

Veto 1483

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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## ENROLLED

Com. Sub. for  
HOUSE BILL No. 1483

(By Mr. Speaker, Mr. Albright, & Del. Swann)  
[By request of the Executive]

— ● —

Passed ..... February 27, ..... 1986

In Effect ..... From ..... Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 1483**  
(By MR. SPEAKER, MR. ALBRIGHT, and DELEGATE SWANN)  
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AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-a, relating to the exoneration of certain taxes in the area affected by floods during the month of November in the year of one thousand nine hundred eighty-five; adopting certain legislative findings and statement of purposes with respect thereto; defining certain words, terms and phrases used in said article; providing rules for the application and construction of said article; mandating the exoneration of the payment of ad valorem taxes which are or would be payable during the second half of the base tax year as defined in said article; providing rules for the eligibility of certain property for such exoneration and the manner of its computation; providing for the exoneration of utility property; prescribing certain duties of the tax commissioner and of the several county commissions with respect to the exoneration of property from taxation; providing for the granting or extending of credits against ad valorem taxes in certain cases; providing for the amendment of the land and personal property tax books to reflect the damage to property

within the area affected by said floods; authorizing the municipalities within the affected area to exonerate certain municipal taxes and limiting the time during which the same may be granted; and providing for the limitation and expiration of the provisions of said article.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-a, to read as follows:

**ARTICLE 5A. EXONERATION OF PROPERTY TAXES FOR 1985  
FLOOD; MUNICIPAL TAX EXONERATION  
AUTHORIZED; DAMAGED PROPERTY.**

**§15-5A-1. Legislative findings and purposes.**

1 (a) The Legislature hereby finds that:

2 (1) Beginning on or about the third day of November  
3 in the year one thousand nine hundred eighty-five, and  
4 continuing on the fourth and fifth days of said month  
5 and year, heavy rains and the severe flooding and slides  
6 resulting therefrom have caused great and extensive  
7 damage to property, real and personal, over wide areas  
8 in this state, particularly in the counties of Barbour,  
9 Berkeley, Braxton, Calhoun, Doddridge, Gilmer, Grant,  
10 Greenbrier, Hampshire, Hardy, Harrison, Jefferson,  
11 Lewis, Marion, Mineral, Monongalia, Monroe, Morgan,  
12 Nicholas, Pendleton, Pocahontas, Preston, Randolph,  
13 Summers, Taylor, Tucker, Tyler, Upshur and Webster.

14 (2) Those counties included and described in subdivi-  
15 sion (1) of this subsection were declared and found to  
16 be within an area of disaster by sundry proclamations  
17 issued by the governor of this state since the date of the  
18 onset of such rains, flooding and slides.

19 (3) The president of the United States has likewise  
20 declared that a major disaster exists within those areas  
21 of the state as a result of such severe storms, landslides  
22 and flooding, as has the federal emergency management  
23 agency.

24 (4) Pursuant to the provisions of section six, article  
25 five of this chapter, the governor subsequently pro-  
26 claimed the existence of a state of emergency within the  
27 areas above described, which state of emergency  
28 continues to exist and has not been terminated either by  
29 gubernatorial proclamation or by legislative resolution.

30 (5) There has been substantial and extensive damage  
31 to public as well as private property within certain  
32 areas of the several counties described in subdivision (1)  
33 of this subsection, including destruction of or damage to  
34 public buildings and installations, water systems,  
35 sewage and sanitary systems, highways and roadways,  
36 bridges, homes and businesses, which destruction or  
37 damage has caused widespread hardship to the citizens  
38 or public at large, local governmental agencies and  
39 political subdivisions within the affected area and to the  
40 business community therein.

41 (6) The loss or damage to public and private property  
42 and the hardship occasioned thereby require that  
43 certain relief be extended to the taxpayers and property  
44 owners within the affected areas and to this end the  
45 Legislature also finds that the exoneration of taxes, the  
46 granting of certain credits toward or against the  
47 payment thereof and providing for the rescheduling of  
48 the payment of certain taxes and other relief granted  
49 or authorized by this article, either singularly or  
50 collectively, are necessary and desirable to promote the  
51 prompt recovery of the citizens and public bodies and  
52 agencies in the disaster area as well as for the econom-  
53 ical rehabilitation of such regions.

