

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2523

FISCAL
NOTE

BY DELEGATES HARSHBARGER, PAYNTER, COOPER,

HANNA, BIBBY, D. KELLY AND MANDT

[Introduced January 18, 2019; Referred
to the Committee on Political Subdivisions then
Finance.]

1 A BILL to amend and reenact §11-3-27 of the Code of West Virginia, 1931, as amended, relating
 2 to increasing the amount of time a taxpayer has to seek relief from a county commission
 3 from an erroneous assessment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-27. Relief in county commission from erroneous assessments.

1 (a) Any taxpayer, or the prosecuting attorney or Tax Commissioner, upon behalf of the
 2 state, county and districts, claiming to be aggrieved by any entry in the property books of the
 3 county, including entries with respect to classification and taxability of property, resulting from a
 4 clerical error or a mistake occasioned by an unintentional or inadvertent act as distinguished from
 5 a mistake growing out of negligence or the exercise of poor judgment, may, within ~~one year~~ two
 6 years from the time the property books are delivered to the sheriff or within ~~one year~~ two years
 7 from the time such clerical error or mistake is discovered or reasonably could have been
 8 discovered, apply for relief to the county commission of the county in which such books are made
 9 out: *Provided*, That upon the discovery of any such clerical error or mistake by the sheriff or
 10 assessor, or either officer having knowledge thereof, the sheriff or assessor shall initiate an
 11 application for relief from the erroneous assessment on behalf of the taxpayer or cause notice to
 12 be sent to any taxpayer affected by the clerical error or mistake by first-class United States mail
 13 advising the taxpayer of the right to make application for relief from the erroneous assessment.
 14 Before the application is heard, the taxpayer shall give notice to the prosecuting attorney of the
 15 county, or the state shall give notice to the taxpayer, as the case may be. The application, whether
 16 by the taxpayer or the state, shall have precedence over all other business before the court; but
 17 any order or judgment shall show that either the prosecuting attorney or Tax Commissioner was
 18 present defending the interests of the state, county and districts: *Provided, however*, That the
 19 provisions of this section shall not be construed as giving county commissions jurisdiction to
 20 consider any question involving the classification or taxability of property which has been the

21 subject matter of an appeal under the provisions of §11-3-24a of this code; and any other such
22 clerical error or mistake involving the classification or taxability of property, may be corrected by
23 the county commission under the provisions of this section only when approved, in writing, by the
24 county assessor.

25 (b) In the event it is ascertained that the taxpayer is entitled to relief, any excess taxes
26 already paid shall be refunded and, if charged but not paid, the applicant shall be released from
27 the payment of such excess: *Provided*, That in the event a mistake or error is discovered more
28 than one year after the property books for the year or years in question are delivered to the sheriff,
29 any relief granted to the taxpayer shall be in the form of a credit against taxes owing for up to the
30 following ~~two~~ three years: *Provided, however*, That if there are insufficient future taxes to credit
31 or if the sheriff or county commission determines that a refund is appropriate, then the sheriff or
32 county commission shall refund the uncredited balance to the taxpayer.

33 (c) Whenever any correction is made by the county commission, the clerk shall certify
34 copies of the order to the Auditor, sheriff and assessor, and in the case of real estate, the assessor
35 shall thereupon make a correction in accordance with the order in his or her landbook for the next
36 year. Any such order delivered to the sheriff or other collecting officer shall restrain him or her
37 from collecting so much as is erroneously charged against the taxpayer, and, if already collected,
38 shall compel him or her to refund the money if such officer has not already paid it into the treasury.
39 In either case, when endorsed by the person exonerated, it shall be sufficient voucher to entitle
40 the officer to a credit for so much in his or her settlement which he or she is required to make. If
41 the applicant is the state, the order certified to the sheriff shall show the correct amount of taxes
42 due the state, county and districts and shall be sufficient to authorize collection in the same
43 manner as for other state, county and district taxes.

NOTE: The purpose of this bill is to increase the amount of time a taxpayer has to seek relief from a county commission from an erroneous assessment.

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