

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2451**

**FISCAL  
NOTE**

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[Introduced February 15, 2017; Referred  
to the Committee on Finance.]

1 A BILL to amend and reenact §11-1C-11b of the Code of West Virginia, 1931, as amended,  
 2 relating generally to the valuation of managed timberland and timberland that is not  
 3 managed timberland for *ad valorem* property tax purposes; establishing a specific  
 4 methodology for such valuations; providing remedies to persons aggrieved by the  
 5 valuations and for compliance inspections, notice of revocation, appeals; and effective  
 6 date.

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

1 That §11-1C-11b of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

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

**§11-1C-11b. Valuation; ~~rulemaking~~; aggrieved person and taxpayer protests; exhaustion  
 of remedies; compliance inspection; notice of revocation; appeal; effective date.**

1 ~~(a) The Tax Commissioner shall establish by legislative rule two methodologies for~~  
 2 ~~determining the appraised value of managed timberland, based upon the land's potential to~~  
 3 ~~produce future income according to its use and productive potential as managed timberland and~~  
 4 ~~whether the property is classified as Class II property or as Class III or IV property for property~~  
 5 ~~tax purposes. These values shall be determined by discounting the potential future net income of~~  
 6 ~~the timberland to its present value utilizing a discounted cash flow model based upon whether the~~  
 7 ~~property is classified as Class II property or as Class III or IV property for property tax purposes.~~

8 ~~(b) The Tax Commissioner shall also establish by legislative rule a method to determine~~  
 9 ~~the appraised value of timberland that is not certified as managed timberland. All timberland that~~  
 10 ~~is not certified as managed timberland shall be valued at its market value, except for farm~~  
 11 ~~woodlots which shall be valued as part of the farm.~~

12 ~~(c) Notwithstanding the provisions of section five-a of this article, the legislative rules~~  
 13 ~~required by subsections (a) and (b) of this section may be promulgated as emergency legislative~~  
 14 ~~rules if they are filed in the state register on or before July 1, 1998.~~

15           (a) The appraised value of managed timberland shall be determined by the State Tax  
16 Commissioner on the basis of the potential of the land to produce future income according to its  
17 use and productive potential. Potential future net income is discounted to its present value  
18 utilizing a discounted cash flow; this is the appraised value. The ability of a stand of timber to  
19 produce wood products for sale or use depends primarily on the quality of the soil and certain  
20 topographic and climatic features which can be expressed as a site index. Site index is the  
21 principal criterion influencing the appraised value of managed timberland. These factors shall be  
22 reviewed annually by the Tax Commissioner for necessary updating of the method described in  
23 order to properly reflect future changes in the values of managed timberland.

24           (b) The appraised value of timberland consisting of woodland or wasteland which is not  
25 managed timberland shall be determined on the basis of market comparable derived through  
26 analysis of sales prices of comparable forested properties. Timberland appraisal value shall  
27 always be more than the appraised value of equivalent grades of properties being classified as  
28 managed timberland in the county. The appraised value of timberland shall be determined by the  
29 county assessor based upon the classifications described in subsection (p) of this section.

30           (c) The county assessor shall collect and analyze market data, including sales of  
31 timberland, segregated into the classes described in subsection (p) of this section. Based upon  
32 this market analysis, the county assessor shall select the value for each class of timberland that  
33 best reflects the market value of the property if exposed to the market for sale as timberland. The  
34 values by class thus selected shall be entered, by the assessor, into the respective county land  
35 pricing tables and shall be used by the assessor to estimate the appraised value of timberland for  
36 property tax purposes.

37           (d) Definitions.

38           For the purposes of this section, and unless the context clearly requires a different  
39 meaning, the following terms shall have the following meanings:

40 (1) "Capitalization rate" means the rate used to convert an estimate of income into an  
41 estimate of present value. Details of the procedure for determining the capitalization rate are  
42 found in subsection (m) of this section.

43 (2) "Certified managed timberland plan" means the managed timberland plan that is  
44 certified by the landowner when the landowner certifies that the property is maintained as  
45 managed timberland.

46 (3) "Cost" means a component of management costs and property taxes.

47 (4) "Dbh" means the diameter of trees at breast height, which is fifty-four inches above  
48 ground level.

