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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4331**

(By Delegates Doyle and Manuel)



Passed March 9, 2002

In Effect Ninety Days from Passage

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FOR

## H. B. 4331

(BY DELEGATES DOYLE AND MANUEL)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section seventy-four-a, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eighty-one of said article; to further amend said article by adding thereto a new section, designated section eighty-five; and to amend article one, chapter nineteen by adding thereto a new section designated section four-d, all relating to farmland protection programs; allowing an additional tax on the privilege of transferring title to real estate for funding of farmland protection programs; and creating the farmland preservation fees fund.

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

That section seventy-four-a, article twenty-four, chapter eight of the code of West Virginia, one thousand thirty-one, as amended, be amended and reenacted; that section eighty-one of said article be

amended and reenacted; that said article be further amended by adding thereto a new section designated as section eighty-five; and that article one, chapter nineteen be amended by adding thereto a new section designated as section four-d, all to read as follows:

**§8-24-74a. West Virginia agricultural land protection authority—board of trustees.**

1       (a) *Composition; chairman; quorum; qualifications.* —The  
2 authority, which shall be established by the first day of July,  
3 two thousand two, shall be governed and administered by a  
4 board of trustees composed of the state treasurer, the auditor  
5 and the commissioner of agriculture, who shall serve as ex  
6 officio members, and nine members to be appointed by the  
7 governor, by and with the advice and consent of the Senate, at  
8 least five of whom shall be representative of farmers from  
9 different areas of the state. The state treasurer, auditor and the  
10 commissioner of agriculture may appoint designees to serve on  
11 the board of trustees. One of the appointed members who is not  
12 a representative of farmers shall be a representative of the  
13 division of natural resources; one of the appointed members  
14 who is not a representative of farmers shall be a representative  
15 of the soil conservation district; and one of the appointed  
16 members who is not a representative of farmers shall be a  
17 representative of an I.R.C. 501(c)(3) qualified land trust. Three  
18 of the five representatives of farmers shall be appointed as  
19 follows:

20       (1) Two from a list of five nominees submitted by the West  
21 Virginia department of agriculture; and

22       (2) One from a list of three nominees submitted by the West  
23 Virginia farm bureau.

24       The governor shall appoint the chairman of the board, from  
25 among the nine appointed members. A majority of the members

26 of the board serving at any one time constitutes a quorum for  
27 the transaction of business.

28 Notwithstanding any provision of law to the contrary, a  
29 person may be appointed to and serve on the board as an  
30 appointed member even if prior to the appointment the person  
31 conveyed an easement on the person's land to the authority.

32 (b) *Terms.* — (1) The governor, with the advice and consent  
33 of the Senate, shall appoint the nine members for the following  
34 terms:

35 (A) Three for a term of four years;

36 (B) Three for a term of three years; and

37 (C) Three for a term of two years.

38 (2) Successors to appointed members whose terms expire  
39 shall be appointed for terms of four years. Vacancies shall be  
40 filled for the unexpired term. An appointed member may not  
41 serve more than two successive terms. Appointment to fill a  
42 vacancy may not be considered as one of two terms.

43 (c) *Oath.* — Appointed members shall take the oath of  
44 office as prescribed by law.

45 (d) *Compensation and expenses.* — Members shall not  
46 receive compensation. Each member of the board shall receive  
47 expense reimbursement for actual expenses incurred while  
48 engaged in the discharge of official duties, the actual expenses  
49 not to exceed the amount paid to members of the Legislature.

**§8-24-81. Funding of farmland protection programs.**

1 (a) *County funds.*

2       (1) *Creation of county funds.* - Once having created a  
3 county farmland protection program, a county commission may  
4 authorize the county farmland protection board to create and  
5 maintain a farmland protection fund and hire staff as it consid-  
6 ers appropriate.

7       (2) *Sources.* - a county farmland protection fund is com-  
8 prised of:

9       (A) Any moneys not specifically limited to other uses and  
10 dedicated to the fund by a county commission;

11       (B) Any moneys collected pursuant to section eighty-five  
12 of this article;

13       (C) Any money made available to the fund by grants or  
14 transfers from governmental or private sources; and

15       (D) Any money realized by investments, interest, dividends  
16 or distributions.

