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2008 MAR 28 PM 4: 28

**WEST VIRGINIA LEGISLATURE**

**SEVENTY-EIGHTH LEGISLATURE**

**REGULAR SESSION, 2008**

SECRETARY OF STATE



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COMMITTEE SUBSTITUTE

FOR

**ENROLLED**

**Senate Bill No. 265**

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
BY REQUEST OF THE EXECUTIVE)

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[Passed March 7, 2008; in effect ninety days from passage.]

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OFFICE OF THE  
SECRETARY OF STATE

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**Senate Bill No. 265**

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
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[Passed March 7, 2008; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6H-1, §11-6H-2, §11-6H-3, §11-6H-4, §11-6H-4a, §11-6H-5, §11-6H-5a, §11-6H-6 and §11-6H-7, all relating to the method of valuation of certain aircraft; providing definitions; providing methodology for valuation of certain aircraft; stating that the initial determination of valuation is to be made by the county assessor; providing

for an initial determination by the Board of Public Works for certain aircraft; authorizing the protest and appeal of the assessor's decision; providing for an appeal to the Board of Public Works; requiring an economic report on the economic benefit of the valuation methodology; and providing an effective date.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §11-6H-1, §11-6H-2, §11-6H-3, §11-6H-4, §11-6H-4a, §11-6H-5, §11-6H-5a, §11-6H-6 and §11-6H-7, all to read as follows:

**ARTICLE 6H. VALUATION OF SPECIAL AIRCRAFT PROPERTY.**

**§11-6H-1. Short title.**

- 1 This article shall be known and cited as the Special
- 2 Aircraft Property Valuation Act.

**§11-6H-2. Definitions.**

- 1 (a) When used in this article, terms defined in
- 2 subsection (b) of this section have the meanings ascribed
- 3 to them by this section, unless a different meaning is
- 4 clearly required by the context in which the term is
- 5 used.
  
- 6 (b) *Terms defined.* —
- 7 (1) "Aircraft" means a weight-carrying structure for
- 8 navigation of the air that is supported by the dynamic
- 9 action of the air against its surfaces and includes, but is
- 10 not limited to, an airplane or helicopter. For the
- 11 purposes of this article, the term "aircraft" does not
- 12 include dirigibles, balloons, kites, rockets, gliders,

13 ornithopters, fan wing vehicles, autogyros and powered  
14 lift vehicles other than helicopters.

15 (2) "Airplane" means a fixed-wing aircraft heavier  
16 than air that is driven by a propeller or by jet, turbojet,  
17 turbofan, ram jet, pulse jet, scramjet or rocket engine  
18 and supported by the dynamic reaction of air against its  
19 wings.

20 (3) "Commercial airline" means an air transportation  
21 system used to transport people and tangible personal  
22 property for profit and includes carriers that operate  
23 with fixed routes and flight schedules as well as charter  
24 carriers.

25 (4) "Helicopter" means an aircraft whose support in  
26 the air is derived chiefly from the aerodynamic forces  
27 acting on one or more rotors turning about on  
28 substantially vertical axes.

29 (5) "Private carrier" means any firm, partnership,  
30 joint venture, joint stock company, any public or private  
31 corporation, cooperative, trust, business trust or any  
32 other group or combination acting as a unit that is  
33 engaged in a primary business other than commercial  
34 air transportation that operates an aircraft for the  
35 transportation of employees or others for business  
36 purposes.

37 (6) "Salvage value" means the lower of fair market  
38 salvage value or five percent of the original cost of the  
39 property.

40 (7) "Special aircraft property" means all aircraft  
41 owned or leased by commercial airlines or private

42 carriers.

**§11-6H-3. Valuation of special aircraft property.**

1 Notwithstanding any other provision of this code to  
2 the contrary, the value of special aircraft property, for  
3 the purpose of ad valorem property taxation under this  
4 chapter and under article X of the Constitution of the  
5 State of West Virginia, shall be its salvage value.

**§11-6H-4. Initial determination by county assessor.**

1 The assessor of the county in which a specific item of  
2 property is located shall determine, in writing, whether  
3 that specific item of property is special aircraft property  
4 subject to valuation in accordance with this article.  
5 Upon making a determination that a taxpayer has  
6 special aircraft property, the county assessor shall  
7 notify the Tax Commissioner of that determination and  
8 shall provide information as the Tax Commissioner  
9 requires relating to that determination.

**§11-6H-4a. Initial determination by the Board of Public Works.**

1 For special aircraft property subject to assessment by  
2 the Board of Public Works as provided for in article six  
3 of this chapter, the board shall determine, in writing,  
4 whether that specific item of property is special aircraft  
5 property subject to valuation in accordance with this  
6 article. Upon making a determination that a taxpayer  
7 has special aircraft property, the Board of Public Works  
8 shall notify the Tax Commissioner of that determination  
9 and shall provide information as the Tax Commissioner  
10 requires relating to that determination.