49 (5) "Division of Forestry" means the West Virginia Bureau of Commerce, Division of  
50 Forestry.

51 (6) "Farm wood lot" means that portion of a farm in timber but may not include land used  
52 primarily for the growing of timber for commercial purposes except that Christmas trees, or  
53 nursery stock and woodland products, such as nuts or fruits harvested for human consumption,  
54 shall be considered farm products and not timber products.

55 (7) "Harvest income per acre" means the expected after tax revenue and accrued interest  
56 for each harvesting interval. Interest is assumed to accrue at the rate of return from the period of  
57 harvest to the end of the eighty-year rotation cycle.

58 (8) "Integrated Moisture Index" means soil moisture data derived from a methodology  
59 described in "A GIS-Derived Integrated Moisture Index"; by Louis R. Iverson and Anantha M.  
60 Prasad; USDA Forest Service, Northeastern Research Station, Delaware, Ohio; 43015, as the  
61 same is refined and applied, from time to time, by subsequent professional studies conducted, or  
62 contracted for, by the Division of Forestry to determine current measures of the same.

63 (9) "MBF" means thousand board feet.

64 (10) "Management cost" means the cost determined tri-annually by the Tax Commissioner  
65 to be the average annual cost of maintaining and protecting a producing forest. Maintenance

66 costs may include costs of inventory, boundary survey, security, maps, and any other items as  
67 can be shown to have been necessary. Protection may include costs of protection against forest  
68 fires; harmful insect and tree diseases; costs of repair and replacement resulting from damages  
69 reported to appropriate police agencies, including all-terrain vehicles and other vehicular  
70 damages, and costs of replacing and replanting forest production and/or plantations destroyed or  
71 injured by deer or other wild animals whose populations exceed the maximum carrying capacity  
72 of the site. Management costs shall be determined as an average for the entire state or by  
73 regions, by Managed Timberlands Productivity Grades or by parcel acreage and shall be  
74 deducted from gross annual income per acre to obtain net annual income per acre.

75 (11) "Managed Timberland" means surface real property, except farm woodlots, of not  
76 less than ten contiguous acres which is devoted primarily to forest use and which, in consideration  
77 of their size, has sufficient numbers of commercially valuable species of trees to constitute at least  
78 forty percent normal stocking of forest trees which are well distributed over the growing site, and  
79 that it is managed pursuant to a managed timberland plan.

80 (12) "Managed Timberland Plan" means the planned timberland management program  
81 that conforms to the following standards established by the Division of Forestry in the plan:

82 (A) Includes the owner's multipurpose objectives for the property;

83 (B) Provides for the land:

84 (i) To remain in at least forty percent or greater forest cover of well distributed commercially  
85 important trees,

86 (ii) To produce continuous crops of timber according to the site's productivity, and,

87 (iii) To be monitored for and action taken against threats from injurious agencies;

88 (C) Ensures that harvesting will be done in a manner that assures regeneration of the  
89 landowner's preferred species; and

90 (D) Assures sustainability of forest resources and compliance with the Logging Sediment  
91 Control Act, in article one-b, chapter nineteen of this code.

92           (13) "Managed Timberland Productivity Grades" means timberland classified as Grade  
93 One (excellent to very good), Grade Two (good to fair), or Grade Three (poor), according to the  
94 table in subsection (s) of this section.

95           (14) "Owner of surface less timber" means any person who owns an interest in the surface  
96 where the timber rights have been sold to someone else.

97           (15) "Owner of Timber" means any person who owns an interest in timber, including a  
98 lessor or sublessor and an owner of a contract right to cut timber. The owner of timber must have  
99 a right to cut timber for sale on his or her own account for use in his or her trade or business in  
100 order to have property rights that are subject to ad valorem property taxes.

101           (16) "Site Index" means a method of measuring the potential of a site to grow trees to the  
102 height of upland oaks at fifty years of age. The site index will be determined using the applicable  
103 Integrated Moisture Index.

