In fixing such market value, allowances shall not be made for debts incurred by the decedent, or encumbrances made by him, unless such debts or encumbrances were incurred or created in good faith for an adequate consideration, nor for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement from any other estate or person cannot be obtained.

For the purpose of the tax there shall be deducted from the market value of the property transferred the value at which it was assessed for any inheritance or transfer tax paid to the state of West Virginia upon a transfer to the decedent at any time within three years prior to the death of the decedent. That part of the value of property which was allowed as an exemption and upon which the tax was not actually measured and paid shall not be deducted as previously taxed property. This paragraph shall apply only to transferees designated in subdivisions (a) and (b), of section two of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Bailey
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect July 1, 1981.

Todd C. Williams
Clerk of the Senate

Clerk of the House of Delegates

Ulrich B. O'Conor
President of the Senate

Speaker House of Delegates

The within approved this the 20th day of _ , 1981.

John D. Randolph
Governor