

1 (a) As used in this section:

2 (1) "Industrial property" means real and personal property
3 integrated as a functioning unit intended for the assembling,
4 processing and manufacturing of finished or partially finished
5 products.

6 (2) "Natural resources property" means coal, oil, natural gas,
7 limestone, fireclay, dolomite, sandstone, shale, sand and gravel,
8 salt, lead, zinc, manganese, iron ore, radioactive minerals, oil
9 shale, managed timberland as defined in section two of this
10 article, and other minerals.

11 (b) All owners of industrial property and natural resources
12 property each year shall make a return to the State Tax
13 Commissioner and, if requested in writing by the assessor of the
14 county where situated, to such county assessor at a time and in the
15 form specified by the commissioner of all industrial or natural
16 resources property owned by them. The commissioner may require any
17 information to be filed which would be useful in valuing the
18 property covered in the return. Any penalties provided ~~for~~ in this
19 chapter or elsewhere in this code relating to failure to list any
20 property or to file any return or report may be applied to any
21 owner of property required to make a return pursuant to this
22 section.

23 (c) The State Tax Commissioner shall value all industrial
24 property in the state at its fair market value within three years

1 of the approval date of the plan for industrial property required
2 in subsection (e) of this section. The commissioner shall
3 thereafter maintain accurate values for all such property. The Tax
4 Commissioner shall forward each industrial property appraisal to
5 the county assessor of the county in which that property is located
6 and the assessor shall multiply each such appraisal by sixty
7 percent and include the resulting assessed value in the land book
8 or the personal property book, as appropriate for each tax year.
9 The commissioner shall supply support data that the assessor might
10 need to evaluate the appraisal.

11 (d) Within three years of the approval date of the plan
12 required for natural resources property required pursuant to
13 subsection (e) of this section, the State Tax Commissioner shall
14 determine the fair market value of all natural resources property
15 in the state. The commissioner shall thereafter maintain accurate
16 values for all such property.

17 (1) (A) In order to qualify for identification as managed
18 timberland for property tax purposes the owner must annually
19 certify, in writing to the Division of Forestry, that the property
20 meets the definition of managed timberland as set forth in this
21 article and contracts to manage property according to a plan that
22 will maintain the property as managed timberland. In addition,
23 each owner's certification must state that forest management
24 practices will be conducted in accordance with approved practices

1 from the publication "Best Management Practices for Forestry".
2 Property certified as managed timberland shall be valued according
3 to its use and productive potential. The Tax Commissioner shall
4 promulgate rules for certification as managed timberland.

5 (B) No parcels of property comprised of four thousand or more
6 acres may be classified as managed timberland unless the forest
7 lands are open to public outdoor recreational activities such as
8 hunting, fishing, hiking, cross country skiing, photography and
9 other similar outdoor recreational activities. A property owner
10 permitting public recreational activities on managed timberland
11 pursuant to this article is accorded limited liability under the
12 provisions of article twenty-five, chapter nineteen of this code as
13 to those persons recreating on the property. The Director of the
14 Division of Forestry shall propose rules for legislative approval
15 in accordance with the provisions of article three, chapter twenty-
16 nine-b of this code to provide standards for public use of managed
17 timberland for outdoor recreational activities.

18 (2) In the case of all other natural resources property, the
19 commissioner shall develop an inventory on a county by county basis
20 of all such property and may use any resources, including, but not
21 limited to, geological survey information; exploratory, drilling,
22 mining and other information supplied by natural resources property
23 owners; and maps and other information on file with the State
24 Division of Environmental Protection and Office of Miners' Health,

1 Safety and Training. Any information supplied by natural resources
2 owners or any proprietary or otherwise privileged information
3 supplied by the State Division of Environmental Protection and
4 Office of Miner's Health, Safety and Training shall be kept
5 confidential unless needed to defend an appraisal challenged by a
6 natural resources owner. Formulas for natural resources valuation
7 may contain differing variables based upon known geological or
8 other common factors. The Tax Commissioner shall forward each
9 natural resources property appraisal to the county assessor of the
10 county in which that property is located and the assessor shall
11 multiply each such appraisal by sixty percent and include the
12 resulting assessed value in the land book or the personal property
13 book, as appropriate, for each tax year. The commissioner shall
14 supply support data that the assessor might need to explain or
15 defend the appraisal. The commissioner shall directly defend any
16 challenged appraisal when the assessed value of the property in
17 question exceeds \$2 million ~~dollars~~ or an owner challenging an
18 appraisal holds or controls property situated in the same county
19 with an assessed value exceeding \$2 million ~~dollars~~. At least
20 every five years, the commissioner shall review current technology
21 for the recovery of natural resources property to determine if
22 valuation methodologies need to be adjusted to reflect changes in
23 value which result from development of new recovery technologies.