54 (b) It is, therefore, the purpose and intent of the  
55 Legislature that ad valorem taxes upon eligible property  
56 which are payable during the base tax year be exoner-  
57 ated to the extent authorized or mandated by this article  
58 or that certain credits be granted for such taxes. It is  
59 the further intent of the Legislature that certain local  
60 governmental entities or political subdivisions within  
61 the disaster area be given authority to exonerate or  
62 forgive, in whole or in part, as such political subdivi-  
63 sions may be authorized to levy or impose under the  
64 provisions of either chapter seven or chapter eight of

65 this code.

**§15-5A-2. Definition of words and phrases.**

1 As used in this article, unless the context in which  
2 used clearly requires a different meaning:

3 (1) "Ad valorem taxes" shall mean and include those  
4 taxes levied by virtue of articles three, four, five and six  
5 of chapter eleven of this code.

6 (2) "Base tax year" shall mean the tax year beginning  
7 on the first day of January, one thousand nine hundred  
8 eighty-five.

9 (3) "Disaster" shall mean and refer to the floods and  
10 landslides resulting from the heavy rains and severe  
11 storms which began on or about the third or fourth day  
12 of November in the year one thousand nine hundred  
13 eighty-five, within the disaster area.

14 (4) "Disaster area" shall mean and include those areas  
15 situate, lying and being within the counties enumerated  
16 and described in section one of this article.

17 (5) "Eligible property" shall mean any property, real  
18 or personal, including, but not limited to, any improve-  
19 ments thereto or buildings or structures thereon, which  
20 property is separately identifiable and assessed upon the  
21 landbooks or personal property tax books of any county  
22 included in the disaster area and which is damaged or  
23 destroyed in whole or in part by the disaster.

24 (6) "Extent of damage" shall mean the degree of  
25 damage to any eligible property which shall be ascer-  
26 tained by (i) ascertaining the percentage of assessed value  
27 remaining upon such eligible property immediately after  
28 the disaster bears to the total assessed value of such  
29 property for the base tax year and (ii) subtracting the  
30 result thus obtained from such total assessed value and  
31 the remainder thus obtained shall constitute the extent  
32 to which such property was damaged.

33 (7) "Local government entity" or "political subdivi-  
34 sion" shall mean and include the governing body of any  
35 county included and described in section one of this  
36 article, any governing body of any municipality which

37 is located within any such county and/or any school  
38 district or board located within any such county.

**§15-5A-3. Application and construction of article.**

1 (a) The provisions of this article shall apply to those  
2 persons whose property is located within the counties  
3 included and listed in subdivision (1), subsection (a),  
4 section one of this article, to the extent and to the extent  
5 only, that such property, real or personal, was damaged  
6 or destroyed, in whole or in part, as a result of the  
7 disaster occasioned by the heavy rains and the severe  
8 floods and landslides resulting therefrom which oc-  
9 curred on or about the third or fourth days of November  
10 in the year one thousand nine hundred eighty-five.  
11 Except as specifically stated in this article, the tax relief  
12 granted by its provisions shall not apply to any taxes or  
13 to any tax years not specifically authorized by this  
14 article.

15 (b) The provisions of this article shall be liberally  
16 construed so as to maximize the relief granted by its  
17 provisions and any doubt as to whether its provisions  
18 should extend to any taxpayer or circumstance shall be  
19 resolved in favor of the granting of the relief set forth  
20 in this article.

21 (c) The provisions of this article shall not be extended  
22 to include any other disaster or circumstance past or  
23 present other than those described in section one of this  
24 article nor shall its provisions nor the relief granted  
25 thereby be extended to any person whose property was  
26 not damaged by the circumstances described in said  
27 section one.

