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WEST VIRGINIA LEGISLATURE



FIRST EXTRAORDINARY SESSION, 1983



ENROLLED

Committee Substitute for
SENATE BILL NO. 10

(By Mr. *J. C. Shaw, Jr. President*)



PASSED *June 2* 1983

In Effect *ninety days from* Passage



APPROVED AND SIGNED BY THE GOVERNOR

Date *6-15-83*

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 10

(MR. MCGRAW, ^{Mr. President} *McGraw* original sponsor)

[Passed June 2, 1983; in effect ninety days from passage.]

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 reappraisals; 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 appraisals 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

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.

1 The joint committee is hereby directed to study during the
2 calendar years one thousand nine hundred eighty-three and
3 one thousand nine hundred eighty-four, any and all matters
4 upon which legislation is required by the property tax
5 limitation and homestead exemption amendment of one
6 thousand nine hundred eighty-two and any matters upon
7 which, in the joint committee's judgment legislation may
8 become necessary with respect thereto, including a study of
9 the desirability of this state converting, for purposes of
10 determining the property subject to ad valorem property
11 taxation, to an averaged annual value method or pro-rata
12 value method as opposed to a tax-status-day value method.
13 The committee shall report to the Legislature any
14 recommendations which it may deem proper, along with
15 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.

1 (a) In conducting the reappraisals of property
2 mandated by the West Virginia Constitution and required
3 by this article, the tax commissioner shall appraise all
4 property so as to ascertain the value thereof for assessment
5 purposes, relating such reappraisal to a specified base year
6 in a manner which is uniform for all classes of property and
7 all counties.

See

8 (b) It shall be the duty of the tax commissioner to see
9 that the laws concerning the periodic statewide appraisal of
10 property are faithfully enforced. He shall prepare all proper
11 forms and books for the use and guidance of appraisers and
12 assessors, and shall perform all such other duties as may be
13 required by law. He shall from time to time visit the several
14 counties and shall inspect the work of the appraisers and
15 the several assessors and shall confer with them respecting
16 such work for the future. In such conference, or by writing
17 or otherwise, he may inquire into the proceedings of any
18 such officer, make to him such suggestions respecting the
19 discharge of his duty as may seem proper, and give such
20 information and require such action as will cause all
21 property subject to ad valorem property taxation to be
22 appraised at its market value.

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

34 (d) Upon the application of any officer concerned with
35 the assessment or collection of taxes, the tax commissioner
36 shall, as to any matter specified by such officer, make like
37 suggestions and give like information. In case of the failure
38 of any appraiser or assessing officer in the discharge of any
39 duty imposed upon him by law, the said commissioner shall,
40 after due notice to any such assessor or collecting officer,
41 proceed to enforce such penalty as may be provided by law,
42 including, in any proper case, the removal of such officer,
43 and to that end the commissioner is authorized to appear
44 before any court or tribunal having jurisdiction. In any
45 proceeding to enforce a penalty, if a hearing for an assessor
46 or collecting officer is not otherwise provided by law, then
47 such assessor or collecting officer shall be afforded a
48 hearing by the tax commissioner in accord with the
49 provisions of article five, chapter twenty-nine-a of this

50 code. The commissioner may cause the violation of any law
51 respecting the appraisal of property subject to ad valorem
52 property taxation to be prosecuted. He may also be heard
53 before any court, council or tribunal, in any proceeding in
54 which an abatement of taxes is sought. The commissioner
55 shall, inter alia, have the power to accept bids, award
56 contracts, requisition funds appropriated for his
57 expenditure, and require the cooperation of other state and
58 local officials. In awarding such contracts the tax
59 commissioner shall require that provision be made for such
60 indemnity, bond or contract of insurance as will be
61 sufficient, in the tax commissioner's judgment, to hold the
62 state harmless.

63 (e) For the efficient administration of the powers vested
64 in the tax commissioner by this section, the commissioner
65 shall have the power to issue subpoenas and subpoenas
66 duces tecum, and compel the attendance of witnesses and
67 the production of books, papers, records, documents and
68 testimony at the time and place specified. Every such
69 subpoena and subpoena duces tecum shall be served at least
70 fifteen days before the return date thereof by personal
71 service made by any person over eighteen years of age.
72 Service of subpoenas and subpoenas duces tecum shall be
73 the responsibility of the commissioner. Any persons, except
74 a person in the employ of the state tax department, who
75 serves any such subpoena or subpoena duces tecum shall be
76 entitled to the same fee as sheriffs who serve witness
77 subpoenas for the circuit courts of this state. Upon motion
78 made promptly, and in any event before the time specified
79 in a subpoena or subpoena duces tecum for compliance
80 therewith, the circuit court of the county in which the
81 person upon whom any such subpoena or subpoena duces
82 tecum was served resides, has his or its principal place of
83 business or is employed, or the circuit court of the county in
84 which any such subpoena or subpoena duces tecum was
85 served, or the judge of any such circuit court in vacation,
86 may grant any relief with respect to any such subpoena or
87 subpoena duces tecum which any such circuit court, under
88 the "West Virginia Rules of Civil Procedure for Trial Courts
89 of Record," could grant, and for any of the same reasons,
90 with respect to any such subpoena or subpoena duces tecum
91 issued from any such circuit court. In case of disobedience

92 or neglect of any subpoena or subpoena duces tecum served
93 on any person, or the refusal of any witness to testify to any
94 matter regarding which he may be lawfully interrogated,
95 the circuit court of Kanawha County or of the county in
96 which such person resides, has his or its principal place of
97 business or is employed, or the judge thereof in vacation,
98 upon application by the commissioner shall compel
99 obedience by attachment proceedings for contempt as in the
100 case of disobedience of the requirements of a subpoena or
101 subpoena duces tecum issued from circuit court or a refusal
102 to testify therein. Witnesses subpoenaed under this
103 subsection shall testify under oath or affirmation.

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

117 (g) The tax commissioner is hereby directed to
118 cooperate with the joint committee on government and
119 finance of the Legislature in its review, examination and
120 study of the implementation of the property tax limitation
121 and homestead exemption amendment of one thousand
122 nine hundred eighty-two, section one-b, article ten of the
123 constitution of West Virginia, and any other similar studies
124 which may arise under the authority granted to the joint
125 committee on government and finance under the provisions
126 of section three-b, article three, chapter four of this code.
127 The tax commissioner shall continuously monitor and
128 enforce the requirements of this article relating to the
129 employment qualifications of employees of the state and its
130 designated agents, and at least quarterly shall ascertain
131 whether such requirements are being met and report
132 thereon to the joint committee on government and finance.
133 Not less than monthly, the tax commissioner shall report to

134 the joint committee on government and finance or its
135 designated subcommittee on any matters considered or
136 action taken by the West Virginia appraisal control and
137 review commission, or any matters relating to the
138 reappraisal otherwise pertinent or of interest to the joint
139 committee on government and finance. On or before the
140 fifteenth day of January, one thousand nine hundred
141 eighty-four, the tax commissioner shall report to the joint
142 committee on government and finance on the benefits,
143 desirability and disadvantages, as well as the alternative
144 methods available, for the possible implementation of
145 section fifty-three, article six of the constitution of West
146 Virginia, the forestry amendment.

