WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1986

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ENROLLED

HOUSE BILL No. 153

(By Mr. D. Feinberg & Del. Steward)

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Passed ........................................ May 22, 1986

In Effect .................................... Passage
ENROLLED

H. B. 153

(By Delegate Feinberg and Delegate Shepherd)

[Passed May 22, 1986; in effect from passage.]

AN ACT to amend and reenact section three, article one-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article one-a by adding thereto a new section, designated section twenty-nine-a; and to further amend said chapter eleven by adding thereto a new article, designated article one-b, all relating generally to the periodic statewide appraisal and reappraisal of property subject to ad valorem taxation; the definition of certain terms used with respect thereto; the redefinition of the term “farm” with respect to principal residences situate on farms; prescribing generally the duties of the tax commissioner, the county assessors, sheriffs and county commissions with respect to the valuation of property for ad valorem tax purposes and providing for their removal from office for their failure to perform such duties; providing for an additional period for review of property appraisals completed since the year one thousand nine hundred eighty-two; certain legislative findings with respect thereto; providing that said article one-b shall apply only to the reappraisement of property completed pursuant to the requirements of Article X, Section 1b of the Constitution of West Virginia; providing definitions for certain terms used with respect to such review; requiring the tax commissioner to prepare a list of all taxable property located within the several counties and requiring its publication by the sheriffs thereof;
requiring notice of appraised values of each item of real property to be mailed to the owner thereof by the tax commissioner; the content and form of such notices; requiring such owners to be notified as to their right to petition for review of such values; requiring additional notices to be given the public through advertisements in the various news media of the state and the date and content of such advertisements; authorizing such advertisements to be run as a public service by such media, or in lieu thereof, providing for the payment of the costs; review of such appraisements by the county commission and the time for the filing of petitions for such review; the content of such petitions and procedures with respect to the hearings held thereon; the function and duties of the assessor, the prosecuting attorney and other officials with respect to such hearing and review procedures; making and preserving the record of such hearings; the entry of a decision of the county commission and the time by which such decision is required to be made; authorizing the tax commissioner, assessor and interested parties to enter into agreements and stipulations with respect to such values and the effect thereof; limiting the time when such agreements shall go into effect; the authority of the county commission with respect to such agreements and stipulations; requiring the tax commissioner to hire or retain property tax appraisement consultants; requiring such consultants to assist the public with respect to problems arising from the appraisal and assessment of property; the qualifications of such consultants and their duties and responsibilities; the rights of persons other than the property owner to petition or intervene with respect to reviewing the values of property for ad valorem tax purposes; the duty of the assessor to assist the county commission with respect to establishing such values and to inventory certain properties damaged by the flood which occurred in the state on or about the third or fourth day of November, one thousand nine hundred eighty-five; review of any decision made by the county commission with respect to values by the circuit court upon petition for certiorari; requiring the reimbursements of certain costs to the assessor and sheriff
by the tax commissioner; requiring the county commis-
sion and the tax commissioner to provide certain reports
and the date thereof; procedures and the certification
and completion of the property appraisal process in
conformance with said article one-b and the
implementation thereof; and the date of such
implementation.

Be it enacted by the Legislature of West Virginia:

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

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

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

(f) "Farm" shall mean and include land currently
being used primarily for farming purposes, whether by
the owner thereof or by a tenant, and which has been
so used for at least seasonally during the year next
preceding the then current tax year, but shall not
include lands used primarily in commercial forestry or
the growing of timber for commercial purposes; and
shall not include one acre surrounding the principal
residence situate on a farm which shall be valued as a
homesite in the same manner as surrounding homes and
properties not situated on farmland, taking into consid-
eration such variables as location, resale value and
accessibility. The commissioner of agriculture shall
formulate criteria upon which a parcel of land qualifies
as a "farm". The county assessor may require the
assistance of the commissioner of agriculture in making
a determination of whether a parcel of land qualifies as
a "farm".

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

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

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

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

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

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

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

§11-1A-29a. Duty of tax commissioner, assessors, sheriffs and county commissions in valuation of property.

Except as to hearing and deciding petitions for review by the several county commissions, it shall be the responsibility and duty of the tax commissioner to see to the proper and accurate valuation of all property subject to appraisal pursuant to this article or article one-b of this chapter, except for nonutility personal property. It is likewise the duty of the several county assessors, sheriffs and county commissions to assist the tax commissioner in his efforts to ascertain the true value of all such property and it is likewise their individual and collective duties to see to the proper and fair valuation of property within their respective counties. It shall be the responsibility and duty of each county assessor to see to the proper and accurate valuation of all nonutility personal property appraised pursuant to this article. The assessor shall review the initial appraisal of such personal property and shall make such adjustments as will render said appraisal equal and uniform. The tax commissioner shall provide such necessary guidelines and instructions, in accordance with chapter twenty-nine-a of this code to assessors as will ensure fair and uniform values of such property within each county and among all counties in this state. The tax commissioner shall review each assessor's work to ensure that such guidelines and instructions have been uniformly followed. Any changes in appraised values shall be entered into the computer network required by section twenty-one of this article,
and notice of such change shall be mailed to the property owner. The failure of any such county official so to do or to carry out his or her duties with respect thereto shall constitute grounds for the removal from office of any such official.

