



**State Tax Department
of West Virginia**

Charleston 25305

ARCH A. MOORE, JR.
GOVERNOR

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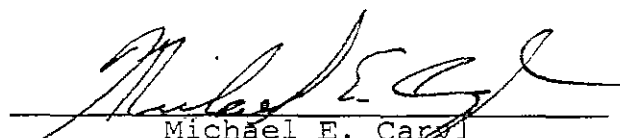
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MICHAEL E. CARYL
COMMISSIONER

NOTICE OF RULE MODIFICATION

LEGISLATIVE RULE: Additional Review And Implementation
Of Property Appraisals

The above-titled rule has been modified as a result of comments by the Legislative Rule-Making Review Committee which met on February 9, 1987. The modifications have been incorporated into the above-titled rule and filed in the Secretary of State's Office on February 12, 1987.


Michael E. Caryl
State Tax Commissioner

FILED
EXT FEB 12 11 3 04
SECRETARY OF STATE

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
Chapter 11-1B
Series V
1986

Filed: August 18, 1986

Additional Review And Implementation Of Property Appraisals

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
Chapter 11-1B
Series V
(1986)

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~~WEST VIRGINIA LEGISLATIVE REGULATIONS~~
~~STATE TAX DEPARTMENT~~
~~Chapter 11-1B~~
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Filed: ~~August 18, 1986~~

Additional Review and Implementation of Property Appraisals

Section 1. General.

1.1. Type of Regulation. -- These regulations are legislative regulations as defined in W. Va. Code §§ 29A-1-2(d) and 29A-3-15.

1.2. Scope. -- These regulations provide guidelines for the additional review of property appraisals completed during the first statewide reappraisal as provided in W. Va. Code § 11-1B-1 et. seq., such review being based upon an application which must be filed no later than September 2, 1986 by taxpayers of ad valorem property taxes and with the respective county commission which must complete all hearings and render all determinations by December 1, 1986.

1.3. Authority. -- These legislative regulations are issued under the authority of W. Va. Code §§ 11-1A-1(f) and 29A-3-15. *W. Va. Code § 11-1A-1(f) and 29A-3-15*

1.4. Filing Date. -- These legislative regulations were promulgated and filed in the State Register on June 30, 1986, and were refiled as agency approved legislative regulations on August 18, 1986.

1.5. Effective Date. -- These legislative regulations become effective immediately upon passage by the West Virginia Legislature.

1.6. Citation. -- These legislative regulations may be cited as W. Va. Leg. Reg. 11-1B, Series 1B, § _____, page _____ (1986).

Section 2. Definitions. -- As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meanings ascribed herein, and shall apply in the singular or in the plural.

2.1 Accretion. -- The term "accretion" shall mean the gradual addition or imperceptible accumulation to the property which affects its market value. This includes, but is not limited to, the influence inflation has on the market value.

2.2 Addition. -- The term "addition" shall mean something added to the property which affects its market value.

2.3 Alteration. -- The term "alteration" shall mean and include any substitution, improvement, addition, replacement, destruction, removal, casualty, Act of God, waste, or any like occurrence, in or to the real or personal property that affects the market value of that property.

2.4 Appraisal or appraisement, the appraisal or the appraisement -- The terms "the appraisal" or "the appraisement", "appraisal" or "appraisement" shall mean the appraisement of property which was made or performed following the adoption of and pursuant to the amendment to Article X, Section 1b of the Constitution of West Virginia adopted in the year one thousand nine hundred eighty-two and also pursuant to article one-a of chapter eleven of the Code, and any modifications and revisions made thereto prior to the effective date of article 1B of chapter eleven of the Code, subject however, to those exemptions subsequently granted by the amendments to Section 1a of said Article X of the Constitution adopted in the year one thousand nine hundred eighty-four.

2.5 Assessed property, taxable property or property -- The terms "assessed property", "taxable property" or "property" shall mean and include all real estate and personal property or interests therein which were required to be appraised pursuant to Article X, Section 1b of the Constitution of West Virginia, as amended in the year one thousand nine hundred eighty-two (except as may be exempted from ad valorem taxation by the provisions of Article X, Section 1a of the Constitution of West Virginia as amended in the year one thousand nine hundred eighty-four) and any statute or statutes subsequently enacted which would implement such amendment and, with respect to real property, any and all improvements or structures thereon or attached thereto.