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

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

§11-1A-3. Definitions.

1 As used in this article, unless the context clearly requires
2 a different meaning:
3 (a) "Assessed value" of any item of property is its
4 assessed value after the certification of the first statewide
5 reappraisal and shall be sixty percent of the market value of
6 such item of property regardless of its class or species,
7 except as hereinafter specifically provided in this article;
8 (b) "Base year" shall have the meaning ascribed to that
9 term by the provisions of section two of this article;
10 (c) "Commission" shall mean the West Virginia
11 appraisal control and review commission;
12 (d) "Commissioner" or "tax commissioner" shall mean
13 the chief executive officer of the state tax department
14 except in those instances where the context clearly relates
15 to the West Virginia appraisal control and review
16 commission, in which case "commissioner" shall mean any
17 member of such commission;
18 (e) "Designated agent" shall mean a person, not directly
19 employed by the tax commissioner, who is designated by
20 the tax commissioner to perform reappraisal functions
21 authorized or required by this article. Such term shall
22 include, but not be limited to, agents and independent
23 contractors, and nothing in this article shall be construed to
24 alter the relationship of the state of West Virginia, or its

25 officers, and such persons to create relationships not
26 contemplated by agreements between the tax commissioner
27 and such persons;

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

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

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

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

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

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

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

61 (i) "Value," "market value" and "true and actual value"
62 shall have the same meaning and shall mean the price at or
63 for which a particular parcel or species of property would
64 sell if it were sold to a willing buyer by a willing seller in an
65 arms length transaction without either the buyer or the
66 seller being under any compulsion to buy or sell: *Provided,*

67 That in determining value, primary consideration shall be
 68 given to the trends of price paid for like or similar property
 69 in the area or locality wherein such property is situate over
 70 a period of not less than three nor more than eight years
 71 next preceding the base year and in the case of a farm or
 72 farms shall be determined assuming such land is being used
 73 for farming purposes. In addition, the commissioner may,
 74 for purposes of appraisement of any tract or parcel of real
 75 property, or chattels, real or other species of property, real
 76 or personal, take into account one or more of the following
 77 factors: (1) The location of such property; (2) its site
 78 characteristics; (3) the ease of alienation thereof,
 79 considering the state of its title, the number of owners
 80 thereof, and the extent to which the same may be the subject
 81 of either dominant or servient easements; (4) the quantity of
 82 size of the property and the impact which its sale may have
 83 upon surrounding properties; (5) if purchased within the
 84 previous eight years, the purchase price thereof and the
 85 date of each such purchase; (6) recent sale of, or other
 86 transactions involving, comparable property within the
 87 next preceding eight years; (7) the value of such property to
 88 its owner; (8) the condition of such property; (9) the income,
 89 if any, which the property actually produces and has
 90 produced within the next preceding eight years; and (10)
 91 any commonly accepted method of ascertaining the market
 92 value of any such property, including techniques and
 93 method peculiar to any particular species of property if
 94 such technique or method is used uniformly and applied to
 95 all property of like species.

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

1 (a) On or before the first day of December, one thousand
 2 nine hundred eighty-three, every person who owns
 3 property which was situate in this state on the first day of
 4 July, one thousand nine hundred eighty-three, shall
 5 prepare a return itemizing and describing such property,
 6 whether real or personal, and shall file such return with the
 7 assessor of the assessment district wherein such property is
 8 located, except in the case of a taxpayer whose annual
 9 return for the assessment of property is filed with some
 10 other public officer, then the return required by this section

11 shall be filed with the tax commissioner who shall allocate
12 the contents to the appropriate counties by such means as
13 he determines appropriate. The form for the return shall be
14 designed by the tax commissioner, and shall provide a
15 means for the orderly listing of all property not excepted
16 from listing under the provisions of section five of this
17 article. A similar return, itemizing and listing such
18 property, shall also be made, at the same time, by every
19 person holding, possessing or controlling real or personal
20 property as executor, administrator, guardian, trustee,
21 receiver, agent, partner, attorney, president or accounting
22 officer of a corporation, consignee, broker, or in any
23 representative or fiduciary character.

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

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

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

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

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

49 (5) With respect to the property of a married person who
50 is absent from the state, the return shall be made by his or
51 her spouse.

52 (c) A return made by one or two or more joint fiduciaries
53 shall be sufficient compliance with the requirements of this
54 section in any case where the return is required to be made
55 by a fiduciary.

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

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

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

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

1 Every person required to file a tax return under the
2 provisions of article thirteen, twenty-one or twenty-four of
3 this chapter for the period ending on the thirty-first day of
4 December, one thousand nine hundred eighty-two, or for
5 income received or to be received during the calendar year
6 one thousand nine hundred eighty-three, shall file a copy of
7 a depreciation schedule included in a federal or state tax
8 return for income taxation for the taxpayer's tax year
9 ending on or after the first day of June, one thousand nine
10 hundred eighty-two, or if the person did not prepare a
11 depreciation schedule for such return or elects not to
12 disclose the schedule from the tax return, a schedule
13 showing property on which a deduction for depreciation
14 could be claimed against gross or adjusted gross income

15 received or receivable in the selected year, including a brief
16 description of such property, its basis and, to the extent the
17 taxpayer elects, any accumulated depreciation the
18 taxpayer could have claimed in such year and prior years.

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

1 If a person is required under the provisions of this article
2 to fix what he deems to be the true and actual value of an
3 item of property, whether real or personal, and if such
4 valuation is not required to be made on any other tax return,
5 then the valuation required by this article shall not be taken
6 as certified or given under oath, but all other information
7 required to be given under the provisions of this article shall
8 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.**

1 (a) All real property assessed and listed upon the land
2 books in the several counties as of the first day of July, one
3 thousand nine hundred eighty-three, and property required
4 to be described and listed pursuant to section four of this
5 article, shall as soon as the same be returned or, if not
6 returned, listed on the land books or otherwise identified,
7 be categorized and systematically inventoried by the
8 assessor of the county wherein such property is returned or
9 returnable and by the tax commissioner in the case of
10 property returned or returnable to the tax commissioner,
11 for the purpose of ascertaining what the previously assessed
12 value for each such item was or would have been as of the
13 first day of July, one thousand nine hundred eighty-three.

14 The information shall be categorized and systematically
15 inventoried in accord with requirements specified by the
16 tax commissioner and entered into the statewide data bank
17 established by the tax commissioner for such purpose by the
18 officer with whom the return is to be filed. The tax
19 commissioner shall provide for the receipt and permanent
20 preservation of the information entered in the data bank
21 under this section and under the provisions of section nine
22 of this article. As to any such property not so assigned a
23 previously assessed value, effort shall be made by the
24 appropriate county assessor to cause a back assessment to
25 be made for the assessment date of the first day of July, one
26 thousand nine hundred eighty-three and subsequent

27 assessment dates thereafter, if such assessment would have
 28 been proper as of the first day of July, one thousand nine
 29 hundred eighty-three, or thereafter, under law applicable
 30 to assessments on such dates.