ARTICLE 1B. ADDITIONAL REVIEW OF PROPERTY APPRAISALS; IMPLEMENTATION.

§11-1B-1. Legislative findings and intent.

(a) The Legislature hereby finds that many citizens and taxpayers of this state have the belief that an unacceptable number of errors and misinformation are included within the results of the statewide appraisal of property subject to ad valorem taxes pursuant to the amendment of Article X, Section 1b of the Constitution of West Virginia, adopted in the year one thousand nine hundred eighty-two, which belief is sufficient to cast doubt over the results of such reappraisal in the mind of the general public.

(b) The Legislature recognizes that the constitutionally mandated reappraisal required an unprecedented effort to be expended by the state and counties to identify and establish the value of all of the property of this state in a fair, equal and uniform manner. The Legislature also finds that the success of such an ambitious and important program depends in large measure upon public confidence and assurance as to its fairness and accuracy. The revenues produced by ad valorem taxation are vital to county government, public education, and municipalities, and only upon full compliance with the purpose and intent of the constitutional requirements may our citizens and their representatives determine the appropriate level of ad valorem taxation.

(c) It is therefore the intent of the Legislature to provide a process by which property owners, if they so desire, may inquire of and object to the results of such reappraisal and have the same reviewed and, in the proper cases, adjusted so as to reflect the true value of all property subject to ad valorem taxes prior to the implementation of such reappraisal by the Legisla-
ture. It is the further intent of the Legislature that to these ends the tax commissioner, the several county commissioners, assessors and sheriffs shall expend the maximum efforts to addressing the inquiries and complaints of taxpayers with respect to the reappraisal and in an expeditiously and orderly manner seek to review and ascertain fair and accurate values for all properties.

§11-1B-2. Application of article.

The provisions of this article shall apply only to the appraisement of property subject to ad valorem taxation and which was required by law to be appraised pursuant to the mandate set forth in Article X, Section 1b of the Constitution of this state as amended in the year one thousand nine hundred eighty-two, and shall not apply to any appraisement or reappraisement of any such property in any county or counties of this state prior to the adoption of such amendment nor subsequent to the year one thousand nine hundred eighty-seven.

§11-1B-3. Definitions.

As used in this article, unless the context in which used requires otherwise:

(1) “Assessed property”, “taxable property” or “property” shall mean and include all real estate and personal property or interests therein which were required to be appraised pursuant to Article X, Section 1b of the Constitution of this state, as amended in the year one thousand nine hundred eighty-two (except as may be exempted from ad valorem taxation by the provisions of Article X, Section 1a of the Constitution of this state as amended in the year one thousand nine hundred eighty-four) and any statute or statutes subsequently enacted which would implement such amendment and, with respect to real property, any and all improvements or structures thereon or attached thereto.

(2) References to the term or terms “the appraisal” or “the appraisement”, “appraisal” or “appraisement” shall mean the appraisement of property which was made or performed following the adoption of and pursuant to the
amendment to Article X, Section 1b of the Constitution of West Virginia adopted in the year one thousand nine hundred eighty-two and also pursuant to article one-a of this chapter, and any modifications and revisions made thereto prior to the effective date of this article, subject however, to those exemptions subsequently granted by the amendments to Section 1a of said Article X of the Constitution adopted in the year one thousand nine hundred eighty-four.

(3) “Market value” or “true and actual value” or the unqualified word “value” shall have the same meaning ascribed thereto by the provisions of subdivision (i), section three, article one-a of this chapter.

§11-1B-4. Appraisal of property.

(a) All property as defined in section three of this article shall be appraised at its true and actual value as that term is defined in subdivision (i), section three, article one-a of this chapter.

(b) Any provision of article one-a of this chapter or of any other provision of law to the contrary notwithstanding, neither the appraisement nor the values ascertained thereby shall be used by the several county assessors, county commissions or the tax department for purposes of ad valorem tax assessments until after the thirtieth day of June, one thousand nine hundred eighty-seven except in accordance with this article.

§11-1B-5. Preparation of property list by tax commissioner; publication by sheriff.