2.6 Assessed value -- The term "assessed value" shall mean the value of an item of property after the certification of the first statewide reappraisal and shall be sixty percent of the market value of such item or property regardless of its class or species, except as hereinafter specifically provided in this article.

2.7 Casualty. -- The term "casualty" shall mean damage to or destruction of property due to a sudden, unexpected or unusual cause.

2.8 County modifier. -- The term "county modifier" shall mean the multiplier(s) used for each county against the cost list in order to factor

into the cost list values the differentials in construction costs which may exist and vary from county to county.

2.9 Destruction. -- The term "destruction" shall mean the rendering of property useless for its intended purpose even though the property may not literally be destroyed or demolished.

2.10 Electronic Data Processing System Network. -- The words "electronic data processing system network" and "network" shall mean the statewide electronic data processing system network required by W. Va. Code § 11-1A-21.

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

2.12 Improvement. -- The term "improvement" shall mean a valuable addition or amelioration to property, amounting to more than mere repair or replacement of deterioration, which enhances the value, beauty or utility of the property, or adapts it to a new or further purpose.

2.13 Intangible personal property. -- The words "intangible personal property" and "intangible property" shall have the same meaning as that ascribed to them in Section 11.11 of these regulations. See ~~W. Va. Leg. Reg. 11-1A, Series IA, § 11-11(f)(12), page 148~~ (1984).

2.14 Intervenor. -- The term "intervenor" shall mean any taxpayer of ad valorem property tax in any West Virginia county who was not involved in the initial petition for a hearing before the county commission but requests permission to participate in the proceedings.

2.15 Natural resources. -- The words "natural resources" shall mean, and include coal, oil, gas, ore, limestone, fire clay or other minerals or mineral substances in or under the surface of the land, and the timber standing thereon. See W. Va. Code § 11-4-9.

2.16 Personal property. -- The words "personal property" as used in this rule, shall include all fixtures attached to land (if not included in the valuation of such land entered in the proper land book); all things of value, moveable and tangible, which are the subjects of ownership; all chattels (real and personal); and all notes, bonds, and accounts receivable, stocks and other similar intangible property that are subject to ad valorem property taxes. See W. Va. Code § 11-5-3.

2.17 Property. -- The term "property" shall mean and include both real and personal property, tangible as well as intangible, unless the context in which the term is used clearly requires a less inclusive meaning.

2.18 Protestor. -- The term "protestor" shall mean any taxpayer of ad valorem property tax in any West Virginia county who petitions the county commission to hold a hearing to hear challenges to the appraisal of property.

2.19 Real property. -- The word "land" or "lands" and the words "real estate" or "real property" are used interchangeably in these regulations. They shall mean and include lands, tenements and hereditaments, all rights thereto and interest therein except chattel interest. See W. Va. Code § 2-2-10(p). "Real property" includes natural resources lying on or under the surface of the land, and standing timber.

2.20 Removals. -- The term "removal" shall mean the transfer of property from one place to another place.

2.21 Replacement. -- The term "replacement" shall mean the exchange or substitute of one item of property for another item of property of similar or like utility.

2.22 Substitution. -- The term "substitution" shall mean the putting of one item of property in place of another item of property.

2.23 Tax Commissioner. -- The term "Tax Commissioner" shall mean the State Tax Commissioner of West Virginia or his delegate and the mailing address for the Tax Commissioner's office is: P. O. Box 2389, Charleston, WV 25328.

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

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2.25 Vehicles, aircraft and watercraft. -- The terms "vehicles," "aircraft" and "watercraft" shall have the meanings ascribed to them in ~~W. Va. Leg. Reg. 11-1A, Series IA, § 11.13 page 191-194~~ (1984).

2.26 Waste. -- The term "waste" shall mean an unreasonable or improper use, abuse, mismanagement or omission, of a duty to real property or personal property by one rightfully in possession, which results in substantial injury to the property.

Section 3. Intent And Application Of These Regulations.

3.1 History. -- West Virginia Constitution Article X, section 1b was amended in 1982 to require a statewide appraisement of all property subject to ad valorem property taxation in order to assure equal and uniform taxation of all property. In order to implement this requirement, the West Virginia Legislature in 1983 enacted W. Va. Code § 11-1A-1 et seq. Even though the first statewide reappraisal was completed in a timely manner, there appears to be an insufficient amount of taxpayer confidence in the results, in part due to the fact that some taxpayers were not able to obtain an appropriate hearing relating to a determination of the value of their property.