17       (b) *State fund.*

18       (1) *Created and continued.* — The West Virginia farmland  
19 protection fund is created for the purposes specified in this  
20 article.

21       (2) *Sources.* — The West Virginia farmland protection fund  
22 is comprised of:

23       (A) Any money made available to the fund by general or  
24 special fund appropriations;

25       (B) Any money made available to the fund by grants or  
26 transfers from governmental or private sources;

27       (C) Any money realized by investments, interest, dividends  
28 or distributions; and

29 (D) Any money appropriated by the Legislature for the  
30 West Virginia farmland protection fund.

31 (3) *Disbursements.* — The treasurer may not disburse any  
32 money from the fund other than:

33 (A) For costs associated with the staffing, administration,  
34 and technical and legal duties of the authority;

35 (B) For reasonable expenses incurred by the members of  
36 the board of trustees of the authority in the performance of  
37 official duties; and

38 (C) For consideration in the purchase of farmland conserva-  
39 tion and preservation easements.

40 (4) *Money remaining at end of fiscal year.* — Any money  
41 remaining in the fund at the end of a fiscal year shall not revert  
42 to the general revenue fund of the state, but shall remain in the  
43 West Virginia farmland protection fund to be used for the  
44 purposes specified in this chapter.

45 (5) *Budget.* — The estimated budget of the authority for the  
46 next fiscal year shall be included with the budget of the West  
47 Virginia department of agriculture.

48 (6) *Audit.* — The fund shall be audited annually.

**§8-24-85. Tax on privilege of transferring real property.**

1 (a) Notwithstanding the provisions of section two, article  
2 twenty-two, chapter eleven, and effective the first day of  
3 January, two thousand three and thereafter, in addition to the  
4 tax imposed pursuant to article twenty-two, chapter eleven of  
5 this code, any county commission that has created a farmland  
6 protection program may impose an additional county excise tax  
7 for the privilege of transferring title to real estate at the rate of

8 no more than one dollar and ten cents for each five hundred  
9 dollars' value or fraction thereof which additional tax shall  
10 apply to a maximum value of one million dollars, as repre-  
11 sented by any document as defined in section one, article  
12 twenty-two, chapter eleven of this code, payable at the time of  
13 delivery, acceptance or presentation for recording of the  
14 document.

15 (b) The tax imposed pursuant to this section is to be  
16 administered and collected as the tax on the privilege of  
17 transferring title to real estate imposed pursuant to the provi-  
18 sions of article twenty-two, chapter eleven of this code.

19 (c) The tax imposed pursuant to this section is to be used  
20 exclusively for the purpose of funding farmland preservation.

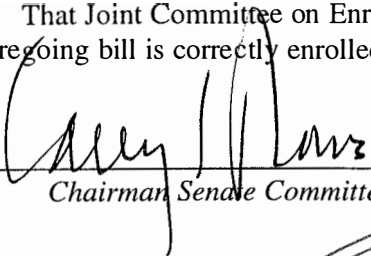
## CHAPTER 19. AGRICULTURE.

### ARTICLE 1. DEPARTMENT OF AGRICULTURE.

#### **§19-1-4d. Farmland preservation fees fund.**

1 There is hereby created a special revenue account within  
2 the state treasury to be known as "Farmland Preservation Fees  
3 Fund". Expenditures from the fund shall be used exclusively by  
4 the commissioner of agriculture for the purpose of funding  
5 farmland preservation boards in any county which has adopted  
6 and implemented a farmland protection program pursuant to the  
7 farmland preservation act as enacted beginning with section  
8 seventy-two, article twenty-four, chapter eight of this code.

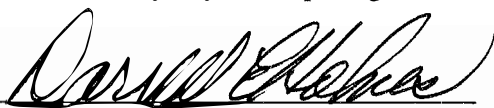
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

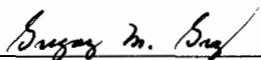
  
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Chairman Senate Committee

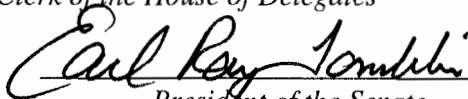
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

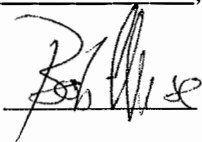
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 2<sup>nd</sup> day of April, 2002.

  
\_\_\_\_\_  
Governor



DATE: 01/10/2002

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