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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 401

(SENATORS McCABE, WELLS, PREZIOSO,
K. FACEMYER, BOLEY, PLYMALE, FANNING,
MINARD, EDGELL, JENKINS, CHAFIN
AND FOSTER, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 401

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CHIEF CLERK
LEGISLATIVE DEPARTMENT
STATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE

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AN ACT to amend and reenact §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15, §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto fourteen new sections, designated §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f, §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a, §11-3-24b, §11-3-25a, §11-3-32 and §11-3-33; to amend said code by adding thereto a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4, §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and to amend and reenact §18-9A-12 of said code, all relating to taxation of real and personal property for ad valorem property tax purposes; defining and conforming terms used; making technical corrections in certain code sections to conform to prior acts of the Legislature; accelerating date for issuance of notices of increase in assessed value of real property;

updating penalties for failure to file required property tax reports and returns; clarifying report and return filing requirements; accelerating due dates for filing reports and returns; assessment of property of limited liability companies; requiring assessors to notify owners of commercial business personal property of increases in assessed values for current assessment year by an established deadline; providing procedures for property owners to protest notices of assessed valuation and obtain appropriate adjustments from county assessors; providing for appeal of protested assessments to county board of equalization and review, board of assessment appeals and circuit court; providing for protest of classification or taxability to Tax Commissioner; specifying effective dates; providing for discovery; authorizing assignment to hearing examiner; providing methods for assessment of industrial property and natural resources property; establishing time and basis for assessments; providing for pertinent definitions; specifying form and manner of making returns; establishing criminal penalties for failure to file; providing for tentative appraisals by Tax Commissioner and notification to taxpayers; providing procedures for informal review of tentative appraisals; making of final appraisals; transmitting final appraisals to assessors; providing for appeals; authorizing reductions of assessments upon instruction of Tax Commissioner in certain circumstances; specifying effective dates; and holding harmless the local share for public school support for reductions in revenues resulting from decisions of a board of assessment appeals.

Be it enacted by the Legislature of West Virginia:

That §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15, §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto fourteen new sections, designated §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f, §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a,

§11-3-24b, §11-3-25a, §11-3-32 and §11-3-33; that said code be amended by adding thereto a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4, §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and that §18-9A-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.

§11-3-1. Time and basis of assessments; true and actual value; default; reassessment; special assessors; criminal penalty.

1 (a) All property, except public service businesses as-
2 sessed pursuant to article six of this chapter, shall be
3 assessed annually as of July 1 at sixty percent of its true
4 and actual value, that is to say, at the price for which the
5 property would sell if voluntarily offered for sale by the
6 owner thereof, upon the terms as the property, the value of
7 which is sought to be ascertained, is usually sold, and not
8 the price which might be realized if the property were sold
9 at a forced sale.

10 (b) Any conflicting provisions of subsection (a) of this
11 section notwithstanding, the true and actual value of all
12 property owned, used and occupied by the owner thereof
13 exclusively for residential purposes shall be arrived at by
14 also giving consideration to the fair and reasonable
15 amount of income which the same might be expected to
16 earn, under normal conditions in the locality wherein
17 situated, if rented: *Provided*, That the true and actual
18 value of all farms used, occupied and cultivated by their
19 owners or bona fide tenants shall be arrived at according
20 to the fair and reasonable value of the property for the
21 purpose for which it is actually used regardless of what
22 the value of the property would be if used for some other
23 purpose; and that the true and actual value shall be
24 arrived at by giving consideration to the fair and reason-

25 able income which the same might be expected to earn
26 under normal conditions in the locality wherein situated,
27 if rented: *Provided, however,* That nothing herein shall
28 alter the method of assessment of lands or minerals owned
29 by domestic or foreign corporations.

30 (c) The taxes upon all property shall be paid by those
31 who are the owners thereof on the assessment date
32 whether it be assessed to them or others.

33 (d) If at any time after the beginning of the assessment
34 year, it be ascertained by the Tax Commissioner that the
35 assessor, or any of his or her deputies, is not complying
36 with this provision or that they have failed, neglected or
37 refused, or is failing, neglecting or refusing after five days'
38 notice to list and assess all property therein at sixty
39 percent of its true and actual value as determined under
40 this chapter, the Tax Commissioner may order and direct
41 a reassessment of any or all of the property in any county,
42 district or municipality, where any assessor, or deputy,
43 fails, neglects or refuses to assess the property in the
44 manner herein provided. And, for the purpose of making
45 assessment and correction of values, the Tax Commis-
46 sioner may appoint one or more special assessors, as
47 necessity may require, to make assessment in any county
48 and any such special assessor or assessors, as the case may
49 be, has the power and authority now vested by law in
50 assessors, and the work of such special assessor or asses-
51 sors shall be accepted and treated for all purposes by the
52 county boards of review and equalization and the levying
53 bodies, subject to any revisions of value on appeal, as the
54 true and lawful assessment of that year as to all property
55 valued by him or her or them. The Tax Commissioner
56 shall fix the compensation of all special assessors ap-
57 pointed, which, together with their actual expenses, shall
58 be paid out of the county fund by the county commission
59 of the county in which any such assessment is ordered,
60 upon the receipt of a certificate of the Tax Commissioner

61 filed with the clerk of the county commission showing the
62 amounts due and to whom payable, after such expenses
63 have been audited by the county commission.

64 (e) Any assessor who knowingly fails, neglects or refuses
65 to assess all the property of his or her county, as herein
66 provided, shall be guilty of malfeasance in office and,
67 upon conviction thereof, shall be fined not less than \$100
68 nor more than \$500, or imprisoned not less than three nor
69 more than six months, or both, in the discretion of the
70 court, and upon conviction, shall be removed from office.

71 (f) For purposes of this chapter and chapter eleven-a of
72 this code, the following terms have the meanings ascribed
73 to them in this section unless the context in which the
74 term is used clearly indicates that a different meaning is
75 intended by the Legislature:

76 (1) "Assessment date" means July 1 of the year preceding
77 the tax year.

78 (2) "Assessment year" means the twelve-month period
79 that begins on the assessment date.

80 (3) "Tax year" or "property tax year" means the next
81 calendar year that begins after the assessment date.

82 (4) "Taxpayer" means the owner and any other person in
83 whose name the taxes on the subject property are lawfully
84 assessed.

**§11-3-2a. Notice of increased assessment required for real
property; exceptions to notice.**

1 (a) If the assessor determines the assessed valuation of
2 any item of real property appraised by him or her is more
3 than ten percent greater than the valuation assessed for
4 that item in the last tax year, the increase is \$1,000 or
5 more and the increase is entered in the property books as
6 provided in section nineteen of this article, the assessor

7 shall give notice of the increase to the person assessed or
8 the person controlling the property as provided in section
9 two of this article. The notice shall be given on or before
10 January 15 of the tax year and advise the person assessed
11 or the person controlling the property of his or her right to
12 appear and seek an adjustment in the assessment: *Pro-*
13 *vided*, That this notification requirement does not apply to
14 industrial or natural resources property appraised by the
15 Tax Commissioner under article six-k of this chapter
16 which is assessed at sixty percent of its true and actual
17 value. The notice shall be made by first-class United
18 States postage mailed to the address of the person assessed
19 or the person controlling the property for payment of tax
20 on the item in the previous year, unless there was a general
21 increase of the entire valuation in one or more of the tax
22 districts in which case the notice shall be by publication of
23 the notice by a Class II-0 legal advertisement in compli-
24 ance with the provisions of article three, chapter fifty-nine
25 of this code. The area for the publication is the county.
26 The requirement of notice under this section is satisfied
27 and waived if personal notice of the increase is shown by:

28 (1) The taxpayer having signed the assessment form after
29 it had been completed showing the increase;

30 (2) Notice was given as provided in section three-a of
31 this article; or

32 (3) The person assessed executing acknowledgment of
33 the notice of the increase.

34 (b) During the initial reappraisal of all property under
35 section seven, article one-c of this chapter, the Tax
36 Commissioner and each county assessor shall send every
37 person owning or controlling property appraised by the
38 Tax Commissioner or the county assessor a pamphlet
39 which explains the reappraisal process and its equaliza-
40 tion goal in a detailed yet informal manner. The property
41 valuation training and procedures commission, created

42 under section three, article one-c of this chapter, shall
43 design the pamphlet for use in all counties while allowing
44 individual county information to be included if it deter-
45 mines that the information would improve understanding
46 of the process.