3.2 Legislative Intent. -- In order to assure to taxpayers the opportunity to object to or question the results of the first statewide reappraisal, the Legislature has provided the process whereby property owners may request a review of property values in order to have such values adjusted to reflect the true value of all property prior to implementation of the first statewide reappraisal. In order to assure the expeditious accomplishment of these tasks, the Legislature has required the maximum expenditure of effort by the Tax Commissioner, the several county commissioners, assessors and sheriffs. See W. Va. Code 11-1B-1.

3.3 Application of Regulations. -- These regulations shall apply only to the appraisement of property subject to ad valorem property taxation.

3.3.1 Such property must have been required by law to have been subject to the first statewide reappraisal which was carried out pursuant to W. Va. Const. Art X, § 1b, as amended.

3.3.2 These regulations do not apply to any appraisement or reappraisal of any property in any county in this State accomplished prior to adoption of the 1982 amendment to the West Virginia Constitution or subsequent to 1987.

Section 4. Appraisal Of Property - Generally.

4.1 What Property Included. -- All property shall be appraised at its true and actual value which shall be ascertained in accordance with W. Va. Code § 11-1A-1 et seq.

4.2 Limitation on Use of Values. -- Neither the appraisement nor the values derived therefrom may be used by any assessors or county commissions, or by the Tax Commissioner for purposes of ad valorem tax assessments until after June 30, 1987.

Section 5. Preparation Of Property Lists By The Tax Commissioner And Publication By The Sheriff.

5.1 Tax Commissioner's Responsibility. -- The Tax Commissioner shall compile a list of all separately assessed property which was subject to the appraisal.

5.1.1 A separate list shall be compiled for each county and each such list shall contain the following:

5.1.1a The district in which the property is or was located at the time of the appraisal;

5.1.1b The owner or owners of such separately assessed item or parcel at the time it was assessed;

5.1.1c The appraised value of the item or parcel.

5.1.2 To the extent known by the Tax Commissioner, the list compiled shall include the name of the current property owner, to the extent ownership of the property has changed since the appraisal.

5.1.3 The list compiled by the Tax Commissioner shall be delivered to the several assessors, sheriffs and county commissions on or before June 15, 1986.

5.1.4 The list compiled by the Tax Commissioner shall include the following:

5.1.4a All proposed final appraisals;

5.1.4b All property the value of which will be revised or modified in accordance with the review and appeal process provided in W. Va. Code § 11-1A-16 and 11-1A-17; provided, such revised or modified value will become effective on or before June 15, 1986 and then only to the extent that such revised or modified value is reflected upon the list;

5.1.4c For property the value of which is being appealed to the county commission the list shall include the last value certified by the Tax Commissioner to the county commissioner;

5.1.4d For property the value of which has been established by the county commission and for which a writ of certiorari is pending before the circuit court which has not rendered a final determination, the value last adopted by the county commission shall be included on the list.

5.2 Sheriff's Responsibility.

5.2.1 Upon receipt of the list of separately assessed property which was compiled and delivered by the Tax Commissioner, the Sheriff shall give to property owners notice that:

5.2.1a the appraisal of all property within the county which was subject to ad valorem property taxation has been completed, and

5.2.1b the results of the appraisal are available to interested persons at the office of the Assessor.

5.2.2 The required notice shall be a Class I-O legal advertisement in accordance with W. Va. Code § 59-3-1 et seq.

5.2.3 The publication area of the notice shall be the county.

5.3 Assessor's Responsibility. -- The Assessor shall simultaneously inform the Tax Commissioner that the notice was or has been properly published.

Section 6. Notice Of Appraised Values Of Real Property To Owner By
The Tax Commissioner; Content And Form Of Such Notice.

6.1 Mailing Notice to Taxpayer. -- On or before August 15, 1986, the Tax Commissioner shall mail to each owner of real property subject to ad valorem property taxation a notice of the appraised value of such property.

6.1.1 If the appraised value of the property has been revised or modified as a result of the procedures provided in W. Va. Code §§ 11-1A-16, 17 or 18, the revised or modified value shall be the appraised value stated on the notice.

6.1.2 The notice shall be addressed and mailed to the person or persons in whose name or names the property is assessed or was assessed in 1983; provided, that if the property has been transferred to another person or replaced on the sheriff's tax books, the notice shall be addressed and mailed to the name and address reflected on the tax tickets in the office of the sheriff of the county wherein the property is located.

6.1.3 For those properties for which the Tax Commissioner does not know the address of the persons to whom the notices are to be sent, the Tax Commissioner shall provide to the sheriff of the county in which the property is located an alphabetical listing of those properties.