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

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

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

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

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

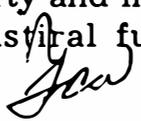
1 (a) With respect to farm property, the tax commissioner
 2 shall appraise such property so as to ascertain its fair and
 3 reasonable value for farming purposes regardless of what

4 the value of the property would be if used for some other
5 purpose, and the value shall be arrived at by giving
6 consideration to the fair and reasonable income which the
7 property might be expected to earn in the locality wherein
8 situated, if rented. The fair and reasonable value for
9 farming purposes shall be deemed to be the market value of
10 such property for appraisal purposes.

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

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

1 On or before the first day of September, one thousand
2 nine hundred eighty-three, the tax commissioner shall
3 propose a legislative rule for submission to the Legislature
4 pursuant to the provisions of article three, chapter twenty-
5 nine-a of this code, which rule shall describe in detail the
6 methods whereby the tax commissioner will determine the
7 market value, during the first statewide reappraisal, of the
8 following property:

- 9 (1) Active and reserve coal properties;
 - 10 (2) Oil producing properties;
 - 11 (3) Gas producing properties;
 - 12 (4) Timberland;
 - 13 (5) Active mining mineral interests including limestone,
14 fireclay, dolomite, sandstone, and other actively mined
15 minerals;
 - 16 (6) Commercial real property and industrial land;
 - 17 (7) Commercial and industrial furniture, fixtures,
18 machinery and equipment;
- 

19 (8) Intangible personal property, including stock,
20 accounts receivable and stocks in banks and capital of
21 savings and loan associations;

22 (9) Public utility property; and

23 (10) Vehicles, watercraft and aircraft.

§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.

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

26 (b) In each county during the reappraisal function, the
27 tax commissioner shall designate a tax department
28 employee as the coordinator of reappraisal functions
29 among the commissioner's personnel, the commissioner's
30 designated agents, and the assessor's personnel so as to
31 insure that the resulting appraisal shall be complete, equal

32 and uniform. In each county, the tax commissioner or his
33 designated agent shall prepare a description of the number,
34 job description and minimum qualifications of personnel
35 needed to accomplish the reappraisal, other than
36 permanent employees of the tax commissioner or employees
37 of the assessor. The tax commissioner or his designated
38 agent shall employ qualified individuals to fill the positions
39 giving first preference to persons registered with the West
40 Virginia department of employment security job service
41 program, but all such persons shall be residents of the
42 county, or if the tax commissioner finds it necessary for
43 efficiency, any contiguous county, or if none be available,
44 the state. The tax commissioner shall make reasonable
45 efforts to assure that the additional employment required
46 by this article is allocated equitably among the several
47 counties, with attention to the level of unemployment in
48 and the population of each county.

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

§11-1A-13. Assurance of fair treatment.

1 The tax commissioner shall require that his employees
2 and any designated agent visit each parcel of land to be
3 reappraised and perform other functions to assure a
4 competent appraisal.

5 Upon any visit to land, no such employee, agent or
6 employee of the agent shall enter into a dwelling house or
7 the curtilage thereof, if any, unless the employee or agent
8 shall give written notice to an adult person then present of
9 the right of residents thereof to refuse such entry, nor insist
10 upon entry upon any other land except at reasonable times,
11 nor in any manner harass a person for refusing such entry or
12 refusing entry at an unreasonable time, nor in any other
13 manner intentionally harass or abuse any person incident to
14 any such visit.

15 The tax commissioner shall assure that his employees and
16 agents afford to all taxpayers before he certifies the
17 reappraisal reasonable opportunity to review and comment
18 in writing upon the accuracy of all real property
19 descriptions and other reappraisal property listings and use
20 reasonable means to resolve differences in such
21 descriptions and listings, including informal hearings,
22 reinspections where indicated, and written notice to any
23 aggrieved taxpayer of the results of such review.

24 Failure to comply with requirements of this section shall
25 not be construed to invalidate a reappraisal value once
26 determined and certified by the commissioner but upon any
27 appeal or review of such certified reappraisal any evidence
28 obtained in violation of the requirements of this section
29 may be excluded unless corroborated.

30 The tax commissioner shall assure that his employees and
31 agents maintain written records of all changes made in
32 property descriptions or values by reason of informal
33 reviews with taxpayers and all visits to land, including the
34 dates thereof, names of participating persons present and a
35 fair summary of the reasons for any changes. Such records
36 shall be subject to inspection and production in any
37 consideration of the propriety of the appraised value and
38 may be admissible in evidence if otherwise probative upon
39 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.**

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

11 (b) On or before the first day of September, one
12 thousand nine hundred eighty-four, the tax commissioner
13 shall propose a legislative rule for submission to the

14 Legislature pursuant to the provisions of article three,
15 chapter twenty-nine-a of this code which rule shall
16 describe in detail the method whereby the tax
17 commissioner will adjust appraised values determined by
18 the statewide reappraisal on account of substitutions,
19 accretions, improvements, additions, replacements,
20 destructions, removals, casualties, acts of God, waste or any
21 like occurrences.

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

39 (d) Inasmuch as it is the intent of the Legislature that
40 the tax commissioner concentrate his reappraisal efforts
41 upon the first statewide reappraisal until it is completed,
42 and because prior reappraisal methods and results may not
43 be wholly consistent with the methods and results of the
44 statewide reappraisal, the tax commissioner shall not
45 complete, deliver or certify appraisals of nonutility real
46 property and nonutility personal property under the
47 provisions of section eleven, article nine-a, chapter
48 eighteen of this code, after the effective date of this article
49 and prior to the completion, publication and certification of
50 the first statewide reappraisal under this article: *Provided,*
51 That the tax commissioner shall not be precluded from
52 correction of prior appraisals under the provisions of
53 current or prior law, but this proviso shall not be construed
54 to avoid the other provisions of this paragraph.

§11-1A-15. Appraisal of property; lists to county officials.

1 (a) All real property assessed, or which should have
2 been assessed, as of the first day of July, one thousand nine
3 hundred eighty-three, and all property described and listed
4 pursuant to section four of this article, shall be appraised by
5 the tax commissioner at its value as defined in this article,
6 in order that the tax commissioner may comply with the
7 requirement of section one of this article.

8 (b) As appraisals are completed and notices given in
9 accordance with the provisions of section sixteen of this
10 article, lists of the property appraised, the owners and
11 valuations shall be delivered to the assessor, the county
12 commission and the sheriff of the county wherein the
13 appraised property is liable to assessment.

§11-1A-16. Administrative review of appraisal.

