WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1983

ENROLLED
Committee Substitute for
SENATE BILL NO. 10

(By Mr. [Signed], President)

PASSED June 2, 1983
In Effect ninety days from Passage

APPROVED AND SIGNED BY THE GOVERNOR

Date 6-15-83
AN ACT to repeal section four, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section eight, article six-b of said chapter; to amend article three, chapter four of said code by adding thereto a new section, designated section three-b; to further amend said chapter eleven by adding thereto a new article, designated article one-a; to amend and reenact sections two and ten, article three of said chapter eleven; to further amend article three of said chapter eleven by adding thereto a new section, designated section thirty-one; to amend and reenact sections three and seven, article six-b of said chapter eleven; and to amend and reenact section six, article twenty-two of said chapter eleven, relating to property taxation generally; providing for the reappraisal of property for the periodic statewide reappraisals mandated by section one-b, article ten of the constitution of West Virginia; repealing a section of the code requiring the owner of property to list property subject to taxation under oath; repealing the section of the code which provides for state
reimbursement of local levying bodies for revenues lost by reason of the increase in the homestead property tax exemption; directing the joint committee on government and finance to study matters relating to legislation required by the property tax limitation and homestead exemption amendment of one thousand nine hundred eighty-two, and make recommendation thereon, and to study alternate methods of determining what property should be subject to ad valorem property taxation; describing the manner in which the tax commissioner is to appraise property for the statewide reappraisal; prescribing the powers and duties of the tax commissioner regarding statewide reapraisals; authorizing the tax commissioner to seek enforcement of penalties for failure of assessors or appraisers to perform duties; granting subpoena power to the tax commissioner in aid of the purposes of said article one-a; granting power to the tax commissioner to promulgate rules and regulations to carry out and enforce the provisions of said article one-a, chapter eleven; establishing a base year for the first statewide reappraisal; defining terms; requiring returns and prescribing other methods for identifying property subject to taxation; describing those persons who are required to make return; excepting certain property from listing or appraisal; requiring supplemental information to be filed relating to depreciation of property; providing that certain valuations shall not be taken as certified or given under oath; establishing methods for ascertaining the assessed value of all property as of the first day of July, one thousand nine hundred eighty-three; providing for the collection of information relating to subsequent alterations in property and economic changes; prescribing the method for valuing farm property; requiring the tax commissioner to propose a legislative rule which describes the methods whereby certain classes or species of property will be valued; describing the division of functions between the tax commissioner and assessors; directing that persons registered with the West Virginia department of employment security job service program be given first preference for positions; establishing residency requirements for certain employees; permitting the tax commissioner to revise information concerning property values so as to achieve uniformity; establishing safeguards
to assure fair treatment of persons whose property is being assessed; providing for the release of information concerning reappraised values; requiring the tax commissioner to propose a legislative rule whereby adjustments are to be made in reappraisals due to alterations in property; providing for certification of reappraisals; prohibiting further reappraisals under chapter eighteen of this code until after certification of the first statewide reappraisal; providing for the appraisal of property by the tax commissioner and the delivery of appraisal information to county officials; providing for administrative review of appraisal by the tax commissioner; providing for review and hearing by the county commission; providing for judicial review by writ of certiorari; requiring subsequent statewide reappraisals at least every ten years; mandating agencies of state and local governments to cooperate with the tax commissioner in reappraising property; requiring the tax commissioner to establish a statewide electronic data processing system network; providing for the phase-in of increases in assessed valuations over a ten-year period; providing for the confidentiality of the property tax returns, return information and other information obtained by subpoena or subpoena duces tecum and setting forth penalties for violation of confidentiality; requiring the tax commissioner to develop appraisal manuals for use in making statewide reappraisals; setting forth penalties and forfeitures for failure to list property for appraisal; requiring corporations to report property under oath to the tax commissioner; creating the West Virginia appraisal control and review commission and defining the term of existence thereof; prescribing the duties of said commission; requiring the tax commissioner to provide services, staff and equipment to the commission; providing for the nomination and appointment of commission members; providing for the removal of such members and the filling of vacancies; authorizing compensation and payment of expenses of commission members; describing the composition of commission subcommittees; establishing an appraisement manual review subcommittee and a computer technology review subcommittee; providing for compensation of subcommittee members; empowering the commission to issue cease and desist orders; authorizing the governor to
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rescind or modify cease and desist orders; providing for meetings of the commission and establishing a quorum therefor; providing for the treatment and disposition of taxpayer complaints; describing certain requirements for review appraisal; establishing qualifications for review appraisers with respect to residential property; providing that review appraisers shall be competent witnesses in proceedings relating to appraisal of property; setting forth requirements for employment of state employees and employees of designated agents; setting forth legislative findings with respect to employment requirements; requiring the modification of the existing contract for the mass appraisal of residential properties and other reappraisal services; exempting certain appraisal employees of the state tax department from civil service; providing for severability of the provisions of article one-a, chapter eleven of the code; describing the methods by which assessors carry out their work of assessment; setting forth penalties and forfeitures for failure to list property for taxation in annual assessment procedures and removing the requirement that such listing be under oath; ratifying, approving and confirming the usual practices and procedures of assessors prior to the second day of July, one thousand nine hundred eighty-two; allowing a twenty thousand dollar homestead exemption for certain residential property; describing how such homestead exemption shall be entered upon the property books and stating when taxes shall not be levied; and modifying the requirements concerning the declaration of consideration or value appended to instruments of conveyance so as to require certain additional information.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section eight, article six-b of said chapter be repealed; that article three, chapter four of said code be amended by adding thereto a new section, designated section three-b; that said chapter eleven be further amended by adding thereto a new article, designated article one-a; that sections two and ten, article three of said chapter eleven be amended and reenacted; that said article three of chapter eleven be further amended by adding thereto a new section, designated section
thirty-one; that sections three and seven, article six-b of said chapter eleven be amended and reenacted; and that section six, article twenty-two of said chapter eleven be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 3. JOINT COMMITTEE ON GOVERNMENT AND FINANCE.

§4-3-3b. Duty of the joint committee on government and finance with respect to the statewide reappraisal to be completed on the thirty-first day of March, one thousand nine hundred eighty-five.

The joint committee is hereby directed to study during the calendar years one thousand nine hundred eighty-three and one thousand nine hundred eighty-four, any and all matters upon which legislation is required by the property tax limitation and homestead exemption amendment of one thousand nine hundred eighty-two and any matters upon which, in the joint committee's judgment legislation may become necessary with respect thereto, including a study of the desirability of this state converting, for purposes of determining the property subject to ad valorem property taxation, to an averaged annual value method or pro-rata value method as opposed to a tax-status-day value method. The committee shall report to the Legislature any recommendations which it may deem proper, along with legislation to effectuate those recommendations.

CHAPTER 11. TAXATION.

ARTICLE 1A. APPRAISAL OF PROPERTY FOR PERIODIC STATEWIDE REAPPRAISALS.

§11-1A-1. Tax commissioner to appraise property to ascertain value; relating reappraisal to specified base year, powers and duties of tax commissioner regarding statewide reappraisals.

(a) In conducting the reappraisals of property mandated by the West Virginia Constitution and required by this article, the tax commissioner shall appraise all property so as to ascertain the value thereof for assessment purposes, relating such reappraisal to a specified base year in a manner which is uniform for all classes of property and all counties.
(b) It shall be the duty of the tax commissioner to see that the laws concerning the periodic statewide appraisal of property are faithfully enforced. He shall prepare all proper forms and books for the use and guidance of appraisers and assessors, and shall perform all such other duties as may be required by law. He shall from time to time visit the several counties and shall inspect the work of the appraisers and the several assessors and shall confer with them respecting such work for the future. In such conference, or by writing or otherwise, he may inquire into the proceedings of any such officer, make to him such suggestions respecting the discharge of his duty as may seem proper, and give such information and require such action as will cause all property subject to ad valorem property taxation to be appraised at its market value.

(c) The tax commissioner may appoint competent persons to appraise property values, and may employ experts to examine and report upon the different kinds and classes of property in the state, with a view to ascertaining the value thereof for appraisal and assessment purposes, to the end that he may furnish to county assessors, county commissions and the state board of public works more accurate information, and more effectively aid and supervise the assessors and the county commissions in their work of assessment and valuation of property for purposes of taxation.

