

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: TAX DEPARTMENT TITLE NUMBER: 110

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1d

TITLE OF RULE BEING PROPOSED: ADMINISTRATIVE REVIEW OF

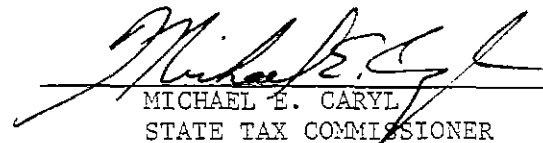
APPRAISALS BY THE TAX COMMISSIONER

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 761

SECTION 64-2-11(1a)(1)(e), PASSED ON MAY 13, 1987

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: JUNE 12, 1987


MICHAEL E. CARYL
STATE TAX COMMISSIONER

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H. B. 2569

(By Delegate Knight)
(Introduced February 4, 1987; referred to the
Committee on the Judiciary.)

10 A BILL to amend and reenact section eleven (one-a)(one), article
11 two, chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating to
13 authorizing the state tax commissioner to promulgate
14 legislative rules relating to the administrative review of
15 appraisals by the state tax commissioner.

16 Be it enacted by the Legislature of West Virginia:

17 That section eleven (one-a)(one), article two, chapter sixty-
18 four of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted to read as
20 follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-11(1a)(1). State tax commissioner.

24 (a) The legislative rules filed in the state register on the
25 twelfth day of March, one thousand nine hundred eighty-five,
26 relating to the state tax commissioner (identification and

2569

1 appraisal of farmland subsequent to the base year of statewide
2 reappraisal) are authorized and directed to be promulgated with
3 the following amendments:

4 Title page, Subject; following the word "Farmland," insert
5 the words "and of Structures Situated Thereon."

6 Page i, Subject; following the word "Farmland," insert the
7 words "and of Structures Situated Thereon."

8 Page i, TABLE OF CONTENTS, Section 10; following the words
9 "Valuation of Farmland" add the words "and of Structures Situated
10 Thereon."

11 Page 10.1, Title; following the word "FARMLAND" insert the
12 words "AND STRUCTURES SITUATED THEREON."

13 Page 10.1, Section 10, Title; following the word "Farmland"
14 add the words "and Structures Situated Thereon."

15 Page 10.1, Section 10.01(b); following the word "farmland"
16 insert the words "and structures situated thereon."

17 Page 10.2, Section 10.02(a), first sentence; following the
18 word "farmland" insert the words "and structures situated
19 thereon."

20 Page 10.3, Section 10.02(b), first sentence; following the
21 word "farmland" insert the words "and structures situated
22 thereon." Delete the words "for purposes of the statewide
23 reappraisal."

24 Page 10.3, Section 10.02(b), last sentence; following the
25 word "farmland" insert the words "and structures situated
26 thereon."

1 Page 10.8, Section 10.04(5)(B), last sentence; delete the
2 period and add "or the incapability to be adapted to alternative
3 uses."

4 Page 10.9, Section 10.04(6), first sentence; following the
5 words "land currently being used" insert the words "as part of a
6 farming operation,".

7 Page 10.9, Section 10.04(6), following the last sentence; add
8 the sentence "For the purposes of this definition, 'contiguous
9 tracts' are farmlands which are in close proximity, but not
10 necessarily adjacent: Provided, That all such contiguous tracts
11 are operated as part of the same farm management plan."

12 Page 10.10, Section 10.04(8), is amended to read in its
13 entirety as follows:

14 (8) Farm Buildings.--The term "farm buildings" shall mean
15 structures which directly contribute to the operation of the
16 farm, and shall include tenant houses and quarters furnished farm
17 employees without rent as a part of the terms of their
18 employment.

19 Page 10.11, Section 10.04; delete the word "November" and
20 insert in lieu thereof the word "September." Delete the period
21 following the word "valuation" and add the words "for the
22 assessment year beginning July 1st of each year."