Now 0
1 (a) Upon receipt by the assessor of the lists of property
2 appraised and the owners and the valuations thereof, as
3 provided by section fifteen of this article, the assessor shall
4 forthwith cause a notice to be given in the form of a Class
5 I-O legal advertisement which advises that the appraisal of
6 property within the county is or has been completed and
7 that the results thereof are available to any person
8 interested therein in the office of sheriff of the county
9 wherein the property is located. After such advertisement
10 has been made, the assessor shall forthwith mail to each
11 owner, a notice of the amount of such valuation. The notice
12 shall be addressed to the person or persons in whose name
13 any such property is assessed or who is liable, and shall be
14 mailed to the address of such person or persons as reflected
15 upon the tax tickets in the office of the sheriff of the county
16 wherein such property is located. Such notice shall be in a
17 form prescribed by the tax commissioner and shall inform
18 the owner that if he desires to challenge such valuation he
19 must inform the tax commissioner within twenty-one days
20 of the date of such notice, in writing, of his intention to so
21 challenge the valuation.

22 (b) If the owner mails such writing to the tax
23 commissioner within twenty-one days of the date of the
24 notice of valuation, the tax commissioner shall, within
25 thirty-five days after the date of the notice of valuation,
26 provide the owner and the assessor with a written statement
27 of the information upon which the tax commissioner relied
28 in making such appraisal.

29 (c) Within twenty-one days after the date of the written
30 statement of information furnished by the tax
31 commissioner as provided in subsection (b) of this section,
32 the owner may request the tax commissioner to review the
33 valuation of this property. Such request shall be in writing,
34 shall state fully the reasons for the request, and shall be
35 supported by such evidence as will enable the tax
36 commissioner to make the redetermination described in
37 subsection (d) of this section.

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

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

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

66 (g) Whenever the property has been returned or is
67 returnable to the tax commissioner, the tax commissioner
68 shall perform the duties imposed upon the assessor by this
69 section. In such case, the tax commissioner shall specify in
70 such notice the county in which a review of such appraisal

71 shall be heard. The tax commissioner shall specify the
72 county in which he determines that a larger portion of the
73 property appraised is or is usually situate and his
74 determination thereof shall be final.

**§11-1A-17. Review of appraisal by the county commission
sitting as an administrative appraisal review
board.**

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

15 (b) The county commission shall sit as an administrative
16 appraisal review board, shall hear such testimony, under
17 oath, as the owner, the tax commissioner and other
18 witnesses may offer, and shall make a true record of the
19 testimony by nonstenographic electronic recording suitable
20 to assure that the recorded testimony will be accurate and
21 trustworthy. Upon making such true record and preserving
22 the other evidence presented, the commission shall
23 determine whether the amount of value fixed by the
24 appraisal of the property is correct under the
25 circumstances. If the county commission finds the appraisal
26 to be correct it shall enter an order approving the value as
27 appraised and adopting by reference the determination and
28 reasons made by the commissioner under subsection (d),
29 section sixteen of this article. If the county commission
30 determines that the amount of value fixed by the appraisal
31 of the property is incorrect, and if sufficient evidence has
32 been presented to permit correction of the appraisal, the
33 county commission shall correct the appraisal and fix the
34 value of the appraised property. If the county commission
35 shall find that the evidence is not sufficient to determine the

36 correct value, the county commission shall direct the
37 parties to develop and present such evidence, and may
38 continue the hearing from time to time for this purpose until
39 there be evidence before it sufficient to fix the correct value.
40 Upon making a determination, the county commission shall
41 enter an order and inform the parties in writing, setting
42 forth in summary form the reasons for such determination.

43 (c) Any person who is a taxpayer of ad valorem property
44 taxes in any West Virginia county may protest an appraisal
45 of property under this article for good cause alleged and
46 shown. A person desiring to protest a reappraisal of
47 property shall petition for a hearing before the
48 administrative appraisal review board in the same manner
49 as an owner would petition for hearing with regard to the
50 appraisal of his property under the provisions of subsection
51 (a) of this section: *Provided*, That a petition for protest must
52 be filed with the county commission within forty-five days
53 after the publication of the notice required in subsection (a),
54 section sixteen of this article. The hearing of a protest shall
55 be governed by the same procedures described for hearings
56 in subsection (b) of this section.

57 (d) Upon a showing of good cause, any person who is a
58 taxpayer of ad valorem property taxes in any West Virginia
59 county may be permitted to intervene in the hearing
60 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
2 the parties of a final determination of value made pursuant
3 to section seventeen of this article, the owner, tax
4 commissioner, protestor or intervenor may request the
5 county commission to certify the evidence and remove and
6 return the record to the circuit court of the county on a writ
7 of certiorari instituted in accordance with the provisions of
8 article three, chapter fifty-three of this code. For purposes
9 of this article, the recorded testimony of the hearing, when
10 certified by the county commission, may be used by the
11 circuit court as the transcript of testimony.

§11-1A-19. Subsequent statewide reappraisals required.

1 After the first statewide reappraisal, to be completed on
2 or before the thirty-first day of March, one thousand nine
3 hundred eighty-five, the commissioner shall require that

4 periodic reviews of property valuation shall take place so as
5 to ensure that all property is valued at market value as set
6 forth herein at all times: *Provided*, That statewide
7 reappraisals of property shall take place at least every ten
8 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
2 government, county commissions and county assessors are
3 hereby authorized, required and directed to render such
4 necessary aid and assistance to the tax commissioner as is
5 required to enable the commissioner to complete the first
6 statewide reappraisal of all property by the thirty-first day
7 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
2 established a statewide electronic data processing system
3 network, to facilitate administration of the ad valorem
4 property tax on real and personal property, through the
5 timely sharing of property tax information among county
6 assessors and the tax commissioner.

7 (b) Each county shall lease, at its expense, the data
8 processing equipment required by the commissioner to be
9 located in each county. Additionally, each county shall
10 provide, at its expense, the necessary staffing and operating
11 personnel and all other necessary facilities, including
12 telephone and other communications equipment, to allow
13 on-line interaction with the host computer or such other
14 computer as the commissioner may designate. Each county
15 shall be charged by the commissioner for its proportionate
16 share of the cost for use of the host computer and other
17 related services. Such data processing and communications
18 equipment must be installed and tested and county
19 personnel trained to use the equipment on or before the first
20 day of July, one thousand nine hundred eighty-five.

21 (c) To ensure equipment compatibility and the efficient
22 operation and maintenance of the statewide electronic data
23 processing system network, the commissioner shall select
24 and may, from time to time, change equipment suppliers at
25 the state and any county level. All equipment for the system

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26 shall be acquired under the purchasing procedures
27 specified in article three, chapter five-a of this code.

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

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

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

63 (g) The commissioner is hereby specifically authorized
64 and empowered to enter into such contracts as may be
65 necessary and for which funds may be available to establish
66 the electronic data processing system provided for in this
67 section.