(d) Upon the application of any officer concerned with the assessment or collection of taxes, the tax commissioner shall, as to any matter specified by such officer, make like suggestions and give like information. In case of the failure of any appraiser or assessing officer in the discharge of any duty imposed upon him by law, the said commissioner shall, after due notice to any such assessor or collecting officer, proceed to enforce such penalty as may be provided by law, including, in any proper case, the removal of such officer, and to that end the commissioner is authorized to appear before any court or tribunal having jurisdiction. In any proceeding to enforce a penalty, if a hearing for an assessor or collecting officer is not otherwise provided by law, then such assessor or collecting officer shall be afforded a hearing by the tax commissioner in accord with the provisions of article five, chapter twenty-nine-a of this
code. The commissioner may cause the violation of any law respecting the appraisal of property subject to ad valorem property taxation to be prosecuted. He may also be heard before any court, council or tribunal, in any proceeding in which an abatement of taxes is sought. The commissioner shall, inter alia, have the power to accept bids, award contracts, requisition funds appropriated for his expenditure, and require the cooperation of other state and local officials. In awarding such contracts the tax commissioner shall require that provision be made for such indemnity, bond or contract of insurance as will be sufficient, in the tax commissioner’s judgment, to hold the state harmless.

(e) For the efficient administration of the powers vested in the tax commissioner by this section, the commissioner shall have the power to issue subpoenas and subpoenas duces tecum, and compel the attendance of witnesses and the production of books, papers, records, documents and testimony at the time and place specified. Every such subpoena and subpoena duces tecum shall be served at least fifteen days before the return date thereof by personal service made by any person over eighteen years of age. Service of subpoenas and subpoenas duces tecum shall be the responsibility of the commissioner. Any persons, except a person in the employ of the state tax department, who serves any such subpoena or subpoena duces tecum shall be entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts of this state. Upon motion made promptly, and in any event before the time specified in a subpoena or subpoena duces tecum for compliance therewith, the circuit court of the county in which the person upon whom any such subpoena or subpoena duces tecum was served resides, has his or its principal place of business or is employed, or the circuit court of the county in which any such subpoena or subpoena duces tecum was served, or the judge of any such circuit court in vacation, may grant any relief with respect to any such subpoena or subpoena duces tecum which any such circuit court, under the “West Virginia Rules of Civil Procedure for Trial Courts of Record,” could grant, and for any of the same reasons, with respect to any such subpoena or subpoena duces tecum issued from any such circuit court. In case of disobedience
or neglect of any subpoena or subpoena duces tecum served on any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, the circuit court of Kanawha County or of the county in which such person resides, has his or its principal place of business or is employed, or the judge thereof in vacation, upon application by the commissioner shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from circuit court or a refusal to testify therein. Witnesses subpoenaed under this subsection shall testify under oath or affirmation.

(f) The tax commissioner may prescribe all necessary forms and promulgate such rules and regulations as he believes necessary to carry out and enforce the provisions of this article. Such rules and regulations shall be subject to the provisions and requirements of the state administrative procedures act in chapter twenty-nine-a of this code: Provided, That all rules and regulations of the tax commissioner regarding ad valorem property taxes presently in effect on the effective date of this article shall remain in full force and effect until amended or repealed by the commissioner in the manner prescribed by law, or abrogated by the enactment of this article or other statutory provisions of this code.

(g) The tax commissioner is hereby directed to cooperate with the joint committee on government and finance of the Legislature in its review, examination and study of the implementation of the property tax limitation and homestead exemption amendment of one thousand nine hundred eighty-two, section one-b, article ten of the constitution of West Virginia, and any other similar studies which may arise under the authority granted to the joint committee on government and finance under the provisions of section three-b, article three, chapter four of this code. The tax commissioner shall continuously monitor and enforce the requirements of this article relating to the employment qualifications of employees of the state and its designated agents, and at least quarterly shall ascertain whether such requirements are being met and report thereon to the joint committee on government and finance. Not less than monthly, the tax commissioner shall report to
the joint committee on government and finance or its designated subcommittee on any matters considered or action taken by the West Virginia appraisal control and review commission, or any matters relating to the reappraisal otherwise pertinent or of interest to the joint committee on government and finance. On or before the fifteenth day of January, one thousand nine hundred eighty-four, the tax commissioner shall report to the joint committee on government and finance on the benefits, desirability and disadvantages, as well as the alternative methods available, for the possible implementation of section fifty-three, article six of the constitution of West Virginia, the forestry amendment.

§11-1A-2. Base year for first reappraisal.

The base year for the first statewide reappraisal shall be the year one thousand nine hundred eighty-three.

§11-1A-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:
(a) "Assessed value" of any item of property is its assessed value after the certification of the first statewide reappraisal and shall be sixty percent of the market value of such item of property regardless of its class or species, except as hereinafter specifically provided in this article;
(b) "Base year" shall have the meaning ascribed to that term by the provisions of section two of this article;
(c) "Commission" shall mean the West Virginia appraisal control and review commission;
(d) "Commissioner" or "tax commissioner" shall mean the chief executive officer of the state tax department except in those instances where the context clearly relates to the West Virginia appraisal control and review commission, in which case "commissioner" shall mean any member of such commission;
(e) "Designated agent" shall mean a person, not directly employed by the tax commissioner, who is designated by the tax commissioner to perform reappraisal functions authorized or required by this article. Such term shall include, but not be limited to, agents and independent contractors, and nothing in this article shall be construed to alter the relationship of the state of West Virginia, or its
officers, and such persons to create relationships not contemplsted by agreements between the tax commissioner and such persons;

(f) "Farm" shall mean and include land currently being used primarily for farming purposes, whether by the owner thereof or by a tenant and which has been so used for at least seasonally during the year next preceding the then current tax year, but shall not include lands used primarily in commercial forestry or the growing of timber for commercial purposes;

(g) "Farming purposes" shall mean the utilization of land to produce for sale, consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit, vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco, syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes of ornamental trees, sod, seed and any and all similar commodities or products including farm wood lots and the parts of a farm which are lands lying fallow, or in timber or in wastelands;

(h) "Property situate in this state" shall mean:

(1) Property having legal situs in this state; or

(2) In the case of persons with a place of business located in this state and authorized to do business in this state and one or more other states of the United States or any foreign country:

(A) Any tangible property brought into this state from time to time or otherwise deemed to have situs in this state for purposes of ad valorem property taxation, and

(B) Any intangible property held by such person, wherever evidence thereof is situate. In the case of assessment of such intangible property for ad valorem property taxation after the first statewide reappraisal only such part thereof as may be determined by applicable law or regulation to be subject to such taxation shall be deemed to be situate in this state;

(i) "Value," "market value" and "true and actual value" shall have the same meaning and shall mean the price at or for which a particular parcel or species of property would sell if it were sold to a willing buyer by a willing seller in an arms length transaction without either the buyer or the seller being under any compulsion to buy or sell: Provided,
That in determining value, primary consideration shall be given to the trends of price paid for like or similar property in the area or locality wherein such property is situate over a period of not less than three nor more than eight years next preceding the base year and in the case of a farm or farms shall be determined assuming such land is being used for farming purposes. In addition, the commissioner may, for purposes of appraisement of any tract or parcel of real property, or chattels, real or other species of property, real or personal, take into account one or more of the following factors: (1) The location of such property; (2) its site characteristics; (3) the ease of alienation thereof, considering the state of its title, the number of owners thereof, and the extent to which the same may be the subject of either dominant or servient easements; (4) the quantity of size of the property and the impact which its sale may have upon surrounding properties; (5) if purchased within the previous eight years, the purchase price thereof and the date of each such purchase; (6) recent sale of, or other transactions involving, comparable property within the next preceding eight years; (7) the value of such property to its owner; (8) the condition of such property; (9) the income, if any, which the property actually produces and has produced within the next preceding eight years; and (10) any commonly accepted method of ascertaining the market value of any such property, including techniques and method peculiar to any particular species of property if such technique or method is used uniformly and applied to all property of like species.

§11-1A-4. Identification of property to be appraised; persons required to make return.

(a) On or before the first day of December, one thousand nine hundred eighty-three, every person who owns property which was situate in this state on the first day of July, one thousand nine hundred eighty-three, shall prepare a return itemizing and describing such property, whether real or personal, and shall file such return with the assessor of the assessment district wherein such property is located, except in the case of a taxpayer whose annual return for the assessment of property is filed with some other public officer, then the return required by this section
shall be filed with the tax commissioner who shall allocate
the contents to the appropriate counties by such means as
he determines appropriate. The form for the return shall be
designed by the tax commissioner, and shall provide a
means for the orderly listing of all property not excepted
from listing under the provisions of section five of this
article. A similar return, itemizing and listing such
property, shall also be made, at the same time, by every
person holding, possessing or controlling real or personal
property 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.

