WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

ENROLLED

Committee Substitute for
SENATE BILL NO. 191

(By Senators Minard and Sharpe)

PASSED March 9, 2000
In Effect July 1, 2000
AN ACT to amend and reenact section twenty-seven, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to correcting erroneous assessments generally; providing for the authority of the sheriff or assessor to initiate an application for relief on behalf of the taxpayer; providing the sheriff or county commission the option of refunding taxes erroneously assessed instead of crediting amount towards future tax liability when more than one year has passed since property books were delivered to the sheriff; limiting the time in which taxpayer is repaid in the form of a credit; and providing for refund of uncredited balance.

Be it enacted by the Legislature of West Virginia:
That section twenty-seven, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. ASSESSMENTS GENERALLY.**

**§11-3-27. Relief in county commission from erroneous assessments.**

(a) Any taxpayer, or the prosecuting attorney or tax commissioner, upon behalf of the state, county and districts, claiming to be aggrieved by any entry in the property books of the county, including entries with respect to classification and taxability of property, resulting from a clerical error or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of negligence or the exercise of poor judgment, may, within one year from the time the property books are delivered to the sheriff or within one year from the time such clerical error or mistake is discovered or reasonably could have been discovered, apply for relief to the county commission of the county in which such books are made out: *Provided,* That upon the discovery of any such clerical error or mistake by the sheriff or assessor, or either officer having knowledge thereof, the sheriff or assessor shall initiate an application for relief from the erroneous assessment on behalf of the taxpayer or cause notice to be sent to any taxpayer affected by the clerical error or mistake by first-class United States mail advising the taxpayer of the right to make application for relief from the erroneous assessment. Before the application is heard, the taxpayer shall give notice to the prosecuting attorney of the county, or the state shall give notice to the taxpayer, as the case may be. The application, whether by the taxpayer or the state, shall have precedence over all other business before the court; but any order or judgment shall show that either the prosecuting attorney or tax commissioner was present defending the interests of the
state, county and districts: Provided, however, That the
provisions of this section shall not be construed as giving
county commissions jurisdiction to consider any question
involving the classification or taxability of property which
has been the subject matter of an appeal under the provi-
sions of section twenty-four-a of this article; and any other
such clerical error or mistake involving the classification
or taxability of property, may be corrected by the county
commission under the provisions of this section only when
approved, in writing, by the county assessor.

(b) In the event it is ascertained that the taxpayer is
entitled to relief, any excess taxes already paid shall be
refunded and, if charged but not paid, the applicant shall
be released from the payment of such excess: Provided,
That in the event a mistake or error is discovered more
than one year after the property books for the year or
years in question are delivered to the sheriff, any relief
granted to the taxpayer shall be in the form of a credit
against taxes owing for up to the following two years:
Provided, That if there are insufficient future taxes to
credit or if the sheriff or county commission determines
that a refund is appropriate, then the sheriff or county
commission shall refund the uncredited balance to the
taxpayer.

(c) Whenever any correction is made by the county
commission, the clerk shall certify copies of the order to
the auditor, sheriff and assessor, and in the case of real
estate, the assessor shall thereupon make a correction in
accordance with the order in his or her landbook for the
next year. Any such order delivered to the sheriff or other
collecting officer shall restrain him or her from collecting
so much as is erroneously charged against the taxpayer,
and, if already collected, shall compel him or her to refund
the money if such officer has not already paid it into the
treasury. In either case, when indorsed by the person
exonerated, it shall be sufficient voucher to entitle the
officer to a credit for so much in his or her settlement
which he or she is required to make. If the applicant is the
state, the order certified to the sheriff shall show the
correct amount of taxes due the state, county and districts
and shall be sufficient to authorize collection in the same
manner as for other state, county and district taxes.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... this the... Day of... 2000.

Governor