23 Page 10.11, Section 10.04, insert the following subdivision;
24 "(12) Application Form: The application form required to be
25 filed with the assessor on or before September 1st of each year
26 shall require certification that the farm complies with criteria

1 set forth in Section 10.05(c) of these regulations, and renewal
2 applications from year to year shall be sufficient upon statement
3 certifying that no change has been made in the use of farm
4 property which would disqualify 'farm use' classification for
5 assessment purposes." Renumber the subdivisions of Section 10.04
6 following the new 10.04(12); formerly 10.04(12) through
7 10.04(28), to 10.04(13) through 10.04(29) respectively.

8 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
9 the words "woodland products" insert a comma and the words "such
10 as nuts or fruits harvested" and add a comma following the words
11 "human consumption" on Page 10.15.

12 Page 10.16, Section 10.05, subsection (a) following the words
13 "land is used for farm purposes" by striking the period and
14 inserting in lieu thereof a colon and the following: Provided,
15 That the true and actual value of all farm used, occupied and
16 cultivated by their owners or bona fide tenants shall be arrived
17 at according to the fair and reasonable value of the property for
18 the purpose for which it is actually used regardless of what the
19 value of the property would be if used for some other purpose;
20 and that the true and actual value shall be arrived at by giving
21 consideration to the fair and reasonable income which the same
22 might be expected to earn under normal conditions in the locality
23 wherein situated, if rented: Provided, however, That nothing
24 herein shall alter the method of assessment of lands or minerals
25 owned by domestic or foreign corporations."

1 Page 10.16, Section 10.05(b), first clause; following the
2 words "following factors shall be" insert the words "indicative
3 of but not conclusive" and delete the word "considered."

4 Page 10.16, Section 10.05(b)(2); delete the period and add
5 the words "such as soil conservation, farmland preservation or
6 federal farm lending agencies."

7 Page 10.17, Section 10.05(b)(7); delete the section and
8 insert in lieu thereof the words "(7) Whether or not the farmer
9 practices 'custom farming' on the land in question."

10 Page 10.17, Section 10.05(b)(9); following the word "type"
11 add a comma and insert the word "utility."

12 Page 10.17, Section 10.05(b)(11), first sentence; following
13 the word "sales" insert the words "for nonfarm uses."

14 Page 10.17, Section 10.05(b)(12)(A); following the words
15 "part of" insert the words "or appurtenant to."

16 Page 10.17, Section 10.05(b)(12)(B); following the words
17 "contiguous to" insert the words "or operated in common with."

18 Page 10.18, Section 10.05, subsection (c), the first sentence
19 of which is amended in its entirety to read as follows:
20 "Qualifying farmland and the structures situated thereon shall be
21 subject to farm use valuation, with primary consideration being
22 given to the income which the property might be expected to earn,
23 in the locality wherein situate, if rented."

24 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
25 and the words "it was purchased at the same time as the tract so
26 used." Delete the period following the word "purposes" and add
27 the words "or any nonfarm use."

1 Page 10.19, Section 10.05(c)(2); following the words
2 "Provided, That no" delete the word "reason" and insert in lieu
3 thereof the words "individual event."

4 Page 10.20, Section 10.05(c)(4)(C); following the words
5 "(1,000) minimum production value" insert the words "or the small
6 farm five hundred dollars (\$500) minimum production and sale."

7 Page 10.23, Section 10.05(d)(3)(B), third sentence; following
8 the word "If" insert the words "timber from." Delete the period
9 following the word "purpose" and add the words "or is being
10 converted to farm production uses."

11 Page 10.26, Section 10.05(f)(2) is amended in its entirety to
12 read as follows:

13 "(2) Farm Buildings.--Rental value of farm buildings and
14 other improvements on the farmland shall be valued by determining
15 the replacement cost of the building or structure by usual farm
16 construction practices, and farm labor standards and subtracting
17 therefrom depreciation.¹ Both of these determinations shall be
18 made in accordance with the tax department's real property
19 appraisal manual² as filed in the state register in accordance
20 with chapter 29A of the code of West Virginia, 1931, as amended,
21 and as it relates to agricultural buildings and structures. One
22 (1) acre of land shall be assigned to all buildings as a unit
23 situate on the property, regardless of the actual acreage
24 occupied by such buildings and shall be appraised at its farm-use
25 valuation based on the highest class of farmland present on the
26 farm.