**§11-3-10. Failure to list property, etc.; collection of penalties
and forfeitures.**

1 (a) If any person, firm or corporation, including public
2 service corporations, whose duty it is by law to list any
3 real estate or personal property for taxation, refuses to
4 furnish a proper list thereof or refuses to list within the
5 time required by law, or if any person, firm or corporation,
6 including public service corporations, refuses to answer or
7 answers falsely any question asked by the assessor or by
8 the Tax Commissioner, or fails or refuses to deliver any
9 statement required by law, the person, firm or corporation
10 may forfeit, at the discretion of the assessor or the Tax
11 Commissioner for good cause shown, not less than \$25 nor
12 more than \$100. If any person, firm or corporation
13 willfully fails to furnish a proper list of real estate or
14 personal property for taxation or refuses to answer or
15 falsely answers any question asked by the assessor or by
16 the Tax Commissioner, or fails or refuses to deliver any
17 statement required by law, such person, firm or corpora-
18 tion shall be denied all remedy provided by law for the
19 correction of any assessment made by the assessor or by
20 the board of public works: *Provided*, That no person, firm
21 or corporation shall be denied the remedy provided by law
22 to contest any assessment unless the assessor or the Tax
23 Commissioner has notified such person, firm or corpora-
24 tion in writing that this penalty will be asserted and the
25 requested information is not provided within fifteen days
26 of the date of receipt of the notice.

27 (b) If any person, firm or corporation, including public
28 service corporations, required by law to make return of

29 property for taxation, whether the return is to be made to
30 the assessor, the board of Public Works, or any other
31 assessing officer or body, fails to return a true list of all
32 property which should be assessed in this state, the person,
33 firm or corporation, in addition to all other penalties
34 provided by law, shall forfeit one percent of the value of
35 the property not yet returned and not otherwise taxed in
36 this state.

37 (c) A forfeiture as to all property aforesaid may be
38 enforced for any default occurring in any year not exceed-
39 ing five years immediately prior to the time the default is
40 discovered.

41 (d) Each failure to make a true return as herein required
42 constitutes a separate offense, and a forfeiture shall apply
43 to each of them, but all forfeitures, to which the same
44 person, firm or corporation is liable, shall be enforced in
45 one proceeding against the person, firm or corporation, or
46 against the estate of any deceased person, and may not
47 exceed five percent of the value of the property not
48 returned that is required to be returned for taxation by
49 this chapter.

50 (e) Forfeitures shall be collected as provided in article
51 two, chapter eleven-a of this code, the same as any tax
52 liability, against the defaulting taxpayer, or in case of a
53 decedent, against his or her personal representative. The
54 sheriff shall apportion such fund among the state, county,
55 district, school district and municipalities which would
56 have been entitled to the taxes upon the property if it had
57 been assessed, in proportion to the rates of taxation for
58 each levying unit for the year in which the judgment was
59 obtained bears to the sum of rates for all.

60 (f) When the list of property returned by the appraisers
61 of the estate of any deceased person shows an amount
62 greater than the last assessment list of real and tangible
63 personal property of the deceased person next preceding

64 the appraisal of his or her estate, it is prima facie evidence
65 that the deceased person returned an imperfect list of his
66 or her property: *Provided*, That any person liable for the
67 tax, or his or her personal representative, may always be
68 permitted to prove by competent evidence that the dis-
69 crepancy between the assessment list and the appraisal of
70 the estate is caused by a difference of valuation returned
71 by the assessor and that made by the appraisers of the
72 same property or by property acquired after assessment,
73 or that any property enumerated in the appraisers' list had
74 been otherwise listed for taxation, or that it was not liable
75 for taxation.

76 (g) Any judgment recovered under this section is a lien,
77 from the time of the service of the notice, upon all real
78 estate and personal property of the defaulting taxpayer,
79 owned at the time or subsequently acquired, in preference
80 to any other lien.

§11-3-12. Assessment of corporate property; reports to assessors by corporations.

1 (a) Each incorporated company, banking institution and
2 national banking association, foreign or domestic, having
3 its principal office or chief place of business in this state,
4 owning property subject to taxation in this state, except
5 railroad, telegraph and express companies, telephone
6 companies, pipeline, car line companies and other public
7 utility companies, shall annually, between the assessment
8 date and September 1, make a written report, verified by
9 the oath of the president or chief accounting officer, to the
10 assessor of the county in which its principal office or chief
11 place of business is situated or in which property subject
12 to taxation in this state is located if the corporation does
13 not have a principal office or chief place of business in this
14 state, showing the following items: (1) The quantity,
15 location and fair market value of all of its real estate, and
16 tax district or districts in which it is located; and (2) the

17 kinds, quantity and fair market value of all its tangible
18 personal property in each tax district in which it is
19 located.

20 (b) The oath required for this section shall be substan-
21 tially as follows:

22 State of West Virginia, County, ss:

23 I,, president (treasurer or manager) of (here
24 insert name of corporation), do solemnly swear (or affirm)
25 that the foregoing is, to the best of my knowledge and
26 judgment, true in all respects; that it contains a statement
27 of all the real estate and tangible personal property that
28 the value affixed to such property is, in my opinion, its
29 value, by which I mean the price at which it would sell if
30 voluntarily offered for sale on such terms as are usually
31 employed in selling such property, and not the price which
32 might be realized at a forced or auction sale; and said
33 corporation has not, to my knowledge, during the sixty-
34 day period immediately prior to the assessment date
35 converted any of its assets into nontaxable securities or
36 notes or other evidence of indebtedness for the purposes of
37 evading the assessment of taxes thereon; so help me, God.

38 The officer administering the oath shall append thereto
39 the following certificate:

40 Subscribed and sworn to before me by
41 this the day of....., 20

**§11-3-15. Assessment of capital used in trade or business by
natural persons or unincorporated businesses.**

1 (a) The value of the capital used by any individual or
2 firm, not incorporated, in any trade or business taxable by
3 law, shall be ascertained in the following manner: The
4 owner, agent or chief accountant of every trade or busi-
5 ness, except the business of agriculture, carried on in any
6 county of the state shall annually, on or after the assess-

7 ment date and on or before September 1, make a written
8 report to the assessor, verified by his or her affidavit,
9 showing the following matter and things determined as of
10 the assessment date:

11 (1) The amount, the true and actual value and classifica-
12 tion of all tangible personal property used in connection
13 with the trade or business, other than that regularly kept
14 for sale therein, including chattels real and personal;

15 (2) The true and actual value and classification of all
16 goods and property kept for sale and remaining unsold;
17 and

18 (3) The location, quantity, the true and actual value and
19 classification of all real estate owned by the individual or
20 firm and used in the trade or business.

21 (b) The assessor shall, upon the receipt of such report,
22 properly verified, if the assessor is satisfied with the
23 correctness thereof, enter the real estate in the land book
24 of the county in the tax district wherein the same is
25 situated and assess the same with taxes, if not otherwise
26 assessed, to the owner thereof: *Provided*, That the personal
27 property mentioned in the report shall be entered in the
28 personal property book of the county for assessment with
29 taxes as follows: Items (1) and (2) shall be entered in the
30 tax districts where they are for the greater part of the year
31 kept or located; and item (3) shall be entered under its
32 appropriate heading in the municipality or tax district
33 wherein the property is located.

34 (c) If the assessor is not satisfied with the correctness of
35 the report, the assessor may proceed to ascertain a correct
36 list of the property on which the individual or firm is
37 liable to be assessed with taxes, and to value the same as
38 in other cases.

39 (d) The person making the report shall take and sub-
40 scribe an oath in substantially the following form:

41 I,, do solemnly swear (or affirm) that the
42 foregoing list is true and correct to the best of my knowl-
43 edge; that the value affixed to the property therein listed
44 I believe to be the true and actual value thereof; that none
45 of the assets belonging to (here state the name of individ-
46 ual or firm) and used in the business of (here describe the
47 business) have to my knowledge, since the assessment
48 date, been converted into nontaxable securities for the
49 purpose of evading the assessment of taxes thereon; so
50 help me, God.

51 The officer administering the oath shall append thereto
52 the following certificate:

53 Subscribed and sworn to before me by (here insert
54 affiant's name) this day of, 20

**§11-3-15a. Assessment of property of limited liability compa-
nies.**

1 Limited liability companies that elect to be treated as a
2 corporation for federal income tax purposes shall make
3 and file the report required of corporations in section
4 twelve of this article. Limited liability companies treated
5 as a partnership for federal income tax purposes shall
6 make and file the report required in section fifteen of this
7 article. A limited liability company that elects to be
8 treated as a disregarded entity for federal income tax
9 purposes shall be treated as a disregarded entity under this
10 article and its owner shall make and file the report
11 required by section twelve or section fifteen of this article
12 depending upon whether the owner is a corporation, a firm
13 or an individual.

**§11-3-15b. Notice of increase in assessed value of business
personal property.**

1 (a) On or before January 15 of the tax year, the assessor
2 shall mail a notice of assessed value to any corporation,

3 partnership, limited partnership, limited liability com-
4 pany, firm, association, company or other form of organi-
5 zation engaging in business activity in the county showing
6 the aggregated assessed value of taxpayer's tangible
7 personal property situated in the county on the assessment
8 date, if known, that is not appraised by the Tax Commis-
9 sioner: *Provided*, That notice is only required if:

10 (1) The aggregated assessed value of taxpayer's tangible
11 personal property used in business activity is more than
12 ten percent greater than the aggregated assessed value of
13 the property in the prior tax year; and

14 (2) The aggregated assessed value of property has
15 increased by more than \$100,000 since the prior tax year.

