

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 570

BY SENATORS PALUMBO AND STOLLINGS

[Introduced February 16, 2018; Referred
to the Committee on Government Organization]

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

Be it enacted by the Legislature of West Virginia:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-9. Periodic valuations.

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

12 (b) In any year the assessed value of a property or species of property ~~be~~ is less than or
 13 ~~exceed~~ exceeds 60 percent of current market value, the Tax Commissioner shall direct the
 14 assessor to make the necessary adjustments: *Provided, That any increase in valuations may not*
 15 result in more than a 10 percent increase in assessment in any one year: *Provided, however,*
 16 That this limitation does not apply when improvements made on the property resulted in the
 17 increased assessment. If any assessor fails to comply with the provisions of this section, the Tax
 18 Commissioner may, at the county commission's expense, take reasonable steps to remedy the
 19 assessment deficiencies.

ARTICLE 3. 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 pursuant to §11-6-1 *et seq.* of
2 this code, shall be assessed annually as of July 1 at 60 percent of its true and actual value; that
3 is to say, at the price for which the property would sell if voluntarily offered for sale by the owner
4 thereof, upon the terms as the property, the value of which is sought to be ascertained, is usually
5 sold, and not the price which might be realized if the property were sold at a forced sale: Provided,
6 That an annual assessment may not increase the assessed value of the property by more than
7 10 percent of the previously assessed value: *Provided, however,* That this limitation does not
8 apply when improvements made on the property resulted in the increased assessment.

9 (b) Any conflicting provisions of subsection (a) of this section notwithstanding, the true and
10 actual value of all property owned, used and occupied by the owner thereof exclusively for
11 residential purposes shall be arrived at by also giving consideration to the fair and reasonable
12 amount of income which the same might be expected to earn, under normal conditions in the
13 locality wherein situated, if rented: *Provided,* That the true and actual value of all farms used,
14 occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the
15 fair and reasonable value of the property for the purpose for which it is actually used regardless
16 of what the value of the property would be if used for some other purpose; and that the true and
17 actual value shall be arrived at by giving consideration to the fair and reasonable income which
18 the same might be expected to earn under normal conditions in the locality wherein situated, if
19 rented: *Provided, however,* That nothing herein ~~shall~~ may alter the method of assessment of lands
20 or minerals owned by domestic or foreign corporations.

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

23 (d) If at any time after the beginning of the assessment year it be ascertained by the Tax

24 Commissioner that the assessor, or any of his or her deputies, is not complying with this provision
25 or that they have failed, neglected or refused, or is failing, neglecting or refusing after five days'
26 notice to list and assess all property therein at 60 percent of its true and actual value as
27 determined under this chapter, the Tax Commissioner shall order and direct a reassessment of
28 any or all of the property in any county, district or municipality where any assessor or deputy fails,
29 neglects or refuses to assess the property in the manner herein provided. And, if the Tax
30 Commissioner has determined that the assessor has not complied or has so failed, neglected or
31 refused to list and assess property as aforesaid for two or more consecutive years, for the purpose
32 of making assessment and correction of values, the Tax Commissioner shall appoint one or more
33 special assessors, unless the Tax Commissioner determines that such appointment should be
34 made earlier, as necessity may require, to make assessment in any county and any such special
35 assessor or assessors, as the case may be, has the power and authority now vested by law in
36 assessors, and the work of such special assessor or assessors shall be accepted and treated for
37 all purposes by the county boards of review and equalization and the levying bodies, subject to
38 any revisions of value on appeal, as the true and lawful assessment of that year as to all property
39 valued by him or her or them. The Tax Commissioner shall fix the compensation of all special
40 assessors appointed, which, together with their actual expenses, shall be paid out of the county
41 fund by the county commission of the county in which any such assessment is ordered, upon the
42 receipt of a certificate of the Tax Commissioner filed with the clerk of the county commission
43 showing the amounts due and to whom payable, after such expenses have been audited by the
44 county commission. All of this subsection is subject to the following:

45 (1) Notwithstanding any other provision of this subsection to the contrary, if the Tax
46 Commissioner has determined that the assessor has not complied or has so failed, neglected or
47 refused to list and assess property as aforesaid for two consecutive years, but the assessor can
48 show that the criteria established by rule pursuant to this subsection are met, the Tax
49 Commissioner is not required to appoint one or more special assessors pursuant to this section,

50 and in lieu of appointing one or more special assessors, may again order and direct a
51 reassessment of any or all of the property pursuant to this subsection;

52 (2) For any third or succeeding consecutive year or years that the Tax Commissioner
53 determines that the assessor has not complied or has so failed, neglected or refused to list and
54 assess property as aforesaid, the Tax Commissioner shall appoint one or more special assessors
55 pursuant to the provisions of this subsection regardless of whether or not the assessor can show
56 that he or she will list and assess property as aforesaid the next year; and

57 (3) For the purposes of determining consecutive years pursuant to this subsection, only
58 tax years beginning on and after the July 1, 2013, assessment date may be considered a first
59 year.

60 (4) For purposes of subdivision (1) of this subsection, criteria for determining whether the
61 assessor has made a satisfactory showing that he or she will list and assess property as aforesaid
62 for the year next succeeding the two assessment years specified in subdivision (1) of this
63 subsection, the Tax Commissioner shall apply criteria based on: (A) Sales validity; (B) appraisal
64 uniformity; (C) appraisal evaluation; and (D) such other criteria as the Tax Commissioner may
65 prescribe. The Tax Commissioner shall promulgate a legislative rule to specify criteria for the
66 treatment authorized herein for any such third year or succeeding consecutive year or years, and
67 such administrative and procedural requirements and criteria as the Tax Commissioner may
68 prescribe.

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

74 (f) For purposes of this chapter and §11A-1-1 *et seq.* of this code, the following terms have
75 the meanings ascribed to them in this section unless the context in which the term is used clearly

76 indicates that a different meaning is intended by the Legislature:

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

78 (2) "Assessment year" means the 12-month period that begins on the assessment date.

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

81 (4) "Taxpayer" means the owner and any other person in whose name the taxes on the
82 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 10 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 a heading or the present law and underscoring indicates new language that would be added.