1 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
2 "or more of the" insert the word "usual."

3 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
4 "(50%) of the" insert the word "usual."

5 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
6 "(50%) or more of the" insert the word "usual."

7 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
8 "(50%) of the" insert the word "usual".

9 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
10 sentence insert the sentence "An individual employed other than
11 in farming is not an unincorporated business."

12 Page 10.35, Section 10.07, Title; following the word
13 "Farmland" insert the words "and Structures Situated Thereon."

14 Page 10.35, Section 10.07(a), first sentence; following the
15 word "farmland" insert the words "and structures situated
16 thereon."

17 Page 10.46, Subject; following the word "Farmland" insert the
18 words "and Structures Situated Thereon."

19 (b) The legislative rules filed in the state register on the
20 twenty-sixth day of March, one thousand nine hundred eighty-six,
21 relating to the state tax commissioner (administrative review of
22 appraisals by the state tax commissioner) are authorized with the
23 amendments set forth below:

24 Page 2, Subsection 16.2, in the opening sentence, by striking
25 the word "article" and inserting in lieu thereof the word
26 "section".

1 Page 2, Subdivision 16.2.1, by striking the word "article"
2 and inserting in lieu thereof the word "section".

3 Page 2, in the definition for "value", by striking the
4 subdivision number "16.2.2" and inserting in lieu thereof the
5 number "16.2.3".

6 Page 8, Subdivision 16.7.1, in the opening sentence, after
7 the word "valuations", by adding the words "with or".

8 Page 8, Subdivision 16.7.1, by striking all of paragraphs
9 16.7.1.a, 16.7.1.b, and 16.7.1.c. and inserting in lieu thereof
10 the following:

11 "a clerical error, or a mistake occasioned by an
12 unintentional or inadvertent act as distinguished from a mistake
13 growing out of the exercise of judgment.

14

15 NOTE: The purpose of this bill is to authorize the State Tax
16 Commissioner to promulgate legislative rules relating to the
17 administrative review of appraisals by the State Tax
18 Commissioner.

19

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

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Senate Bill No. 330
(By Senator Tucker)

[Introduced February 4, 1987; referred to the Committee
on FINANCE ; then to the
Committee on THE JUDICIARY .1

10 A BILL to amend and reenact section eleven (one-a)(one), article
11 two, chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating to
13 authorizing the state tax commissioner to promulgate
14 legislative rules relating to the administrative review of
15 appraisals by the state tax commissioner.

16 Be it enacted by the Legislature of West Virginia:

17 That section eleven (one-a)(one), article two, chapter sixty-
18 four of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted to read as
20 follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-11(1a)(1). State tax commissioner.

24 (a) The legislative rules filed in the state register on the
25 twelfth day of March, one thousand nine hundred eighty-five,
26 relating to the state tax commissioner (identification and

1 appraisal of farmland subsequent to the base year of statewide
2 reappraisal) are authorized and directed to be promulgated with
3 the following amendments:

4 Title page, Subject; following the word "Farmland," insert
5 the words "and of Structures Situated Thereon."

6 Page i, Subject; following the word "Farmland," insert the
7 words "and of Structures Situated Thereon."

8 Page i, TABLE OF CONTENTS, Section 10; following the words
9 "Valuation of Farmland" add the words "and of Structures Situated
10 Thereon."

11 Page 10.1, Title; following the word "FARMLAND" insert the
12 words "AND STRUCTURES SITUATED THEREON."

13 Page 10.1, Section 10, Title; following the word "Farmland"
14 add the words "and Structures Situated Thereon."

15 Page 10.1, Section 10.01(b); following the word "farmland"
16 insert the words "and structures situated thereon."

17 Page 10.2, Section 10.02(a), first sentence; following the
18 word "farmland" insert the words "and structures situated
19 thereon."