16 However, this notification requirement does not apply to
17 industrial or natural resources personal property that is
18 appraised by the Tax Commissioner under article six-k of
19 this chapter which is assessed at sixty percent of its true
20 and actual value.

21 (b) The assessor shall include in the assessment notice:

22 (1) The assessed value of the property for the preceding
23 assessment year;

24 (2) The proposed assessed value of the property for the
25 current assessment year;

26 (3) The classification of the property pursuant to section
27 one, Article X of the Constitution of this state;

28 (4) The mailing date of the notice; and

29 (5) The last date on which the taxpayer may file a
30 petition for review with the assessor from the valuation or
31 classification assigned to the property.

32 (c) The notice required by this section shall be: (1) In
33 writing, in the form prescribed by the Tax Commissioner,

34 and mailed to the taxpayer's last known mailing address;
35 or (2) by electronic notification.

36 (d) No later than the sixteenth day of the tax year, the
37 assessor shall certify to the county commission and to the
38 Tax Commissioner the date on which all notices under this
39 section were mailed.

40 (e) After the mailing date of the notice any person who
41 owns, claims, possesses or controls property that is valued
42 by the assessor may inquire of and be advised by the
43 assessor as to the valuation of the property determined by
44 the assessor.

45 (f) The owner or person in possession of the tangible
46 personal property may petition the assessor for review as
47 provided in section fifteen-d of this article.

**§11-3-15c. Petition for assessor review of improper valuation
of real property.**

1 (a) A taxpayer who is of the opinion that his or her real
2 property has been valued too high or otherwise improperly
3 valued or listed in the notice given as provided in section
4 two-a of this article may, but is not required to, file a
5 petition for review with the assessor on a written form
6 prescribed by the Tax Commissioner. This section shall
7 not apply to industrial and natural resource property
8 appraised by the Tax Commissioner.

9 (b) The petition shall state the taxpayer's opinion of the
10 true and actual value of the property and substantial
11 information that justifies that opinion of value for the
12 assessor to consider for purposes of basing a change in
13 classification or correction of the valuation. For purposes
14 of this subsection, the taxpayer provides substantial
15 information to justify the opinion of value by stating the
16 method or methods of valuation on which the opinion is
17 based:

18 (1) Under the income approach, including the informa-
19 tion required in section fifteen-e of this article;

20 (2) Under the market approach, including the true and
21 actual value of at least three comparable properties in the
22 same geographic area or the sale of the subject property;
23 or

24 (3) Under the cost approach, including the replacement
25 cost or the cost to build or rebuild the property, plus the
26 true and actual value of the land.

27 (c) The petition may include more than one parcel of
28 property if they are part of the same economic unit
29 according to the Tax Commissioner's guidelines or if they
30 are owned by the same owner, have the same use, are
31 appealed on the same basis and are located in the same tax
32 district or in contiguous tax districts of the county, and
33 are in a form prescribed by the Tax Commissioner.

34 (d) The petition shall be filed within five days after the
35 date the taxpayer receives the notice of increased assess-
36 ment under section two-a of this article or the notice of
37 increased value was published as a Class II-0 legal adver-
38 tisement as provided in that section.

**§11-3-15d. Administrative review of tangible personal prop-
erty valuation by assessor.**

1 (a) The owner of business tangible personal property
2 that is valued by the assessor or the person in whose
3 possession it is found on the assessment date may appeal
4 to the assessor within five days after the date the notice of
5 increased assessment required by section fifteen-b of this
6 article was received by filing a petition with the assessor
7 on a form prescribed by the Tax Commissioner. The
8 petition shall set forth in writing:

9 (1) The taxpayer's opinion of the value of the tangible
10 personal property; and

11 (2) Substantial information that justifies the opinion of
12 value in order for the assessor to consider the information
13 for the purpose of basing a change in the valuation.

14 (b) The assessor shall rule on each petition no later than
15 February 10 of the tax year.

16 (c) The notice of the assessor's ruling provided under this
17 section shall be given in the same manner as prescribed in
18 section fifteen-h of this article.

19 (d) If the request of the petitioner is denied, in whole or
20 in part, the notice required by subsection (c) of this section
21 shall include the grounds for refusing to grant the request
22 contained in the petition.

23 (e) This section shall not apply to tangible personal
24 property appraised by the Tax Commissioner as part of an
25 industrial or natural resource property appraisal.

**§11-3-15e. Contents of petition based on income approach to
value of real property.**

1 (a) A petition that is filed with the assessor under section
2 fifteen-c or fifteen-d of this article based on the income
3 approach to value shall include income and expense data
4 relating to the property for the three most recent consecu-
5 tive fiscal years of the petitioner ending on or before June
6 30 preceding the then current assessment year. If the
7 income and expense data is not available to the petitioner,
8 the petitioner shall file with the petition such income and
9 expense data as is available. The Tax Commissioner, by
10 rule, may establish additional information to be filed if the
11 required income and expense data are not available.

12 (b) If a petitioner under this article uses the income
13 approach to determine valuation, the petitioner, an officer
14 of a corporate petitioner, a general partner or a designated
15 agent shall file a sworn affidavit under penalty of perjury
16 that the information contained in the petition is true and
17 correct to the best of the petitioner's knowledge.

§11-3-15f. Rejection of petition for failure to include substantial information; amended petition; appeal.

1 If the assessor rejects a petition filed pursuant to section
2 fifteen-c, fifteen-d or fifteen-e of this article, the peti-
3 tioner may appeal to the county board of equalization and
4 review as provided in section twenty-four of this article.

§11-3-15g. Meeting between assessor and petitioner.

1 (a) At the petitioner's written request, the assessor or a
2 member of his or her staff shall meet with the petitioner
3 and the petitioner's representative, if any, at a time and
4 place designated at least three working days in advance by
5 the assessor after the petition is filed.

1 (b) If the petitioner is unable to appear and meet with
2 the assessor at the time and place set by the assessor, the
3 petitioner may submit written evidence to support the
4 petition if it is submitted before the date of the meeting.

§11-3-15h. Ruling on petition.

1 (a) In all cases the assessor shall consider the petition
2 and shall rule on each petition filed pursuant to section
3 fifteen-c, fifteen-d or fifteen-e of this article by February
4 10 of the assessment year. Written notice shall be served
5 by regular mail on the person who filed the petition.

6 (b) In considering a petition filed pursuant to section
7 fifteen-c, fifteen-d or fifteen-e of this article, the assessor
8 shall consider the valuation fixed by the assessor on other
9 similar property that is similarly situated.

§11-3-15i. Petitioner's right to appeal.

1 (a) If the assessor grants the requested relief, the peti-
2 tioner may not appeal the ruling of the assessor.

3 (b) If the petitioner and the assessor reach an agreement
4 within five business days after the conclusion of the

5 meeting held as provided in section fifteen-g of this
6 article, both parties shall sign the agreement and both
7 parties waive the right to further appeal.

8 (c) If all or part of the petitioner's request under section
9 fifteen-c, fifteen-d or fifteen-e of this article is denied, the
10 assessor shall mail, on the date of the ruling, to the
11 petitioner at the address shown on the petition notice of
12 the grounds of the refusal to make the change or changes
13 requested in the petition. A petitioner whose request is
14 denied, in whole or in part, or a petitioner who does not
15 receive a response from the assessor by February 10, as
16 provided in section fifteen-h of this article, may file a
17 protest with the county commission sitting as a board of
18 equalization and review, as provided in section twenty-
19 four of this article.

**§11-3-19. Property books; time for completing; extension of
levies; copies.**

1 The assessor shall complete the assessment and make up
2 the assessor's official copy of the land and personal
3 property books in time to submit the same to the board of
4 equalization and review not later than February 1 of the
5 tax year. The assessor shall, as soon as practicable after
6 the levy is laid, extend the levies on the land and personal
7 property books, and shall forthwith make three copies of
8 the land books and two copies of the personal property
9 books with the levies extended. One of the copies of the
10 land books shall be delivered to the sheriff not later than
11 June 7; one copy shall be delivered to the clerk of the
12 county commission not later than July 1; and one copy
13 shall be sent to the State Auditor not later than July 1.
14 One of the copies of the personal property books shall be
15 delivered to the sheriff and one copy shall be delivered to
16 the clerk of the county commission on or before the same
17 date fixed above for the delivery of the land books. The
18 copies shall be official records of the respective officers.

19 The assessor may require the written receipt of each of the
20 officers for the copy. Before delivering any of the copies
21 the assessor shall make and subscribe the following oath
22 at the foot of each of them:

23 I,, assessor of the county of, do
24 solemnly swear, (or affirm) that in making the foregoing
25 assessment I have to the best of my knowledge and ability
26 pursued the law prescribing the duties of assessors and
27 that I have not been influenced in making the same by
28 fear, favor or partiality; so help me, God.
29
30 assessor.