24 (e) The Tax Commissioner shall develop a plan for the

1 valuation of industrial property and a plan for the valuation of
2 natural resources property. The plans shall include expected costs
3 and reimbursements, and shall be submitted to the property
4 valuation training and procedures commission on or before the first
5 day of January, one thousand nine hundred ninety-one, for its
6 approval on or before the first day of July of such year. Such
7 plan shall be revised, resubmitted to the commission and approved
8 every three years thereafter.

9 (f) To perform the valuation duties under this section, the
10 State Tax Commissioner has the authority to contract with a
11 competent property appraisal firm or firms to assist with or to
12 conduct the valuation process as to any discernible species of
13 property statewide if the contract and the entity performing such
14 contract is specifically included in a plan required by subsection
15 (e) of this section or otherwise approved by the commission. If
16 the Tax Commissioner desires to contract for valuation services
17 only in one county or a group of counties, the contract must be
18 approved by the commission.

19 (g) The county assessor may accept the appraisal provided,
20 pursuant to this section, by the State Tax Commissioner: *Provided,*
21 That if the county assessor fails to accept the appraisal provided
22 by the State Tax Commissioner, the county assessor shall show just
23 cause to the valuation commission for the failure to accept such
24 appraisal and shall further provide to the valuation commission a

1 plan by which a different appraisal will be conducted.

2 (h) The costs of appraising the industrial and natural
3 resources property within each county, and any costs of defending
4 same shall be paid by the state: *Provided*, That the office of the
5 State Attorney General shall provide legal representation on behalf
6 of the Tax Commissioner or assessor, at no cost, in the event the
7 industrial and natural resources appraisal is challenged in court.

8 (i) For purposes of revaluing managed timberland as defined in
9 section two of this article, any increase or decrease in valuation
10 by the commissioner does not become effective prior to July 1,
11 1991. The property owner may request a hearing by the Director of
12 the Division of Forestry, who may thereafter rescind the
13 disqualification or allow the property owner a reasonable period of
14 time in which to qualify the property. A property owner may appeal
15 a disqualification to the circuit court of the county in which the
16 property is located.

17 **§11-1C-11. Managed timberland; findings, purposes and declaration**
18 **of legislative intent; implementation; inspection and**
19 **determination of qualification.**

20 (a) The Legislature finds and declares that the public welfare
21 is enhanced by encouraging and sustaining the abundance of high
22 quality forest land within the state; that economic pressures may
23 force industrial, residential or other land development

1 inconsistent with sustaining the forests; and that tax policy
2 should provide an incentive for private owners of forest land to
3 preserve the character and use of land as forest land and to make
4 management decisions which enhance the quality of the future
5 forest. The Legislature further recognizes the importance of
6 outdoor recreational activities such as hunting, fishing, hiking,
7 biking and photography to our state's economy. It also recognizes
8 the number of acres of forest land that are open to public use, and
9 outdoor recreation, is slowly diminishing. The Legislature finds
10 that tax policy should provide an incentive to private owners of
11 forest land to open their lands for public recreational purposes,
12 in return for preferential tax treatment.

13 (b) In exercising the authority granted by the provisions of
14 section fifty-three, article VI of the Constitution of West
15 Virginia, the Legislature makes the following declarations of its
16 intent:

17 (1) Notwithstanding the provisions of section twenty-four,
18 article three of this chapter, timberland certified by the Division
19 of Forestry as managed timberland shall be valued as managed
20 timberland as provided in this article when it is managed under a
21 cooperative contract with the Division of Forestry and the
22 certification has not been surrendered by the owner of the property
23 or revoked by the Director of the Division of Forestry.

24 The Division of Forestry shall, at the time of contracting,

1 notify the owner that the owner shall incur a penalty as set forth
2 in section five-a, article three of this chapter if the owner fails
3 to provide written notice to the county assessor of a change in use
4 of the managed timberland.

5 (2) Property certified as managed timberland which prior to
6 certification is properly taxed in Class II, as defined in section
7 five, article eight of this chapter and section one, article X of
8 the Constitution of West Virginia, may not be reclassified to Class
9 III or Class IV, as defined in section five, article eight of this
10 chapter, merely because the property is certified as managed
11 timberland unless there is some other event or change in the use of
12 the property that disqualifies it from being taxed in Class II.

13 (c) To aid the Legislature in assessing the impact of the
14 managed timberland program on the State of West Virginia, the
15 Division of Forestry and the Tax Commissioner, on or before the
16 thirty-first day of December, two thousand one, and on the
17 thirty-first day of December each year thereafter, shall report in
18 writing to the Joint Committee on Government and Finance of the
19 Legislature or its designated subcommittee. The Tax Commissioner
20 shall include in his or her report a complete and accurate
21 assessment of the impact of the managed timberland program on the
22 tax collections of the state, including projected increases or
23 decreases in tax collection. The Division of Forestry shall
24 include in its report detailed information on the number of acres

1 designated as managed timberland and any identified impacts of the
2 program on the state's timber industry.

NOTE: The purpose of this bill require owners of property having 4000 or more acres certified as managed timberland to allow the general public to use the land for certain recreational purposes for that property to maintain its preferential tax status as managed timberland.

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