20 Page 10.3, Section 10.02(b), first sentence; following the
21 word "farmland" insert the words "and structures situated
22 thereon." Delete the words "for purposes of the statewide
23 reappraisal."

24 Page 10.3, Section 10.02(b), last sentence; following the
25 word "farmland" insert the words "and structures situated
26 thereon."

1 Page 10.8, Section 10.04(5)(B), last sentence; delete the
2 period and add "or the incapability to be adapted to alternative
3 uses."

4 Page 10.9, Section 10.04(6), first sentence; following the
5 words "land currently being used" insert the words "as part of a
6 farming operation,".

7 Page 10.9, Section 10.04(6), following the last sentence; add
8 the sentence "For the purposes of this definition, 'contiguous
9 tracts' are farmlands which are in close proximity, but not
10 necessarily adjacent: Provided, That all such contiguous tracts
11 are operated as part of the same farm management plan."

12 Page 10.10, Section 10.04(8), is amended to read in its
13 entirety as follows:

14 (8) Farm Buildings.--The term "farm buildings" shall mean
15 structures which directly contribute to the operation of the
16 farm, and shall include tenant houses and quarters furnished farm
17 employees without rent as a part of the terms of their
18 employment.

19 Page 10.11, Section 10.04; delete the word "November" and
20 insert in lieu thereof the word "September." Delete the period
21 following the word "valuation" and add the words "for the
22 assessment year beginning July 1st of each year."

23 Page 10.11, Section 10.04, insert the following subdivision;
24 "(12) Application Form: The application form required to be
25 filed with the assessor on or before September 1st of each year
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2 applications from year to year shall be sufficient upon statement
3 certifying that no change has been made in the use of farm
4 property which would disqualify 'farm use' classification for
5 assessment purposes." Renumber the subdivisions of Section 10.04
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19 value of the property would be if used for some other purpose;
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21 consideration to the fair and reasonable income which the same
22 might be expected to earn under normal conditions in the locality
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24 herein shall alter the method of assessment of lands or minerals
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14 Page 10.17, Section 10.05(b)(12)(A); following the words
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16 Page 10.17, Section 10.05(b)(12)(B); following the words
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21 subject to farm use valuation, with primary consideration being
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27 the words "or any nonfarm use."

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2 "Provided, That no" delete the word "reason" and insert in lieu
3 thereof the words "individual event."

4 Page 10.20, Section 10.05(c)(4)(C); following the words
5 "(1,000) minimum production value" insert the words "or the small
6 farm five hundred dollars (\$500) minimum production and sale."

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15 the replacement cost of the building or structure by usual farm
16 construction practices, and farm labor standards and subtracting
17 therefrom depreciation.¹ Both of these determinations shall be
18 made in accordance with the tax department's real property
19 appraisal manual² as filed in the state register in accordance
20 with chapter 29A of the code of West Virginia, 1931, as amended,
21 and as it relates to agricultural buildings and structures. One
22 (1) acre of land shall be assigned to all buildings as a unit
23 situate on the property, regardless of the actual acreage
24 occupied by such buildings and shall be appraised at its farm-use
25 valuation based on the highest class of farmland present on the
26 farm.

1 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
2 "or more of the" insert the word "usual."

3 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
4 "(50%) of the" insert the word "usual."

5 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
6 "(50%) or more of the" insert the word "usual."

7 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
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9 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
10 sentence insert the sentence "An individual employed other than
11 in farming is not an unincorporated business."

12 Page 10.35, Section 10.07, Title; following the word
13 "Farmland" insert the words "and Structures Situated Thereon."

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15 word "farmland" insert the words "and structures situated
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5 number "16.2.3".

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7 the word "valuations", by adding the words "with or".

