

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4725

FISCAL
NOTE

BY DELEGATE PRITT

[Introduced February 15, 2022; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §11-1A-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §11-3-1 of said code, all relating to providing definitions for “market
 3 value” and “true and actual value”; and that property taxes may not be appraised and
 4 assessed higher than the value in 2019.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. APPRAISAL OF PROPERTY.

§11-1A-3. Definitions.

1 As used in this article, unless the context clearly requires a different meaning:

2 (a) “Assessed value” of any item of property is its assessed value after the certification of
 3 the first statewide reappraisal and shall be 60 percent of the market value of such item of property
 4 regardless of its class or species, except as hereinafter specifically provided in this article;

5 (b) “Base year” shall have the meaning ascribed to that term by the provisions of section
 6 two of this article;

7 (c) “Commission” ~~shall mean~~ means the West Virginia appraisal control and review
 8 commission;

9 (d) “Commissioner” or “Tax Commissioner” ~~shall mean~~ means the chief executive officer
 10 of the state Tax Department except in those instances where the context clearly relates to the
 11 West Virginia appraisal control and review commission, in which case “commissioner” shall mean
 12 any member of such commission;

13 (e) “Designated agent” ~~shall mean~~ means a person, not directly employed by the Tax
 14 Commissioner, who is designated by the Tax Commissioner to perform reappraisal functions
 15 authorized or required by this article. ~~Such~~ This term shall include, but not be limited to, agents
 16 and independent contractors, and nothing in this article ~~shall~~ may be construed to alter the
 17 relationship of the State of West Virginia, or its officers, and such persons to create relationships
 18 not contemplated by agreements between the Tax Commissioner and such persons;

19 (f) “Farm” ~~shall mean~~ means and ~~include~~ includes land currently being used primarily for

20 farming purposes, whether by the owner thereof or by a tenant, and which has been so used for
21 at least seasonally during the year next preceding the then current tax year, but ~~shall not include~~
22 lands used primarily in commercial forestry or the growing of timber for commercial purposes; and
23 ~~shall~~ may not include one acre surrounding the principal residence situate on a farm which shall
24 be valued as a homesite in the same manner as surrounding homes and properties not situated
25 on farmland, taking into consideration such variables as location, resale value and accessibility.
26 The commissioner of agriculture shall formulate criteria upon which a parcel of land qualifies as
27 a "farm." The county assessor may require the assistance of the commissioner of agriculture in
28 making a determination of whether a parcel of land qualifies as a "farm."

29 (g) "Farming purposes" ~~shall mean~~ means the utilization of land to produce for sale,
30 consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit,
31 vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco,
32 syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes of
33 ornamental trees, sod, seed and any and all similar commodities or products including farm wood
34 lots and the parts of a farm which are lands lying fallow, or in timber or in wastelands;

35 (h) "Property situate in this state" ~~shall mean~~ means:

36 (1) Property having legal situs in this state; or

37 (2) In the case of persons with a place of business located in this state and authorized to
38 do business in this state and one or more other states of the United States or any foreign country:

39 (A) Any tangible property brought into this state from time to time or otherwise deemed to
40 have situs in this state for purposes of ad valorem property taxation, and

41 (B) Any intangible property held by such person, wherever evidence thereof is situate. In
42 the case of assessment of such intangible property for ad valorem property taxation after the first
43 statewide reappraisal only such part thereof as may be determined by applicable law or regulation
44 to be subject to ~~such taxation shall be deemed~~ are considered to be situate in this state;

45 "Value," "market value" and "true and actual value" ~~shall~~ have the same meaning and ~~shall~~

46 mean the price at or for which a particular parcel or species of property would sell if it were sold
 47 to a willing buyer by a willing seller in an arm's length transaction without either the buyer or the
 48 seller being under any compulsion to buy or sell: *Provided*, That in determining value, primary
 49 consideration shall be given to the trends of price paid for like or similar property in the area or
 50 locality wherein ~~such~~ that property is situate over a period of not less than three nor more than
 51 eight years next preceding the base year and in the case of a farm or farms shall be determined
 52 assuming ~~such~~ the land is being used for farming purposes. In addition, the commissioner may,
 53 for purposes of appraisalment of any tract or parcel of real property, or chattels, real or other
 54 species of property, real or personal, take into account one or more of the following factors: (1)
 55 The location of ~~such~~ the property; (2) its site characteristics; (3) the ease of alienation thereof,
 56 considering the state of its title, the number of owners thereof, and the extent to which the ~~same~~
 57 property may be the subject of either dominant or servient easements; (4) the quantity of size of
 58 the property and the impact which its sale may have upon surrounding properties; (5) if purchased
 59 within the previous eight years, the purchase price thereof and the date of each such purchase;
 60 (6) recent sale of, or other transactions involving comparable property within the next preceding
 61 eight years; (7) the value of such property to its owner; (8) the condition of such property; (9) the
 62 income, if any, which the property actually produces and has produced within the next preceding
 63 eight years; and (10) any commonly accepted method of ascertaining the market value of any
 64 such property, including techniques and methods peculiar to any particular species of property if
 65 such technique or method is used uniformly and applied to all property of like species.

1 Notwithstanding any provision of this chapter or code to the contrary, "market value" and
 2 "true and actual value", after the effective date of the amendment of this section in 2022, shall
 3 mean the value of all such property in 2019, and that the assessed value of this property may not
 4 be greater than the assessed value in 2019.

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.

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

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

20 (d) If at any time after the beginning of the assessment year it be ascertained by the Tax
21 Commissioner that the assessor, or any of his or her deputies, is not complying with this provision
22 or that they have failed, neglected or refused, or is failing, neglecting or refusing after five days'
23 notice to list and assess all property therein at 60 percent of its true and actual value as
24 determined under this chapter, the Tax Commissioner shall order and direct a reassessment of
25 any or all of the property in any county, district or municipality where any assessor or deputy fails,

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

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

49 (2) For any third or succeeding consecutive year or years that the Tax Commissioner
50 determines that the assessor has not complied or has so failed, neglected or refused to list and
51 assess property as aforesaid, the Tax Commissioner shall appoint one or more special assessors

52 pursuant to the provisions of this subsection regardless of whether or not the assessor can show
53 that he or she will list and assess property as aforesaid the next year; and

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

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

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

71 (f) For purposes of this chapter and Chapter 11A of this code, the following terms have
72 the meanings ascribed to them in this section unless the context in which the term is used clearly
73 indicates that a different meaning is intended by the Legislature:

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

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

76 "Market value" and "true and actual value" mean the value of all such property in 2019.

77 ~~(3)~~ "Tax year" or "property tax year" means the next calendar year that begins after the

78 assessment date.

79 ~~(4)~~ "Taxpayer" means the owner and any other person in whose name the taxes on the

80 subject property are lawfully assessed.

NOTE: The purpose of this bill is to provide definitions for "market value" and "true and actual value"; and that property taxes may not be appraised and assessed higher than the value in 2019.

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