(a) The tax commissioner shall compile a list of all separately assessed property which was subject to the appraisal. A separate list shall be compiled for each county, which list shall include the district in which the property is or was located at the time of appraisals, the owner or owners of such separately assessed item or parcel at that time and the appraisal value thereof. To the extent known by the tax commissioner, such list shall include and reflect the name of the current property owner to the extent ownership of the subject property has changed since its reappraisal. Such list
shall be delivered to the several assessors, sheriffs and county commissions on or before the fifteenth day of June, one thousand nine hundred eighty-six. All proposed final appraisals shall be included in such list and shall reflect all final revisions and modifications which are made or to be made prior to such date pursuant to sections sixteen and seventeen, article one-a of this chapter with respect to property which has been subject to revisions or modifications in the value thereof, or if an appeal is pending before the county commission with respect to the value of any such property then the list shall include the last value certified by the tax commissioner to the county commission as to such property or if the value has been established by order of the county commission and a petition for writ of certiorari is still pending before the circuit court and shall have not been finally determined by the court, then the value last adopted by the county commission shall be included in the list and such fact or facts shall be separately noted in such list.

(b) The sheriff shall, upon receipt of the list required to be compiled and delivered by the tax commissioner, forthwith cause notice to be given owners that the appraisal of all property subject to ad valorem taxation within the county has been completed and that the results thereof are available to any person interested therein at the office of the assessor. Such notice shall be given in the form of a Class I-O legal advertisement in accordance with article three, chapter fifty-nine of this code and the publication area shall be the county. The assessor shall simultaneously inform the tax commissioner of the fact that the notice was or has been published according to the requirements of this section.

§11-1B-6. Notice of appraised values of real property to owner by tax commissioner; content; form.

(a) The tax commissioner shall also on or before the fifteenth day of August, one thousand nine hundred eighty-six, first mail to each owner, a notice of the amount of such appraised value of all real property subject to ad valorem taxation, as modified or revised. Such notice shall be addressed and mailed to the person
or persons in whose name any and all such real property
is assessed or was assessed in the year one thousand nine
hundred eighty-three, or if the property has been
transferred or replaced upon the tax books of the sheriff,
then at the name and address reflected upon the tax
tickets in the office of the sheriff of the county wherein
such property is located. If such address be unknown to
the tax commissioner, an alphabetical listing of such
properties shall be forwarded to such sheriff on or
before the fifteenth day of June, one thousand nine
hundred eighty-six, and such sheriff shall provide the
appropriate mailing address for each such property in
the list, such completed list to be returned to the tax
commissioner on or before the first day of July, one
thousand nine hundred eighty-six.

(b) The notice required to be mailed by the provisions
of subsection (a) of this section shall be upon uniform
forms prepared by the tax commissioner and shall be
of simple and readily understandable language and
design. The notice shall advise each property owner that
(i) an additional opportunity and final period of review
is being afforded to request a review of the appraised
value of the real property before the county commission
prior to the final implementation of such values for ad
valorem tax purposes, (ii) that an application or request
for such review must be filed with the county commis-
sion not later than the second day of September, one
thousand nine hundred eighty-six, (iii) that all property
owners have a right to petition for review of the value
placed upon such property irrespective of whether such
owners had previously petitioned for review by the
county commission which had finally determined such
value or whether such review process was currently
pending either before the county commission or upon
certiorari before the circuit court as provided in section
eighteen, article one-a of this chapter, (iv) that the
information and data relied upon in making the
appraisal and in fixing the value of such property is
available in the office of the county assessor at no cost
to the property owner or other interested persons, (v)
that such owner may in his or her petition or at any
hearing held thereon, in addition to those matters
relative to the reappraisal, present such factors or
circumstances as, in the judgment of the owner, may
have resulted in either an increase or decrease in the
value of the property in question since the appraisal, and
(vi) the description of the property which shall include,
but not be limited to, the acreage and general landbook
description on the landbook. Such factors or circumstan-
ces may be taken into consideration by the county
assessor or county commission in fixing the assessed
value thereof for the tax year for which a lien attaches
on the first day of July, one thousand nine hundred
eighty-seven: Provided, That such factors shall have no
bearing upon the issues involved in establishing the true
value of such property as established by the appraisal.
Such notice shall include the information hereinbefore
required and for notices affecting surface real property
values shall set forth at least the following information
in the form shown or as near thereto as may be
practicable:

NOTICE

YOU ARE HEREBY NOTIFIED OF THE VALUE
PLACED UPON YOUR PROPERTY WHICH IS
IDENTIFIED BELOW. THIS VALUE RESULTS
FROM THE REAPPRAISAL OF ALL PROPERTY
SUBJECT TO PROPERTY TAX AS REQUIRED BY
THE STATE CONSTITUTION.

COUNTY _DIST ___MAP__ PARCEL ___ SPID__

PROPERTY LOCATION: (Including address) ___________

______________________________ DATE ___________

TAX CLASS: __ ACCOUNT NO. ___ NOTICE: ___

OWNERS NAME
MAILING ADDRESS
CITY, STATE, ZIP

DEAR PROPERTY OWNER,

IN COMPLIANCE WITH THE PROVISIONS OF
THE WEST VIRGINIA STATE CONSTITUTION,
ALL PROPERTY HAS BEEN REAPPRAISED
BASED ON FAIR MARKET VALUE AS OF JULY,
1983.
STATE LAW REQUIRES THAT ALL ASSESSMENTS BE 60% OF FAIR MARKET VALUE AND THAT ANY INCREASES IN ASSESSMENTS BE PHASED-IN OVER A 10 YEAR PERIOD.