**§11-6H-5. Protest and appeal.**

1       At any time after the property is returned for taxation,  
2 but prior to the first day of January of the assessment  
3 year, any taxpayer may apply to the county assessor for  
4 information regarding the issue of whether any  
5 particular item or items of property constitute special  
6 aircraft property under this article which is subject to  
7 valuation in accordance with this article. If the  
8 taxpayer believes that some portion of the taxpayer's  
9 property is subject to the provisions of this article, the  
10 taxpayer may file objections in writing with the county  
11 assessor. The county assessor shall decide the matter by  
12 either sustaining the protest and making proper  
13 corrections or by stating, in writing if requested, the  
14 reasons for the county assessor's refusal. The county  
15 assessor may, and if the taxpayer requests, the county  
16 assessor shall, before the first day of January of the  
17 assessment year, certify the question to the Tax  
18 Commissioner in a statement sworn to by both parties,  
19 or if the parties are unable to agree, in separate sworn  
20 statements. The sworn statement or statements shall  
21 contain a full description of the property and its uses  
22 and any other information the Tax Commissioner  
23 requires.

24       The Tax Commissioner shall, as soon as possible upon  
25 receipt of the question, but in no case later than the  
26 twenty-eighth day of February of the assessment year,  
27 instruct the county assessor as to how the property shall  
28 be treated. The instructions issued and forwarded by  
29 mail to the county assessor are binding upon the county  
30 assessor, but either the county assessor or the taxpayer  
31 may apply to the circuit court of the county for review  
32 of the question of the applicability of this article to the

33 property in the same fashion as is provided for appeals  
34 from the county commission in section twenty-five,  
35 article three of this chapter. The Tax Commissioner  
36 shall prescribe forms on which the questions under this  
37 section shall be certified and the Tax Commissioner has  
38 the authority to pursue any inquiry and procure any  
39 information which may be necessary for disposition of  
40 the matter.

**§11-6H-5a. Protest and appeal to the Board of Public Works.**

1 At any time after the property is returned for taxation,  
2 but prior to the first day of January of the assessment  
3 year, any public service business taxpayer may apply to  
4 the Board of Public Works for information regarding  
5 the issue of whether any particular item or items of  
6 property constitute special aircraft property under this  
7 article which is subject to valuation in accordance with  
8 this article. If the taxpayer believes that some portion  
9 of the taxpayer's property is subject to the provisions of  
10 this article, the taxpayer may file objections in writing  
11 with the board. The board shall decide the matter by  
12 either sustaining the protest and making proper  
13 corrections, or by stating, in writing if requested, the  
14 reasons for the board's refusal.

15 Any taxpayer claiming to be aggrieved by any  
16 decision may apply by petition in writing, duly verified,  
17 to the circuit court of the county in which the property  
18 is situated, or if the property be situated in more than  
19 one county then in the county in which the largest  
20 assessment of the owner or operator was made in the  
21 next preceding year, for an appeal from the assessment  
22 and valuation made of all property, in the same fashion  
23 as is provided for appeals from the board in section

24 twelve, article six of this chapter.

**§11-6H-6. Report on economic benefit.**

1 The West Virginia Aeronautics Commission shall  
2 provide to the Joint Committee on Government and  
3 Finance by the first day of March, two thousand twelve,  
4 and on the first day of March of each of the two  
5 subsequent years, a report detailing the economic  
6 benefit of the valuation method specified in this article.  
7 The report is to include the number of new jobs created,  
8 number of additional aircraft relocated to West  
9 Virginia, number of new hangars built and the ad  
10 valorem property tax impact.

**§11-6H-7. Effective date.**

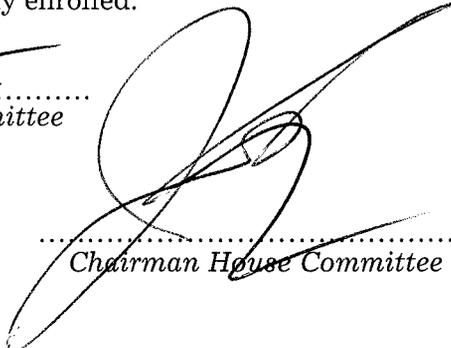
1 This article shall be effective for assessment years  
2 commencing on and after the first day of July, two  
3 thousand nine.



Enr. Com. Sub for S. B. No. 265] 8

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

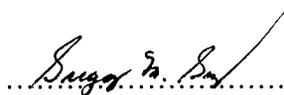
  
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Chairman Senate Committee

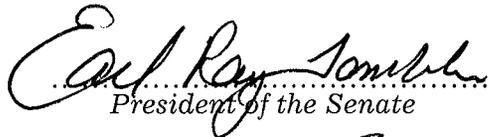
  
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Chairman House Committee

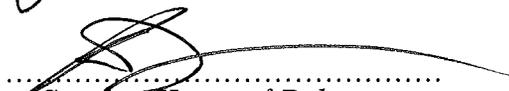
Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* ..... this  
the *28th* Day of *May* ..... 2008.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 21 2008

Time 