31 The officer administering the foregoing oath shall
32 append thereto a certificate in substantially the following
33 form:

34 Subscribed and sworn to before me, a for
35 the County of and State of West Virginia, by
36, assessor for said county, this the day of
37, 20

**§11-3-23a. Informal review and resolution of classification,
taxability and valuation issues.**

1 (a) *General.* – Anytime after real or tangible personal
2 property is returned for taxation, the taxpayer may apply
3 to the assessor of the county in which the property was
4 situated on the assessment date for information about the
5 classification, taxability or valuation of the property for
6 property tax purposes for the tax year following the July
7 1 assessment date. A taxpayer who is not satisfied with
8 the response of the assessor and wants to further pursue
9 the matter must follow the procedures set forth in this
10 section.

11 (b) *Classification or taxability.* – A taxpayer who wants
12 to contest the classification or taxability of property must

13 follow the procedures set forth in section twenty-four-a of
14 this article.

15 (c) *Valuation issues - property appraised and assessed by*
16 *county assessor.* -

17 (1) A taxpayer who is dissatisfied with the response of
18 the assessor on a question of valuation and who receives a
19 notice of increase in the assessed value of real property as
20 provided in section two-a of this article, or a notice of
21 increase in the assessed value of business personal prop-
22 erty as provided in section fifteen-b of this article, who
23 disagrees with the assessed value stated in the notice, may
24 utilize the informal review process specified in this article
25 if the taxpayer decides to challenge the assessed value.

26 (2) A taxpayer may apply for relief to the county com-
27 mission sitting as a board of equalization and review
28 pursuant to section twenty-four of this article not later
29 than February 20 of the tax year by filing a written protest
30 with the clerk of the county commission that identifies the
31 amount of the assessed value the taxpayer believes to be in
32 controversy and states generally the taxpayer's reason or
33 reasons for filing the protest. The board shall then set a
34 date and time to hear the taxpayer's protest: *Provided,*
35 *That in the written protest or in a separate notice filed*
36 *with the board on or before the day of the hearing, the*
37 *taxpayer or taxpayer's representative may notify the*
38 *board of the taxpayer's election to have the matter heard*
39 *when the county commission convenes as a board of*
40 *assessment appeals in the fall of the tax year as provided*
41 *in section twenty-four-b of this article. A copy of this*
42 *election shall be served on the assessor, and the Tax*
43 *Commissioner in the case of industrial property or natural*
44 *resources property, by personal service or by certified*
45 *mail. The notice of election shall include an acknowledg-*
46 *ment by the taxpayer that the taxpayer will timely pay*
47 *first and second half installment payments of taxes levied*

48 for the current tax year on or before they become due and
49 that any reduction in assessed value that is administra-
50 tively or judicially determined in a decision that becomes
51 final will result in a credit being established against taxes
52 that become due for a tax year subsequent to the tax year
53 in which the decision becomes final, except as otherwise
54 stated in the decision or as otherwise provided in this
55 article. In the event the board adjourns sine die before
56 February 20 of the tax year, a taxpayer may still file its
57 written protest and the acknowledgment described in this
58 subdivision with the county clerk on or before February 20
59 of the tax year, and the petition shall be heard when the
60 county commission meets as a board of assessment ap-
61 peals, as provided in section twenty-four-b of this article.
62 If a taxpayer fails to provide its written protest on or
63 before February 20, and the board unilaterally increases
64 the assessed value subsequent to that date, the taxpayer
65 may still file a written protest and the acknowledgment
66 described in this subdivision with the county clerk, and
67 the petition shall be heard when the county commission
68 meets as a board of assessment appeals as provided in
69 section twenty-four-b of this article.

70 (d) *Valuation issues - property appraised by Tax Com-*
71 *missioner and assessed by county assessor. -*

72 (1) A taxpayer who receives a notice of tentative ap-
73 praised value of natural resource property or industrial
74 property from the Tax Commissioner pursuant to article
75 six-k of this chapter, who disagrees with the value stated
76 in the notice may utilize the informal review process
77 specified in this article and article six-k of this chapter.

78 (2) A taxpayer may apply for relief to the county com-
79 mission sitting as a board of equalization and review
80 pursuant to section twenty-four of this article no later
81 than February 20 of the tax year by filing a written protest
82 with the clerk of the county commission that identifies the

83 amount of the assessed value the taxpayer believes to be in
84 controversy and states generally the taxpayer's reason or
85 reasons for filing the protest. The board shall then set a
86 date and time to hear the taxpayer's protest: *Provided*,
87 That in the written protest or in a separate notice filed
88 with the board on or before the day of the hearing, the
89 taxpayer or taxpayer's representative may notify the
90 board of the taxpayer's election to have the matter heard
91 when the county commission convenes as a board of
92 assessment appeals in the fall of the tax year as provided
93 in section twenty-four-b of this article. A copy of this
94 election shall be served on the assessor, and the Tax
95 Commissioner in the case of industrial property or natural
96 resources property, by personal service or by certified
97 mail. The notice of election shall include an acknowledg-
98 ment by the taxpayer that taxpayer will timely pay first
99 and second half installment payments of taxes levied for
100 the current tax year on or before they become due and that
101 any reduction in assessed value that is administratively or
102 judicially determined in a decision that becomes final will
103 result in a credit being established against taxes that
104 become due for a tax year subsequent to the tax year in
105 which the decision becomes final, except as otherwise
106 stated in the decision or as otherwise provided in this
107 article. In the event the board adjourns sine die before
108 February 20 of the tax year, a taxpayer may still file its
109 written protest and the acknowledgment described in this
110 subdivision with the county clerk on or before February 20
111 of the tax year, and the petition shall be heard when
112 county commission meets as a board of assessment ap-
113 peals, as provided in section twenty-four-b of this article.
114 If a taxpayer fails to provide its written protest on or
115 before February 20, and the board unilaterally increases
116 the assessed value subsequent to that date, the taxpayer
117 may still file a written protest and the acknowledgment
118 described in this subdivision with the county clerk, and
119 the petition shall be heard when the county commission

120 meets as a board of assessment appeals as provided in
121 section twenty-four-b of this article.

§11-3-24. Review and equalization by county commission.

1 (a) The county commission shall annually, not later than
2 February 1 of the tax year, meet as a board of equalization
3 and review for the purpose of reviewing and equalizing the
4 assessment made by the assessor. The board shall not
5 adjourn for longer than three business days at a time, not
6 including a Saturday, Sunday or legal holiday in this state,
7 until this work is completed. The board may adjourn sine
8 die anytime after February 15 of the tax year and shall
9 adjourn sine die not later than the last day of February of
10 the tax year.

11 (b) At the first meeting of the board, the assessor shall
12 submit the property books for the current year, which
13 shall be complete in every particular, except that the levies
14 shall not be extended. The assessor and the assessor's
15 assistants shall attend and render every assistance possible
16 in connection with the value of property assessed by them.

17 (c) The board shall proceed to examine and review the
18 property books, and shall add on the books the names of
19 persons, the value of personal property and the description
20 and value of real estate liable to assessment which was
21 omitted by the assessor. The board shall correct all errors
22 in the names of persons, in the description and valuation
23 of property, and shall cause to be done whatever else is
24 necessary to make the assessed valuations comply with the
25 provisions of this chapter. But in no case shall any
26 question of classification or taxability be considered or
27 reviewed by the board.

28 (d) If the board determines that any property or interest
29 is assessed at more or less than sixty percent of its true
30 and actual value as determined under this chapter, it shall
31 fix it at sixty percent of its true and actual value: *Pro-*

32 *vided*, That no assessment shall be increased without
33 giving the taxpayer at least five days' notice, in writing, of
34 the intention to make the increase and no assessment shall
35 be greater than sixty percent of the true and actual value
36 of the property.

37 (e) Service of notice of the increase upon the taxpayer
38 shall be sufficient, or upon his or her agent or attorney, if
39 served in person, or if sent by registered or certified mail
40 to the property owner, his or her agent, or attorney, at the
41 last known mailing address of the person as shown in the
42 records of the assessor or the tax records of the county
43 sheriff. If such person cannot be found and has no last
44 known mailing address, then notice shall be given by
45 publication thereof as a Class I legal advertisement in
46 compliance with the provisions of article three, chapter
47 fifty-nine of this code and the publication area shall be the
48 county. The date of the publication shall be at least five
49 days, not including a Saturday, Sunday or legal holiday in
50 this state, prior to the day the board acts on the increase.
51 When the board intends to increase the entire valuation in
52 any one tax district by a general increase, notice shall be
53 given by publication thereof as a Class II-0 legal adver-
54 tisement in compliance with the provisions of article three,
55 chapter fifty-nine of this code and the publication area
56 shall be the county. The date of the last publication shall
57 be at least five days, not including a Saturday, Sunday or
58 legal holiday in this state, prior to the meeting at which
59 the increase in valuation is acted on by the board. When
60 an increase is made, the same valuation shall not again be
61 changed unless notice is again given as heretofore pro-
62 vided.