104           (17) "Stumpage Price" means the market value of standing trees (on the stump) prior to  
105 felling and removal, and is expressed in dollars per unit of volume whether expressed as thousand  
106 board feet or as cords. For appraisal purposes, real stumpage price will be adjusted to real price  
107 changes over various harvest periods, being thirty-five, forty-five, fifty-five or eighty years during  
108 the eighty-year rotation cycle. The real price change shall be determined using historical West  
109 Virginia saw timber and pulpwood prices based upon sixteen inch (dbh) logs provided by the West  
110 Virginia Division of Forestry from data for the last twenty years or more depending on availability.  
111 Stumpage price projections over various harvest periods shall be calculated using the real price  
112 change derived from historical saw timber and pulpwood prices in West Virginia. Thus, since  
113 stumpage prices provided by the Division of Forestry are in nominal terms, those prices shall be  
114 converted to real dollars (i.e. real terms) before stumpage projections are calculated. A five-year  
115 weighted moving average shall be computed in order to minimize the effects of short-term  
116 fluctuations. Stumpage prices shall be computed for each stumpage price region in order to  
117 reflect regional differences in markets, topography and accessibility.

118 (18) "Stumpage Price Region" means a geographical region of the state, usually  
119 consisting of several counties, in which conditions of the timber, timber markets, topography, and  
120 accessibility are sufficiently similar to result in similar stumpage prices at any given time. The  
121 counties involved in each stumpage price region have been identified by the Division of Forestry  
122 and are found in subsection (r) of this section.

123 (19) "Timber" means trees of any marketable species, whether planted or of natural  
124 growth, standing or down, located on public or privately owned land, which are suitable for  
125 commercial or industrial use.

126 (20) "Timberland (Woodland/Wasteland)" means any surface real property, except  
127 managed timberland and farm woodlots of not less than ten contiguous acres, which is primarily  
128 in forest and which has, in consideration of their size, sufficient numbers of commercially-valuable  
129 species of trees to constitute at least forty percent normal stocking of forest trees, as provided in  
130 subsection (g) of this section, which are well distributed over the growing site. Additionally, land  
131 that has been recently harvested of merchantable timber and is growing into or being planted as  
132 a new forest may be classified as timberland.

133 (e) Classification of Timberland and Managed Timberland.

134 (1) Managed Timberland. -- For property to qualify for managed timberland valuation, the  
135 owner of the surface real property identified on the county tax mapping system shall annually  
136 certify in writing to the Division of Forestry that the property satisfies the requirements of managed  
137 timberland, as defined in this section and enter into a contract with the Division of Forestry to use  
138 the real estate in a planned program of multiple purpose forest management, including erosion  
139 control during timbering operations, as specified in the West Virginia Forest Practices Standards  
140 and the West Virginia Silvicultural Nonpoint Source Management Program, and as provided in  
141 subsection (n) of this section. Multipurpose forest management contemplates the periodic  
142 selection of timber on the property for harvesting as an integral part of silvicultural management  
143 practices. The silvicultural manipulation subjects the property to periodic commercial use that

144 may have an effect on the property's classification for property tax purposes. Therefore, in  
145 recognition of the silvicultural manipulation, the following guidelines shall be observed by the  
146 Division of Forestry when classifying managed timberland for property tax purposes.

147 (A) Property containing managed timberland, which may have been properly taxed as  
148 Class II property prior to the managed timberland application, shall remain as Class II property  
149 unless there is some other event or change in the use of the property that disqualifies it from being  
150 taxed as Class II property.

151 (B) Property containing managed timberland, which may have been properly taxed as  
152 Class III or Class IV property prior to the managed timberland application, shall be taxed as Class  
153 III or Class IV property depending upon location.

154 (2) Timberland. -- Timberland shall be taxed as Class II, Class III, or Class IV property in  
155 accordance with provisions of section five, article eight of this chapter. In order for timberland to  
156 be taxed as Class II property, the timberland shall be used and occupied by the owner exclusively  
157 for residential purposes.

158 (3) Surface less timber -- Property where the owner of the surface does not include the  
159 timber rights is not eligible for managed timberland classification and shall be valued by the  
160 assessor.

161 (4) Timber -- Property where the owner of the timber rights does not include the surface,  
162 is not eligible for managed timberland classification and shall be valued by the assessor.

163 (f) Farm wood lots shall be included in the valuation of farm property under section ten,  
164 article one-a of this chapter except when the farm wood lot is a separate parcel or tract entered  
165 in the land books, and/or except when the primary use of the farm wood lot is in commercial  
166 forestry or in a managed timberland contract.