8 Page 8, Subdivision 16.7.1, by striking all of paragraphs
9 16.7.1.a, 16.7.1.b, and 16.7.1.c, and inserting in lieu thereof
10 the following:

11 "a clerical error, or a mistake occasioned by an
12 unintentional or inadvertent act as distinguished from a mistake
13 growing out of the exercise of judgment.

14

15 NOTE: The purpose of this bill is to authorize the State Tax
16 Commissioner to promulgate legislative rules relating to the
17 administrative review of appraisals by the State Tax
18 Commissioner.

19

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

23

24

H. B. 2567

(By Delegate Knight)
(Introduced February 4, 1987; referred to the
Committee on the Judiciary)

10 A BILL to amend and reenact section eleven (one-a)(one), article
11 two, chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating to
13 authorizing the state tax commissioner to promulgate
14 legislative rules relating to the review of appraisals by
15 county commissions sitting as administrative appraisal review
16 boards.

17 Be it enacted by the Legislature of West Virginia:

18 That section eleven (one-a)(one), article two, chapter sixty-
19 four of the code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted to read as
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22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
23 LEGISLATIVE RULES.

24 §64-2-11(1a)(1). State tax commissioner.

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10 "Valuation of Farmland" add the words "and of Structures Situated
11 Thereon."

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16 Page 10.1, Section 10.01(b); following the word "farmland"
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23 thereon." Delete the words "for purposes of the statewide
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1 Page 10.8, Section 10.04(5)(B), last sentence; delete the
2 period and add "or the incapability to be adapted to alternative
3 uses."

4 Page 10.9, Section 10.04(6), first sentence; following the
5 words "land currently being used" insert the words "as part of a
6 farming operation,".

7 Page 10.9, Section 10.04(6), following the last sentence; add
8 the sentence "For the purposes of this definition, 'contiguous
9 tracts' are farmlands which are in close proximity, but not
10 necessarily adjacent: Provided, That all such contiguous tracts
11 are operated as part of the same farm management plan."

12 Page 10.10, Section 10.04(8), is amended to read in its
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15 structures which directly contribute to the operation of the
16 farm, and shall include tenant houses and quarters furnished farm
17 employees without rent as a part of the terms of their
18 employment.

19 Page 10.11, Section 10.04; delete the word "November" and
20 insert in lieu thereof the word "September." Delete the period
21 following the word "valuation" and add the words "for the
22 assessment year beginning July 1st of each year."

23 Page 10.11, Section 10.04, insert the following subdivision;
24 "(12) Application Form: The application form required to be
25 filed with the assessor on or before September 1st of each year
26 shall require certification that the farm complies with criteria

1 set forth in Section 10.05(c) of these regulations, and renewal
2 applications from year to year shall be sufficient upon statement
3 certifying that no change has been made in the use of farm
4 property which would disqualify 'farm use' classification for
5 assessment purposes." Renumber the subdivisions of Section 10.04
6 following the new 10.04(12); formerly 10.04(12) through
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9 the words "woodland products" insert a comma and the words "such
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15 That the true and actual value of all farm used, occupied and
16 cultivated by their owners or bona fide tenants shall be arrived
17 at according to the fair and reasonable value of the property for
18 the purpose for which it is actually used regardless of what the
19 value of the property would be if used for some other purpose;
20 and that the true and actual value shall be arrived at by giving
21 consideration to the fair and reasonable income which the same
22 might be expected to earn under normal conditions in the locality
23 wherein situated, if rented: Provided, however, That nothing
24 herein shall alter the method of assessment of lands or minerals
25 owned by domestic or foreign corporations."

