

HB4037

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FILED

2006 FEB -7 P 3:42

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

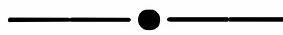
SECOND REGULAR SESSION, 2006



# 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

FILED

2006 FEB -7 P 3: 42

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**E N R O L L E D**

## **H. B. 4037**

(BY DELEGATES MICHAEL, BOGGS, CANN, KOMINAR, WILLIAMS,  
HOUSTON, HALL, BORDER, ASHLEY AND ANDERSON)

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[Passed February 1, 2006; in effect from passage.]

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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
- 2 Amendment,” this chapter shall be interpreted in accordance
- 3 with the following definitions, unless the context clearly
- 4 requires a different meaning:

5 (1) "Owner" means the person, as defined in section ten,  
6 article two, chapter two of this code, who is possessed of the  
7 freehold, whether in fee or for life. A person seized or entitled  
8 in fee subject to a mortgage or deed of trust securing a debt or  
9 liability is considered the owner until the mortgagee or trustee  
10 takes possession, after which the mortgagee or trustee shall be  
11 considered the owner. A person who has an equitable estate of  
12 freehold, or is a purchaser of a freehold estate who is in  
13 possession before transfer of legal title is also considered the  
14 owner.

15 (2) "Used and occupied by the owner thereof exclusively  
16 for residential purpose" means actual habitation by the owner  
17 or the owner's spouse of all or a portion of a parcel of real  
18 property as a place of abode to the exclusion of any commercial  
19 use: *Provided*, That if the parcel of real property was unoccu-  
20 pied at the time of assessment and either: (A) Was used and  
21 occupied by the owner thereof exclusively for residential  
22 purposes on the first day of July of the previous year assess-  
23 ment date; (B) was unimproved on the first day of July of the  
24 previous year but a building improvement for residential  
25 purposes was subsequently constructed thereon between that  
26 date and the time of assessment; or (C) is retained by the  
27 property owner for noncommercial purposes and was most  
28 recently used and occupied by the owner or the owner's spouse  
29 as a residence, and the owner, as a result of illness, accident or  
30 infirmity, is residing with a family member or is a resident in a  
31 nursing home, personal care home, rehabilitation center or  
32 similar facility, then the property shall be considered "used and  
33 occupied by the owner thereof exclusively for residential  
34 purpose": *Provided, however*, That nothing herein contained  
35 shall permit an unoccupied or unimproved property to be  
36 considered "used and occupied by the owner thereof exclu-  
37 sively for residential purposes" for more than one year unless  
38 the owner, as a result of illness, accident or infirmity, is  
39 residing with a family member or is a resident of a nursing

40 home, personal care home, rehabilitation center or similar  
41 facility. If a license is required for an activity on the premises  
42 or if an activity is conducted thereon which involves the use of  
43 equipment of a character not commonly employed solely for  
44 domestic as distinguished from commercial purposes, the use  
45 may not be considered to be exclusively residential.

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

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

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

57 (b) Effective date of amendments — Amendments to this  
58 section enacted during the regular session of the Legislature in  
59 the year two thousand six shall have retroactive effect to and  
60 including the first day of July, two thousand five, and shall  
61 apply in determining tax for tax years beginning the first day of  
62 January, two thousand six, and thereafter.

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

  
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Chairman Senate Committee

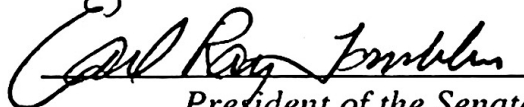
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect from passage.


  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 7<sup>th</sup>  
day of February, 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

FEB 03 2006

Time 3:30 pm