63 The clerk of the county commission shall publish notice
64 of the time, place and general purpose of the meeting as a
65 Class II legal advertisement in compliance with the
66 provisions of article three, chapter fifty-nine of this code

67 and the publication area shall be the county. The expense
68 of publication shall be paid out of the county treasury.

69 (f) Any person who receives notice as provided in
70 subsection (e) of this section may appear before the board
71 at the time and place specified in the notice to object to
72 the proposed increase in the valuation of taxpayer's
73 property. After hearing the board's reason or reasons for
74 the proposed increase, the taxpayer may present his or her
75 objection or objections to the increase and the reason or
76 reasons for the objections and may either orally or in
77 writing advise the board that the taxpayer elects for the
78 matter to be heard in the fall of the tax year when the
79 county commission meets as a board of assessment appeals
80 as provided in section twenty-four-b of this article:
81 *Provided*, That taxpayer's election shall not stay a decision
82 by the board to increase the assessed value of the property
83 for the current tax year.

84 (g) The board may approve an agreement signed by the
85 taxpayer or taxpayer's representative and the assessor,
86 and by a representative of the Tax Commissioner when the
87 property is industrial property or natural resources
88 property, that resolves a valuation matter while the land
89 and personal property books are before the board for
90 equalization and review.

91 (h) If any person fails to apply for relief at this meeting,
92 he or she shall have waived the right to ask for correction
93 in the assessment list for the current year, and shall not
94 thereafter be permitted to question the correctness of the
95 list as finally fixed by the board, except on appeal to the
96 circuit court or as otherwise provided in this article.

97 (i) After the board completes the review and equalization
98 of the property books, a majority of the board shall sign a
99 statement that it is the completed assessment of the county
100 for the tax year. Then the property books shall be deliv-

101 ered to the assessor and the levies extended as provided by
102 law.

103 (j) A taxpayer who elects to have a hearing before the
104 board of equalization and review may appeal the board's
105 order as provided in section twenty-five of this article. A
106 taxpayer who elects to have a hearing before the board of
107 assessment appeals may only appeal the assessed value as
108 provided in section twenty-four-b of this article.

**§11-3-24a. Protest of classification or taxability to assessor;
appeal to Tax Commissioner.**

1 (a) At any time after property is returned for taxation,
2 and up to and including the time the property books are
3 before the county commission sitting as a board of equal-
4 ization and review, any taxpayer may apply to the assessor
5 for information regarding the classification and taxability
6 of the taxpayer's property. In case the taxpayer is dissat-
7 isfied with the classification of property assessed to the
8 taxpayer or believes that the property is exempt or
9 otherwise not subject to taxation, the taxpayer shall file
10 objections in writing with the assessor. The assessor shall
11 decide the question by either sustaining the protest and
12 making proper corrections, or by stating, in writing if
13 requested, the reasons for refusal to grant the protest.

14 (b) The assessor may, and if the taxpayer requests, the
15 assessor shall, certify the question to the State Tax
16 Commissioner in a statement sworn to by both parties, or
17 if the parties are unable to agree, in separate sworn
18 statements, giving a full description of the property and
19 any other information which the Tax Commissioner
20 requires. The Tax Commissioner shall prescribe forms on
21 which the aforesaid question shall be certified and the Tax
22 Commissioner shall have the authority to pursue any
23 inquiry and procure any information necessary for the
24 disposition of the issue.

25 (c) The Tax Commissioner shall, as soon as possible on
26 receipt of the question, but in no case later than February
27 28 of the assessment year, instruct the assessor as to how
28 the property shall be treated. The instructions issued and
29 forwarded by mail to the assessor shall be binding upon
30 the assessor, but either the assessor or the taxpayer may
31 apply to the circuit court of the county within thirty days
32 after receiving written notice of the Tax Commissioner's
33 ruling, for review of the question of classification or
34 taxability in the same fashion as is provided for appeals
35 from the county commission sitting as a board of equaliza-
36 tion and review in section twenty-five of this article.

37 (d) The amendments to this section enacted in the year
38 2010 shall apply to classification and taxability rulings
39 issued for taxes levied after December 31, 2011.

§11-3-24b. Board of Assessment Appeals.

1 (a) The county commission shall meet as a board of
2 assessment appeals no sooner than October 1 of the tax
3 year, unless that day is a Saturday, Sunday or legal
4 holiday in this state, in which event the board shall begin
5 meeting on the next day that is not a Saturday, Sunday or
6 legal holiday.

7 (b) The board shall set a date and time for hearing each
8 protest filed on or before February 20 of the tax year, as
9 provided in section twenty-three-a of this article, and for
10 which the taxpayer elected to have the matter heard by the
11 board of assessment appeals: *Provided*, That the commis-
12 sion may, before, on or after October 1, begin developing
13 a hearing schedule for hearings to commence on or after
14 October 1. The board may in its discretion grant one or
15 more continuances of the hearing date. The board shall
16 grant a continuance when the continuance is agreed to by
17 the assessor and the taxpayer. When the hearing involves
18 industrial property or natural resources property ap-
19 praised by the Tax Commissioner, the board shall grant

20 continuances of hearing dates and otherwise work with
21 the Tax Commissioner to develop a hearing schedule that
22 recognizes the limitations of state resources and the fact
23 that the Tax Commissioner is responsible for appraising
24 industrial properties and natural resource properties in all
25 fifty-five counties.

26 (c) Upon the timely request of any party, the board may,
27 before, on or after October 1, develop a discovery schedule
28 for the exchange of information between the taxpayer and
29 the assessor and, in matters involving industrial property
30 or natural resources property, the Tax Commissioner. Any
31 objections to discovery may be made to the board which
32 shall rule on such objections. Any willful failure to
33 provide the information requested through the discovery
34 process and required by the board may be grounds for
35 dismissal of the appeal by the board: *Provided*, That the
36 board shall provide written justification for dismissal to
37 all parties, and: *Provided further*, That any dismissal may
38 be appealed to the circuit court as provided in section
39 twenty-five of this article.

40 (d) The board may assign the appeal to a hearing exam-
41 iner for the taking of evidence if the hearing examiner is
42 mutually agreed to by the parties to the appeal. The
43 hearing examiner shall have the same authority as the
44 board to schedule hearings and schedule and compel
45 discovery: *Provided*, That, in the case of a willful failure
46 to provide information, an appeal may be dismissed only
47 by the board as provided in subsection (c) of this section.
48 Hearings before a hearing examiner shall be recorded
49 electronically. Upon the conclusion of discovery and
50 hearings on an appeal, the hearing examiner shall make a
51 written report of findings of fact and conclusions of law
52 and provide the same to the board and all parties to the
53 appeal. The board shall issue its order consistent with the
54 report of the hearing examiner without the taking of

55 additional evidence. The cost and expenses of the hearing
56 examiner shall be paid by the board.

57 (e) The board may approve an agreement signed by the
58 taxpayer or taxpayer's representative and the assessor,
59 and by a representative of the Tax Commissioner when the
60 property is industrial property or natural resource prop-
61 erty, that resolves a valuation matter that arose while the
62 land and personal property books were before the board of
63 equalization and review.

64 (f) The board shall issue its order within a reasonable
65 time after the record for the hearing is closed and all
66 required briefs have been submitted.

67 (g) Any party to the hearing may appeal the order of the
68 board in the manner provided in section twenty-five of
69 this article for appealing an order of the board of equal-
70 ization and review.

71 (h) In the event the board reduces an assessed value in an
72 order that becomes final, the county clerk shall certify
73 copies of the order to the Auditor, sheriff and assessor, and
74 to the Tax Commissioner if the property is industrial
75 property or natural resources property. The taxpayer shall
76 be entitled to a credit voucher to be applied against future
77 taxes as provided in this article. When endorsed by the
78 taxpayer, the voucher shall be sufficient to entitle the
79 sheriff to a credit for so much of his or her settlement
80 which he or she is required to make.

81 (i) The board of assessment appeals shall meet as often
82 as necessary until the work of the board is completed.
83 *Provided*, That the board shall adjourn sine die not later
84 than October 31 of the tax year unless the board, by
85 majority vote, agrees to extend the term if necessary to
86 afford the parties due process and to complete its work,
87 after which it shall adjourn sine die.

§11-3-25. Relief in circuit court against erroneous assessment.

1 (a) Any person claiming to be aggrieved by any assess-
2 ment in any land or personal property book of any county
3 who shall have appeared and contested the valuation as
4 provided in section twenty-four or twenty-four-a of this
5 article, or whose assessment has been raised by the county
6 commission sitting as a board of equalization and review
7 above the assessment fixed by the assessor may, at any
8 time up to thirty days after the adjournment of the board
9 sitting as a board of equalization and review, or at any-
10 time up to thirty days after the order of the board of
11 assessment appeals is served on the parties, apply for relief
12 to the circuit court of the county in which the property
13 books are made out; but any person applying for relief in
14 circuit court shall, before any application is heard, give
15 ten days' notice to the prosecuting attorney of the county,
16 whose duty it shall be to attend to the interests of the
17 state, county and district in the matter, and the prosecut-
18 ing attorney shall give at least five days' notice of hearing
19 to the Tax Commissioner.