1 Page 10.16, Section 10.05(b), first clause; following the
2 words "following factors shall be" insert the words "indicative
3 of but not conclusive" and delete the word "considered."
4 Page 10.16, Section 10.05(b)(2); delete the period and add
5 the words "such as soil conservation, farmland preservation or
6 federal farm lending agencies."
7 Page 10.17, Section 10.05(b)(7); delete the section and
8 insert in lieu thereof the words "(7) Whether or not the farmer
9 practices 'custom farming' on the land in question."
10 Page 10.17, Section 10.05(b)(9); following the word "type"
11 add a comma and insert the word "utility."
12 Page 10.17, Section 10.05(b)(11), first sentence; following
13 the word "sales" insert the words "for nonfarm uses."
14 Page 10.17, Section 10.05(b)(12)(A); following the words
15 "part of" insert the words "or appurtenant to."
16 Page 10.17, Section 10.05(b)(12)(B); following the words
17 "contiguous to" insert the words "or operated in common with."
18 Page 10.18, Section 10.05, subsection (c), the first sentence
19 of which is amended in its entirety to read as follows:
20 "Qualifying farmland and the structures situated thereon shall be
21 subject to farm use valuation, with primary consideration being
22 given to the income which the property might be expected to earn,
23 in the locality wherein situate, if rented."
24 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
25 and the words "it was purchased at the same time as the tract so
26 used." Delete the period following the word "purposes" and add
27 the words "or any nonfarm use."

1 Page 10.19, Section 10.05(c)(2); following the words
2 "Provided, That no" delete the word "reason" and insert in lieu
3 thereof the words "individual event."

4 Page 10.20, Section 10.05(c)(4)(C); following the words
5 "(1,000) minimum production value" insert the words "or the small
6 farm five hundred dollars (\$500) minimum production and sale."

7 Page 10.23, Section 10.05(d)(3)(B), third sentence; following
8 the word "If" insert the words "timber from." Delete the period
9 following the word "purpose" and add the words "or is being
10 converted to farm production uses."

11 Page 10.26, Section 10.05(f)(2) is amended in its entirety to
12 read as follows:

13 "(2) Farm Buildings.--Rental value of farm buildings and
14 other improvements on the farmland shall be valued by determining
15 the replacement cost of the building or structure by usual farm
16 construction practices, and farm labor standards and subtracting
17 therefrom depreciation. Both of these determinations shall be
18 made in accordance with the tax department's real property
19 appraisal manual² as filed in the state register in accordance
20 with chapter 29A of the code of West Virginia, 1931, as amended,
21 and as it relates to agricultural buildings and structures. One
22 (1) acre of land shall be assigned to all buildings as a unit
23 situate on the property, regardless of the actual acreage
24 occupied by such buildings and shall be appraised at its farm-use
25 valuation based on the highest class of farmland present on the
26 farm.

1 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
2 "or more of the" insert the word "usual."
3 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
4 "(50%) of the" insert the word "usual."
5 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
6 "(50%) or more of the" insert the word "usual."
7 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
8 "(50%) of the" insert the word "usual".
9 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
10 sentence insert the sentence "An individual employed other than
11 in farming is not an unincorporated business."
12 Page 10.35, Section 10.07, Title; following the word
13 "Farmland" insert the words "and Structures Situated Thereon."
14 Page 10.35, Section 10.07(a), first sentence; following the
15 word "farmland" insert the words "and structures situated
16 thereon."
17 Page 10.46, Subject; following the word "Farmland" insert the
18 words "and Structures Situated Thereon."
19 (b) The legislative rules filed in the state register on the
20 twenty-sixth day of March, one thousand nine hundred eighty-six,
21 relating to the state tax commissioner (review of appraisals by
22 county commissions sitting as administrative appraisal review
23 boards) are authorized with the amendments set forth below:
24 Page 2, Subsection 17.2, in the opening sentence, by striking
25 the word "article" and inserting in lieu thereof the word
26 "section".

1 Page 2, Subdivision 17.2.1, by striking the word "article"
2 and inserting in lieu thereof the word "section".

3 Page 2, Subdivision 17.2.2, the definition for "good cause",
4 by striking all of the subdivision and inserting in lieu thereof
5 a new Subdivision 17.2.2, to read as follows:

6 "17.2.2 'good cause'. The term 'good cause' shall mean such
7 sufficient cause or reason set forth by a protestor or intervenor
8 as will allow the county commission, in its discretion, to
9 preliminarily determine that the petitioner has properly stated a
10 claim alleging an incorrect valuation of property. When a
11 petition to protest or intervene sets forth facts which, if
12 proved, would entitle a petitioner to have a valuation changed,
13 and the county commission thus has a reasonable ground for belief
14 that a proper claim exists, then good cause has been established.

