

HB 3090 S

FILED

2007 MAR 13 PM 4: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

House Bill No. 3090

(By Delegates Morgan, Kominar and Eldridge)



Passed March 2, 2007

In Effect Ninety Days from Passage

FILED

2007 MAR 13 PM 4: 26

ENROLLED
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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.

1 (a) The farm management commission previously
2 established by this article is hereby abolished. The real and
3 personal property held by the commission, including all
4 institutional farms and all easements, mineral rights,
5 appurtenances, farm equipment, agricultural products,
6 inventories and farm facilities, operating revenue funds for
7 those operations, and all employees of the farm management
8 commission, are hereby transferred to the Department of
9 Agriculture. The Commissioner of the Department of
10 Agriculture shall have all those powers, duties and
11 responsibilities previously vested in the farm management
12 commission and the farm management director pursuant to
13 this article.

14 (b) Not later than the first day of January, one thousand
15 nine hundred ninety-five, the Commissioner of the
16 Department of Agriculture shall report to the Legislature on
17 the optimum use or disposition of each institutional farm
18 transferred pursuant to this section. The commissioner shall
19 set forth the objectives of the agency with respect to the land,
20 the criteria by which the agency has determined the optimum
21 use or disposition of the property, and determinations as to
22 whether the land shall be used in the production of food
23 products, the production or development of natural resources,
24 held for recreational or other specified uses, or sold, or leased
25 in whole or in part. With respect to each institutional farm,
26 the commissioner shall report on which properties are subject
27 to reversionary clauses or other restrictions in deeds of
28 conveyance which may affect permitted uses, or proposed
29 sales or leases. With respect to each institutional farm, the
30 commissioner shall report on projected revenues and
31 expenses from operations. Planned activities and uses with
32 respect to the land shall be detailed for at least five years
33 specifically and at least ten years generally and shall include
34 a cost benefit analysis of options or alternatives for action.
35 In the case of land managed for production of timber, the
36 commissioner shall report on projections for timber
37 harvesting on a sustained-yield basis, income estimates, and
38 the years in which income will be generated. The report shall
39 detail planned actions to protect the land from erosion, fire,

40 plant and animal pests, noxious insects, noxious weeds and
41 plant and animal diseases. In the case of land subject to
42 rights granted by existing contracts, leases, licenses or
43 easements, the report shall include a determination as to
44 whether the interest granted should be continued or
45 withdrawn. In the case of land managed under land
46 management plans adopted prior to the effective date of this
47 section, land management plans shall be reviewed and
48 amended as may be necessary. When appropriate, the
49 commissioner shall consult with the secretaries of the various
50 departments of state government and shall request from the
51 secretaries suggestions for land use and resource
52 development on the land. In the case of land recommended
53 for sale, lease, or transfer, the report shall include the review
54 and approval of the director of the West Virginia
55 Development Office of the proposed use and alternate
56 suggestions for use of any institutional farm which may be in
57 the public interest. Notwithstanding any other provision of
58 this subsection to the contrary, title to the Weston State
59 Hospital Institutional Farm, located at Weston, Lewis
60 County, is hereby transferred from the Department of
61 Agriculture to the Department of Health and Human
62 Resources, including all buildings thereon: *Provided*, That
63 the Department of Agriculture shall retain all oil, gas and
64 mineral rights, interests and title underlying the surface of the
65 real property being transferred to the Department of Health
66 and Human Resources under this subsection.

67 The Secretary of the Department of Health and Human
68 Resources is authorized to sell, lease, donate or otherwise
69 transfer the Weston State Hospital Institutional Farm, as well
70 as the grounds of the former Weston State Hospital including
71 the improvements and appurtenances belonging thereto:
72 *Provided*, That notice of the sale of the real estate at auction
73 shall include the right of the state to reject any and all bids:
74 *Provided, however*, That the deed conveying title to the real
75 estate shall contain a reservation in it providing that the
76 communications tower, located on the real estate and owned
77 and maintained by the county commission of Lewis County,
78 shall remain the property of the Lewis County Commission
79 and shall remain on the real estate free of any cost or rent and

80 the county commission of Lewis County shall have an
81 easement for ingress and egress and for the maintenance of
82 the tower in perpetuity unless agreed otherwise in writing by
83 the county commission of Lewis County.

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

91
92 (d) Nothing in this section shall be construed to invalidate
93 any action or contractual obligation of the farm management
94 commission prior to the effective date of this section.

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

105 (f) For any land transferred to the public land corporation
106 for sale, exchange or transfer pursuant to section five of this
107 article, the farm property shall be offered for sale in both
108 small parcels of land and as whole farms and shall be sold in
109 the form which brings the highest price for the total property.
110 For purposes of this subsection, "small parcels" means
111 parcels of no more than five acres.

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



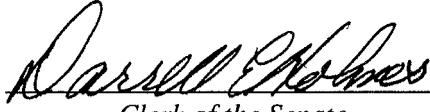
Chairman Senate Committee



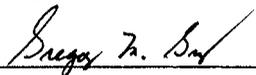
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

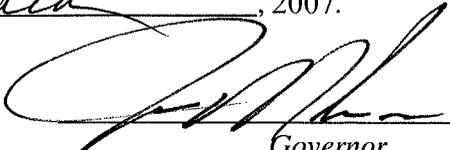


President of the Senate



Speaker of the House of Delegates

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



Governor

PRESENTED TO THE
GOVERNOR

MAR 0 8 2007

Time

4:55 pm