167 (g) Improvements such as roads and service buildings that are a required (usual) part of  
168 timber management operations are not subject to an additional market value appraisal over and  
169 above the appraisal of the managed timberland. Improvements that are not a necessary part of

170 the timber management operations, such as dwellings, cottages, hunting camps, other  
171 recreational facilities, and associated real estate are subject to additional market value appraisals.  
172 Additionally, haul roads, strip and/or mountaintop removal mines, plant facilities, powerline and  
173 gas/oil pipeline rights-of-way, and gas/oil well pads shall not be valued as managed timberland.

174 (h) The appraised value per acre of timberland shall be determined based upon market  
175 comparables and shall be estimated by the county assessor. There are at least five various  
176 timberland rates based on the classifications described in subsection (p) of this section.  
177 assessors shall tri-annually review and grade these nonmanaged timberland properties in order  
178 to assign the proper rate per acre to the property. The rate per acre shall be established by the  
179 assessor in conformity with requirements of subsection (b) of this section.

180 (i) A parcel, or contiguous parcels, of timberland totaling less than ten acres shall not be  
181 considered for classification as managed timberland and shall be valued by the county assessor  
182 based upon market comparables.

183 (j) Harvest Volumes per acre shall be based on site index and the ability of the site to yield  
184 timber measured in thousands of board feet per acre, based on the Scribner rule, or cords per  
185 acre with harvest intervals at thirty-five, fifty-five and eighty years for Grade One and Grade Two  
186 soils, and at forty-five and eighty years for Grade Three soil.

187 (k) The appraised value per acre of managed timberland is the present worth of an infinite  
188 periodic net income from the land less a property tax adjustment for Class II, and a blend of Class  
189 III and Class IV tax rates for Class III and Class IV properties. However, subject to the provisions  
190 of subsection (b) of this section, the appraised value per acre for any grade of managed  
191 timberland in any county will not be less than eighty percent of the value per acre of the  
192 comparable grade of managed timberland in the immediately preceding tax year in that same  
193 county. The appraised value is the net present worth of all revenues and costs associated with  
194 growing timber on the land in perpetuity. Net income is the difference between projected

195 revenues, for example, harvest revenues in years thirty-five, fifty-five and eighty and projected  
196 costs, including for example management costs.

197 (l) The following is a step-by-step procedure for determining the appraised value per acre  
198 of managed timberland.

199 (1) The Tax Commissioner shall enter the surface ownership maps (typically one inch  
200 equals four hundred feet or one inch equals eight hundred feet) into a Geographic Information  
201 System. The Geographic Information System shall be used to register the surface ownership  
202 parcels to the same geographic coordinate system and scale as that of the Integrated Moisture  
203 Index. This process allows the calculation of the area of each soil productivity grade in each  
204 parcel.

205 (2) Average stumpage price (five year weighted moving average) is determined by the  
206 State Tax Commissioner, based on stumpage price reports from the Division of Forestry and other  
207 available sources.

208 (3) Total harvest income per acre over a rotation cycle of thirty-five years, fifty-five years  
209 and eighty years for grade one and two soils, and forty-five years and eighty years for grade three  
210 soils shall be compounded at the end of the rotation being the harvest income value at year eighty  
211 less applicable state and federal severance tax payments, if any.

212 (4) End of eighty-year rotation total management costs per acre shall be determined by  
213 compounding the annual management costs at the end of the rotation being the management  
214 cost value in year eighty using the after severance-tax management costs and accrued interest  
215 on those costs.

216 (5) Appraised value per acre for managed timberland shall be determined by first  
217 deducting the cumulative end of rotation total management costs from the cumulative end of  
218 rotation total harvest income per acre as defined in this section; second, calculating the present  
219 worth of that difference, assuming an infinite periodic income from the managed timberland; and

220 third, adjusting that value by the annual ad valorem property tax rate (either Class II or a blended  
221 Class III/IV).

222 (6) The Geographic Information System shall be used to calculate the appraised value of  
223 managed timberland property on an annual basis. The appraised value of each managed  
224 timberland property shall be calculated using the formula provided in subsection (v) of this section.  
225 Those acreages involved in a managed timberland application where the use of the property is  
226 not for managed timberland purposes such as a homesite, for pasture, or tillable farmland, for  
227 recreation or for a strip mine, for example, may not be classified as managed timberland and shall  
228 be appraised by the county assessor.