FOLLOWING ARE THE RESULTS OF THE REVALUATION AND THE ESTIMATED TAX IMPACT FOR THE PROPERTY LISTED ABOVE.

YOUR PROPERTY'S 1983 MARKET/VALUE = $________

X60%

ASSESSMENT VALUE = $________

LESS YOUR CURRENT ASSESSED VALUE = $------

DIFFERENCE IN VALUE = $______

ASSUMING THE TAX RATES IN YOUR COUNTY DO NOT CHANGE AND ALSO ASSUMING THAT THERE HAVE BEEN NO CHANGES IN YOUR PROPERTY SINCE 1983, YOUR CURRENT ASSESSED VALUE OF $______ WILL BE INCREASED TO $______ FOR THE YEAR ______ AND WILL BE INCREASED $______ EACH YEAR THEREAFTER FOR A TOTAL PERIOD OF TEN YEARS. BASED ON CURRENT ASSESSMENTS YOUR TAX FOR THE NEXT YEAR WILL BE $______. IF YOUR ASSESSOR DETERMINES THAT YOUR PROPERTY HAS THE SAME VALUATION AS IN 1983, AND THAT THE LEVY RATES REMAIN THE SAME, THEN IN THAT EVENT YOUR TAX THE TENTH YEAR WILL BE $______

THE VALUES, ASSESSMENTS AND AMOUNT OF TAXES SHOWN ABOVE DO NOT INCLUDE OR TAKE INTO ACCOUNT ANY CREDIT FOR THE HOMESTEAD EXEMPTION. IF YOU ARE ELIGIBLE FOR THE HOMESTEAD EXEMPTION, NEXT YEAR'S PROPERTY TAX SHOULD BE REDUCED OR ELIMINATED.

THE VALUES SHOWN ABOVE DO NOT INCLUDE OR REFLECT ANY INCREASES OR DECREASES IN VALUE BECAUSE OF REPLACEMENT, ADDITIONS OR OTHER FACTORS OR
CIRCUMSTANCES OCCURRING SINCE 1983.

IF YOU DISAGREE WITH THE VALUE PLACED UPON THE ABOVE DESCRIBED PROPERTY OR IF YOU BELIEVE CHANGES HAVE OCCURRED IN SUCH PROPERTY SINCE 1983 WHICH WOULD IN YOUR OPINION REDUCE THE VALUE OF YOUR PROPERTY, THEN YOU SHOULD PETITION THE COUNTY COMMISSION FOR REVIEW.

(c) In addition to any other notice required to be given to property owners by any provisions of this article, the sheriff shall give or provide a notice which shall advise the property owners of the fact that the right to petition for review of the value will expire on the second day of September, one thousand nine hundred eighty-six, that such petition must be filed or presented to the county commission on or before that date, and that no such petition shall be received thereafter. Such notice shall be included as a separate document within the same envelope in which tax tickets are mailed, or be delivered with such tax tickets to property owners pursuant to section eight, article one, chapter eleven-a of this code.

(d) The fact that an owner failed to receive any notice pursuant to the provisions of this article shall not affect the right of the property owner to petition for review within the time prescribed, and shall not extend the period by or during which any such petition is permitted to be filed, as provided by this article, nor serve to toll the time by which any such petition is required to be filed.

(e) The sheriff, assessor, clerk of the county commis-
sion and all other county officers shall cooperate and assist the tax commissioner in locating and ascertaining proper, correct and current addresses of all owners of property subject to ad valorem taxes in order that the mailing of the notices required by the provisions of this section or of any other provision of this article may achieve the greatest degree of proficient and accurate delivery.

(f) Nothing in this article shall be construed to diminish to any extent any responsibility on the part of
any property owner or taxpayer to see to the proper, accurate and timely return of any property required to be returned or to see that any such property is assessed and taxed according to law and to the extent provided by law.

§11-1B-7. Additional newspaper, radio and television advertising required.