20 (b) The right of appeal from any assessment by the board
21 of equalization and review or order of the board of
22 assessment appeals as provided in this section, may be
23 taken either by the applicant or by the state, and in case
24 the applicant, by his or her agent or attorney, or the state,
25 by its prosecuting attorney or Tax Commissioner, desires
26 to take an appeal from the decision of the either board, the
27 party desiring to take an appeal shall have the evidence
28 taken at the hearing of the application before either board,
29 including a transcript of all testimony and all papers,
30 motions, documents, evidence and records as were before
31 the board, certified by the county clerk and transmitted to
32 the circuit court as provided in section four, article three,
33 chapter fifty-eight of this code, except that, any other
34 provision of this code notwithstanding, the evidence shall
35 be certified and transmitted within thirty days after the

36 petition for appeal is filed with the court or judge, in
37 vacation.

38 (c) If there was an appearance by or on behalf of the
39 taxpayer before either board, or if actual notice, certified
40 by the board, was given to the taxpayer, the appeal, when
41 allowed by the court or judge, in vacation, shall be deter-
42 mined by the court from the record as so certified: *Pro-*
43 *vided*, That in cases where the court determines that the
44 record made before the board is inadequate as a result of
45 the parties having had insufficient time to present evi-
46 dence at the hearing before the board to make a proper
47 record, as a result of the parties having received insuffi-
48 cient notice of changes in the assessed value of the prop-
49 erty and the reason or reasons for the changes to make a
50 proper record at the hearing before the board, as a result
51 of irregularities in the procedures followed at the hearing
52 before the board, or for any other reason not involving the
53 negligence of the party alleging that the record is inade-
54 quate, the court may remand the appeal back to the county
55 commission of the county in which the property is located,
56 even after the county commission has adjourned sine die
57 as a board of equalization and review or a board of
58 assessment appeals for the tax year in which the appeal
59 arose, for the purpose of developing an adequate record
60 upon which the appeal can be decided. The county
61 commission shall schedule a hearing for the purpose of
62 taking additional evidence at any time within ninety days
63 of the remand order that is convenient for the county
64 commission and for the parties to the appeal. If, however,
65 there was no actual notice to the taxpayer, and no appear-
66 ance by or on behalf of the taxpayer before the board, or
67 if a question of classification or taxability is presented, the
68 matter shall be heard de novo by the circuit court.

69 (d) If, upon the hearing of appeal, it is determined that
70 any property has been assessed at more than sixty percent
71 of its true and actual value determined as provided in this

72 chapter, the circuit court shall, by an order entered of
73 record, correct the assessment, and fix the assessed value
74 of the property at sixty percent of its true and actual
75 value. A copy of the order or orders entered by the circuit
76 court reducing the valuation shall be certified to the
77 Auditor, if the order or orders pertain to real property, by
78 the clerk within twenty days after the entering of the
79 same, and every order or judgment shall show that the
80 prosecuting attorney or Tax Commissioner was present
81 and defended the interest of the state, county and district.
82 If it be ascertained that any property has been valued too
83 high, and that the taxpayer has paid the excess tax, it shall
84 be refunded or credited to the taxpayer in accordance with
85 the provisions of section twenty-five-a of this article, and
86 if not paid, he or she shall be relieved from the payment
87 thereof. If it is ascertained that any property is valued too
88 low, the circuit court shall, by an order entered of record,
89 correct the valuation and fix it at sixty percent of its true
90 and actual value. A copy of any order entered by any
91 circuit court increasing the valuation of property shall be
92 certified within twenty days, if the order pertains to real
93 property, to the Auditor, the county clerk and the sheriff.
94 However, if the order pertains only to personal property,
95 then the copy shall be certified within twenty days to the
96 county clerk and to the sheriff and it shall be the duty of
97 the Auditor, the county clerk and the sheriff to charge the
98 taxpayer affected with the increase of taxes occasioned by
99 the increase of valuation by applying the rate of levies for
100 every purpose in the district where the property is situated
101 for the current year. The order shall also be filed in the
102 office of the Auditor and clerk of the county commission.
103 The circuit court shall review the record submitted from
104 the board. If the court determines that the record is
105 adequate, it shall establish a briefing and argument
106 schedule that will result in the appeal being submitted to
107 the court for decision within a reasonable time, but not to
108 exceed eight months after the appeal is filed. All final

109 decisions or orders of the circuit court shall be issued
110 within a reasonable time, not to exceed ninety days, from
111 the date the last brief is filed and the case is submitted to
112 the court for decision. The state or the aggrieved taxpayer
113 may appeal a question of valuation to the Supreme Court
114 of Appeals if the assessed value of the property is \$50,000
115 or more, and either party may appeal a question of
116 classification or taxability.

117 (e) All persons applying for relief to the circuit court
118 under this section shall be governed by the same presump-
119 tions, burdens and standards of proof as established by
120 law for taxpayers applying for such relief.

121 (f) *Effective date.* – The amendments to this section
122 enacted in 2010 shall apply to tax years beginning after
123 December 31, 2011.

§11-3-25a. Payment of taxes that become due while appeal is pending.

1 (a) All taxes levied and assessed against the property for
2 the year on which a protest or an appeal has been filed by
3 the taxpayer as provided in section twenty-four or twenty-
4 four-b of this article shall be paid before they become
5 delinquent. If the taxes are not paid before becoming
6 delinquent, the circuit court, having jurisdiction of the
7 appeal, as appropriate, shall dismiss the appeal unless the
8 delinquent taxes and interest due are paid in full within
9 thirty days after taxes for the second half of the tax year
10 become delinquent.

11 (b) In the event the order of a court becomes final and
12 the order results in an overpayment of taxes levied for the
13 tax year that have been paid to the sheriff, the amount of
14 the overpayment shall be refunded to the taxpayer if the
15 overpayment is \$25,000 or less within thirty days after the
16 time for appealing the decision or order expires or, if the
17 decision or order is appealed, within thirty days of the

18 date the appeals court turns down the appeal: *Provided*,
19 That, if the taxpayer's protest before the county commis-
20 sion below was heard pursuant to the provisions of section
21 twenty-four-b of this article, the refund shall be paid
22 pursuant to the provisions of that section. If the overpay-
23 ment is more than \$25,000, a credit in the amount of the
24 overpayment shall be established by the county sheriff and
25 allowed as a credit against taxes owed up to the following
26 two tax years: *Provided*, That the county commission may
27 elect to refund the amount of overpayment rather than
28 having a credit established as provided in this section:
29 *Provided however*, That if any portion of the overpayment
30 remains unused after the date on which taxes payable for
31 the second half of the second tax year following the tax
32 year of the overpayment become delinquent, that portion
33 shall be refunded to taxpayer by the county sheriff no
34 later than thirty days after that date or thirty days from
35 the date that the circuit court order becomes final, which-
36 ever date occurs later. Whenever an overpayment is
37 refunded or credited under this section, the county shall
38 pay interest at the rate established in section seventeen
39 and seventeen-a, article ten of this chapter for
40 overpayments of taxes collected by the Tax Commissioner,
41 which interest shall be computed from the date the
42 overpayment was received by the sheriff to the date of the
43 refund check or the date the credit is actually taken
44 against taxes that become due after the order of the court
45 becomes final.

§11-3-32. Effective date of amendments.

1 Unless specified otherwise in this article, all amend-
2 ments to this article adopted in the year 2010 shall apply
3 to the assessment years beginning on or after July 1, 2011.

§11-3-33. Rules.

1 The Tax Commissioner is hereby authorized to promul-
2 gate emergency rules and other rules in accordance with

3 the provisions of article three, chapter twenty nine-a of
4 this code as necessary or convenient for administration
5 and interpretation of this article.

**ARTICLE 6K. ASSESSMENT OF INDUSTRIAL PROPERTY AND NATURAL
RESOURCES PROPERTY.**

**§11-6K-1. Time and basis of assessments; true and actual
value; and returns of property to Tax Commis-
sioner.**

1 (a) All industrial property and natural resources prop-
2 erty shall be assessed annually as of the assessment date at
3 sixty percent of its true and actual value.

4 (b) If required by the Tax Commissioner, all owners or
5 operators of natural resources property, except oil-pro-
6 ducing property, natural gas-producing property and
7 managed timberland, shall, on or before May 1 preceding
8 the July 1 assessment date, make a return to the Tax
9 Commissioner and, if requested in writing by the assessor
10 of the county where situated, to the county assessor, at a
11 time and in the form specified by the Tax Commissioner,
12 of all applicable natural resources property owned by
13 them. Tax returns required to be filed pursuant to this
14 section may be filed electronically in the discretion of the
15 Tax Commissioner. The Tax Commissioner may require
16 the filing of all information which would be useful in
17 valuing the property covered by the returns. Upon written
18 application by the taxpayer filed prior to the due date of
19 any return required to be filed by this section, the Tax
20 Commissioner may for reasonable cause shown grant an
21 extension of no more than one month in the due date of
22 any return.