229 (m) The average statewide capitalization rate, based on a five-year weighted moving  
230 average of various components, for managed timberland shall be determined annually by the Tax  
231 Commissioner through the use of generally accepted methods of determining those rates. The  
232 rate shall be based on the assumption of a discounted cash flow model based upon harvest  
233 intervals provided in subsection (s) of this section. The capitalization rate used to value managed  
234 timberland shall be developed considering the following:

235 (1) *Discount Component.* -- The summation technique shall be used in developing a  
236 discount component of the capitalization rate. The five subcomponents of the discount  
237 component are:

238 (A) *Safe Rate.* -- The safe rate shall reflect a rate of return that an investor could expect  
239 on an investment of minimal risk. This rate shall be developed through weighted averages of  
240 interest rates offered on five-year United States Treasury Bills for the five years immediately  
241 preceding the appraisal date.

242 (B) *Nonliquidity Premium.* -- The nonliquidity premium rate shall be developed through an  
243 annual review to determine a reasonable estimate of time that timberland, when exposed for sale,  
244 remains on the market before being sold. The time thus determined shall be used to identify  
245 United States Treasury Bills with similar time differentials in excess of thirteen-week treasury bills.

246 The interest differential between these securities shall be used to represent the nonliquidity rate.  
247 For example, if it is determined that a tract of timberland remains on the market for an average of  
248 thirty-nine weeks before being sold, the nonliquidity rate shall be derived by subtracting the rate  
249 on thirteen-week treasury bills from the rate on one year treasury bills. This review shall consider  
250 the weighted average of these differences for a five year period immediately preceding the  
251 appraisal date.

252 (C) *Default Risk Premium* – The premium added to the safe rate to compensate for the  
253 chance that the obligor will default on a loan, is the difference between the rate on a United States  
254 Treasury Bond and the average rate on investment grade corporate bonds, being the rate on  
255 triple A, double A, A and triple B rated bonds of equal maturity and marketability. The default  
256 risk premium will take into account the weighted average of these differences for a five-year period  
257 immediately preceding the appraisal date.

258 (D) *Management Rate*. -- Represents the cost of managing the investment, not the cost  
259 of managing the timberland. Historically, the management rate has been one half of one percent;  
260 therefore, this rate shall be considered the industry standard for current applications.

261 (E) *Discount Component*. -- In determining the discount component of the capitalization  
262 rate, the Tax Commissioner shall take the sum of the safe rate, the nonliquidity rate, the default  
263 risk rate, and the management rate. The resulting discount rate is a nominal discount rate.

264 (2) *Property Tax Component*. -- The property tax component shall be derived by  
265 multiplying the assessment rate by the statewide five year weighted average of tax rates on Class  
266 II and on a blended rate for Class III and Class IV properties. The discounted property tax rates  
267 shall be deducted from the discounted difference between total cumulative harvest income and  
268 end of rotation management costs.

269 (n) In order to qualify, under the provisions of this rule, for managed timberland valuation  
270 purposes, the owner of the timberland shall, before September 1, enter into a contract with the  
271 Division of Forestry. The contract shall state that the real estate is being used in a planned

272 program of timber management and erosion control practices intended to enhance the growth of  
273 commercially desirable species through generally accepted silvicultural practices and the use of  
274 Best Management Practices as specified in the West Virginia Forest Practice Standards and the  
275 West Virginia Nonpoint Source Management Program. The contract shall be assignable with the  
276 sale of the land when the land is sold to be used for managed timberland purposes. Annually,  
277 before September 1, the owner shall file an application for certification as managed timberland  
278 with the Division of Forestry. The application shall include either a commitment to maintain and  
279 protect timberland certified as managed timberland by demonstrating land-use objectives to  
280 include resource management and soil and water protection; or a written plan prepared by a  
281 professional forester. Falsification of certification or failure to follow a professionally prepared plan  
282 shall result in loss of valuation as managed timberland. In any event, the following information  
283 shall be provided:

284 (1) The county, district, map, parcel number, deed book surface acreage and actual  
285 surveyed surface acreage, if available, for each parcel that is to be valued as managed  
286 timberland;

287 (A) The amount of acreage in each parcel that should be classified as managed  
288 timberland. For those properties where managed timberland acreage is different than deed  
289 acreage, information identifying the use of the nonmanaged acreage is required;

290 (B) The signature of owner, including all fractional interests, acknowledging that the  
291 contract with the Division of Forestry has been annually reviewed and approved and that the  
292 property is being managed in accordance with the Best Management Practices for forestry as  
293 outlined in the West Virginia Forest Practice Standards and the Best Management Practices for  
294 water quality as outlined in the West Virginia Nonpoint Source Management Program. If a written  
295 plan is provided in accordance with this subsection, that plan shall be approved and signed by a  
296 registered timber management forester.

