WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2006

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ENROLLED

House Bill No. 4037
(By Delegates Michael, Boggs, Cann, Kominar, Williams, Houston, Hall, Border, Ashley and Anderson)

Passed February 1, 2006
In Effect from Passage
AN ACT to amend and reenact § 11-4-3 of the Code of West Virginia, 1931, as amended, relating to correcting definitions applicable to the assessment of real property; and making amendments effective retroactively to and including the first day of July, two thousand five, for tax year two thousand six and thereafter.

Be it enacted by the Legislature of West Virginia:

That §11-4-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§ 11-4-3 Definitions

1 (a) For the purpose of giving effect to the "Tax Limitations Amendment," this chapter shall be interpreted in accordance with the following definitions, unless the context clearly requires a different meaning:
(1) "Owner" means the person, as defined in section ten, article two, chapter two of this code, who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is considered the owner until the mortgagee or trustee takes possession, after which the mortgagee or trustee shall be considered the owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession before transfer of legal title is also considered the owner.

(2) "Used and occupied by the owner thereof exclusively for residential purpose" means actual habitation by the owner or the owner's spouse of all or a portion of a parcel of real property as a place of abode to the exclusion of any commercial use: Provided, That if the parcel of real property was unoccupied at the time of assessment and either: (A) Was used and occupied by the owner thereof exclusively for residential purposes on the first day of July of the previous year assessment date; (B) was unimproved on the first day of July of the previous year but a building improvement for residential purposes was subsequently constructed thereon between that date and the time of assessment; or (C) is retained by the property owner for noncommercial purposes and was most recently used and occupied by the owner or the owner's spouse as a residence, and the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident in a nursing home, personal care home, rehabilitation center or similar facility, then the property shall be considered "used and occupied by the owner thereof exclusively for residential purpose": Provided, however, That nothing herein contained shall permit an unoccupied or unimproved property to be considered "used and occupied by the owner thereof exclusively for residential purposes" for more than one year unless the owner, as a result of illness, accident or infirmity, is residing with a family member or is a resident of a nursing
home, personal care home, rehabilitation center or similar
facility. If a license is required for an activity on the premises
or if an activity is conducted thereon which involves the use of
equipment of a character not commonly employed solely for
domestic as distinguished from commercial purposes, the use
may not be considered to be exclusively residential.

(3) "Family member" means a person who is related by
common ancestry, adoption or marriage including, but not
limited to, persons related by lineal and collateral consanguin-
ity.

(4) "Farm" means a tract or contiguous tracts of land used
for agriculture, horticulture or grazing and includes all real
property designated as "wetlands" by the United States army
corps of engineers or the United States fish and wildlife service.

(5) "Occupied and cultivated" means subjected as a unit to
farm purposes, whether used for habitation or not, and although
parts may be lying fallow, in timber or in wastelands.

(b) Effective date of amendments — Amendments to this
section enacted during the regular session of the Legislature in
the year two thousand six shall have retroactive effect to and
including the first day of July, two thousand five, and shall
apply in determining tax for tax years beginning the first day of
January, two thousand six, and thereafter.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White  
Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Darrell Cheeseman  
Clerk of the Senate

Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

Speaker of the House of Delegates

The within is approved this the ___ day of February, 2006.

Jay Rockefeller  
Governor