(b) The return required by subsection (a) of this section
shall be made and the information furnished:

(1) With respect to an individual who is deceased, the
return of such individual required under subsection (a)
shall be made by his or her executor, administrator, or other
person charged with the property of such decedent;

(2) With respect to a person under a disability who is
unable to make a return required under subsection (a), the
return of such individual shall be made by a duly authorized
agent, committee, guardian, fiduciary or other person
charged with the care of the person or property of such
individual: Provided, That this subdivision shall not apply
in the case of a receiver appointed by authority of law in
possession of only a part of the property of an individual;

(3) With respect to a case where a receiver, trustee in
bankruptcy, or assignee by order of a court of competent
jurisdiction, by operation of law or otherwise, has
possession of or holds title to all or substantially all of the
property or business of a corporation, whether or not such
property or business is being operated, such receiver,
trustee, or assignee shall make the return for such
corporation in the same manner and form as corporations
are required to make such returns;

(4) With respect to property of an estate or a trust, the
return shall be made by the fiduciary thereof; and

(5) With respect to the property of a married person who
is absent from the state, the return shall be made by his or
her spouse.
A return made by one or two or more joint fiduciaries shall be sufficient compliance with the requirements of this section in any case where the return is required to be made by a fiduciary.

With regard to real property not excepted from listing for appraisal under the provisions of section five of this article, a summary legal description sufficient to identify and locate the property shall be given for each parcel of real estate, and, if applicable, the name of the street and number, its area, and if improved, a short statement of the character of the improvements.

§11-1A-5. Property excepted from listing for appraisal.

Bank deposits, money and household goods and personal effects, if such household goods and personal effects are not held or used for profit, are exempt from the ad valorem property taxation and shall not be described and listed on the forms required to be filed under the provisions of section four of this article: Provided, That the term "personal effects" shall include, but not be limited to, firearms and ammunition held for personal use and not for profit. A person shall also not list real property assessed and listed upon the land books of the several counties for the taxable year one thousand nine hundred eighty-three, or on the first day of July, one thousand nine hundred eighty-three, for the taxable year one thousand nine hundred eighty-four.

§11-1A-6. Supplemental information required to be filed.

Every person required to file a tax return under the provisions of article thirteen, twenty-one or twenty-four of this chapter for the period ending on the thirty-first day of December, one thousand nine hundred eighty-two, or for income received or to be received during the calendar year one thousand nine hundred eighty-three, shall file a copy of a depreciation schedule included in a federal or state tax return for income taxation for the taxpayer's tax year ending on or after the first day of June, one thousand nine hundred eighty-two, or if the person did not prepare a depreciation schedule for such return or elects not to disclose the schedule from the tax return, a schedule showing property on which a deduction for depreciation could be claimed against gross or adjusted gross income.
received or receivable in the selected year, including a brief description of such property, its basis and, to the extent the taxpayer elects, any accumulated depreciation the taxpayer could have claimed in such year and prior years.

§11-1A-7. When valuations not certified.

If a person is required under the provisions of this article to fix what he deems to be the true and actual value of an item of property, whether real or personal, and if such valuation is not required to be made on any other tax return, then the valuation required by this article shall not be taken as certified or given under oath, but all other information required to be given under the provisions of this article shall be deemed to have been given under oath.

§11-1A-8. Ascertainment of assessed value as of the first day of July, one thousand nine hundred eighty-three.

(a) All real property assessed and listed upon the land books in the several counties as of the first day of July, one thousand nine hundred eighty-three, and property required to be described and listed pursuant to section four of this article, shall as soon as the same be returned or, if not returned, listed on the land books or otherwise identified, be categorized and systematically inventoried by the assessor of the county wherein such property is returned or returnable and by the tax commissioner in the case of property returned or returnable to the tax commissioner, for the purpose of ascertaining what the previously assessed value for each such item was or would have been as of the first day of July, one thousand nine hundred eighty-three. The information shall be categorized and systematically inventoried in accord with requirements specified by the tax commissioner and entered into the statewide data bank established by the tax commissioner for such purpose by the officer with whom the return is to be filed. The tax commissioner shall provide for the receipt and permanent preservation of the information entered in the data bank under this section and under the provisions of section nine of this article. As to any such property not so assigned a previously assessed value, effort shall be made by the appropriate county assessor to cause a back assessment to be made for the assessment date of the first day of July, one thousand nine hundred eighty-three and subsequent
assessment dates thereafter, if such assessment would have been proper as of the first day of July, one thousand nine hundred eighty-three, or thereafter, under law applicable to assessments on such dates.

(b) Property which is exempt from taxation under the provisions of section nine, article three of this chapter shall nonetheless be listed pursuant to section four of this article, and categorized and inventoried pursuant to subsection (a) of this section, and the exemption confirmed or not confirmed.

(c) It is the intention of the Legislature in enacting this section to provide a mechanism for determining the previously assessed value of property as that term is used in subsection D, section one-b, article ten of the constitution of West Virginia, in order that such previously assessed value may be compared with the assessed value of such property following the first statewide reappraisal to determine whether there is a resulting increase which should be allocated over a period of ten years in equal amounts annually, as required by the said constitutional provision.

§11-1A-9. Subsequent alterations in property; economic change.

In determining the previously assessed value of any property under the provisions of section eight of this article or in determining the market value or the assessed value of property as those terms are defined in section three of this article, the appraiser or assessor shall record any information evidencing alterations in the property subsequent to the first day of July, one thousand nine hundred eighty-three, including, but not limited to, substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences. The economic impact on the property, whether inflationary or deflationary as to value, shall be noted, but not considered to have an effect upon the previously assessed value.

§11-1A-10. Valuation of farm property.

(a) With respect to farm property, the tax commissioner shall appraise such property so as to ascertain its fair and reasonable value for farming purposes regardless of what
the value of the property would be if used for some other
purpose, and the value shall be arrived at by giving
consideration to the fair and reasonable income which the
property might be expected to earn in the locality wherein
situated, if rented. The fair and reasonable value for
farming purposes shall be deemed to be the market value of
such property for appraisal purposes.

(b) A person is not engaged in farming if he is primarily
engaged in forestry or growing timber. Additionally, a
corporation is not engaged in farming unless its principal
activity is the business of farming, and in the event that the
controlling stock interest in the corporation is owned by
another corporation, the corporation owning the
controlling interest must also be primarily engaged in the
business of farming.

§11-1A-11. Valuation of certain classes or species of property;

reserves coal properties; oil producing
properties; gas producing properties;
timberland; active mining mineral interest;
commercial real property and industrial land;
commercial and industrial furniture, fixtures,
machinery and equipment; intangible personal
property; public utility property; vehicles,
watercraft and aircraft.

On or before the first day of September, one thousand
nine hundred eighty-three, 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
methods whereby the tax commissioner will determine the
market value, during the first statewide reappraisal, of the
following property:

(1) Active and reserve coal properties;

(2) Oil producing properties;

(3) Gas producing properties;

(4) Timberland;

(5) Active mining mineral interests including limestone,
fireclay, dolomite, sandstone, and other actively mined
minerals;

(6) Commercial real property and industrial land;

(7) Commercial and industrial furniture, fixtures,
machinery and equipment;
§11-1A-12. Division of functions between the tax commissioner and assessor; local exceptions to value; revisions by tax commissioner; participation by assessor in hearings and appeals.

(a) It is the intent of the Legislature that in carrying out the appraisal functions required by this article, the tax commissioner shall utilize the county assessors and their employees. The county clerk shall prepare a list of all transfers of real property recorded during the calendar year one thousand nine hundred eighty-three for which payment of the excise tax on the privilege of transferring real property, required by article twenty-two of this chapter was required, and forward such list to the tax commissioner during the second month following such transfers' recording with the clerk of the county commission. The assessor shall review the land books for his county for the tax year one thousand nine hundred eighty-three and one thousand nine hundred eighty-four, and shall prepare a written property description of every parcel of real property not previously described on a property record card provided to the assessor by the tax commissioner under the provisions of section eleven, article nine-a, chapter eighteen of this code. The assessors may compile lists of comparable property sales and recommend appraisal values with respect to any property in their districts to which the tax commissioner shall give consideration when he fixes values for such property for reappraisal purposes to the extent such recommended values are supported by competent evidence.