68 (h) The cost of any service or act performed by the
 69 commissioner under the provisions of this section shall be
 70 paid by the county commission of the county for which the
 71 service or act was provided. The cost of any service or act
 72 shall be the actual cost and expense incurred by the
 73 commission to provide the service or act. The commissioner
 74 shall render to the county commission a statement of the
 75 costs as soon after the same were incurred as practicable. It
 76 shall be the duty of the county commission to allow the same
 77 and to cause it to be paid promptly in the manner that other
 78 claims and accounts are allowed and paid and the amount
 79 owed to the tax commissioner shall constitute a debt due the
 80 state which may be satisfied from any money owed the
 81 county commission by the state for any reason.

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

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

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

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

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

1 The Legislature hereby finds that the "Property Tax
 2 Limitation and Homestead Exemption Amendment of
 3 1982" intended to provide that the increased valuation of
 4 property, both real and personal, resulting from the first
 5 statewide reappraisal be allocated over a period of ten years
 6 in equal amounts annually.

7 The Legislature further finds and ascertains that the only
 8 fair and equitable manner to achieve the allocation of
 9 increased valuation over a period of ten years in equal
 10 amounts annually is to provide that upon determination by
 11 the first statewide reappraisal of the appraised value of

12 each parcel of land or interest therein and each item of
13 personal property, sixty percent of each appraised value
14 shall be compared with its corresponding assessed value for
15 the base year as adjusted to establish the assessed value for
16 the year next preceding the first year of the phase-in. If
17 sixty percent of the appraised value is larger than the
18 previously assessed value for the year next preceding the
19 first year of the phase-in, the difference shall be divided
20 into ten equal parts. For the tax year one thousand nine
21 hundred eighty-six and for each subsequent year through
22 the tax year one thousand nine hundred ninety-five the
23 assessed value for the base year, shall be increased by one
24 such tenth part. The result plus sixty percent of any
25 subsequent annual increases in appraised value or less sixty
26 percent of any annual decreases in appraised value shall be
27 the assessed value for each such year: *Provided*, That such
28 assessed value shall not exceed sixty percent of the market
29 value in any year.

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

1 (a) *Secrecy of returns and return information.*—
2 Property tax returns and return information filed or
3 supplied pursuant to this article and articles three, four,
4 five and six of this chapter and information obtained by
5 subpoena or subpoena duces tecum issued under the
6 provisions of this article shall be confidential and except as
7 authorized in this section, no officer or employee of the state
8 tax department, county assessors, county commissions and
9 the board of public works shall disclose any return or return
10 information obtained by him, including such return
11 information obtained by subpoena, in any manner in
12 connection with his service as such an officer, member or
13 employee: *Provided*, That nothing herein shall make
14 confidential the itemized description of the property listed,
15 in order to ascertain that all property subject to assessment
16 has been subjected to appraisal: *Provided, however*, That
17 the commissioner and the assessors shall withhold from
18 public disclosure the specific description of burglar alarms
19 and other similar security systems held by any person,
20 stocks, bonds and other personal property held by a natural
21 person, except motor vehicles and other tangible property

22 utilized publicly, and shall withhold from public disclosure
23 information claimed by any taxpayer to constitute a trade
24 secret or confidential patent information: *Provided further*,
25 That such property descriptions withheld from public
26 disclosure shall be subject to production and inspection in
27 connection with any review, protest or intervention in the
28 appraisal or assessment process, under such reasonable
29 limitations as the board of review, board of equalization
30 and review or court shall require. The term officer or
31 employee includes a former officer, member or employee.

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

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

56 (c) *Reciprocal exchange*.—The tax commissioner may
57 permit the proper officer of the United States, or the
58 District of Columbia, or any other state, or his authorized
59 representative, to inspect reports, declarations or returns
60 filed with the tax commissioner or may furnish to such
61 officer or representative a copy of any such document
62 provided such other jurisdiction grants substantially
63 similar privileges to the tax commissioner or to the attorney
64 general of this state.

65 (d) *Penalties.*—Any officer, member or employee of the
66 state tax department, county assessors, county
67 commissions and the board of public works who violates
68 this section shall be guilty of a misdemeanor, and, upon
69 conviction thereof, shall be fined not more than one
70 thousand dollars or imprisoned for not more than one year,
71 or both, together with the costs of prosecution.

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

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

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

1 The tax commissioner shall develop, or cause to be
2 developed, appraisal manuals for all species of property, for
3 use in making statewide reappraisals. These manuals shall
4 be used by the tax commissioner, county assessors, county
5 commissions, the board of public works and any property
6 appraisal firm or firms employed to assist in making
7 statewide reappraisals. These manuals shall, at a minimum:
8 (1) Provide guidelines for determining the appraised value
9 of all species of property, that are consistent with this
10 article; (2) establish work procedures; and (3) promote
11 uniformity of approach to tasks. The tax commissioner and
12 his designated agents shall consult with each of the county
13 assessors in the preparation of all such manuals.

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

1 If any person, firm or corporation, including public
2 service corporations whose duty it is by law to list any real
3 estate or personal property for appraisal, shall refuse to
4 furnish a proper list thereof or refuse to list within the time

5 required by law and within thirty days after written
6 demand therefor; or if any person, firm or corporation,
7 including public service corporations, shall refuse to
8 answer or shall answer falsely any question asked by the
9 assessor or by the tax commissioner, or shall refuse to
10 deliver any other statement required by law, he or it shall
11 forfeit not less than twenty-five nor more than one hundred
12 dollars, and shall be denied all remedy provided by law for
13 the correction of any appraisal made by the tax
14 commissioner. If any person, firm or corporation, including
15 a public service corporation, required by this article to
16 make return of property for appraisal, fails to return a true
17 list of all property which should be appraised under the
18 provisions of this article, in addition to all other penalties
19 provided by law, shall forfeit one percent of the value of the
20 property not yet returned and not otherwise taxed in this
21 state.

22 Such forfeitures shall be collected as is hereinafter
23 provided under the provision of article two, chapter eleven-
24 a of this code, the same as any tax liability, against the
25 defaulting taxpayer, or in case of a decedent, against his
26 personal representative. The sheriff shall apportion such
27 fund among the state, county, district, school district and
28 municipalities which would have been entitled to the taxes
29 upon such property if it had been assessed, in proportion to
30 the rates of taxation for each such levying unit for the year
31 in which the judgment was obtained bears to the sum of
32 rates for all. Any judgment recovered under this section
33 shall be a lien, from the time of the service of the notice,
34 upon all real estate and personal property of such
35 defaulting taxpayer, owned at the time or subsequently
36 acquired, in preference to any other lien.

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

1 Each incorporated company, foreign or domestic, having
2 its principal office or chief place of business in this state, or
3 owning property subject to taxation in this state, shall
4 include with the return required by this article, a list of the
5 following items: (a) The amount of capital authorized to be
6 employed by it; (b) the amount of cash capital paid on each
7 share of stock; (c) the amount of credits and investments
8 other than its own capital stock held by it on said date, with

9 their true and actual value; (d) the quantity, location and
10 value of all its real estate, and the tax district or districts in
11 which it is located; and (e) the kinds, quantity and value of
12 all of its tangible property in each tax district in which it is
13 located.

