WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

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ENROLLED

House Bill No. 3090

(By Delegates Morgan, Kominar and Eldridge)

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Passed March 2, 2007

In Effect Ninety Days from Passage
H. B. 3090

(By Delegates Morgan, Kominar and Eldridge)

[Passed March 2, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §19-12A-1a of the Code of West Virginia, 1931, as amended, relating to the Weston State Hospital Institutional Farm property; transferring the Weston State Hospital Institutional Farm to the Department of Health and Human Resources; permitting the Department of Agriculture to retain all oil, gas and mineral rights; permitting the Department of Health and Human Resources to sell the property; and providing the Lewis County Commission retain ownership of the communication tower located on the property.

Be it enacted by the Legislature of West Virginia:

That §19-12A-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 12A. LAND DIVISION.

§19-12A-1a. Farm management commission abolished; property transferred; powers and duties of commissioner of agriculture.
(a) The farm management commission previously established by this article is hereby abolished. The real and personal property held by the commission, including all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities, operating revenue funds for those operations, and all employees of the farm management commission, are hereby transferred to the Department of Agriculture. The Commissioner of the Department of Agriculture shall have all those powers, duties and responsibilities previously vested in the farm management commission and the farm management director pursuant to this article.

(b) Not later than the first day of January, one thousand nine hundred ninety-five, the Commissioner of the Department of Agriculture shall report to the Legislature on the optimum use or disposition of each institutional farm transferred pursuant to this section. The commissioner shall set forth the objectives of the agency with respect to the land, the criteria by which the agency has determined the optimum use or disposition of the property, and determinations as to whether the land shall be used in the production of food products, the production or development of natural resources, held for recreational or other specified uses, or sold, or leased in whole or in part. With respect to each institutional farm, the commissioner shall report on which properties are subject to reversionary clauses or other restrictions in deeds of conveyance which may affect permitted uses, or proposed sales or leases. With respect to each institutional farm, the commissioner shall report on projected revenues and expenses from operations. Planned activities and uses with respect to the land shall be detailed for at least five years specifically and at least ten years generally and shall include a cost benefit analysis of options or alternatives for action. In the case of land managed for production of timber, the commissioner shall report on projections for timber harvesting on a sustained-yield basis, income estimates, and the years in which income will be generated. The report shall detail planned actions to protect the land from erosion, fire,
plant and animal pests, noxious insects, noxious weeds and
plant and animal diseases. In the case of land subject to
rights granted by existing contracts, leases, licenses or
easements, the report shall include a determination as to
whether the interest granted should be continued or
withdrawn. In the case of land managed under land
management plans adopted prior to the effective date of this
section, land management plans shall be reviewed and
amended as may be necessary. When appropriate, the
commissioner shall consult with the secretaries of the various
departments of state government and shall request from the
secretaries suggestions for land use and resource
development on the land. In the case of land recommended
for sale, lease, or transfer, the report shall include the review
and approval of the director of the West Virginia
Development Office of the proposed use and alternate
suggestions for use of any institutional farm which may be in
the public interest. Notwithstanding any other provision of
this subsection to the contrary, title to the Weston State
Hospital Institutional Farm, located at Weston, Lewis
County, is hereby transferred from the Department of
Agriculture to the Department of Health and Human
Resources, including all buildings thereon: Provided, That
the Department of Agriculture shall retain all oil, gas and
mineral rights, interests and title underlying the surface of the
real property being transferred to the Department of Health
and Human Resources under this subsection.

The Secretary of the Department of Health and Human
Resources is authorized to sell, lease, donate or otherwise
transfer the Weston State Hospital Institutional Farm, as well
as the grounds of the former Weston State Hospital including
the improvements and appurtenances belonging thereto:
Provided, That notice of the sale of the real estate at auction
shall include the right of the state to reject any and all bids:
Provided, however, That the deed conveying title to the real
estate shall contain a reservation in it providing that the
communications tower, located on the real estate and owned
and maintained by the county commission of Lewis County,
shall remain the property of the Lewis County Commission
and shall remain on the real estate free of any cost or rent and
the county commission of Lewis County shall have an
easement for ingress and egress and for the maintenance of
the tower in perpetuity unless agreed otherwise in writing by
the county commission of Lewis County.

(c) Nothing in this section shall be construed to limit the
duties imposed on the Department of Health and Human
Resources and the Division of Corrections to purchase food
products pursuant to section five of this article and to make
interdepartmental transfers pursuant to section six of this
article: Provided, That purchases shall be made from and
transfers made to the Department of Agriculture.

(d) Nothing in this section shall be construed to invalidate
any action or contractual obligation of the farm management
commission prior to the effective date of this section.

(e) Notwithstanding the provisions of subsection (b) of
this section, in any case where the farm management
commission has determined by motion adopted prior to the
effective date of this article that an institutional farm or part
thereof should be transferred or disposed of, or authorized
any formal agreement for this purpose, whether or not any
documents related to the agreement have been reduced to
writing or executed, the commissioner shall execute all
documents and take all necessary actions to implement the
transfer or disposition of the property.

(f) For any land transferred to the public land corporation
for sale, exchange or transfer pursuant to section five of this
article, the farm property shall be offered for sale in both
small parcels of land and as whole farms and shall be sold in
the form which brings the highest price for the total property.
For purposes of this subsection, "small parcels" means
parcels of no more than five acres.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 13th day of March, 2007.

Governor