(a) In addition to the legal advertisement required by section five of this article and the notice requirements of section six of this article, the tax commissioner shall cause retail display advertisements, as opposed to and other than legal and classified advertisements, to be published in every newspaper of general circulation within each county of this state which shall generally and plainly inform the property owners and taxpayers of each county that the period to file their petition for review of the appraised value of their property for ad valorem property tax purposes expires on the second day of September, one thousand nine hundred eighty-six and that such petitions must be filed with the county commission on or before that date. Such advertisements shall be of a size sufficient to be readily visible and apparent to the readers of such newspaper and shall be at least fifteen column inches or its equivalent and shall appear in each such newspaper in some portion thereof other than that portion devoted to legal and classified advertising. The tax commissioner shall solicit the running of such advertisement as a public service or at a reduced cost, but, in any event, the cost of all such advertising shall be paid for by the state tax commissioner. Such advertisements shall be run at least three times between the first day of July, one thousand nine hundred eighty-six and the twentieth day of August of said year, but not more often than once per week during such period, and shall be run a fourth and final time no earlier than the thirtieth day of August or, in the case of weekly newspapers, the edition next preceding that date. Further, the commissioner shall provide news stories to be carried and asked to be published which would inform the public of the matters required to be advertised and of which notice is required to be given.
(b) In addition to the advertisement required by section six of this article and subsection (a) of this section, the tax commissioner shall arrange for radio and television advertisements to be carried by a sufficient number of stations to assure statewide coverage, which advertisements shall be designed to plainly inform the public that the period during which property owners and taxpayers are permitted to petition for review of the appraised value of their property for ad valorem property tax purposes expires on the second day of September, one thousand nine hundred eighty-six, and that such petitions must be filed with the county commission on or before that date. Such advertisements shall likewise be broadcast at least three times between the first day of July, one thousand nine hundred eighty-six and the twentieth day of August of said year and shall, if possible to arrange, be broadcast as public service advertisements, and, in any event, shall be broadcast at such hours or times calculated to maximize their exposure to the viewing and listening public. To the extent that the tax commissioner cannot arrange for such advertisements to be broadcast as public service advertisements, the cost shall be paid for by the tax commissioner.

(c) The paid advertisements required to be seen or broadcast by the provisions of this section shall not include the name of the tax commissioner or of any other public official or employee, whether elected or appointed, and such person may be referred to in such advertisements, if at all, by their title or office only.

(d) Failure of any newspaper, radio and television advertising to be published or broadcast as provided by sub-sections (a) or (b) shall not invalidate or impair the additional review of property appraisals provided for by this article.

§11-1B-8. Review by county commission; petition therefore; hearing; decision.

(a) Not later than the second day of September, one thousand nine hundred eighty-six, the owner of any
assessed property may petition for review of the
appraised value of his or her property. Such petition
shall be filed with the county commission of the county
wherein such property or the greater portion thereof is
situate. No hearing shall be held with respect to any
such petition filed or received by the county commission
after the date hereinabove specified or which has not
been deposited in the regular course of the United States
mail, postage prepaid, and properly addressed to the
county commission on or before such date. Such county
commission shall forthwith mail or deliver at least
weekly true copies of all such petitions to the tax
commissioner and to the county assessor which shall
reflect the date of filing.

(b) The state tax commissioner shall devise and make
available a form which may be used as a petition by any
owner or taxpayer seeking review of the appraised value
of any such property. The petition shall set forth the
name of the petitioner, the address or identification of
the property in question, preferably reflected upon the
most recent tax ticket, and the county and district
wherein such property is located and shall state in
general terms all matters of or to which the owner or
owners take exception or believe to be in error with
respect to the proposed appraised value of such property
and such other matters as the owner or petitioner deems
necessary to inform the county commission and the
parties of the nature of such owner's complaint. The
owner may also petition with respect to and raise at any
time any issue, fact or circumstance which has occurred
with respect to the subject property since the year one
thousand nine hundred eighty-three. The petitioner may
use such form as provided by the tax commissioner or
may use his or her own petition which need not be in
any specific form so long as the nature of the complaint
and request for review can be ascertained. Such forms
as are prepared by the tax commissioner shall be made
available at the offices of the county commission, the
county clerk, the assessor and the sheriff and at such
other places in the community as the tax commissioner
may deem appropriate and may be included in or with
the notice required by section six of this article.
(c) The county commission shall sit as an administrative appraisal review board as required by the provisions of section seventeen, article one-a of this chapter in review of the appraised value of the property in question. In so doing, the county commission shall hear such testimony under oath, and receive such other evidence as the county commission may deem pertinent, as the owner, the tax commissioner or other interested person may offer, including the assessor, and shall make a true record of the hearing and evidence presented by nonstenographic electronic recording or other device which will assure that the recorded testimony will be accurately preserved. The county commission shall also receive evidence of any substitutions, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences or any similar factors or occurrences which have caused or resulted in any change in value of any property subject to reappraisal for use by the assessor and the county commission in fixing values for the year one thousand nine hundred eighty-seven. Copies or transcriptions of the records shall be available at the request of any of the parties who shall bear the cost thereof. The provisions of subsections (b), (c) and (d) of said section seventeen, article one-a shall apply to hearings held pursuant to this article, except to the extent the same are in direct conflict with the provisions of this article.

(d) Any other provision of present law to the contrary notwithstanding, the prosecuting attorney of the county shall serve in the capacity of law advisor only to the county commission when called upon by the county commission to assist it with respect to questions of law of which they may be concerned in any hearing held pursuant to this article and shall not represent the tax commissioner in any capacity with respect to any such hearing.