297 (2) The Division of Forestry shall, on October 1, of each year, provide to the State Tax  
298 Commissioner a copy of the certifications and a list of those properties certified as managed  
299 timberland and those denied certification. Thereafter, the Division of Forestry has until January  
300 15, of the next calendar year to review any applications questioned by the State Tax  
301 Commissioner or county officials.

302 (3) Any property owner whose managed timberland application was denied or who has  
303 been refused certification pending demonstration of specific facts may, on November 1, of the  
304 assessment year, file an appeal of the denial or file the requested data with the Director of the  
305 Division of Forestry. On December 1, the Division of Forestry shall advise the Tax Commissioner  
306 of any changes of application denials.

307 (o) The appraised value of property categorized as managed timberland shall be  
308 determined by use of the formula provided in subsection (t) in the case of Class II parcels and in  
309 subsection (u) in the case of Class III and IV parcels.

310 (p) For purposes of this section, timberland shall be classified as follows:

311 (1) Class "A" is land adaptable for use as forest property. It may be adaptable to other  
312 profitable uses. There is a stand of trees of commercial species, the size being from fourteen to  
313 twenty inches dbh, and above.

314 (2) Class "B" is land also adaptable for use as forest property. It may be adaptable for  
315 other profitable uses. There is a stand of trees of commercial species, the size being from ten to  
316 fourteen inches dbh.

317 (3) Class "C" is land adaptable for use as forest property and there is a stand of trees of  
318 commercial species on it of a size being from six to ten inches dbh.

319 (4) Class "D" is land adaptable for use as forest property and there is a stand of trees of  
320 commercial species on it of a size being from four, to six inches dbh.

321 (5) Class "E" is land adaptable for use as forest property and there are trees of commercial  
322 species on it of a size less than four inches dbh. This class of timberland also includes clear cut

323 property and property subjected to total harvest where the remaining commercial species are less  
 324 than four inches dbh.

325 (q) The minimum number of trees required per acre to determine thirty square feet of tree  
 326 basel area of forty percent stocking for classification as forest land shall be as follows:

<u>D.B.H</u> <u>Range</u>	<u>D.B.H. in 2"</u> <u>Classes</u>	<u>Basel Area</u> <u>Per Tree</u>	<u>Per Acre</u>	<u>Per</u> <u>1/5 Acre</u>	<u>Per</u> <u>1/10 Acre</u>
<u>Up to 2.9"</u>	<u>Seedlings</u>		<u>400</u>	<u>80</u>	<u>40</u>
<u>3.0-4.9"</u>	<u>4</u>	<u>0.0873</u>	<u>400</u>	<u>80</u>	<u>40</u>
<u>5.0-6.9"</u>	<u>6</u>	<u>0.1964</u>	<u>153</u>	<u>31</u>	<u>15</u>
<u>7.0-8.9"</u>	<u>8</u>	<u>0.3491</u>	<u>86</u>	<u>17</u>	<u>9</u>
<u>9.0-10.9"</u>	<u>10</u>	<u>0.5454</u>	<u>55</u>	<u>11</u>	<u>6</u>
<u>11.0-12.9"</u>	<u>12</u>	<u>0.7854</u>	<u>38</u>	<u>8</u>	<u>4</u>
<u>13.0-14.9"</u>	<u>14</u>	<u>1.0690</u>	<u>28</u>	<u>6</u>	<u>3</u>
<u>15.0"+</u>	<u>16+</u>	<u>1.3983+</u>	<u>21</u>	<u>4</u>	<u>2</u>

327 NOTE:

328 1. Area 1/5 acre, circle, diameter 105'4 inches; square 93.4 inches per side.