23 (c) If required by the Tax Commissioner, all owners or
24 operators of industrial property, oil-producing property
25 and natural gas-producing property, shall, on or before
26 August 1 of the assessment year, make a return to the Tax
27 Commissioner and, if requested in writing by the assessor

28 of the county where situated, to the county assessor, at a
29 time and in the form specified by the Tax Commissioner,
30 of all industrial property, oil-producing property and
31 natural gas-producing property, owned by them. Tax
32 returns required to be filed pursuant to this section may be
33 filed electronically in the discretion of the Tax Commis-
34 sioner. The Tax Commissioner may require the filing of all
35 information which would be useful in valuing the property
36 covered by the returns. Upon written application by the
37 taxpayer filed prior to the due date of any return required
38 to be filed by this section, the Tax Commissioner may for
39 reasonable cause shown grant an extension of no more
40 than one month in the due date of any return.

§11-6K-2. Definitions.

1 As used in this article:

2 (1) "Active coal mining property" means a mineable bed
3 of coal on a property or portion of a property involved in
4 a permitted mining operation. Each and every bed of coal
5 being mined in a permitted mining operation is a separate
6 active mining property.

7 (2) "Industrial property" means the real and personal
8 property integrated as a functioning unit intended for the
9 assembling, processing and manufacturing of finished or
10 partially finished products.

11 (3) "Managed timberland" means surface real property,
12 except farm woodlots, of not less than ten contiguous acres
13 which is devoted primarily to forest use and which, in
14 consideration of its size, has sufficient numbers of com-
15 mercially valuable species of trees to constitute at least
16 forty percent normal stocking of forest trees which are
17 well distributed over the growing site, and that is certified
18 as managed timberland by the Division of Forestry.

19 (4) "Natural gas-producing property" means the prop-
20 erty from which natural gas has been produced or ex-

21 tracted at any time during the calendar year preceding the
22 assessment date. Natural gas producing-property includes
23 the property interest or interests underlying an area of up
24 to one hundred twenty-five acres of surface per well for
25 property with active wells on the parcel.

26 (5) "Natural resources property" means any of the
27 following: Active coal mining property, reserve coal
28 property, natural gas-producing property, oil-producing
29 property, managed timberland or other natural resources
30 property.

31 (6) "Oil-producing property" means property from
32 which oil has been produced or extracted at any time
33 during the calendar year preceding the assessment date.
34 Oil-producing property includes the interest or interests
35 underlying an area of up to forty acres of surface per well
36 with one or more active wells on the parcel.

37 (7) "Operator" means an individual, limited liability
38 company, partnership, corporation, joint venture or other
39 enterprise which proposes to or does locate, drill, produce,
40 manage or abandon any oil and/or natural gas well or
41 which is engaged in actively obtaining or preparing to
42 obtain coal and/or its by-products from the earth's crust
43 on an active coal mining property.

44 (8) "Reserve coal property" means any property for
45 which coal rights are part of the owned estate and which
46 is not part of an active coal mining property.

**§11-6K-3. Form and manner of making return; failure to
timely make return; penalties.**

1 (a) All returns required to be made to the Tax Commis-
2 sioner under this article shall be made in conformity with
3 any reasonable requirements of the Tax Commissioner of
4 which the person making the return shall have had notice,
5 and shall be made upon forms prescribed by the Tax
6 Commissioner who is invested with full power and author-

7 ity to prescribe the forms required from any owner,
8 operator or producer that may be of use to the Tax Com-
9 missioner in determining the true and actual value of the
10 properties of the owners, operators or producers.

11 (b) All returns shall be signed and sworn to by the
12 owner, operator or producer if a natural person, or, if the
13 owner, operator or producer shall be a limited liability
14 company, corporation, partnership, joint venture or other
15 enterprise, shall be signed and sworn to by its president,
16 vice president, secretary or other individual authorized to
17 act on behalf of the taxpayer.

18 (c) If any owner, operator or producer fails to make a
19 return within the time required by section one of this
20 article, it shall be the duty of the Tax Commissioner to
21 take steps as necessary to compel compliance and to
22 enforce any and all penalties imposed by law for failure to
23 do so.

24 (d) Any owner, operator or producer, whether a natural
25 person, limited liability company, corporation, partner-
26 ship, joint venture or other enterprise, willfully failing to
27 make a return within thirty days from the day it is herein
28 required shall be guilty of a misdemeanor and, upon
29 conviction thereof, fined \$100 for each month the failure
30 continues. In addition, any penalties provided in this
31 chapter or elsewhere in this code relating to failure to list
32 any property or to file any return or report for ad valorem
33 taxation purposes may be applied to any owner of prop-
34 erty required to make a return pursuant to this section.

**§11-6K-4. Review of returns; procuring information for tenta-
tive appraisals; tentative appraisals by Tax
Commissioner; and notification to taxpayers.**

1 (a) All returns delivered to the Tax Commissioner shall
2 be examined by him or her, and if found insufficient in
3 form or in any respect defective, imperfect or not in
4 compliance with law, he or she shall compel the person

5 delivering the return to make it in proper and sufficient
6 form in all respects as required by law.

7 (b) If any owner, operator or producer fails to make a
8 required return, the Tax Commissioner shall proceed to
9 obtain the facts and information required to be furnished
10 by the returns.

11 (c) For the purposes of ascertaining the correctness of
12 any return filed pursuant to this article or of valuing the
13 property of any industrial taxpayer or natural resources
14 property owner or operator, the Tax Commissioner may
15 exercise all of the powers and authority granted to him or
16 her by sections five-a, five-b and five-c, article ten of this
17 chapter.

18 (d) Using information provided on the returns and all
19 other pertinent evidence, information and data he or she
20 has been able to procure, the Tax Commissioner shall
21 annually value and make tentative appraisals of all
22 industrial property and natural resources property as
23 provided in section ten, article one-c of this chapter.

24 (e) On or before October 15 of the assessment year, the
25 Tax Commissioner shall complete the preparation of
26 tentative appraisals of all industrial property and natural
27 resources property and shall notify the owner or operator
28 affected thereby of the amount of the tentative appraisals:
29 *Provided*, That in the case of oil-producing property,
30 natural gas-producing property and managed timberland,
31 the Tax Commissioner shall complete the preparation of
32 tentative appraisals and notify the affected owner or
33 operator by December 1 of the assessment year, and:
34 *Provided further*, That no notification shall be required
35 where the total increase in the aggregate amount of the
36 tentative appraisals to the owner or operator affected
37 thereby does not exceed \$1,000 and the total tentative
38 appraisals did not increase by more than ten percent from
39 the prior year's appraisals. Notification may, at the

40 reasonable discretion of the Tax Commissioner, be: (1) By
41 written notice deposited in the United States mail, ad-
42 dressed to the owner or operator at the principal office or
43 place of business of the owner or operator; (2) by elec-
44 tronic notification; or (3) by any other means designed to
45 communicate the tentative appraisal information to the
46 owner or operator in a timely and efficient manner and in
47 a convenient useable form. Any notice required to be
48 provided under this section to an owner or operator shall
49 also be provided by the Tax Commissioner to the assessor
50 of the county in which the property is located. The Tax
51 Commissioner shall retain in his or her office true copies
52 of tentative appraisals and of the underlying work sheets
53 used to compute the tentative appraisals, all of which shall
54 be available for inspection by any owner or operator or his
55 or her duly authorized representative.

**§11-6K-5. Informal petition to Tax Commissioner for review of
tentative appraisals.**

1 (a) A taxpayer who is of the opinion that the tentative
2 appraisal of its industrial property or natural resources
3 property, except oil-producing property, natural gas-
4 producing property and managed timberland, does not
5 reflect the true and actual value of the property or is
6 otherwise improperly valued may, after receiving its
7 tentative appraisal and on or before November 15 of the
8 assessment year, informally petition the Tax Commis-
9 sioner requesting a review of the tentative appraisal.
10 Likewise, an assessor who is of the opinion that the
11 tentative appraisal of any industrial property or natural
12 resources property, except oil-producing property, natural
13 gas-producing property and managed timberland, located
14 in the county does not reflect the true and actual value of
15 the property or is otherwise improperly valued may, after
16 receiving the tentative appraisal and on or before Novem-
17 ber 15 of the assessment year, informally petition the Tax
18 Commissioner requesting a review of the tentative ap-

19 praisal. The Tax Commissioner may require the petition
20 be made on a written form prescribed by the Tax Commis-
21 sioner. At the time a petition is filed by a taxpayer with
22 the Tax Commissioner, the petitioner shall provide a copy
23 of the petition to the assessor of the county in which the
24 property is located. At the time a petition is filed by an
25 assessor with the Tax Commissioner, the petitioner shall
26 provide a copy of the petition to the taxpayer involved.