(b) In each county during the reappraisal function, the tax commissioner shall designate a tax department employee as the coordinator of reappraisal functions among the commissioner's personnel, the commissioner's designated agents, and the assessor's personnel so as to insure that the resulting appraisal shall be complete, equal
and uniform. In each county, the tax commissioner or his designated agent shall prepare a description of the number, job description and minimum qualifications of personnel needed to accomplish the reappraisal, other than permanent employees of the tax commissioner or employees of the assessor. The tax commissioner or his designated agent shall employ qualified individuals to fill the positions giving first preference to persons registered with the West Virginia department of employment security job service program, but all such persons shall be residents of the county, or if the tax commissioner finds it necessary for efficiency, any contiguous county, or if none be available, the state. The tax commissioner shall make reasonable efforts to assure that the additional employment required by this article is allocated equitably among the several counties, with attention to the level of unemployment in and the population of each county.

(c) To the extent that the tax commissioner concludes that assessors and local employees have overemphasized or underemphasized local aspects in determining value, the tax commissioner may revise information concerning such values so as to achieve uniformity in the statewide reappraisal: Provided, That in any hearings or appeals under the provisions of this article the assessor or employee who participated in the gathering of such information may be a competent witness as to how tentative values were arrived at in the process of reappraisal before any such revision.

1 The tax commissioner shall require that his employees and any designated agent visit each parcel of land to be reappraised and perform other functions to assure a competent appraisal.
2 Upon any visit to land, no such employee, agent or employee of the agent shall enter into a dwelling house or the curtilage thereof, if any, unless the employee or agent shall give written notice to an adult person then present of the right of residents thereof to refuse such entry, nor insist upon entry upon any other land except at reasonable times, nor in any manner harass a person for refusing such entry or refusing entry at an unreasonable time, nor in any other manner intentionally harass or abuse any person incident to any such visit.
The tax commissioner shall assure that his employees and agents afford to all taxpayers before he certifies the reappraisal reasonable opportunity to review and comment in writing upon the accuracy of all real property descriptions and other reappraisal property listings and use reasonable means to resolve differences in such descriptions and listings, including informal hearings, reinspections where indicated, and written notice to any aggrieved taxpayer of the results of such review. Failure to comply with requirements of this section shall not be construed to invalidate a reappraisal value once determined and certified by the commissioner but upon any appeal or review of such certified reappraisal any evidence obtained in violation of the requirements of this section may be excluded unless corroborated.

The tax commissioner shall assure that his employees and agents maintain written records of all changes made in property descriptions or values by reason of informal reviews with taxpayers and all visits to land, including the dates thereof, names of participating persons present and a fair summary of the reasons for any changes. Such records shall be subject to inspection and production in any consideration of the propriety of the appraised value and may be admissible in evidence if otherwise probative upon the issue under consideration.

§11-1A-14. Release of results of statewide reappraisal; legislative rule regarding changes in quality or quantity of property; publication and certification of statewide reappraisal.

(a) As the tax commissioner completes the appraisal process he may make the information concerning the reappraised values available, either upon request or by notice as hereinafter provided for in this article: Provided, That no such information shall be made available by the tax commissioner unless and until the same information is available throughout the assessment district for all property within the same class or species as the particular property for which appraisal values are to be made available.

(b) On or before the first day of September, one thousand nine hundred eighty-four, 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 method whereby the tax commissioner will adjust appraised values determined by the statewide reappraisal on account of substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences.

(c) At the time of making available information as to appraised value as provided for in this section which shall not be later than the thirty-first day of March, one thousand nine hundred eighty-five, the tax commissioner shall certify and publish such results for use when directed by the Legislature. As certifications are made and notice is given to taxpayers as provided for in section sixteen of this article, request for review, hearing and appeal under said section may proceed notwithstanding the fact that the statewide reappraisal is not completed for all classes and species of property in all counties of the state. However, none of the appraised values ascertained during the course of the statewide reappraisal of property shall be utilized for assessment purposes unless and until the statewide reappraisal is completed for all classes and species of property in all counties and the use of the results have been directed by the Legislature.

(d) Inasmuch as it is the intent of the Legislature that the tax commissioner concentrate his reappraisal efforts upon the first statewide reappraisal until it is completed, and because prior reappraisal methods and results may not be wholly consistent with the methods and results of the statewide reappraisal, the tax commissioner shall not complete, deliver or certify appraisals of nonutility real property and nonutility personal property under the provisions of section eleven, article nine-a, chapter eighteen of this code, after the effective date of this article and prior to the completion, publication and certification of the first statewide reappraisal under this article: Provided, that the tax commissioner shall not be precluded from correction of prior appraisals under the provisions of current or prior law, but this proviso shall not be construed to avoid the other provisions of this paragraph.
§11-1A-15. Appraisal of property; lists to county officials.
(a) All real property assessed, or which should have been assessed, as of the first day of July, one thousand nine hundred eighty-three, and all property described and listed pursuant to section four of this article, shall be appraised by the tax commissioner at its value as defined in this article, in order that the tax commissioner may comply with the requirement of section one of this article.
(b) As appraisals are completed and notices given in accordance with the provisions of section sixteen of this article, lists of the property appraised, the owners and valuations shall be delivered to the assessor, the county commission and the sheriff of the county wherein the appraised property is liable to assessment.

§11-1A-16. Administrative review of appraisal.
(a) Upon receipt by the assessor of the lists of property appraised and the owners and the valuations thereof, as provided by section fifteen of this article, the assessor shall forthwith cause a notice to be given in the form of a Class I legal advertisement which advises that the appraisal of property within the county is or has been completed and that the results thereof are available to any person interested therein in the office of sheriff of the county wherein the property is located. After such advertisement has been made, the assessor shall forthwith mail to each owner, a notice of the amount of such valuation. The notice shall be addressed to the person or persons in whose name any such property is assessed or who is liable, and shall be mailed to the address of such person or persons as reflected upon the tax tickets in the office of the sheriff of the county wherein such property is located. Such notice shall be in a form prescribed by the tax commissioner and shall inform the owner that if he desires to challenge such valuation he must inform the tax commissioner within twenty-one days of the date of such notice, in writing, of his intention to so challenge the valuation.
(b) If the owner mails such writing to the tax commissioner within twenty-one days of the date of the notice of valuation, the tax commissioner shall, within thirty-five days after the date of the notice of valuation, provide the owner and the assessor with a written statement of the information upon which the tax commissioner relied in making such appraisal.
(c) Within twenty-one days after the date of the written statement of information furnished by the tax commissioner as provided in subsection (b) of this section, the owner may request the tax commissioner to review the valuation of this property. Such request shall be in writing, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the tax commissioner to make the redetermination described in subsection (d) of this section.

(d) After a request for review is made under subsection (c) of this section, the tax commissioner shall determine whether or not (1) the process of making the appraisal is reasonable under the circumstances, and (2) the amount of valuation of the appraised property is appropriate under the circumstances. In determining whether the appraisal is reasonable and the amount of the valuation appropriate, the tax commissioner shall take into account not only information available at the time the appraisal was made but also information which subsequently becomes available. The tax commissioner shall notify the owner and the assessor of his determination made under this subsection.

(e) If, at any time prior to making the determination required by subsection (d) of this section, the tax commissioner shall conclude that an appraised value is incorrect as a result of a clerical error, or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of the exercise of judgment, he may correct such error or mistake and shall give notice thereof to the taxpayer, and the appropriate assessor, county commission and sheriff to whom lists of appraisals have been provided in accordance with section fifteen of this article.

(f) The assessor shall be reimbursed by the tax commissioner for the postage expended to mail the notices required by this section. Such forms and envelopes as may be required shall be furnished by the tax commissioner.

(g) Whenever the property has been returned or is returnable to the tax commissioner, the tax commissioner shall perform the duties imposed upon the assessor by this section. In such case, the tax commissioner shall specify in such notice the county in which a review of such appraisal
§11-1A-17. Review of appraisal by the county commission sitting as an administrative appraisal review board.

(a) Within thirty days after the earlier of (1) the day the tax commissioner notifies the owner of his determination described in subsection (d) of the preceding section, or (2) the twenty-first day after the request described in subsection (c) of the preceding section was made, the owner may petition for a hearing of record before the county commission of the county in which the larger portion of the appraised property is liable to assessment for ad valorem property taxation. Contemporaneously with the filing of the petition with the county commission, the owner shall mail a copy of the petition to the tax commissioner and the assessor, and the petition shall have endorsed or appended to it a certificate by the owner or his attorney that such copies were mailed.