14 The list required by this section shall be under oath,
15 which oath shall be substantially as follows:

16 State of West Virginia, County of , ss:

17 I, , president (treasurer or manager) of
18 (here insert name of corporation), do solemnly swear (or
19 affirm) that the foregoing is, to the best of my knowledge
20 and judgment, true in all respects; that it contains a
21 statement of all the real estate and personal property,
22 including credits and investments belonging to said
23 corporation; and said corporation has not, to my
24 knowledge, during the sixty-day period immediately prior
25 to the first day of the assessment year converted any of its
26 assets into nontaxable securities or notes or other evidence
27 of indebtedness for the purpose of evading the assessment
28 of taxes thereon; so help me God.

29

30 The officer administering such oath shall append thereto
31 the following certificate, viz:

32 Subscribed and sworn to before me by
33 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.**

1 (a) There is hereby created in the executive department
2 of the state government, within the state tax department,
3 the West Virginia appraisal control and review commission,
4 an independent agency, consisting of seventeen persons, to
5 be selected as provided in this section. The commission shall
6 continue until the values fixed by the first statewide
7 reappraisal shall be first utilized for the determination of
8 assessed value but in no event beyond the first day of July,
9 one thousand nine hundred eighty-seven.

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

23 (c) It shall also be the duty of the commission (1) To
24 publish information to advise the public of the nature and
25 extent of the reappraisement and their rights to specific
26 advice and information from the commission; (2) to receive,
27 investigate, hear and consider complaints by citizens and
28 officers of corporations whose property is subject to return
29 or reappraisal under this article, except complaints
30 disposed of to the satisfaction of the complainants by the
31 assessors of the various counties or informally by the
32 commission, concerning any practice, procedure or activity
33 of the persons or firms conducting any part of the property
34 reappraisal which is or is claimed to be contrary to law, or
35 regulations or contracts entered into pursuant to this
36 article; and (3) to prepare and provide for dissemination to
37 all taxpayers a "Property Owner's Bill of Rights" pamphlet
38 explaining in concise language the reappraisal program
39 required by the constitution and this article and the rights
40 of property owners to formal and informal review of
41 practices and procedures and the fixing of appraised values
42 of their property and such other rights, duties and

43 privileges as arise under this article and the Tax Limitation
44 and Homestead Exemption Amendment of 1982 and such
45 other matters as the commission shall direct.

46 (d) For the purposes of carrying out its duties under this
47 article, the commission shall be furnished by the tax
48 commissioner with office space, clerical and other staff
49 assistance, and equipment, including statewide inward and
50 outward WATS line telephone service, to be known as the
51 "Property Reappraisal Hotline", and reasonable efforts
52 shall be made in the conduct of the first statewide
53 reappraisals to advise the public generally and each person
54 whose residential real property is being reappraised of the
55 availability of such "Property Reappraisal Hotline" and
56 information and advice concerning such reappraisement.

57 (e) The tax commissioner shall be the chairman of the
58 commission and have the right to vote and preside over the
59 commission and direct its staff to carry out commission
60 directives. The remaining sixteen members shall be drawn
61 from each of the state's four congressional districts as
62 comprised on the effective date of this section. Four
63 persons, all of whom shall be residents of the congressional
64 district for which they are selected, but none of whom shall
65 be residents of the same county, shall be appointed by the
66 governor, with the advice and consent of the Senate. Not
67 more than two persons who are members of the same
68 political party shall be appointed from any congressional
69 district. All persons appointed by the governor shall be
70 residents of the state and of the congressional district for
71 which they are appointed and shall be owners of real
72 property or an interest therein. Within five days after the
73 effective date of this section each county commission shall
74 nominate residents of its county for appointment to the
75 commission and shall commence publication of a Class I ~~SO~~ *II-0*
76 legal notice, in a newspaper of general circulation in the *See*
77 county, advertising its intention to nominate persons for
78 appointment to the commission and fixing a date not more
79 than ten days after the first publication of such notice as the
80 last day for citizens of the county to suggest the names of
81 possible nominees to the county commission. Any such
82 suggestions may be made in writing or orally to any such
83 county commission. Within seven days after the second
84 publication, any such county commission shall, by order,

85 nominate four persons who are residents of such county and
86 who possess the requisite qualifications, not more than two
87 of whom are members of the same political party, and
88 forthwith transmit a certified copy of such order to the
89 governor. From the list of nominees supplied by the various
90 county commissions, the governor shall appoint the
91 requisite number of persons to the commission within sixty
92 days of the effective date of this section. A person appointed
93 shall serve until the commission terminates unless such
94 person sooner resigns, dies or is removed. A person may be
95 removed only by the governor for good cause in the manner
96 that other officers subject to removal by the governor may
97 be removed: *Provided*, That any member who fails to attend
98 three consecutive regular meetings may be removed by the
99 governor. Any vacancy shall be filled within thirty days of
100 the vacancy by the governor, by appointment of a person
101 nominated by one of the county commissions who has the
102 requisite qualifications: *Provided*, That the governor may
103 request additional nominations from county commissions
104 of counties whose residents are eligible for appointment or
105 appoint any eligible person. Any person appointed to fill a
106 vacancy shall be made with the advice and consent of the
107 Senate, and shall serve until the commission is terminated
108 or such person sooner dies, resigns or is removed.

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

119 (g) The commission may divide the state into four areas,
120 each area consisting of one of the congressional districts
121 fixed by law. The membership of the commission from each
122 such area shall constitute the membership of a
123 subcommittee for such area. The tax commissioner shall
124 designate an employee of his office assigned to oversee the
125 reappraisal in one or more of the counties within such
126 area as the chairman of the subcommittee for such area,

127 who shall be empowered to act for and on behalf of such
128 subcommittee in the same manner as the tax commissioner
129 shall act for the commission.

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

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

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

165 (j) The tax commissioner shall serve as chairman of the
166 subcommittee on manuals and the subcommittee on
167 computer technology, have a vote thereon, and be excluded
168 from consideration in determining if any member meets

169 residency requirements. The commission shall fix the
170 compensation of members of the committee on computer
171 technology other than the chairman. Members of the
172 subcommittee on manuals and computer technology shall
173 also be reimbursed for reasonable expenses according to
174 travel regulations of the executive department.

New 175 (k) On the recommendation of any subcommittee or
176 upon the initiative of the commission, the commission may
177 after hearing and on a majority vote of those present, issue a
178 cease and desist order with respect to any practice,
179 procedure or activity in the reappraisal which it finds
180 to be contrary to law, this article or any regulation or
181 contract consistent with this article. Such order shall be
182 effective upon its adoption: *Provided*, That within ten days
183 after the adoption of such order, the governor may by
184 executive order rescind or modify the cease and desist
185 order. Any such cease and desist order modified by
186 executive order of the governor shall from the issuance of
187 the executive order be effective only as so modified. No such
188 cease and desist order by the commission or any executive
189 order shall deprive the state of a uniform and equal
190 reappraisal consistent with the provisions of this
191 article. No order of the commission or executive order of the
192 governor shall be stayed in any action except upon
193 application to the supreme court of appeals for relief
194 pursuant to its original jurisdiction.