(e) Any other provision of present law to the contrary notwithstanding, the tax commissioner may, at his request, be represented in any proceeding under either article one-a or one-b of this chapter by the attorney
general, by an attorney permanently or temporarily employed by the tax commissioner, or by an attorney with whom the tax commissioner has contracted for such service.

(f) The tax commissioner shall be a party to every hearing held pursuant to this article and it shall be his duty in such capacity to see to the equal and uniform taxation of all species, types, items and parcels of property subject to ad valorem taxation.

(g) Upon making such true record and preserving as part of the record the other evidence presented, the county commission shall determine whether the amount of value fixed by the appraisal of the property is correct under the circumstances. If the county commission finds the appraisal to be correct it shall enter an order approving the value as appraised and adopting by reference the determination and information provided by the tax commissioner. If the county commission determines that the amount of value fixed by the appraisal of the property is incorrect, and if sufficient evidence has been presented to permit correction of the appraisal, the county commission shall correct the appraisal and fix the value of the appraised property. If the county commission shall find that the evidence is not sufficient to determine the correct value, the county commission shall direct the parties to develop and present such additional evidence as may be necessary and may continue the hearing to a date and time, not to exceed ten days, for the purpose of receiving such evidence sufficient to fix the true and correct appraised value. If either of the parties need more time in which to further develop or prepare such additional evidence, then, upon so informing the other party or parties and the county commission, a further period of time, not to exceed an additional period of ten days, shall be granted for that purpose. Upon making its determination as to the true and correct appraised value, the county commission shall enter its order establishing such value, which order shall include the commission's findings and its reason or reasons therefor, and shall forward a true copy of such order to all the parties. The county
commission shall transmit to the assessor those circum-
stances and matters which would cause a change in the
value of any property for such use as may be approp-
riate in fixing assessed value in the year one thousand
nine hundred eighty-seven. Such matters shall include,
but not be limited to, those situations or circumstances
required to be received by the county commission
pursuant to subsection (c) of this section.

(h) Any owner whose property has been the subject of
review to determine the proper value thereof pursuant
to this article or article one-a of this chapter shall not
be precluded from pursuing or exercising any other
right or procedure, or appearing before any forum for
the purpose of fixing the value of property for ad
valorem tax purposes, and for that purpose neither the
provisions of this article or of article one-a of this
chapter shall be deemed to afford remedies which are
severally or jointly exclusive.

§11-1B-9. Agreements by owner, tax commissioner and
assessor; stipulations; agreed values to be
used as appraised values.

(a) At any time prior to the rendering of a decision
by the county commission pursuant to section eight of
this article, if the tax commissioner concludes that the
appraised value of any property is incorrect or improper
because of a clerical error or error of fact or mistake
occasioned by inadvertence or an unintentional act as
distinguished from errors or mistakes resulting from
the exercise of judgment, the tax commissioner may
correct such error or mistake and give notice thereof to
the property owner, the appropriate assessor, county
commission and sheriff of the county wherein the
property is assessed for ad valorem tax purposes.

(b) If after receipt of the copy of the owner's petition
for review before the county commission, the tax
commissioner determines that the facts set forth by the
property owners in his or her petition are correct, the
tax commissioner may modify such value accordingly.
The commissioner shall notify the owner or owners of
his or her action as well as the appropriate assessor,
county commission and sheriff, and in such notice shall include a new appraised value. If the owner agrees to such new appraised value he or she shall so notify the tax commissioner and the county commission. The county commission shall enter its order adopting such value as the appraised value of the property for ad valorem tax purposes. If the owner further objects to the new appraised value arrived at by the tax commissioner, he or she shall forthwith so inform the tax commissioner and the county commission, setting forth his or her reasons therefor, and the matter shall proceed to final conclusion as provided for in section eight of this article.

(c) Nothing in this section shall prevent the owners, the tax commissioner, any intervenors, the assessor or any of them from stipulating any issue or issues included in the review, nor shall any provision of this article or other provision of law prevent such parties from agreeing upon a settlement of the matters and jointly recommending to the county commission such agreements and stipulations which may be accepted or rejected by the county commission. If accepted, such agreements or stipulations shall be entered by the county commission in the manner provided in subsection (d) of this section. If the county commission rejects the agreement it shall so inform the parties and proceed with the hearing.

(d) Any agreement reached or stipulation agreed upon pursuant to this section or authorized thereby shall be presented by the parties in open hearing before the county commission or be filed with the county commission in writing to be jointly agreed upon by the parties and to be made available for public inspection. Such presentation or writing shall include the reasons or rationale for the agreement or stipulation, and the county commission shall set forth the same in brief form in any order ratifying or confirming the same. Any agreement reached or stipulation agreed upon which shall have the direct effect of fixing the value of any property shall not be entered or accepted by the county commission and entered of record as finally fixing such value until a period of five days shall have elapsed since
§11-1B-10. Property tax appraisement consultants; assignment; duties; recommendations to tax commissioner.

