

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 277

(By Senators Palumbo, McCabe, Jenkins,
Foster, Minard, Nohe and Klempa)

[Originating in the Committee on Government Organization;
reported February 17, 2011.]

A BILL to amend and reenact §11-1C-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-3-1 of said code, all relating to limiting the amount a property reappraisal can increase over the previous amount; and clarifying the limitation does not apply to natural resources property.

Be it enacted by the Legislature of West Virginia:

That §11-1C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §11-3-1 of said code be amended and reenacted, all to read as follows:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-9. Periodic valuations.

1 (a) After completion of the initial valuation required under
2 section seven of this article, each assessor shall maintain
3 current values on the real and personal property within the
4 county. In repeating three-year cycles, every parcel of real
5 property shall be visited by a member of the assessor's staff
6 who has been trained pursuant to section six of this article
7 to determine if any changes have occurred which would
8 affect the valuation for the property. With this information
9 and information such as sales ratio studies provided by the
10 Tax Commissioner, the assessor shall make ~~such~~ adjustments
11 ~~as are~~ necessary to maintain accurate, current valuations of
12 all the real and personal property in the county and shall
13 adjust the assessments accordingly: Provided, That any
14 increases in valuations may not result in more than a fifteen
15 percent increase in assessment in any one year: *Provided,*
16 *however, That this limitation does not apply to natural*
17 *resources property as defined in section ten of this article:*
18 *Provided, further, That this limitation does not apply when*
19 *improvements made on the property resulted in the increased*
20 *assessment.*

21 (b) In any year the assessed value of a property or species
22 of property ~~be is~~ less than or ~~exceed~~ exceeds sixty percent of
23 current market value, the Tax Commissioner shall direct the
24 assessor to make the necessary adjustments: Provided, That
25 any increases in valuations may not result in more than a
26 fifteen percent increase in assessment in any one year:
27 Provided, however, That this limitation does not apply to
28 natural resources property as defined in section ten of this
29 article: Provided, further, That this limitation does not apply
30 when improvements made on the property resulted in the
31 increased assessment. If any assessor fails to comply with the
32 provisions of this section, the Tax Commissioner may, at the
33 county commission's expense, take reasonable steps to
34 remedy the assessment deficiencies.

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 assessed
2 pursuant to article six of this chapter, shall be assessed
3 annually as of July 1 at sixty percent of its true and actual
4 value, that is to say, at the price for which the property

5 would sell if voluntarily offered for sale by the owner
6 thereof, upon the terms as the property, the value of which
7 is sought to be ascertained, is usually sold, and not the price
8 which might be realized if the property were sold at a forced
9 sale: Provided, That an annual assessment shall not increase
10 the assessed value of the property by more than fifteen
11 percent of the previously assessed value: *Provided, however,*
12 That this limitation does not apply to natural resources
13 property as defined in section ten, article one-c of this
14 chapter: *Provided, further,* That this limitation does not
15 apply when improvements made on the property resulted in
16 the increased assessment.

17 (b) Any conflicting provisions of subsection (a) of this
18 section notwithstanding, the true and actual value of all
19 property owned, used and occupied by the owner thereof
20 exclusively for residential purposes shall be arrived at by
21 also giving consideration to the fair and reasonable amount
22 of income which the same might be expected to earn, under
23 normal conditions in the locality wherein situated, if rented:
24 *Provided, That the true and actual value of all farms used,*
25 *occupied and cultivated by their owners or bona fide tenants*
26 *shall be arrived at according to the fair and reasonable value*

27 of the property for the purpose for which it is actually used
28 regardless of what the value of the property would be if used
29 for some other purpose; and that the true and actual value
30 shall be arrived at by giving consideration to the fair and
31 reasonable income which the same might be expected to earn
32 under normal conditions in the locality wherein situated, if
33 rented: *Provided, however,* That nothing herein shall alter
34 the method of assessment of lands or minerals owned by
35 domestic or foreign corporations.

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

39 (d) If at any time after the beginning of the assessment
40 year, it be ascertained by the Tax Commissioner that the
41 assessor, or any of his or her deputies, is not complying with
42 this provision or that they have failed, neglected or refused,
43 or is failing, neglecting or refusing after five days' notice to
44 list and assess all property therein at sixty percent of its true
45 and actual value as determined under this chapter, the Tax
46 Commissioner may order and direct a reassessment of any or
47 all of the property in any county, district or municipality,
48 where any assessor, or deputy, fails, neglects or refuses to

49 assess the property in the manner herein provided. And, for
50 the purpose of making assessment and correction of values,
51 the Tax Commissioner may appoint one or more special
52 assessors, as necessity may require, to make assessment in
53 any county and any such special assessor or assessors, as the
54 case may be, has the power and authority now vested by law
55 in assessors, and the work of such special assessor or asses-
56 sors shall be accepted and treated for all purposes by the
57 county boards of review and equalization and the levying
58 bodies, subject to any revisions of value on appeal, as the
59 true and lawful assessment of that year as to all property
60 valued by him or her or them. The Tax Commissioner shall
61 fix the compensation of all special assessors appointed,
62 which, together with their actual expenses, shall be paid out
63 of the county fund by the county commission of the county in
64 which any such assessment is ordered, upon the receipt of a
65 certificate of the Tax Commissioner filed with the clerk of
66 the county commission showing the amounts due and to
67 whom payable, after such expenses have been audited by the
68 county commission.

69 (e) Any assessor who knowingly fails, neglects or refuses to
70 assess all the property of his or her county, as herein pro-

71 vided, shall be guilty of malfeasance in office and, upon
72 conviction thereof, shall be fined not less than \$100 nor more
73 than \$500, or imprisoned not less than three nor more than
74 six months, or both, in the discretion of the court, and upon
75 conviction, shall be removed from office.

76 (f) For purposes of this chapter and chapter eleven-a of this
77 code, the following terms have the meanings ascribed to
78 them in this section unless the context in which the term is
79 used clearly indicates that a different meaning is intended by
80 the Legislature:

81 (1) "Assessment date" means July 1 of the year preceding
82 the tax year.

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

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

87 (4) "Taxpayer" means the owner and any other person in
88 whose name the taxes on the subject property are lawfully
89 assessed.