(b) The county commission shall sit as an administrative appraisal review board, shall hear such testimony, under oath, as the owner, the tax commissioner and other witnesses may offer, and shall make a true record of the testimony by nonstenographic electronic recording suitable to assure that the recorded testimony will be accurate and trustworthy. Upon making such true record and preserving the other evidence presented, the commission shall determine whether the amount of value fixed by the appraisal of the property is correct under the circumstances. If the county commission finds the appraisal to be correct it shall enter an order approving the value as appraised and adopting by reference the determination and reasons made by the commissioner under subsection (d), section sixteen of this article. If the county commission determines that the amount of value fixed by the appraisal of the property is incorrect, and if sufficient evidence has been presented to permit correction of the appraisal, the county commission shall correct the appraisal and fix the value of the appraised property. If the county commission shall find that the evidence is not sufficient to determine the
correct value, the county commission shall direct the
parties to develop and present such evidence, and may
continue the hearing from time to time for this purpose until
there be evidence before it sufficient to fix the correct value.
Upon making a determination, the county commission shall
enter an order and inform the parties in writing, setting
forth in summary form the reasons for such determination.
(c) Any person who is a taxpayer of ad valorem property
taxes in any West Virginia county may protest an appraisal
of property under this article for good cause alleged and
shown. A person desiring to protest a reappraisal of
property shall petition for a hearing before the
administrative appraisal review board in the same manner
as an owner would petition for hearing with regard to the
appraisal of his property under the provisions of subsection
(a) of this section: Provided, That a petition for protest must
be filed with the county commission within forty-five days
after the publication of the notice required in subsection (a),
section sixteen of this article. The hearing of a protest shall
be governed by the same procedures described for hearings
in subsection (b) of this section.
(d) Upon a showing of good cause, any person who is a
taxpayer of ad valorem property taxes in any West Virginia
county may be permitted to intervene in the hearing
provided for in this section.
§11-1A-18. Review by circuit court on certiorari.
1 Within thirty days after the day the county court notifies
the parties of a final determination of value made pursuant
to section seventeen of this article, the owner, tax
commissioner, protestor or intervenor may request the
county commission to certify the evidence and remove and
return the record to the circuit court of the county on a writ
of certiorari instituted in accordance with the provisions of
article three, chapter fifty-three of this code. For purposes
of this article, the recorded testimony of the hearing, when
certified by the county commission, may be used by the
circuit court as the transcript of testimony.
§11-1A-19. Subsequent statewide reappraisals required.
1 After the first statewide reappraisal, to be completed on
or before the thirty-first day of March, one thousand nine
hundred eighty-five, the commissioner shall require that
periodic reviews of property valuation shall take place so as
to ensure that all property is valued at market value as set
forth herein at all times: Provided, That statewide
reappraisals of property shall take place at least every ten
years after the year one thousand nine hundred eighty-five.

§11-1A-20. Cooperation of other agencies of state and local
government.
1 The several departments and agencies of state
government, county commissions and county assessors are
hereby authorized, required and directed to render such
necessary aid and assistance to the tax commissioner as is
required to enable the commissioner to complete the first
statewide reappraisal of all property by the thirty-first day
of March, one thousand nine hundred eighty-five.

§11-1A-21. Electronic data processing system network for
property tax administration.
1 (a) The tax commissioner shall devise and cause to be
established a statewide electronic data processing system
network, to facilitate administration of the ad valorem
property tax on real and personal property, through the
timely sharing of property tax information among county
assessors and the tax commissioner.
7 (b) Each county shall lease, at its expense, the data
processing equipment required by the commissioner to be
located in each county. Additionally, each county shall
provide, at its expense, the necessary staffing and operating
personnel and all other necessary facilities, including
telephone and other communications equipment, to allow
on-line interaction with the host computer or such other
computer as the commissioner may designate. Each county
shall be charged by the commissioner for its proportionate
share of the cost for use of the host computer and other
related services. Such data processing and communications
equipment must be installed and tested and county
personnel trained to use the equipment on or before the first
day of July, one thousand nine hundred eighty-five.
21 (c) To ensure equipment compatibility and the efficient
operation and maintenance of the statewide electronic data
processing system network, the commissioner shall select
and may, from time to time, change equipment suppliers at
the state and any county level. All equipment for the system
shall be acquired under the purchasing procedures specified in article three, chapter five-a of this code.

(d) The commissioner may promulgate reasonable rules governing the operation of the statewide electronic data processing system network. Such rules shall, at a minimum, specify that each assessor shall enter all changes in the description, status, classification and value not later than the calendar month following the month during which the changes took place. The rules shall provide for thorough and adequate safeguards to prevent unauthorized access to the system network and the data base. The commissioner shall make available to every taxpayer, upon his request, through the system, the description and appraised value of each parcel valued and the method used in determining the appraised value. The system shall be capable of providing for the assessment of each parcel and item of property at sixty percent of its appraised value and for the phasing-in of the first statewide reappraisal, as to each parcel and item of property and the phasing-in of any subsequent reappraisal as may be authorized by the Legislature.

(e) County assessors shall convert or cause to be converted, at county expense, any current assessment information not in the data files of the tax commissioner for purposes of the first statewide reappraisal and the preparing of a system of assessments utilizing the results of the reappraisal, to be phased-in as required in section twenty-two of this article. Such conversion shall be completed on or before the first day of July, one thousand nine hundred eighty-five.

(f) The commissioner may offer to county sheriffs, as an optional service, a uniform computerized property tax billing and accounting system using the assessed values and taxpayer information generated through the statewide system. Each sheriff using such optional services shall be charged the proportionate cost for use of the host computer and related services and materials, which charge shall be paid by the county commission.

(g) The commissioner is hereby specifically authorized and empowered to enter into such contracts as may be necessary and for which funds may be available to establish the electronic data processing system provided for in this section.
(h) The cost of any service or act performed by the commissioner under the provisions of this section shall be paid by the county commission of the county for which the service or act was provided. The cost of any service or act shall be the actual cost and expense incurred by the commission to provide the service or act. The commissioner shall render to the county commission a statement of the costs as soon after the same were incurred as practicable. It shall be the duty of the county commission to allow the same and to cause it to be paid promptly in the manner that other claims and accounts are allowed and paid and the amount owed to the tax commissioner shall constitute a debt due the state which may be satisfied from any money owed the county commission by the state for any reason.

(i) Payments received for the cost of services or acts performed by the commissioner under this system shall be deposited in a revolving fund which shall be known as the "County Tax Fund," hereby created in the state treasurer's office.

(j) As used in this section, the following terms mean:

(1) "System" means the statewide electronic data processing system network for administration of the ad valorem property tax on real and personal property provided for in this section.

(2) "Electronic data processing" means the use of the computer for operations which include the storing, retrieving, sorting, merging, calculating and reporting data for use in preparing assessment rolls, tax lists, tax bills and other reports for use in property tax administration.

§11-1A-22. Phase-in, determination thereof, application and limitations.

The Legislature hereby finds that the "Property Tax Limitation and Homestead Exemption Amendment of 1982" intended to provide that the increased valuation of property, both real and personal, resulting from the first statewide reappraisal be allocated over a period of ten years in equal amounts annually.

The Legislature further finds and ascertains that the only fair and equitable manner to achieve the allocation of increased valuation over a period of ten years in equal amounts annually is to provide that upon determination by the first statewide reappraisal of the appraised value of
each parcel of land or interest therein and each item of personal property, sixty percent of each appraised value shall be compared with its corresponding assessed value for the base year as adjusted to establish the assessed value for the year next preceding the first year of the phase-in. If sixty percent of the appraised value is larger than the previously assessed value for the year next preceding the first year of the phase-in, the difference shall be divided into ten equal parts. For the tax year one thousand nine hundred eighty-six and for each subsequent year through the tax year one thousand nine hundred ninety-five the assessed value for the base year, shall be increased by one such tenth part. The result plus sixty percent of any subsequent annual increases in appraised value or less sixty percent of any annual decreases in appraised value shall be the assessed value for each such year: Provided, That such assessed value shall not exceed sixty percent of the market value in any year.

§11-1A-23. Confidentiality and disclosure of property tax returns and return information; offenses; penalties.

(a) Secrecy of returns and return information.—Property tax returns and return information filed or supplied pursuant to this article and articles three, four, five and six of this chapter and information obtained by subpoena or subpoena duces tecum issued under the provisions of this article shall be confidential and except as authorized in this section, no officer or employee of the state tax department, county assessors, county commissions and the board of public works shall disclose any return or return information obtained by him, including such return information obtained by subpoena, in any manner in connection with his service as such an officer, member or employee: Provided, That nothing herein shall make confidential the itemized description of the property listed, in order to ascertain that all property subject to assessment has been subjected to appraisal: Provided, however, That the commissioner and the assessors shall withhold from public disclosure the specific description of burglar alarms and other similar security systems held by any person, stocks, bonds and other personal property held by a natural person, except motor vehicles and other tangible property
utilized publicly, and shall withhold from public disclosure information claimed by any taxpayer to constitute a trade secret or confidential patent information: Provided further, That such property descriptions withheld from public disclosure shall be subject to production and inspection in connection with any review, protest or intervention in the appraisal or assessment process, under such reasonable limitations as the board of review, board of equalization and review or court shall require. The term officer or employee includes a former officer, member or employee.