As soon as may be practicable after the effective date of this section, the tax commissioner may employ four persons as public property tax appraisement consultants to be of assistance to the public and available to it. The tax commissioner may assign such persons to any county or area of the state in which their assistance is required. Such consultants shall provide information, guidance, assistance and instructions to any residential, farm or other noncommercial owner or taxpayer regarding real estate and personal property tax appraisement matters. For this purpose, the consultant is authorized (i) to examine and review the records of the assessor, the sheriff and the tax commissioner upon request, (ii) to investigate matters of complaint by such residential owners or taxpayers who request his or her assistance, (iii) to make reports and recommendations to the tax commissioner with respect to any pertinent information or proposed corrections for consideration by the tax commissioner in arriving at the true and correct value of such property as hereinafter provided, and (iv) to act with respect to such other matters as may be of assistance to any such residential owners or taxpayers in understanding and resolving issues concerning such value. Such persons shall be individuals who are experienced in dealing with the public in a congenial and courteous manner and who are knowledgeable with property and property values in the area in which he or she serves.

If at any time the tax commissioner determines, based upon, or as a result of, reports of or consultations with the consultants, that a modification or adjustment of the appraised value of any property is indicated, the tax commissioner shall so notify the taxpayer, consultant and assessor of the proposed modification or adjustment. If the residential owner shall agree to the proposed modification or adjustment, the tax commissioner shall
modify or adjust the value accordingly. If the tax
commissioner disagrees with the recommendations or
reports of the consultant, he or she shall immediately so
notify the owner and consultant of that fact, and the
matter shall be resolved as otherwise provided in this
article.

§11-B-11. The right of other property owners or assessor to petition for review or intervene.

(a) Any person who is a taxpayer of ad valorem
property taxes in any West Virginia county may protest
an appraisal of property under this article for good
cause alleged and shown. A person desiring to protest
an appraisal of property shall petition for a hearing
before the county commission in the same manner as an
owner would petition for review and hearing with
regard to the appraisal of his property as provided in
this article: Provided, That a petition for protest must
be filed with the county commission no later than the
second day of September, one thousand nine hundred
eighty-six. The hearing of a protest shall be governed
by the same procedures described for hearings before
the county commission in section eight of this article and
notice of such shall be given as required by subsection
(d) of this section.

(b) Upon a showing of good cause, any person who is
a taxpayer of ad valorem property taxes in any West
Virginia county may be permitted to intervene by
petition in writing in the hearing provided for in this
section.

(c) In the event any person shall petition for review
of or protest to the appraisal value of or given to the
property of another, or in the event of intervention
pursuant to this section, the owner of such property shall
be given all rights afforded by this article, including the
right to protection for review by cross petition or
otherwise, to the same extent as if the owner had
appealed or petitioned timely in the first instance.

(d) Any petition filed pursuant to subsection (a) or (b)
of this section shall be filed in writing and shall set forth
the objections of the petitioner or intervenor to the
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appraisal in question or at issue. A copy of such petition shall be served upon, mailed to or delivered to the property owner and the tax commissioner, and there shall be appended thereto the certificate of the petitioner or intervenor or of his or her attorney stating that true copies of such petition have been served upon or mailed or delivered to such property owner and tax commissioner no later than the same date upon which such copies were so mailed, delivered or served.

§11-1B-12. Time of decision by county commission.

All review hearings conducted by county commissions sitting for the purposes of this article shall be completed and determinations rendered thereon by the first day of December, one thousand nine hundred eighty-six. The county commission may consolidate hearings and reviews in order to avoid duplication and unnecessary repetition where the same or similar facts or issues are in dispute.

§11-1B-13. Duty of assessor to assist county commission; inventory of flood damaged property.

(a) The county commission, sitting in review of appraisals pursuant to this article, may require the assistance of the county assessor in making its determinations under this article. Further, the assessor shall be competent to testify as to values of property generally or as to the value of a specific item of property when called upon to do so by either of the parties or the county commission.

(b) It shall be the additional duty of the assessor in the counties of Barbour, Berkeley, Braxton, Calhoun, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Preston, Randolph, Summers, Taylor, Tucker, Tyler, Upshur and Webster to prepare an inventory of all property damaged as a result of the flood which occurred in those counties during the month of November, one thousand nine hundred eighty five to the extent of damage thereto, which shall be noted for
such use as may be proper with respect to any future assessments of any such property.

§11-1B-14. Review by circuit court on certiorari.