15

16 NOTE: The purpose of this bill is to authorize the State Tax
17 Commissioner to promulgate legislative rules relating to the
18 review of appraisals by county commission sitting as an
19 Administrative Appraisal Review Board.

20

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

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Senate Bill No. 328

(By Senator Tucker)

[Introduced February 4, 1987; referred to the Committee
on FINANCE ; then to the
Committee on THE JUDICIARY .]

10 A BILL to amend and reenact section eleven (one-a)(one), article
11 two, chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating to
13 authorizing the state tax commissioner to promulgate
14 legislative rules relating to the review of appraisals by
15 county commissions sitting as administrative appraisal review
16 boards.

17 Be it enacted by the Legislature of West Virginia:

18 That section eleven (one-a)(one), article two, chapter sixty-
19 four of the code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted to read as
21 follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
23 LEGISLATIVE RULES.

24 §64-2-11(1a)(1). State tax commissioner.

25 (a) The legislative rules filed in the state register on the
26 twelfth day of March, one thousand nine hundred eighty-five,

1 relating to the state tax commissioner (identification and
2 appraisal of farmland subsequent to the base year of statewide
3 reappraisal) are authorized and directed to be promulgated with
4 the following amendments:

5 Title page, Subject; following the word "Farmland," insert
6 the words "and of Structures Situated Thereon."

7 Page i, Subject; following the word "Farmland," insert the
8 words "and of Structures Situated Thereon."

9 Page i, TABLE OF CONTENTS, Section 10; following the words
10 "Valuation of Farmland" add the words "and of Structures Situated
11 Thereon."

12 Page 10.1, Title; following the word "FARMLAND" insert the
13 words "AND STRUCTURES SITUATED THEREON."

14 Page 10.1, Section 10, Title; following the word "Farmland"
15 add the words "and Structures Situated Thereon."

16 Page 10.1, Section 10.01(b); following the word "farmland"
17 insert the words "and structures situated thereon."

18 Page 10.2, Section 10.02(a), first sentence; following the
19 word "farmland" insert the words "and structures situated
20 thereon."

21 Page 10.3, Section 10.02(b), first sentence; following the
22 word "farmland" insert the words "and structures situated
23 thereon." Delete the words "for purposes of the statewide
24 reappraisal."

25 Page 10.3, Section 10.02(b), last sentence; following the
26 word "farmland" insert the words "and structures situated
27 thereon."

1 Page 10.8, Section 10.04(5)(B), last sentence; delete the
2 period and add "or the incapability to be adapted to alternative
3 uses."

4 Page 10.9, Section 10.04(6), first sentence; following the
5 words "land currently being used" insert the words "as part of a
6 farming operation,".

7 Page 10.9, Section 10.04(6), following the last sentence; add
8 the sentence "For the purposes of this definition, 'contiguous
9 tracts' are farmlands which are in close proximity, but not
10 necessarily adjacent: Provided, That all such contiguous tracts
11 are operated as part of the same farm management plan."

12 Page 10.10, Section 10.04(8), is amended to read in its
13 entirety as follows:

14 (8) Farm Buildings.--The term "farm buildings" shall mean
15 structures which directly contribute to the operation of the
16 farm, and shall include tenant houses and quarters furnished farm
17 employees without rent as a part of the terms of their
18 employment.

19 Page 10.11, Section 10.04; delete the word "November" and
20 insert in lieu thereof the word "September." Delete the period
21 following the word "valuation" and add the words "for the
22 assessment year beginning July 1st of each year."