329 2. Area 1/10 acre; circle, diameter 74'6 inches; square 66 feet.

330 3. Number of seedlings present may qualify on a percentage basis; Example, one hundred  
 331 seedlings would be equivalent of seven and one half square feet of basal area (25% x 30 - 7.5).

332 4. Seedlings per acre are based on total pine and hardwood stems. Where intensive pine  
 333 management is practiced a minimum of two hundred fifty well distributed pine seedlings will  
 334 qualify.

335 (r) For the purposes of this section, the stumpage price regions shall be as follows:

<u>Region 1</u>	<u>Region 2</u>	<u>Region 3</u>	<u>Region 4</u>	<u>Region 5</u>
<u>Brooke</u>	<u>Braxton</u>	<u>Barbour</u>	<u>Berkeley</u>	<u>Boone</u>
<u>Cabell</u>	<u>Calhoun</u>	<u>Greenbrier</u>	<u>Grant</u>	<u>Fayette</u>
<u>Hancock</u>	<u>Clay</u>	<u>Monroe</u>	<u>Hampshire</u>	<u>Kanawha</u>
<u>Jackson</u>	<u>Doddridge</u>	<u>Nicholas</u>	<u>Hardy</u>	<u>Lincoln</u>
<u>Marshall</u>	<u>Gilmer</u>	<u>Pendleton</u>	<u>Jefferson</u>	<u>Logan</u>
<u>Mason</u>	<u>Harrison</u>	<u>Pocahontas</u>	<u>Mineral</u>	<u>McDowell</u>
<u>Ohio</u>	<u>Lewis</u>	<u>Preston</u>	<u>Morgan</u>	<u>Mercer</u>
<u>Pleasants</u>	<u>Marion</u>	<u>Randolph</u>		<u>Mingo</u>
<u>Putnam</u>	<u>Monongalia</u>	<u>Tucker</u>		<u>Raleigh</u>
<u>Tyler</u>	<u>Ritchie</u>	<u>Upshur</u>		<u>Summers</u>
<u>Wetzel</u>	<u>Roane</u>	<u>Webster</u>		<u>Wayne</u>
<u>Wood</u>	<u>Taylor</u>			<u>Wyoming</u>
	<u>Wirt</u>			

336 (s) For the purposes of this section, the grades of harvest volumes per acre, measured  
 337 by the Scribner Rule as described by G. Luther Schnur in United States Department of  
 338 Agriculture Technical Bulletin No. 560, issued in the year 1930, with harvest intervals over an  
 339 eighty year rotation cycle shall be as follows

	<u>35 Years</u>	<u>55 Years</u>	<u>80 Years</u>	<u>Total</u>
<u>Grade 1</u>				
<u>Site Index (75 or more)</u>	<u>4.6 Cords</u>	<u>2.6 Cords</u>	<u>3.3 Cords</u>	<u>10.5 Cords</u>
<u>(Very Good to Excellent)</u>	<u>1.5 MBFs</u>	<u>4.4 MBFs</u>	<u>8.6 MBFs</u>	<u>14.5 MBFs</u>
<u>Grade 2</u>				
<u>Site Index (65-74)</u>	<u>3.3 Cords</u>	<u>7.0 Cords</u>	<u>4.6 Cords</u>	<u>14.9 Cords</u>
<u>(Fair to Good)</u>	<u>1.0 MBFs</u>	<u>4.4 MBFs</u>	<u>8.6 MBFs</u>	<u>14.5 MBFs</u>
<u>Grade 3</u>				
<u>Site Index (less than 65)</u>	<u>3.1 Cords</u>	<u>15.4 Cords</u>	<u>18.5 Cords</u>	
<u>(Poor)</u>	<u>8 MBFs</u>	<u>3.7 MBFs</u>	<u>4.5 MBFs</u>	

341

342 (t) The formula to determine the managed timberland value for Class II parcels shall be  
 343 as follows:

344 Appraised Value Per Acre = ((Future Value of Harvest Revenues – Future Value of  
 345 Management Costs) ((1 + Real Discount Rate)) - 1)) less discounted property tax Class II rate.

