

1 **H. B. 4298**

2
3 (By Delegates Hatfield, Skaiff, Armstead,
4 Poore, Lane and Nelson)

5
6 [Introduced January 25, 2012; referred to the
7 Committee on the Judiciary then Finance.]

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10 A BILL to amend and reenact §11-1C-9 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §11-3-1 of said
12 code, all relating to limiting the amount a property
13 reappraisal can increase over the previous amount.

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

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

18 **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

19 **§11-1C-9. Periodic valuations.**

20 (a) After completion of the initial valuation required under
21 section seven of this article, each assessor shall maintain current
22 values on the real and personal property within the county. In
23 repeating three-year cycles, every parcel of real property shall be
24 visited by a member of the assessor's staff who has been trained
25 pursuant to section six of this article to determine if any changes

1 have occurred which would affect the valuation for the property.
2 With this information and information such as sales ratio studies
3 provided by the Tax Commissioner, the assessor shall make ~~such~~
4 adjustments ~~as~~ are necessary to maintain accurate, current
5 valuations of all the real and personal property in the county and
6 shall adjust the assessments accordingly: Provided, That any
7 increases in valuations may not result in more than a ten percent
8 increase in assessment in any one year: Provided, however, That
9 this limitation does not apply when improvements made on the
10 property resulted in the increased assessment.

11 (b) In any year the assessed value of a property or species of
12 property ~~be~~ is less than or ~~exceed~~ exceeds sixty percent of current
13 market value, the Tax Commissioner shall direct the assessor to
14 make the necessary adjustments: Provided, That any increases in
15 valuations may not result in more than a ten percent increase in
16 assessment in any one year: Provided, however, That this
17 limitation does not apply when improvements made on the property
18 resulted in the increased assessment. If any assessor fails to
19 comply with the provisions of this section, the Tax Commissioner
20 may, at the county commission's expense, take reasonable steps to
21 remedy the assessment deficiencies.

22 **ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.**

23 **§11-3-1. Time and basis of assessments; true and actual value;**

1 **default; reassessment; special assessors; criminal**
2 **penalty.**

3 (a) All property, except public service businesses assessed
4 pursuant to article six of this chapter, shall be assessed annually
5 as of July 1 at sixty percent of its true and actual value, that is
6 to say, at the price for which the property would sell if
7 voluntarily offered for sale by the owner thereof, upon the terms
8 as the property, the value of which is sought to be ascertained, is
9 usually sold, and not the price which might be realized if the
10 property were sold at a forced sale: Provided, That an annual
11 assessment shall not increase the assessed value of the property by
12 more than ten percent of the previously assessed value: Provided,
13 however, That this limitation does not apply when improvements made
14 on the property resulted in the increased assessment.

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

1 fair and reasonable value of the property for the purpose for which
2 it is actually used regardless of what the value of the property
3 would be if used for some other purpose; and that the true and
4 actual value shall be arrived at by giving consideration to the
5 fair and reasonable income which the same might be expected to earn
6 under normal conditions in the locality wherein situated, if
7 rented: *Provided, however,* That nothing herein ~~shall alter~~ alters
8 the method of assessment of lands or minerals owned by domestic or
9 foreign corporations.

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

13 (d) If at any time after the beginning of the assessment year,
14 it ~~be~~ is ascertained by the Tax Commissioner that the assessor, or
15 any of his or her deputies, is not complying with this provision or
16 that they have failed, neglected or refused, or is failing,
17 neglecting or refusing after five days notice to list and assess
18 all property therein at sixty percent of its true and actual value
19 as determined under this chapter, the Tax Commissioner may order
20 and direct a reassessment of any or all of the property in any
21 county, district or municipality, where any assessor, or deputy,
22 fails, neglects or refuses to assess the property in the manner
23 herein provided. ~~And,~~ For the purpose of making assessment and
24 correction of values, the Tax Commissioner may appoint one or more

1 special assessors, as necessity may require, to make assessment in
2 any county and any such special assessor or assessors, as the case
3 may be, has the power and authority now vested by law in assessors,
4 and the work of such special assessor or assessors shall be
5 accepted and treated for all purposes by the county boards of
6 review and equalization and the levying bodies, subject to any
7 revisions of value on appeal, as the true and lawful assessment of
8 that year as to all property valued by him or her or them. The Tax
9 Commissioner shall fix the compensation of all special assessors
10 appointed, which, together with their actual expenses, shall be
11 paid out of the county fund by the county commission of the county
12 in which any such assessment is ordered, upon the receipt of a
13 certificate of the Tax Commissioner filed with the clerk of the
14 county commission showing the amounts due and to whom payable,
15 after such expenses have been audited by the county commission.

16 (e) Any assessor who knowingly fails, neglects or refuses to
17 assess all the property of his or her county, as herein provided,
18 shall be guilty of malfeasance in office and, upon conviction
19 thereof, shall be fined not less than \$100 nor more than \$500, or
20 ~~imprisoned~~ confined in jail not less than three nor more than six
21 months, or both fined and confined, in the discretion of the court,
22 and upon conviction, shall be removed from office.

23 (f) For purposes of this chapter and chapter eleven-a of this
24 code, the following terms have the meanings ascribed to them in

1 this section unless the context in which the term is used clearly
2 indicates that a different meaning is intended by the Legislature:

3 (1) "Assessment date" means July 1 of the year preceding the
4 tax year.

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

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

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

NOTE: The purpose of this bill is to limit the amount that property can increase in value at a reassessment to ten percent of the previously assessed amount, provided that the increase in assessment is not due to improvements made to the property.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.