WEST VIRGINIA LEGISLATURE

REGULAR SESSION. 1986

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ENROLLED

Com. Sub. for

HOUSE BILL No. 1483

(By Mr. Speaker, Mr. Albright, and Swaim)

[By request of the Executive]

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Passed February 27, 1986

In Effect Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1483
(By Mr. Speaker, Mr. Albright, and Delegate Swann)
[By request of the Executive]

[Passed February 27, 1986: in effect from passage.]

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.

(a) The Legislature hereby finds that:

(1) Beginning on or about the third day of November in the year one thousand nine hundred eighty-five, and continuing on the fourth and fifth days of said month and year, heavy rains and the severe flooding and slides resulting therefrom have caused great and extensive damage to property, real and personal, over wide areas in this state, particularly 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.

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

(3) The president of the United States has likewise declared that a major disaster exists within those areas of the state as a result of such severe storms, landslides and flooding, as has the federal emergency management agency.
(4) Pursuant to the provisions of section six, article five of this chapter, the governor subsequently proclaimed the existence of a state of emergency within the areas above described, which state of emergency continues to exist and has not been terminated either by gubernatorial proclamation or by legislative resolution.

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

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

(b) It is, therefore, the purpose and intent of the Legislature that ad valorem taxes upon eligible property which are payable during the base tax year be exonerated to the extent authorized or mandated by this article or that certain credits be granted for such taxes. It is the further intent of the Legislature that certain local governmental entities or political subdivisions within the disaster area be given authority to exonerate or forgive, in whole or in part, as such political subdivisions may be authorized to levy or impose under the provisions of either chapter seven or chapter eight of
§15-5A-2. Definition of words and phrases.

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

1. “Ad valorem taxes” shall mean and include those taxes levied by virtue of articles three, four, five and six of chapter eleven of this code.

2. “Base tax year” shall mean the tax year beginning on the first day of January, one thousand nine hundred eighty-five.

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

4. “Disaster area” shall mean and include those areas situate, lying and being within the counties enumerated and described in section one of this article.

5. “Eligible property” shall mean any property, real or personal, including, but not limited to, any improvements thereto or buildings or structures thereon, which property is separately identifiable and assessed upon the landbooks or personal property tax books of any county included in the disaster area and which is damaged or destroyed in whole or in part by the disaster.

6. “Extent of damage” shall mean the degree of damage to any eligible property which shall be ascertained by (i) ascertaining the percentage of assessed value remaining upon such eligible property immediately after the disaster bears to the total assessed value of such property for the base tax year and (ii) subtracting the result thus obtained from such total assessed value and the remainder thus obtained shall constitute the extent to which such property was damaged.

7. “Local government entity” or “political subdivision” shall mean and include the governing body of any county included and described in section one of this article, any governing body of any municipality which
§15-5A-3. Application and construction of article.

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

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

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

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

(a) With respect to ad valorem taxes for and to be paid during the second half of the base tax year upon eligible property within the disaster area, there shall be and there is hereby granted an exoneration to the extent of damage to such eligible property. Such exoneration shall be limited to and calculated as follows: (1) Ascertain the percentage to which the extent of damage
to the assessed value of such eligible property bears to
the total assessed value thereof for the base tax year; (2)
apply the final percentage reached in subdivision (1) of
this subsection to the ad valorem tax due for the second
half of the base tax year upon such eligible property
without consideration of discount or interest.

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

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

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

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

(a) To the extent that a taxpayer who is otherwise
entitled to exoneration in whole or in part of such
taxpayer's ad valorem tax liability for the second half
of the base tax year as provided in section four of this
article and who has paid such taxes, such taxpayer shall be entitled to a credit against his or her ad valorem tax liability for the ad valorem property taxes due and payable upon the eligible real estate which are payable after the first day of July, one thousand nine hundred eighty-six, and before the period of delinquency commencing the first day of October, one thousand nine hundred eighty-six.

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

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

It shall be the duty of every county commission within the disaster area as soon as may be practicable, but in any event not later than the eighth day of April, one thousand nine hundred eighty-six, to reassess all eligible property within its county to ascertain the extent of damage in relation to the assessed value of each separately assessed and identifiable item or species of such property. The extent of damage, expressed in percentage of assessed value, shall be used to multiply the total assessed value of such property for the base tax year and the product remaining in the value or values shall be amended into and reflected upon the landbooks and personal property tax books for the tax year next succeeding the base tax year for each tax district or parts thereof of the county wherein such eligible property was damaged as a result of the disaster. The results thus amended into the applicable landbooks and personal property tax books shall be the assessed value of all such property for the tax year next succeeding the base tax year and shall be used to arrive at the tax
liability of each affected owner or taxpayer for such year. In so doing the county commission shall follow, to the extent practicable, the procedures and appeals applicable to review and equalization as provided in sections twenty-four and twenty-five, article three, chapter eleven of this code which shall apply to ascertaining the correct assessed value pursuant to this section except that:

(1) No person or taxpayer shall lose his or her right to any relief granted by this section or to the reassessment of any eligible property by reason of his or her failure to timely make application therefor, and

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


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

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

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

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

Chairman Senate Committee

Floyd Fullen

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 bill has been

Disapproved

this the 11th
day of

March, 1986.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/6/86
Time 12:45 p.m.