346 Where:

347 n = 80 years

348 Future Value of Harvest Revenues – value of harvest revenues in year 80 using compounding  
 349 formula below

350  $V_n = V_o (1 + i)^n - 1$

351 Where:  $V_o$  = harvest revenue in year o (i.e. 35, 45, 55 or 80)

352 i = capitalization rate

353 n = rotation length

354  $V_n$  = future value of harvest revenues

355 Future Value of Management Costs – value of management costs in year 80 using the formula  
 356 for calculating the future value of a terminating annual series as given below:

357  $V_n = a\{(1 + i)^n - 1/i\}$

358 Where: a = annual management costs

359 i = capitalization rate

360 n = rotation length

361  $V_n$  = future value of management costs

362 (u) The formula to establish the appraised value of managed timberland for Class III and  
 363 IV parcels shall be the same formula as used in subsection (t) for Class II parcels except the  
 364 discounted property tax rate for Class III and Class IV properties is used; *Provided*, That if the  
 365 present natural resource and county computer systems cannot be programmed to change  
 366 appraisals based on tax classifications or until a new computerized appraisal system can be put  
 367 into effect, the property tax discount shall be a blended rate including both Class II and Class III  
 368 rates.

369 (v) The total appraised value of the managed timberland on a given parcel shall be  
370 determined by application of the following formula:  $AV = (P1V1) + (P2V2) + (P3V3)$  where: AV  
371 is Property Appraised Value, P1 is Total Acreage of Parcel in Soil Productivity Grade One, P2 is  
372 Total Acreage of Parcel in Soil Productivity Grade Two, P3 is Total Acreage of Parcel in Soil  
373 Productivity Grade Three, V1 is Value of Soil Productivity Grade One, V2 is Value of Soil  
374 Productivity Grade Two and V3 is Value of Soil Productivity Grade Three.

375 ~~(d)~~ (w) The value of an acre of managed timberland in a county shall always be less than  
376 the value of an acre of timberland of comparable soil quality in the county that is not certified as  
377 managed timberland.

378 ~~(e)~~ (x) Any person aggrieved by any valuation of timberland may file a written objection to  
379 the valuation with the county assessor on or before January 15, of the assessment year. The  
380 written objection shall then be treated as a protest filed by the taxpayer under section twenty-four-  
381 a, article three of this chapter. If any person fails to exhaust the administrative and judicial  
382 remedies provided in ~~said that~~ that section, that person ~~shall be~~ is barred from taking any further  
383 administrative or judicial action regarding the classification of the property for that assessment  
384 year.

385 ~~(f)~~ (y) Upon request of the Tax Commissioner or the assessor or county commission of  
386 the county in which the managed timberland is located, the director of the Division of Forestry  
387 shall inspect the property and determine whether or not the property continues to qualify for  
388 preferential valuation as managed timberland under this article. ~~In the event~~ If the director of  
389 forestry determines that a property does not qualify as managed timberland due to a change in  
390 its use, or it is discovered that a material misstatement of fact was made by the owner of the  
391 property in the certification of the property as managed timberland under subdivision (1),  
392 subsection (d), section ten of this article, or it is discovered that the property owner is not  
393 complying with the terms of the managed timberland plan, including any period of time for coming  
394 into compliance granted the owner by the director of forestry, the director shall give written notice

395 to the owner of the property by certified mail, return receipt requested, the Tax Commissioner and  
396 the assessor of each county in which the property is located that the certification of the property  
397 as managed timberland is revoked.

398 ~~(g)~~ (z) The aggrieved owner of the property which had its managed timberland certification  
399 revoked pursuant to any provision of this code may, at any time up to sixty days from the date of  
400 notification from the Director of Forestry, petition the circuit court of the county in which the  
401 property is located for relief.

402 ~~(h)~~ (aa) The provisions of this section enacted in the year 1998 shall apply to tax years  
403 beginning on or after January 1, 1999. The provisions of this section as amended and reenacted  
404 in the year 2017, shall apply to tax years beginning on or after January 1, 2018, and shall, then  
405 and thereafter, supersede the legislative rules previously promulgated for the valuation of  
406 managed timberland and timberland for *ad valorem* property tax purposes.

NOTE: The purpose of this bill is to establish a specific valuation of managed timberland and timberland that is not managed timberland for *ad valorem* property tax purposes. The bill provides remedies to persons aggrieved by the valuations and for compliance inspections and notice of revocation. The bill provides for appeals and an effective date.

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