27 (b) At the petitioner's request, the Tax Commissioner or
28 his or her representative shall meet with the petitioner or
29 the petitioner's representative to discuss the petition at a
30 time and place designated at least five working days in
31 advance by the Tax Commissioner after the petition is
32 filed. If the petitioner is unable to appear and meet with
33 the Tax Commissioner at the time and place set by the Tax
34 Commissioner, the petitioner may submit written evidence
35 to support the petition if it is submitted before the date of
36 the meeting.

37 (c) The Tax Commissioner shall consider and rule on
38 each informal petition filed under this section on or before
39 January 15 of the tax year. If the Tax Commissioner
40 agrees with the petition he or she shall modify the tenta-
41 tive appraisal accordingly. The Tax Commissioner shall
42 then notify the petitioner and assessor of the county in
43 which the property is located in writing of his or her
44 decision and shall include supporting data that the
45 assessor might need to evaluate the appraisal.

**§11-6K-6. Final appraisal of industrial property and natural
resources property by Tax Commissioner; ap-
praisals sent to assessors; appeals of Tax Com-
missioner's appraisals.**

1 (a) The Tax Commissioner shall finalize the tentative
2 appraisals made pursuant to section four of this article
3 and make his or her final appraisals of industrial property

4 and natural resources property on or before December 15
5 of the assessment year.

6 (b) On or before December 15 of the assessment year, the
7 Tax Commissioner shall forward each industrial property
8 and natural resources property appraisal to the county
9 assessor of the county in which that property is located.
10 In so doing, The Tax Commissioner shall identify those
11 appraisals that may still be under review under section
12 five of this article. The assessor shall then multiply each
13 appraisal by sixty percent and include the resulting
14 assessed value in the land book or the personal property
15 book, as appropriate for each tax year. The Tax Commis-
16 sioner shall supply supporting data that the assessor might
17 need to evaluate the appraisal.

18 (c) Any taxpayer claiming to be aggrieved by any
19 assessment made pursuant to this article may appeal the
20 assessment as provided under the provisions of article
21 three of this chapter: *Provided*, That if the assessment
22 exceeds sixty percent of the final appraisal by the Tax
23 Commissioner, the taxpayer may notify the Tax Commis-
24 sioner in writing of this error, whereupon he or she shall,
25 if the error is confirmed, instruct the assessor in writing to
26 lower the assessment to sixty percent of the final ap-
27 praisal. The assessor shall, upon receipt of instruction
28 from the Tax Commissioner, lower the assessment as
29 required.

§11-6K-7. Effective date.

1 The provisions of this article enacted in the year 2010
2 shall be effective for the assessment years and the tax
3 years beginning on or after July 1, 2011.

§11-6K-8. Rules.

1 The Tax Commissioner is hereby authorized to promul-
2 gate emergency rules and other rules in accordance with

3 the provisions of article three, chapter twenty nine-a of
4 this code as necessary or convenient for administration
5 and interpretation of this article.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-12. County basic foundation; total basic state aid allowance.

1 (a) The basic foundation program for each county for the
2 fiscal year shall be the sum of the amounts computed in
3 accordance with the provisions of sections four, five, six,
4 seven, eight, nine and ten of this article. On the first
5 working day of July in each year, the State Board shall
6 determine the basic foundation program for each county
7 for that fiscal year. Data used in the computations
8 relating to net and adjusted enrollment, and the number of
9 professional educators, shall be for the second month of
10 the prior school term. Transportation expenditures used
11 in these computations shall be for the most recent year in
12 which data are available. The allocated state aid share of
13 the county's basic foundation program shall be the differ-
14 ence between the cost of its basic foundation program and
15 the county's local share as determined in section eleven of
16 this article except as provided in subsection (b) of this
17 section.

18 (b) The allocated state aid share shall be adjusted in the
19 following circumstances in the following manner: *Pro-*
20 *vided*, That prior to such adjustment, the State Tax
21 Commissioner shall provide the State Board, by January
22 15 of each year, a certified listing of those counties in
23 which such adjustment shall be made pursuant to this
24 subsection, together with the amount of revenue which
25 will not be available to each county board in the ensuing
26 fiscal year as a result of the circumstance:

27 (1) In those instances where the local share as computed
28 under section eleven of this article is not reflective of local
29 funds available because the county is under a final court
30 order, or a final decision of a board of assessment appeals
31 under section twenty-four-b, article three, chapter eleven
32 of this code, to refund or credit property taxes paid in
33 prior years, the allocated state aid share shall be the
34 county's basic foundation program, minus the local share
35 as computed under section eleven of this article, plus the
36 amount of property tax the county is unable to collect or
37 must refund due to the final court order or final decision
38 of a board of assessment appeals: *Provided*, That said
39 adjustment shall not be made or shall only be made
40 proportionately when the Legislature fails to fund or
41 funds only in part the public school basic foundation
42 support plan state share at a level sufficient to cover the
43 reduction in state share: *Provided, however*, That nothing
44 herein provided shall be construed to require or mandate
45 any level of funding by the Legislature.

46 (2) In those instances where the local share as computed
47 under section eleven of this article is not reflective of local
48 funds available because the county is collecting tax based
49 upon an assessed value which is less than that determined
50 by the Tax Commissioner in the most recent published
51 survey of property valuations in the state due to an error
52 in the published survey, which error is certified to by the
53 Tax Commissioner, the allocated state aid share shall be
54 the county's basic foundation program, minus the local
55 share as computed under section eleven of this article, plus
56 the amount of property tax the county is unable to collect
57 based on differences in the assessed valuation between
58 those in the most recent published survey of valuation and
59 the corrected assessed value actually levied upon by the
60 county: *Provided*, That said adjustment shall not be made
61 or shall only be made proportionately when the Legisla-
62 ture fails to fund or funds only in part the public school

63 basic foundation support plan state share at a level
64 sufficient to cover the reduction in state share: *Provided*,
65 *however*, That nothing herein provided shall be construed
66 to require or mandate any level of funding by the Legisla-
67 ture.

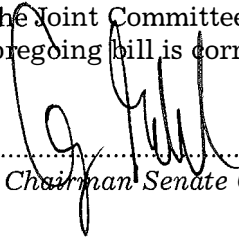
68 (3) In instances where a county is unable to collect
69 property taxes from a taxpayer during the pendency of
70 any court proceeding, the allocated state aid share shall be
71 the county's basic foundation program minus the local
72 share as computed under section eleven of this article, plus
73 the amount the county is unable to collect as a result of the
74 pending court proceedings as certified by the Tax Com-
75 missioner: *Provided*, That the county is required to
76 reimburse the amount of allocated state aid share attribut-
77 able to the amount of property tax it later receives upon
78 completion of court proceedings, which shall be paid into
79 the General Revenue Fund of the state: *Provided, however*,
80 That said adjustment shall not be made or shall only be
81 made proportionately when the Legislature fails to fund or
82 funds only in part the public school basic foundation
83 support plan state share at a level sufficient to cover the
84 reduction in state share: *Provided further*, That nothing
85 herein provided shall be construed to require or mandate
86 any level of funding by the Legislature.

87 (c) The allocated state aid share shall be adjusted in any
88 county receiving payments or contributions in lieu of
89 property taxes. In instances where a county receives
90 payments or contributions in lieu of property taxes, the
91 allocated state aid share shall be the county's basic
92 foundation program minus the local share as computed
93 under section eleven of this article, plus any amounts
94 added pursuant to subsection (b) of this section minus the
95 payments or contributions in lieu of property taxes which
96 are distributed by the sheriff to the county board of
97 education. In determining the amount of such contribu-
98 tion or payment in lieu of taxes, each county commission

99 shall provide to the State Tax Commissioner, by January
100 1 of each year, the total amount of such payments or
101 contributions paid to the county and the proportion of the
102 total amount that has been or will be distributed to the
103 county board of education. The State Tax Commissioner
104 then shall provide the State Board, by January 15 of each
105 year, a certified listing of those counties in which an
106 adjustment pursuant to this section shall be made, to-
107 gether with the amount of revenue which will be available
108 to each county board in the ensuing fiscal year as a result
109 of contribution or payment in lieu of taxes.

110 (d) Total basic state aid to the county shall be the
111 computed state share of basic foundation support. After
112 such computation is completed, the State Board shall
113 immediately certify to each county board the amount of
114 state aid allocated to the county for that fiscal year,
115 subject to any qualifying provisions of this article.

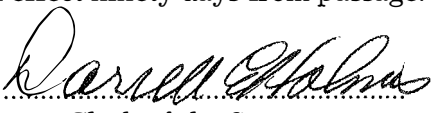
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

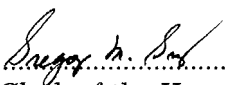

.....
Chairman Senate Committee

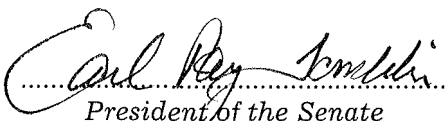

.....
Chairman House Committee

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 *2nd*
April
Day of 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 01 2010

Time 11:30