**§15-5A-4. Ad valorem taxes for base tax year; exonera-  
tion; procedures for claiming.**

1 (a) With respect to ad valorem taxes for and to be  
2 paid during the second half of the base tax year upon  
3 eligible property within the disaster area, there shall be  
4 and there is hereby granted an exoneration to the extent  
5 of damage to such eligible property. Such exoneration  
6 shall be limited to and calculated as follows: (1)  
7 Ascertain the percentage to which the extent of damage

8 to the assessed value of such eligible property bears to  
9 the total assessed value thereof for the base tax year; (2)  
10 apply the final percentage reached in subdivision (1) of  
11 this subsection to the ad valorem tax due for the second  
12 half of the base tax year upon such eligible property  
13 without consideration of discount or interest.

14 The product reached in subdivision (2) of this subsec-  
15 tion shall be the amount of exoneration applicable for  
16 the second half taxes due in the base tax year.

17 (b) The tax commissioner shall, no later than ten days  
18 following the effective date of this article, make  
19 available to the county commission of each of the several  
20 counties lying within the disaster area, forms to be made  
21 available to the taxpayers or owners of any and all  
22 eligible property for the purpose of applying for the  
23 exoneration granted by the provisions of this article.  
24 Such forms or application shall identify the eligible  
25 property in the same manner as such property is  
26 described in the landbooks or personal property books  
27 of the county and district in question, the owner or  
28 owners thereof, the tax ticket number, the amount of  
29 taxes levied thereon, exclusive of any discount or interst  
30 and contain such additional information as the tax  
31 commissioner shall deem appropriate.

32 (c) The provisions of this section shall not apply to  
33 those taxpayers which are subject to the provisions of  
34 article six, chapter eleven of this code. Such taxpayers  
35 shall be eligible to an exoneration computed or calcu-  
36 lated in the same manner as provided in subsection (a)  
37 of this section, but such applications shall be made to  
38 the tax commissioner who shall determine the amount  
39 of exoneration to which each such taxpayer may be  
40 entitled, subject to the approval of the agency which  
41 apportions the tax revenue with respect to public service  
42 corporations pursuant to said article six.

**§15-5A-5. Credits against future taxes; when applicable.**

1 (a) To the extent that a taxpayer who is otherwise  
2 entitled to exoneration in whole or in part of such  
3 taxpayer's ad valorem tax liability for the second half  
4 of the base tax year as provided in section four of this

5 article and who has paid such taxes, such taxpayer shall  
6 be entitled to a credit against his or her ad valorem tax  
7 liability for the ad valorem property taxes due and  
8 payable upon the eligible real estate which are payable  
9 after the first day of July, one thousand nine hundred  
10 eighty-six, and before the period of delinquency com-  
11 mencing the first day of October, one thousand nine  
12 hundred eighty-six.

13 (b) To the extent that the taxes due and payable after  
14 the first day of July, one thousand nine hundred eighty-  
15 six, and which would become delinquent if not paid by  
16 the first day of October, one thousand nine hundred  
17 eighty-six, are not sufficient or are less than the amount  
18 of exoneration to which a taxpayer would be otherwise  
19 entitled pursuant to the provisions of section four of this  
20 article, then such taxpayer shall be entitled to a credit  
21 against the ad valorem property taxes due and payable  
22 in each succeeding and successive tax period until the  
23 total amount of such exoneration has been exhausted.

**§15-5A-6. Amendment of land and personal property tax  
books; duties of county commissions.**

1 It shall be the duty of every county commission within  
2 the disaster area as soon as may be practicable, but in  
3 any event not later than the eighth day of April, one  
4 thousand nine hundred eighty-six, to reassess all eligible  
5 property within its county to ascertain the extent of  
6 damage in relation to the assessed value of each  
7 separately assessed and identifiable item or species of  
8 such property. The extent of damage, expressed in  
9 percentage of assessed value, shall be used to multiply  
10 the total assessed value of such property for the base tax  
11 year and the product remaining in the value or values  
12 shall be amended into and reflected upon the landbooks  
13 and personal property tax books for the tax year next  
14 succeeding the base tax year for each tax district or  
15 parts thereof of the county wherein such eligible  
16 property was damaged as a result of the disaster. The  
17 results thus amended into the applicable landbooks and  
18 personal property tax books shall be the assessed value  
19 of all such property for the tax year next succeeding the  
20 base tax year and shall be used to arrive at the tax