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

207 (m) No member of the commission or any subcommittee
208 shall be required to attend court on the day of, the day
209 before or the day after any meeting of the commission or of
210 such subcommittee which such member actually attends.

211 (n)(1) Any taxpayer aggrieved by any procedure,
212 practice, activity or conduct incident to any statewide
213 reappraisal carried out under the provisions of this article
214 shall, in the first instance, lodge a complaint with the
215 assessor of the county wherein such taxpayer has property
216 situate. Any such complaint may be communicated orally or
217 in writing by the taxpayer to the assessor. It shall be the
218 duty of the assessor to receive the complaint, and, unless he
219 resolves the complaint informally to the satisfaction of the
220 taxpayer within five days of its receipt, the assessor shall
221 prepare a report upon a form provided for that purpose by
222 the tax commissioner, setting forth a fair summary of the
223 complaint. In attempting to informally resolve the
224 complaint, the assessor is expressly authorized to contact
225 the officers and employees of the state tax department and
226 its designated agents to discuss possible solutions to the
227 complaint.

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

244 (3) If the complaint is in the nature of alleged
245 misconduct relating to the demeanor of any person charged
246 with responsibility for performing any function required by
247 this article, the complaint form prepared by the assessor
248 shall forthwith be transmitted by the assessor to the tax
249 commissioner, who shall acknowledge receipt thereof in
250 writing mailed to the taxpayer. The tax commissioner shall
251 conduct any appropriate investigation, and dispose of the
252 complaint in such manner as may be provided by law and
253 any rules of procedure adopted.

of the

254 (4) In all cases where disposition is made of a complaint
 255 under this subsection, notice of the disposition shall be
 256 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.

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

§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.

1 Of the whole number of persons engaged in the
 2 reappraisal process, ninety-five percent of all persons
 3 employed by the state and its designated agents in this state
 4 to conduct any part of the reappraisal shall be residents of
 5 the state. The Legislature finds that the process of
 6 reappraisal, the acceptance of the results by the public,
 7 and the deeply held attitudes and outlook of the citizens of
 8 the state require, for the success of the reappraisal and
 9 the acceptance of the widespread resulting adjustments in
 10 assessment values, that this stringent requirement be

11 strictly adhered to, to the end that school revenues and
12 other local income and taxation have the benefit of the
13 reappraisal as promptly as possible.

14 On the effective date of this section, the contract of the
15 state for mass appraisal of residential properties and other
16 reappraisal services shall be modified as follows:

17 (1) To conform with this article; and

18 (2) To remove from the contract data encoders and other
19 clerical help, at an aggregate reduction in cost under the
20 contract of at least three million dollars.

21 After investigation, the Legislature finds that the
22 contractor is amenable to the modification of its contract to
23 conform with the requirements of this article. The tax
24 commissioner is directed to conform such contract to the
25 requirements of this article within ten days after the
26 effective date of this section.

27 The data encoders and other clerical employee positions
28 required to be transferred from the contract to state
29 employment pursuant to this section, being temporary
30 positions requiring prompt employment of limited duration
31 are hereby classified exempt for the purposes of article six,
32 chapter twenty-nine of this code. The tax commissioner is
33 hereby granted plenary authority, subject only to the
34 supervision of the governor, to determine all terms and
35 conditions of employment of such employees.

§11-1A-30. Severability.

1 The provisions of subsection (cc), section ten, article two,
2 chapter two of this code regarding severability shall be
3 deemed to be included herein as if set forth in extenso in this
4 section.

ARTICLE 3. ASSESSMENTS GENERALLY.

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

1 On the first day of July, in each year, the assessors and
2 their deputies shall begin the work of assessment in their
3 respective counties, and shall, from that date, diligently and
4 continously pursue with all reasonable dispatch, their work
5 of assessment until the same is completed: *Provided*, That
6 the assessor and his deputies shall finish their work of
7 assessment, and complete the land and personal property
8 books not later than the thirtieth day of January. Beginning
9 on the first day of July, as aforesaid, the assessor or a deputy

10 shall obtain from every person in the county who is liable to
 11 assessment, a full and correct description of all of the
 12 personal property of which he was the owner on the first
 13 day of July of the current year, fixing what he deems to be
 14 the true and actual value of each item of personal property
 15 for the guidance of the assessor, who shall finally settle and
 16 determine the actual value of each item of such property by
 17 the rule prescribed in section one of this article. The
 18 assessor or a deputy shall also obtain from such person
 19 separate, full and true statements, in like manner, and upon
 20 forms to be furnished him, distinctly setting forth in each a
 21 correct description of all property, real and personal, held,
 22 possessed or controlled by him as executor, administrator,
 23 guardian, trustee, receiver, agent, partner, attorney,
 24 president or accounting officer of a corporation, consignee,
 25 broker, or in any representative or fiduciary character; and
 26 he shall fix what he deems the true and actual value thereof
 27 to each item of such property, which valuation shall be
 28 subject to revision and change by the assessor in like
 29 manner as property owned by such person in his own right:
 30 *Provided*, That no person shall be compelled to furnish the
 31 list mentioned in this section sooner than the tenth day of
 32 July of the current year.
 33 The assessor shall perform such other duties while
 34 making his assessment as may be required of him by law.

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

1 If any person, firm or corporation, including public
 2 service corporations whose duty it is by law to list any real
 3 estate or personal property for taxation, shall refuse to
 4 furnish a proper list thereof or refuse to list within the time
 5 required by law, or if any person, firm or corporation,
 6 including public service corporations, shall refuse to
 7 answer or shall answer falsely any question asked by the
 8 assessor or by the tax commissioner, or shall fail or refuse to
 9 deliver any statement required by law, he or it shall forfeit
 10 not less than twenty-five nor more than one hundred
 11 dollars, and shall be denied all remedy provided by law for
 12 the correction of any assessment made by the assessor or by
 13 the board of public works. If any person, firm or