(b) Disclosure.—(1) Information made confidential by subsection (a) of this section shall be open to inspection by or disclosure to officers, members and employees of the state tax department, county assessors, county commissions and to members of the board of public works whose official duties require such inspection or disclosures for property tax administration purposes. Disclosure may be made to persons, or officers or employees thereof, who are employed by the state tax commissioner by contract or otherwise, provided such person, or officer or employee thereof, shall be subject to the provisions of this section as fully as if he was an officer or employee of the state tax department. Information made confidential by subsection (a) of this section shall be open to inspection by the property owner providing such information and to his duly authorized representative.

(2) Information made confidential by subsection (a) of this section may be disclosed in a judicial or administrative proceeding to collect or ascertain the amount of tax due, but only if (i) the taxpayer is a party to the proceedings or (ii) such return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

(c) Reciprocal exchange.—The tax commissioner may permit the proper officer of the United States, or the District of Columbia, or any other state, or his authorized representative, to inspect reports, declarations or returns filed with the tax commissioner or may furnish to such officer or representative a copy of any such document provided such other jurisdiction grants substantially similar privileges to the tax commissioner or to the attorney general of this state.
(d) **Penalties.**—Any officer, member or employee of the state tax department, county assessors, county commissions and the board of public works who violates this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both, together with the costs of prosecution.

(e) **Limitations.**—Any person protected by the provisions of this article may, in writing, waive the secrecy provision of this section for such purpose and such period as he shall therein state, and the officer with whom such waiver is filed, if he so determines, may thereupon release to designated recipients such taxpayer's return or other particulars filed under the provisions of the tax articles administered under the provisions of this article.

This section shall not be construed to prohibit the publication or release of statistics so classified so as to prevent the identification of particular reports and the items thereof nor to prevent the publication and release of assessments and appraised values of property.

§11-1A-24. **Creation and use of appraisal manual.**

The tax commissioner shall develop, or cause to be developed, appraisal manuals for all species of property, for use in making statewide reappraisals. These manuals shall be used by the tax commissioner, county assessors, county commissions, the board of public works and any property appraisal firm or firms employed to assist in making statewide reappraisals. These manuals shall, at a minimum:

1. Provide guidelines for determining the appraised value of all species of property, that are consistent with this article;
2. establish work procedures; and
3. promote uniformity of approach to tasks. The tax commissioner and his designated agents shall consult with each of the county assessors in the preparation of all such manuals.

§11-1A-25. **Failure to list property, etc.; collection of penalties and forfeitures.**

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 appraisal, shall refuse to furnish a proper list thereof or refuse to list within the time
required by law and within thirty days after written demand therefor; or if any person, firm or corporation, including public service corporations, shall refuse to answer or shall answer falsely any question asked by the assessor or by the tax commissioner, or shall refuse to deliver any other statement required by law, he or it shall forfeit not less than twenty-five nor more than one hundred dollars, and shall be denied all remedy provided by law for the correction of any appraisal made by the tax commissioner. If any person, firm or corporation, including a public service corporation, required by this article to make return of property for appraisal, fails to return a true list of all property which should be appraised under the provisions of this article, 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.

Such forfeitures shall be collected as is hereinafter provided under the provision of 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 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 such property if it had been assessed, in proportion to the rates of taxation for each such levying unit for the year in which the judgment was obtained bears to the sum of rates for all. Any judgment recovered under this section shall be a lien, from the time of the service of the notice, upon all real estate and personal property of such defaulting taxpayer, owned at the time or subsequently acquired, in preference to any other lien.

§11-1A-26. Appraisal of corporate property; reports to tax commissioner by corporations.

Each incorporated company, foreign or domestic, having its principal office or chief place of business in this state, or owning property subject to taxation in this state, shall include with the return required by this article, a list of the following items: (a) The amount of capital authorized to be employed by it; (b) the amount of cash capital paid on each share of stock; (c) the amount of credits and investments other than its own capital stock held by it on said date, with
their true and actual value; (d) the quantity, location and
value of all its real estate, and the tax district or districts in
which it is located; and (e) the kinds, quantity and value of
all of its tangible property in each tax district in which it is
located.
The list required by this section shall be under oath,
which oath shall be substantially as follows:
State of West Virginia, County of .................... , 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 personal property,
including credits and investments belonging to said
corporation; and said corporation has not, to my
knowledge, during the sixty-day period immediately prior
to the first day of the assessment year converted any of its
assets into nontaxable securities or notes or other evidence
of indebtedness for the purpose of evading the assessment
of taxes thereon; so help me God.

The officer administering such oath shall append thereto
the following certificate, viz:
Subscribed and sworn to before me by ....................
this the ........ day of .................... , 19 .... .

§11-1A-27. West Virginia appraisal control and review
commission created; term of existence defined;
duties of commission; tax commissioner to
provide services, staff and equipment;
nomination and appointment of members;
removal of members and filling of vacancies;
compensation and expenses; composition of
subcommittees of commission; appraisal
manual review subcommittee; computer
technology review subcommittee;
compensation of subcommittees; issuance of
cease and desist orders by commission;
authority of governor to rescind or modify
cease and desist orders; meetings of
commission; quorum; taxpayer complaint and
the treatment and disposition thereof.
(a) There is hereby created in the executive department of the state government, within the state tax department, the West Virginia appraisal control and review commission, an independent agency, consisting of seventeen persons, to be selected as provided in this section. The commission shall continue until the values fixed by the first statewide reappraisal shall be first utilized for the determination of assessed value but in no event beyond the first day of July, one thousand nine hundred eighty-seven.

(b) It shall be the duty of the commission to determine that the mass appraisal of residential real property is at all times proceeding in accord with the provisions of this article and that no practice or procedure employed in the first statewide reappraisal of property pursuant to this article is employed contrary to law or contrary to the provisions of any regulation or contract consistent with the provisions of this article or other applicable general law. Contractors, the various assessors and their employees and all employees of the state tax commissioner shall appear before the commission upon request and otherwise cooperate with the commission in any inquiries the commission or its subcommittees shall conduct.

(c) It shall also be the duty of the commission (1) To publish information to advise the public of the nature and extent of the reappraisal and their rights to specific advice and information from the commission; (2) to receive, investigate, hear and consider complaints by citizens and officers of corporations whose property is subject to return or reappraisal under this article, except complaints disposed of to the satisfaction of the complainants by the assessors of the various counties or informally by the commission, concerning any practice, procedure or activity of the persons or firms conducting any part of the property reappraisal which is or is claimed to be contrary to law, or regulations or contracts entered into pursuant to this article; and (3) to prepare and provide for dissemination to all taxpayers a "Property Owner's Bill of Rights" pamphlet explaining in concise language the reappraisal program required by the constitution and this article and the rights of property owners to formal and informal review of practices and procedures and the fixing of appraised values of their property and such other rights, duties and
privileges as arise under this article and the Tax Limitation
and Homestead Exemption Amendment of 1982 and such
other matters as the commission shall direct.
(d) For the purposes of carrying out its duties under this
article, the commission shall be furnished by the tax
commissioner with office space, clerical and other staff
assistance, and equipment, including statewide inward and
outward WATS line telephone service, to be known as the
“Property Reappraisal Hotline”, and reasonable efforts
shall be made in the conduct of the first statewide
reappraisals to advise the public generally and each person
whose residential real property is being reappraised of the
availability of such “Property Reappraisal Hotline” and
information and advice concerning such reappraisal.
(e) The tax commissioner shall be the chairman of the
commission and have the right to vote and preside over the
commission and direct its staff to carry out commission
directives. The remaining sixteen members shall be drawn
from each of the state's four congressional districts as
comprised on the effective date of this section. Four
persons, all of whom shall be residents of the congressional
district for which they are selected, but none of whom shall
be residents of the same county, shall be appointed by the
governor, with the advice and consent of the Senate. Not
more than two persons who are members of the same
political party shall be appointed from any congressional
district. All persons appointed by the governor shall be
residents of the state and of the congressional district for
which they are appointed and shall be owners of real
property or an interest therein. Within five days after the
effective date of this section each county commission shall
nominate residents of its county for appointment to the
commission and shall commence publication of a Class—
legal notice, in a newspaper of general circulation in the
county, advertising its intention to nominate persons for
appointment to the commission and fixing a date not more
than ten days after the first publication of such notice as the
last day for citizens of the county to suggest the names of
possible nominees to the county commission. Any such
suggestions may be made in writing or orally to any such
county commission. Within seven days after the second
publication, any such county commission shall, by order,
nominate four persons who are residents of such county and
who possess the requisite qualifications, not more than two
of whom are members of the same political party, and
forthwith transmit a certified copy of such order to the
governor. From the list of nominees supplied by the various
county commissions, the governor shall appoint the
requisite number of persons to the commission within sixty
days of the effective date of this section. A person appointed
shall serve until the commission terminates unless such
person sooner resigns, dies or is removed. A person may be
removed only by the governor for good cause in the manner
that other officers subject to removal by the governor may
be removed: Provided, That any member who fails to attend
three consecutive regular meetings may be removed by the
governor. Any vacancy shall be filled within thirty days of
the vacancy by the governor, by appointment of a person
nominated by one of the county commissions who has the
requisite qualifications: Provided, That the governor may
request additional nominations from county commissions
of counties whose residents are eligible for appointment or
appoint any eligible person. Any person appointed to fill a
vacancy shall be made with the advice and consent of the
Senate, and shall serve until the commission is terminated
or such person sooner dies, resigns or is removed.