21 liability of each affected owner or taxpayer for such  
22 year. In so doing the county commission shall follow, to  
23 the extent practicable, the procedures and appeals  
24 applicable to review and equalization as provided in  
25 sections twenty-four and twenty-five, article three,  
26 chapter eleven of this code which shall apply to  
27 ascertaining the correct assessed value pursuant to this  
28 section except that:

29 (1) No person or taxpayer shall lose his or her right  
30 to any relief granted by this section or to the reassess-  
31 ment of any eligible property by reason of his or her  
32 failure to timely make application therefor, and

33 (2) The county commission may decrease the assessed  
34 value of any separately assessed and identifiable item or  
35 species of eligible property upon its own motion or  
36 concerning which it shall have knowledge of the facts  
37 without the necessity of formal application for reassess-  
38 ment being made therefor.

**§15-5A-7. Exoneration of certain municipal taxes  
authorized.**

1 The governing body of any municipality within the  
2 disaster area shall have authority, notwithstanding any  
3 other provision of law, to exonerate from the payment  
4 of any tax authorized or imposed under the provisions  
5 of article thirteen, chapter eight of this code. The  
6 authority to grant this exoneration shall extend for any  
7 tax period commencing with the date of the disaster and  
8 ending the thirtieth day of June, one thousand nine  
9 hundred eighty-six. If any such municipality extends the  
10 exoneration granted by this section to any taxpayer or  
11 to any circumstances wherein the taxes so exonerated  
12 were paid in whole or in part, such municipality may,  
13 by the ordinance authorizing such exoneration, provide  
14 for the refund of such taxes or for credit against the  
15 payment of future taxes or both. In the event any such  
16 governing body shall determine that it is desirable and  
17 feasible to extend the period of exoneration beyond the  
18 date hereinabove authorized, such governing body is  
19 hereby given the authority to do so, in whole or in part,  
20 but in any event no such exoneration shall extend

21 beyond the thirtieth day of June, one thousand nine  
22 hundred eighty-seven.

**§15-5A-8. Limitation and expiration of article.**

1 (a) The provisions of this article shall apply only to the  
2 disaster as defined in section two of this article. Further,  
3 this article shall expire on the thirtieth day of June in  
4 the year one thousand nine hundred eighty-seven, and  
5 shall no longer be applicable except to the extent  
6 provided in subsection (b), section five of this article. No  
7 person who has not applied for the exoneration granted  
8 under the provisions of section four of this article by the  
9 thirty-first day of December in the year one thousand  
10 nine hundred eighty-six, shall be entitled thereto and  
11 any person claiming either an exoneration or a tax  
12 credit under the provisions of section five of this article  
13 must make claim therefor on or before that date.

14 (b) The provisions of section seven of this article shall  
15 expire on the date or dates therein specified and be of  
16 no force and effect thereafter.

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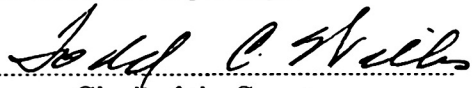
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

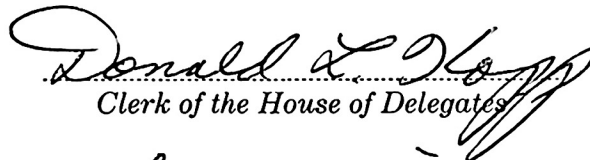
  
Chairman Senate Committee

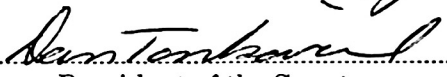
  
Chairman House Committee

Originating in the House.



Takes effect from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within  this the 11th  
day of , 1986.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/86

Time 12:45 p.m.

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/11/86  
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