Within thirty days after the day the county commission notifies the parties of a final determination of value made pursuant to section eight of this article, the owner, tax commissioner, protestor or intervenor may request the county commission to certify the evidence and remove and return the record to the circuit court of the county on a writ of certiorari instituted in accordance with the provisions of article three, chapter fifty-three of this code. For purposes of this article, the recorded testimony of the hearing, when certified by the county commission may be used by the circuit court as the transcript of testimony. If the petition for review be made by the tax commissioner or the assessor as to two or more separate items or parcels of property and for separate property owners, all such matters may be included within one petition if each separate owner is notified thereof and given opportunity to respond thereto. Except to the extent the same is in direct conflict with the provisions of this section, the provisions of section eighteen, article one-a of this chapter shall govern reviews by circuit courts of any proceedings brought under this article.

§11-1B-15. Right of tax commissioner, assessor or property owner to review of newly discovered matters; limitations.

(a) The tax commissioner, the assessor or any property owner at any time after the second day of September, one thousand nine hundred eighty-six, and before the first day of October of said year shall have the right to petition the county commission to reopen and review in accordance with the provisions of this article. In the event the tax commissioner or assessor so petitions the county commission, the owner of the property shall forthwith be notified of the petition by mailing or delivering a true copy thereof to such owner.
Similarly, if the owner petitions the county commission in accordance herewith, he or she shall likewise notify the tax commissioner and the assessor of that fact. It shall be the affirmative burden of the petitioning party to clearly show that the matters raised in the petition were newly discovered since the first day of September, one thousand nine hundred eighty-six and were theretofore unknown to the parties so petitioning.

(b) The assessor shall petition the county commission to adjust the appraised value of any parcel where that value appears to be clearly in error or based upon inconsistencies in valuation procedures, trends in valuation, clerical errors or other cause. Notice of any petition filed by the assessor shall be given to any affected owner and the tax commissioner. A hearing held pursuant to such petition shall be governed by the same procedures described for review and hearings as provided for in section eight of this article.

§11-1B-16. Reimbursement of costs to assessor and sheriff.

Except for the mailing required by subsection (c) of section six of this article, the assessor and sheriff shall be reimbursed by the tax commissioner for the postage expended by either of them to mail any notices required to be mailed by such assessor or sheriff by this article. Such forms and envelopes as may be required shall be furnished by the tax commissioner.

§11-1B-17. Report by county commission required; reports to Legislature.

The county commission shall make a report to the tax commissioner on or before the thirty-first day of December, one thousand nine hundred eighty-six, of the number of hearings held by it in review of any and all appraisals and any adjustments in valuation made by the county commission. The tax commissioner shall provide a summary of such reports to the President of the Senate and the Speaker of the House of Delegates on or before the fifteenth day of January, one thousand nine hundred eighty-seven.
§11-1B-18. Appraisal of property; date of implementation; assessor to make assessments.

(a) All property as defined in section three of this article shall be appraised at its true and actual value as that term is defined in subsection (i), section three, article one-a of this chapter.

(b) Upon completion of the review procedures provided in this article, and after certification by the tax commissioner to the governor, President of the Senate and Speaker of the House of Delegates that, with the exception of those matters pending in the circuit courts of this state or on appeal to the supreme court of appeals, said review procedures have been substantially complied with and further that the results thereof are substantially correct, the final valuations arrived at, by, and through the appraisal process to establish value of all property for the year one thousand nine hundred eighty-three, as provided for in article one-a of this chapter and by this article, shall be and the same are hereby directed to be used for ad valorem property taxation in the year for which lien would attach on the first day of July, one thousand nine hundred eighty-seven. Such valuations shall be adjusted by the assessor to reflect consideration of such substitutions, alterations, accretions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or like occurrences or circumstances, as well as economic and other factors which result in or cause an increase or decrease in the value of any such property or any other divisions, redivision or other change in such property since its reappraisal for the year one thousand nine hundred eighty-three.

In the implementation of such values, the assessor of each of the several counties shall assess the property subject to ad valorem taxation (other than public utility property) in the manner and subject to the procedures for return, assessment, equalization and review heretofore provided in this code, at sixty percent of the market value less such exemptions and allowance for phase-in which may be applicable.
With respect to property, the market value of which has changed since the reappraisal, the assessor shall enter on the computer network provided for by section twenty-one, article one-a of this chapter, the basis of any change in value utilized in such assessment.

With respect to property not subject to reappraisal at the time of the reappraisal, or property on which improvements have been made, the assessor shall use as a basis for phase-in of the reappraisal, the statewide phase-in rate promulgated by the tax commissioner for like property.

(c) The tax commissioner shall be provided by the assessor with any information, findings, or reasons relied upon by the assessor in increasing or decreasing values as a result of economic or other factors if applied by the assessor to any species or class of property generally or uniformly.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce A. Wilson  
Chairman Senate Committee

Floyd F. Miller  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Todd J. Mitchell  
Clerk of the Senate

Donald L. Fox  
Clerk of the House of Delegates

Dan Tomlinson  
President of the Senate

Joseph P. Allen  
Speaker of the House of Delegates

The within is approved this the 25th day of May, 1986.

Wade D. Hayes  
Governor