(f) No person holding paid public office shall be eligible
for appointment to the commission. Members, except the
chairman, shall be paid a per diem of thirty-five dollars for
each day of actual service on the commission or a
subcommittee thereof but may waive such payment.
Members shall be reimbursed reasonable expenses
pursuant to regulations for the payment thereof to state
government employees. All compensation and expenses of
the commission shall be paid from appropriations to the
state tax commissioner for the statewide reappraisal.

(g) The commission may divide the state into four areas,
each area consisting of one of the congressional districts
fixed by law. The membership of the commission from each
such area shall constitute the membership of a
subcommittee for such area. The tax commissioner shall
designate an employee of his office assigned to oversee the
reappraisal in one or more of the counties within such
area as the chairman of the subcommittee for such area,
who shall be empowered to act for and on behalf of such subcommittee in the same manner as the tax commissioner shall act for the commission.

Any such area subcommittee may, subject to the rules of the commission, review the conduct of the reappraisal in such area and any complaints originating in the area and perform such other duties on behalf of the commission as are consistent with this article and as are consistent with the duties of the commission and make such recommendations to the commission as it may deem appropriate.

(h) In addition to the area subcommittees the commission shall appoint a subcommittee of six county assessors to review the various appraisement manuals proposed to be employed in the reappraisal. Within the time frame to be specified by the tax commissioner for his review of such appraisal manuals, the subcommittee shall review and comment on such manuals, such comments to be delivered to the tax commissioner on the date scheduled by him which date shall not be sooner than forty-five nor more than sixty days after delivery of such manuals to the subcommittee. No more than two of the members shall be assessors of counties in any one congressional district.

(i) In addition to the area subcommittees the commission shall appoint a subcommittee of four persons recognized by the commission to be experts in computer technology, no two of whom shall be residents of the same congressional district. Within a time frame to be specified by the tax commissioner for his review of computer programs, equipment proposals or other computer plans, the subcommittee shall review and comment on such computer programs, equipment proposals and other computer plans as may be submitted to the tax commissioner for his review and approval, such comments to be delivered to the tax commissioner on the date scheduled by him which date shall not be sooner than forty-five nor more than sixty days after commencement of any such review by the subcommittee.

(j) The tax commissioner shall serve as chairman of the subcommittee on manuals and the subcommittee on computer technology, have a vote thereon, and be excluded from consideration in determining if any member meets
residency requirements. The commission shall fix the
compensation of members of the committee on computer
technology other than the chairman. Members of the
subcommittee on manuals and computer technology shall
also be reimbursed for reasonable expenses according to
travel regulations of the executive department.

(k) On the recommendation of any subcommittee or
upon the initiative of the commission, the commission may
after hearing and on a majority vote of those present, issue a
cease and desist order with respect to any practice,
procedure or activity in the reappraisal which it finds
to be contrary to law, this article or any regulation or
contract consistent with this article. Such order shall be
effective upon its adoption: Provided, That within ten days
after the adoption of such order, the governor may by
executive order rescind or modify the cease and desist
order. Any such cease and desist order modified by
executive order of the governor shall from the issuance of
the executive order be effective only as so modified. No such
cease and desist order by the commission or any executive
order shall deprive the state of a uniform and equal
reappraisal consistent with the provisions of this
article. No order of the commission or executive order of the
governor shall be stayed in any action except upon
application to the supreme court of appeals for relief
pursuant to its original jurisdiction.

(l) The commission shall meet on the third Wednesday
of each month during its term. Any subcommittee shall
meet at least monthly during its continuance. A quorum
shall consist of one half the membership of the commission
or subcommittee computed without regard to the chairman,
or his presence or absence. A special meeting of the
commission or any subcommittee shall be held on the call of
the chairman, provided such call of a special meeting shall
be communicated by mail or telephonic communication to
the residence of all members of the commission or
subcommittee at least twenty-four hours before the date of
the meeting.

(m) No member of the commission or any subcommittee
shall be required to attend court on the day of, the day
before or the day after any meeting of the commission or of
such subcommittee which such member actually attends.
Any taxpayer aggrieved by any procedure, practice, activity or conduct incident to any statewide reappraisal carried out under the provisions of this article shall, in the first instance, lodge a complaint with the assessor of the county wherein such taxpayer has property situate. Any such complaint may be communicated orally or in writing by the taxpayer to the assessor. It shall be the duty of the assessor to receive the complaint, and, unless he resolves the complaint informally to the satisfaction of the taxpayer within five days of its receipt, the assessor shall prepare a report upon a form provided for that purpose by the tax commissioner, setting forth a fair summary of the complaint. In attempting to informally resolve the complaint, the assessor is expressly authorized to contact the officers and employees of the state tax department and its designated agents to discuss possible solutions to the complaint.

(2) If the complaint is in the nature of alleged nonconformity to the provisions of this article or other provisions of law relating to the appraisal of property for ad valorem property taxation, regulations promulgated thereunder, or the provisions of an agreement between the tax commissioner and a designated agent, the complaint form prepared by the assessor shall forthwith be transmitted by the assessor to the West Virginia appraisal control and review commission, which shall acknowledge receipt thereof in writing mailed to the taxpayer. Upon request by the taxpayer, he shall be heard at the meeting during which the complaint is considered, and the commission shall afford such other hearing, conduct any appropriate investigation, and dispose of the complaint in such manner as may be provided by law and any rules of procedure adopted.

(3) If the complaint is in the nature of alleged misconduct relating to the demeanor of any person charged with responsibility for performing any function required by this article, the complaint form prepared by the assessor shall forthwith be transmitted by the assessor to the tax commissioner, who shall acknowledge receipt thereof in writing mailed to the taxpayer. The tax commissioner shall conduct any appropriate investigation, and dispose of the complaint in such manner as may be provided by law and any rules of procedure adopted.
In all cases where disposition is made of a complaint under this subsection, notice of the disposition shall be given to the taxpayer and the assessor.

§11-1A-28. Review appraisal requirements; qualifications of review appraisers with respect to residential property; review appraisers to be competent witnesses.

In the conduct of mass appraisal of residential real property the tax commissioner shall assure that the person who evaluates the collected data with respect to any parcel of real property subject to such appraisal and visits the property for the purpose of reviewing such data, actual conditions, and estimated value is in the first instance, with respect to residential property containing eight or fewer dwelling units, a bona fide resident of West Virginia for at least one year prior to employment in such capacity and is a person familiar with the area in which such property is located, including the amenities of the area and general trend of market values over the period during which the trend is required by law to be considered. Such person shall, if qualified under this section, be a competent witness in all proceedings relating to the appraisal of such property, notwithstanding any further review or refinement of the data or other consideration in such appraisement.

§11-1A-29. Requirements for state employees and employees of designated agents; legislative findings; modification of existing contract for mass appraisal; exemption of certain appraisal employees of tax commissioner from civil service.