14 corporation, including public service corporations,
15 required by law to make return of property for taxation,
16 whether such return is to be made to the assessor, the board
17 of public works, or any other assessing officer or body, fails
18 to return a true list of all property which should be assessed
19 in this state, including notes, bonds, bills and accounts
20 receivable, stocks, and any other intangible personal
21 property, such person, firm or corporation, in addition to all
22 other penalties provided by law, shall forfeit one percent of
23 the value of the property not yet returned and not otherwise
24 taxed in this state. A forfeiture as to all property aforesaid
25 may be enforced for any such default occurring in any year
26 not exceeding five years immediately prior to the time the
27 same is discovered, but no liability to penalty or forfeiture
28 as to notes, bonds, bills and accounts receivable, stocks and
29 other intangible personal property arising prior to the first
30 day of January, one thousand nine hundred thirty-three,
31 shall be enforceable on behalf of the state or of any of its
32 subdivisions. Each failure to make a true return as herein
33 required shall constitute a separate offense, and a forfeiture
34 shall apply to each of them, but all such forfeitures, to
35 which the same person, firm or corporation is liable, shall
36 be enforced in one proceeding against such person, firm or
37 corporation, or against the estate of any deceased person
38 and shall not exceed five percent of the value of the property
39 not returned. Such forfeitures shall be collected as is
40 hereinafter provided under the provision of article two,
41 chapter eleven-a of this code, the same as any tax liability,
42 against the defaulting taxpayer, or in case of a decedent,
43 against his personal representative. The sheriff shall
44 apportion such fund among the state, county, district,
45 school district and municipalities which would have been
46 entitled to the taxes upon such property if it had been
47 assessed, in proportion to the rates of taxation for each such
48 levying unit for the year in which the judgment was
49 obtained bears to the sum of rates for all. When the list of
50 property returned by the appraisers of the estate of any
51 deceased person shows an amount greater than the last
52 assessment list of such deceased person next preceding the
53 appraisal of his estate, it shall be prima facie evidence that
54 such deceased person returned an imperfect list of his
55 property: *Provided*, That any person liable for the tax or his

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56 personal representative, may always be permitted to prove
 57 by competent evidence that the discrepancy between such
 58 assessment list and the appraisal of the estate is caused by a
 59 difference of valuation returned by the assessor and that
 60 made by the appraisers of the same property or by property
 61 acquired after assessment, or that any property enumerated
 62 in the appraisers' list had been otherwise listed for taxation,
 63 or that it was not liable for taxation. Any judgment
 64 recovered under this section shall be a lien, from the time of
 65 the service of the notice, upon all real estate and personal
 66 property of such defaulting taxpayer, owned at the time or
 67 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.

1 To the extent that any generally applied, usual and
 2 customary practice or procedure utilized by the assessors of
 3 the several counties prior to the second day of July, one
 4 thousand nine hundred eighty-two, for the return, listing,
 5 appraisement and assessment of property for ad valorem
 6 property taxation did not violate the then existing statutory
 7 law, interpretations thereof by the courts or the state tax
 8 commissioner, or regulations promulgated under such
 9 statutory law, and to that extent only, the use of such
 10 practice or procedure, in good faith, shall not be the sole
 11 basis for, or be considered in, the removal of any public
 12 officer or the imposition of any civil liability upon such
 13 official. The state tax commissioner shall be competent to
 14 offer testimony as to whether the practice or procedure
 15 utilized was generally applied, was a usual and customary
 16 practice among the several counties, and may offer
 17 testimony regarding formal or informal interpretations,
 18 rules or practice employed by him and his predecessors in
 19 office at the time such alleged usual and customary practice
 20 or procedures were utilized in several counties.

ARTICLE 6B. HOMESTEAD PROPERTY TAX EXEMPTION.

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

1 (a) *General.*—An exemption from ad valorem property
 2 taxes shall be allowed for the first twenty thousand dollars

3 of assessed value of a homestead that is used and occupied
4 by the owner thereof exclusively for residential purposes,
5 when such owner is sixty-five years of age or older or is
6 certified as being permanently and totally disabled. Only
7 one exemption shall be allowed for each homestead used
8 and occupied exclusively for residential purposes by the
9 owner thereof, regardless of the number of qualified owners
10 residing therein.

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

§11-6B-7. Property tax books.

1 (a) *Property book entry.*—The exemption of the first
2 twenty thousand dollars of assessed value shall be shown on
3 the property books as a deduction from the total assessed
4 value of the homestead.

5 (b) *Levy; statement to homestead owner.*—When the
6 twenty thousand dollar exemption is greater than the total
7 assessed value of the eligible homestead, no taxes shall be
8 levied. The sheriff shall issue a statement to the owner
9 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.**

1 When any instrument on which the tax as herein provided
2 is imposed is offered for recordation, the clerk of the county
3 commission shall ascertain and compute the amount of the
4 tax due thereon and shall ascertain if stamps in the proper
5 amount are attached thereto as a prerequisite to acceptance
6 of the instrument for recordation.

7 When offered for recording, each instrument subject to
8 the tax as herein provided shall have appended on the face

9 or at the end thereof, a statement or declaration signed by
10 the grantor, grantee or other responsible party familiar
11 with the transaction therein involved declaring the
12 consideration paid for or the value of the property thereby
13 conveyed. Such declaration may be in the following
14 language:

15 "DECLARATION OF CONSIDERATION OR VALUE

16 I hereby declare:

17 (a) The total consideration paid for the property ~~to~~ ^{this} *is*
18 conveyed by the document to which ~~the~~ ^{is} declaration
19 is appended is \$.....; or

20 (b) The true and actual value of the property transferred ~~as~~ ^{is} *is*
21 by the document to which this declaration ~~is~~ ^{is} appended is,
22 to the best of my knowledge and belief
23 \$.....; or

24 (c) The proportion of all the property included in the
25 document to which this declaration is appended which is
26 real property located in West Virginia is%; the value
27 of all the property \$.....; the value of real
28 estate in West Virginia is \$.....; or

29 (d) This deed conveys real estate located in more than
30 one county in West Virginia; the total consideration paid
31 for, or actual cash value of, all the estate located in
32 West Virginia conveyed by this document is
33 \$.....; and documentary stamps showing
34 payment of all the excise tax on all of said estate are
35 attached to an executed counterpart of this deed recorded
36 in County.

37 Given under my hand this day of
38, 19.....

39 Signed.....
40 (Indicate whether grantor, grantee,
41 or other interest in conveyance).

42
43 Address"

44 Such declaration shall be considered by the clerk in
45 ascertaining the correct number of stamps required, and if
46 declaration (d) is used no stamps shall be required on the
47 duplicate deed to which it is attached and such duplicate
48 deed shall be admitted to record, and when recorded shall
49 have the same effect for all purposes as if stamps were
50 attached thereto.

51 On or after the first day of July, one thousand nine
52 hundred eighty-three, the clerk shall not record any
53 document with stamps affixed unless there is tendered with
54 the document a completed and verified sales listing form for
55 the benefit and use of the state tax commissioner.
56 Preprinted forms for this purpose shall be provided each
57 clerk by the tax commissioner.

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

88 On or before the tenth day of each month the clerk shall
89 deliver to the tax commissioner, or a person designated by
90 the tax commissioner, the sales listing forms or such other
91 alternative forms as may be authorized by this section for
92 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 Anello
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Paul C. Nitch
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Warren F. McHear
.....
President of the Senate

W. H. M. See, Jr.
.....
Speaker House of Delegates

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

John R. Ryle
.....
Governor

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OFFICE
SECY. OF STATE