23 Page 10.11, Section 10.04, insert the following subdivision;
24 "(12) Application Form: The application form required to be
25 filed with the assessor on or before September 1st of each year
26 shall require certification that the farm complies with criteria

1 set forth in Section 10.05(c) of these regulations, and renewal
2 applications from year to year shall be sufficient upon statement
3 certifying that no change has been made in the use of farm
4 property which would disqualify 'farm use' classification for
5 assessment purposes." Renumber the subdivisions of Section 10.04
6 following the new 10.04(12); formerly 10.04(12) through
7 10.04(28), to 10.04(13) through 10.04(29) respectively.

8 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
9 the words "woodland products" insert a comma and the words "such
10 as nuts or fruits harvested" and add a comma following the words
11 "human consumption" on Page 10.15.

12 Page 10.16, Section 10.05, subsection (a) following the words
13 "land is used for farm purposes" by striking the period and
14 inserting in lieu thereof a colon and the following: Provided,
15 That the true and actual value of all farm used, occupied and
16 cultivated by their owners or bona fide tenants shall be arrived
17 at according to the fair and reasonable value of the property for
18 the purpose for which it is actually used regardless of what the
19 value of the property would be if used for some other purpose;
20 and that the true and actual value shall be arrived at by giving
21 consideration to the fair and reasonable income which the same
22 might be expected to earn under normal conditions in the locality
23 wherein situated, if rented: Provided, however, That nothing
24 herein shall alter the method of assessment of lands or minerals
25 owned by domestic or foreign corporations."

1 Page 10.16, Section 10.05(b), first clause; following the
2 words "following factors shall be" insert the words "indicative
3 of but not conclusive" and delete the word "considered."
4 Page 10.16, Section 10.05(b)(2); delete the period and add
5 the words "such as soil conservation, farmland preservation or
6 federal farm lending agencies."
7 Page 10.17, Section 10.05(b)(7); delete the section and
8 insert in lieu thereof the words "(7) Whether or not the farmer
9 practices 'custom farming' on the land in question."
10 Page 10.17, Section 10.05(b)(9); following the word "type"
11 add a comma and insert the word "utility."
12 Page 10.17, Section 10.05(b)(11), first sentence; following
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14 Page 10.17, Section 10.05(b)(12)(A); following the words
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23 in the locality wherein situate, if rented."
24 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
25 and the words "it was purchased at the same time as the tract so
26 used." Delete the period following the word "purposes" and add
27 the words "or any nonfarm use."

1 Page 10.19, Section 10.05(c)(2); following the words
2 "Provided, That no" delete the word "reason" and insert in lieu
3 thereof the words "individual event."

4 Page 10.20, Section 10.05(c)(4)(C); following the words
5 "(1,000) minimum production value" insert the words "or the small
6 farm five hundred dollars (\$500) minimum production and sale."

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16 construction practices, and farm labor standards and subtracting
17 therefrom depreciation.1 Both of these determinations shall be
18 made in accordance with the tax department's real property
19 appraisal manual2 as filed in the state register in accordance
20 with chapter 29A of the code of West Virginia, 1931, as amended,
21 and as it relates to agricultural buildings and structures. One
22 (1) acre of land shall be assigned to all buildings as a unit
23 situate on the property, regardless of the actual acreage
24 occupied by such buildings and shall be appraised at its farm-use
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9 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
10 sentence insert the sentence "An individual employed other than
11 in farming is not an unincorporated business."

12 Page 10.35, Section 10.07, Title; following the word
13 "Farmland" insert the words "and Structures Situated Thereon."

14 Page 10.35, Section 10.07(a), first sentence; following the
15 word "farmland" insert the words "and structures situated
16 thereon."

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18 words "and Structures Situated Thereon."

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2 and inserting in lieu thereof the word "section".

3 Page 2, Subdivision 17.2.2, the definition for "good cause",
4 by striking all of the subdivision and inserting in lieu thereof
5 a new Subdivision 17.2.2, to read as follows:

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7 sufficient cause or reason set forth by a protestor or intervenor
8 as will allow the county commission, in its discretion, to
9 preliminarily determine that the petitioner has properly stated a
10 claim alleging an incorrect valuation of property. When a
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