Of the whole number of persons engaged in the reappraisal process, ninety-five percent of all persons employed by the state and its designated agents in this state to conduct any part of the reappraisal shall be residents of the state. The Legislature finds that the process of reappraisal, the acceptance of the results by the public, and the deeply held attitudes and outlook of the citizens of the state require, for the success of the reappraisal and the acceptance of the widespread resulting adjustments in assessment values, that this stringent requirement be
strictly adhered to, to the end that school revenues and
other local income and taxation have the benefit of the
reappraisal as promptly as possible.
On the effective date of this section, the contract of the
state for mass appraisal of residential properties and other
reappraisal services shall be modified as follows:
(1) To conform with this article; and
(2) To remove from the contract data encoders and other
clerical help, at an aggregate reduction in cost under the
contract of at least three million dollars.
After investigation, the Legislature finds that the
contractor is amenable to the modification of its contract to
conform with the requirements of this article. The tax
commissioner is directed to conform such contract to the
requirements of this article within ten days after the
effective date of this section.
The data encoders and other clerical employee positions
required to be transferred from the contract to state
employment pursuant to this section, being temporary
positions requiring prompt employment of limited duration
are hereby classified exempt for the purposes of article six,
chapter twenty-nine of this code. The tax commissioner is
hereby granted plenary authority, subject only to the
supervision of the governor, to determine all terms and
conditions of employment of such employees.
§11-1A-30. Severability.
The provisions of subsection (cc), section ten, article two,
chapter two of this code regarding severability shall be
deoemed to be included herein as if set forth in extenso in this
section.
ARTICLE 3. ASSESSMENTS GENERALLY.
§11-3-2. Canvass by assessor; lists of property.
On the first day of July, 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 the thirtieth day of January. Beginning
on the first day of July, 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 the first day of July 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 the tenth day of July of the current year.

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

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

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, shall refuse to furnish a proper list thereof or refuse to list within the time required by law, or if any person, firm or corporation, including public service corporations, shall refuse to answer or shall answer falsely any question asked by the assessor or by the tax commissioner, or shall fail or refuse to deliver any statement required by law, he or it shall forfeit not less than twenty-five nor more than one hundred dollars, and 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. If any person, firm or
corporation, including public service corporations, required by law to make return of property for taxation, whether such 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, including notes, bonds, bills and accounts receivable, stocks, and any other intangible personal property, such 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. A forfeiture as to all property aforesaid may be enforced for any such default occurring in any year not exceeding five years immediately prior to the time the same is discovered, but no liability to penalty or forfeiture as to notes, bonds, bills and accounts receivable, stocks and other intangible personal property arising prior to the first day of January, one thousand nine hundred thirty-three, shall be enforceable on behalf of the state or of any of its subdivisions. Each failure to make a true return as herein required shall constitute a separate offense, and a forfeiture shall apply to each of them, but all such forfeitures, to which the same person, firm or corporation is liable, shall be enforced in one proceeding against such person, firm or corporation, or against the estate of any deceased person and shall not exceed five percent of the value of the property not returned. Such forfeitures shall be collected as is hereinafter provided under the provision of 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 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 such property if it had been assessed, in proportion to the rates of taxation for each such levying unit for the year in which the judgment was obtained bears to the sum of rates for all. When the list of property returned by the appraisers of the estate of any deceased person shows an amount greater than the last assessment list of such deceased person next preceding the appraisal of his estate, it shall be prima facie evidence that such deceased person returned an imperfect list of his property: Provided, That any person liable for the tax or his
personal representative, may always be permitted to prove by competent evidence that the discrepancy between such 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. Any judgment recovered under this section shall be a lien, from the time of the service of the notice, upon all real estate and personal property of such defaulting taxpayer, owned at the time or subsequently acquired, in preference to any other lien.

§11-3-31. Generally applied, and usual and customary practices and procedures utilized by assessors prior to the second day of July, one thousand nine hundred eighty-two; 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 the second day of July, one thousand nine hundred eighty-two, 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.

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

§11-6B-3. Twenty thousand dollar homestead exemption allowed.

(a) General.—An exemption from ad valorem property taxes shall be allowed for the first twenty thousand dollars
of assessed value of a homestead that is used and occupied
by the owner thereof exclusively for residential purposes,
when such owner is sixty-five years of age or older or is
certified as being permanently and totally disabled. Only
one exemption shall be allowed for each homestead used
and occupied exclusively for residential purposes by the
owner thereof, regardless of the number of qualified owners
residing therein.

(b) Attachment of exemption.—This exemption shall
attach to the homestead occupied by the qualified owner on
the July first assessment date and shall be applicable to
taxes for the following tax year. An exemption shall not be
transferred to another homestead until the following July
first. If the homestead of an owner qualified under this
article is transferred by deed, will or otherwise, the twenty
thousand dollar exemption shall be removed from the
property on the next July first assessment date unless the
new owner qualifies for the exemption.

§11-6B-7. Property tax books.
(a) Property book entry.—The exemption of the first
twenty thousand dollars of assessed value shall be shown on
the property books as a deduction from the total assessed
value of the homestead.
(b) Levy; statement to homestead owner.—When the
twenty thousand dollar exemption is greater than the total
assessed value of the eligible homestead, no taxes shall be
levied. The sheriff shall issue a statement to the owner
showing that no taxes are due.

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL
PROPERTY.

§11-22-6. Duties of clerk; declaration of consideration or
value; filing of sales listing form for tax
commissioner; disposition and use of proceeds.
(a) When any instrument on which the tax as herein provided
is imposed is offered for recordation, the clerk of the county
commission shall ascertain and compute the amount of the
tax due thereon and shall ascertain if stamps in the proper
amount are attached thereto as a prerequisite to acceptance
of the instrument for recordation.
(b) When offered for recording, each instrument subject to
the tax as herein provided shall have appended on the face
or at the end thereof, a statement or declaration signed by
the grantor, grantee or other responsible party familiar
with the transaction therein involved declaring the
consideration paid for or the value of the property thereby
conveyed. Such declaration may be in the following
language:

"DECLARATION OF CONSIDERATION OR VALUE
I hereby declare:
(a) The total consideration paid for the property
conveyed by the document to which the declaration
is appended is $..............................; or
(b) The true and actual value of the property transferred
by the document to which this declaration is appended is,
to the best of my knowledge and belief
$..............................; or
(c) The proportion of all the property included in the
document to which this declaration is appended which is
real property located in West Virginia is .......%; the value
of all the property $..............................; the value of real
estate in West Virginia is $..............................; or
(d) This deed conveys real estate located in more than
one county in West Virginia; the total consideration paid
for, or actual cash value of, all the estate located in
West Virginia conveyed by this document is
$..............................; and documentary stamps showing
payment of all the excise tax on all of said estate are
attached to an executed counterpart of this deed recorded
in .................... County.
Given under my hand this .................... day of
........................, 19 ....
Signed .....................................
(Indicate whether grantor, grantee,
or other interest in conveyance).
Address"

Such declaration shall be considered by the clerk in
ascertaining the correct number of stamps required, and if
declaration (d) is used no stamps shall be required on the
duplicate deed to which it is attached and such duplicate
deed shall be admitted to record, and when recorded shall
have the same effect for all purposes as if stamps were
attached thereto.
On or after the first day of July, one thousand nine hundred eighty-three, the clerk shall not record any document with stamps affixed unless there is tendered with the document a completed and verified sales listing form for the benefit and use of the state tax commissioner. Preprinted forms for this purpose shall be provided each clerk by the tax commissioner.

The forms shall require the following information: (1) If the last deed in the chain of title represents the last transfer of the property, the names of the grantor and grantee and the deed book and page number; or (2) if the last transfer was not made by deed, the source of the grantor's title, if known; or (3) if the source of the grantor's title is unknown, a description of the property and the name of the person to whom real property taxes are assessed as set forth in the land book prepared by the assessor. In all cases the forms shall require the tax map and parcel number of the property, the district or municipality in which the real property or the greater portion thereof lies, the address of the property, the consideration or value in money, including any other valuable goods or services, upon which the buyer and seller agree to consummate the sale, and any other financing arrangements affecting value. The sales listing form required by this paragraph is to be completed in addition to, and not in lieu of, the declaration required by this section: Provided, That the tax commissioner may design and provide a form which combines into one form the contents of the declaration and the sales listing form required herein and recordation and filing of that form may be used as an alternative to filing the sales listing form required herein: Provided, however, That the filing with the clerk of a duplicate deed containing the sales listing form information required by this section shall also satisfy the requirements of this section regarding the sales listing form. The clerk shall, at the end of the month, pay all of the proceeds collected from the sale of stamps for the county excise tax into the county general fund for use of the county.

On or before the tenth day of each month the clerk shall deliver to the tax commissioner, or a person designated by the tax commissioner, the sales listing forms or such other alternative forms as may be authorized by this section for documents recorded during the preceding month.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Donald Snell  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Fred C. Smith  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Warren R. Webster  
President of the Senate

Joseph H. Bee, Jr.  
Speaker House of Delegates

The within is approved this the 15th day of June, 1983.  

John J. Dalton  
Governor