

1 **H. B. 3056**

2
3 (By Delegates Howell, J. Nelson, Rowan, A. Evans, Romine,
4 R. Smith, Williams, R. Phillips, Moore, White and Marcum)

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6 [Introduced March 22, 2013; referred to the
7 Committee on the Judiciary then Finance.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §11-6L-1, §11-6L-2,
12 §11-6L-3, §11-6L-4, §11-6L-5 and §11-6L-6, all relating to
13 providing a special method for valuation of certain wireless
14 technology property for property taxes; defining terms;
15 providing mandated salvage valuation of certain wireless
16 businesses' property; specifying method for valuation of
17 certain property; requiring initial determination by county
18 assessors of whether certain property is subject to this
19 article; and specifying procedure for protest and appeal of
20 determination by county assessor.

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

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new article, designated §11-6L-1, §11-6L-2,
24 §11-6L-3, §11-6L-4, §11-6L-5 and §11-6L-6, all to read as follows:

25 **ARTICLE 6L. SPECIAL METHOD FOR VALUATION OF CERTAIN WIRELESS**

1 **TECHNOLOGY PROPERTY.**

2 **§11-6L-1. Short title.**

3 This article shall be known and cited as the "Wireless
4 Technology Business Property Valuation Act."

5 **§11-6L-2. Definitions.**

6 For the purposes of this article:

7 (1) "Antenna" means a tower used for the purposes of
8 transmitting cellular or wireless signals for communications
9 purposes, including telephonically, or for computing purposes; and

10 (2) "Salvage value" means five percent of original cost.

11 **§11-6L-3. Valuation of certain specialized wireless technology**
12 **property.**

13 Notwithstanding any other provision of this code to the
14 contrary, the value of an antenna is its salvage value, if it is:

15 (1) In a county of less than twenty thousand in population;

16 and

17 (2) Within four miles of a four-lane highway which is either
18 completed, under construction or designed and planned to be
19 constructed.

20 **§11-6L-4. Initial determination by county assessor.**

21 The assessor of the county in which a specific item of
22 tangible personal property is located shall determine, in writing,
23 whether that specific item of tangible personal property is

1 directly used in accordance with this article. Upon making a
2 determination that a taxpayer has tangible personal property
3 directly used in accordance with this article, the county assessor
4 shall notify the Tax Commissioner of that determination and shall
5 provide information to the Tax Commissioner as he or she requires
6 relating to that determination.

7 **§11-6L-5. Protest and appeal.**

8 (a) At any time after the property is returned for taxation,
9 but prior to January 1 of the assessment year, any taxpayer may
10 apply to the county assessor for information regarding the issue of
11 whether any particular item or items of property constitute
12 property directly used in a high-technology business or an Internet
13 advertising business under this article which is subject to
14 valuation in accordance with this article. If the taxpayer believes
15 that some portion of the taxpayer's property is subject to this
16 article, the taxpayer shall file objections in writing with the
17 county assessor. The county assessor shall decide the matter by
18 either sustaining the protest and making proper corrections, or by
19 stating, in writing if requested, the reasons for the county
20 assessor's refusal. The county assessor may, and if the taxpayer
21 requests, the county assessor shall, before January 1 of the
22 assessment year, certify the question to the Tax Commissioner in a
23 statement sworn to by both parties, or if the parties are unable to
24 agree, in separate sworn statements. The sworn statement or

1 statements shall contain a full description of the property and any
2 other information which the Tax Commissioner requires.

3 (b) The Tax Commissioner shall, as soon as possible on receipt
4 of the question, but in no case later than February 28 of the
5 assessment year, instruct the county assessor as to how the
6 property shall be treated. The instructions issued and forwarded by
7 mail to the county assessor are binding upon the county assessor,
8 but either the county assessor or the taxpayer may apply to the
9 circuit court of the county for review of the question of the
10 applicability of this article to the property in the same fashion
11 as is provided for appeals from the county commission in section
12 twenty-five, article three of this chapter. The Tax Commissioner
13 shall prescribe forms on which the questions under this section
14 shall be certified and the Tax Commissioner has the authority to
15 pursue any inquiry and procure any information necessary for
16 disposition of the matter.

17 **§11-6L-6. Effective date.**

18 This article is effective on and after July 1, 2013.

NOTE: The purpose of this bill is to establish the Wireless Technology Business Property Valuation Act which provides for mandated salvage valuation for property tax purposes of tangible personal property directly used in certain wireless technology businesses.

This section is new; therefore, it has been completely underscored.