6.1.3a The listing shall be provided on or before June 15, 1986.

6.1.3b The sheriff shall provide the appropriate mailing address on the list for each property on the list.

6.1.3c The sheriff shall return the completed list to the Tax Commissioner on or before July 1, 1986.

6.1.3d For those properties for which the sheriff does not have an address to which the notice is to be mailed, the notice shall be immediately returned to the assessor. The sheriff, assessor and all other officials shall make a good faith effort to assure the notices are mailed to the appropriate persons in a timely manner.

6.2 Notice of Appraised Values. -- The notice required by the foregoing section 6.1 shall be on uniform forms prepared by the Tax Commissioner, be simple and readily understandable, and shall advise each property owner of the following information.

6.2.1 The property owner is being afforded an additional opportunity and final period of review to request a review of the appraised value of the real property before the county commission prior to the final implementation of such values for ad valorem tax purposes.

6.2.2 The property owner must file with the county commission and not later than September 2, 1986, an application or request for such review.

6.2.3 All property owners have a right to petition for a review of the value placed upon such property irrespective of:

6.2.3a Whether such owners had previously petitioned for review by the county commission which had finally determined such value, or

6.2.3b Whether such review process is currently pending either before the county commission or upon certiorari before the circuit court as authorized by W. Va. Code § 11-1A-18.

6.2.4 The information and data relied upon in making the appraisal and in fixing the value of such property is available in the county assessor's office at no cost to the property owner or other interested person.

6.2.5 The owner may in his petition, or at any hearing held thereon, present information relative to the reappraisal and factors and circumstances which in the owner's judgement may have resulted in either an increase or decrease in the value of the property subsequent to the appraisal. Factors which may result in a changed valuation are discussed at section 18.

6.2.6 The description of the property shall include but not be limited to the acreage and the general landbook description on the landbook.

6.2.7 While the factors and circumstances authorized by the foregoing section 6.2.5 may be considered by the assessor or the county commission in fixing the assessed value of the property for the tax year for which the lien attaches on July 1, 1987, it shall not have any bearing upon the issues involved in establishing the true and actual values established by the appraisal. Notices affecting surface real property shall include at least the following information.

NOTICE

YOU ARE HEREBY NOTIFIED OF THE VALUE PLACED UPON YOUR PROPERTY WHICH IS IDENTIFIED BELOW. THIS VALUE RESULTS FROM THE REAPPRAISAL OF ALL PROPERTY SUBJECT TO PROPERTY TAX AS REQUIRED BY THE STATE CONSTITUTION.

COUNTY _____ DIST _____ MAP _____ PARCEL _____ SPID _____ PROPERTY
LOCATION: (Including address) _____

DATE _____
TAX CLASS: _____ ACCOUNT NO. _____ NOTICE: _____

OWNERS NAME
MAILING ADDRESS
CITY, STATE, ZIP

DEAR PROPERTY OWNER,

IN COMPLIANCE WITH THE PROVISIONS OF THE WEST VIRGINIA STATE CONSTITUTION, ALL PROPERTY HAS BEEN REAPPRAISED BASED ON FAIR MARKET VALUE AS OF JULY, 1983.

STATE LAW REQUIRES THAT ALL ASSESSMENTS BE 60% OF FAIR MARKET VALUE AND THAT ANY INCREASES IN ASSESSMENTS BE PHASED-IN OVER A 10 YEAR PERIOD.

FOLLOWING ARE THE RESULTS OF THE REVALUATION AND THE ESTIMATED TAX IMPACT FOR THE PROPERTY LISTED ABOVE.

YOUR PROPERTY'S 1983
MARKET/VALUE = \$ _____
X60%
ASSESSMENT VALUE. = \$ _____
LESS YOUR CURRENT
ASSESSED VALUE = \$ _____
DIFFERENCE IN VALUE = \$ _____

ASSUMING THE TAX RATES IN YOUR COUNTY DO NOT CHANGE AND ALSO ASSUMING THAT THERE HAVE BEEN NO CHANGES IN YOUR PROPERTY SINCE 1983, YOUR CURRENT ASSESSED VALUE OF \$ _____ WILL BE INCREASED TO \$ _____ FOR THE YEAR _____ AND WILL BE INCREASED \$ _____ EACH YEAR THEREAFTER FOR A TOTAL PERIOD OF TEN YEARS. BASED ON CURRENT ASSESSMENTS YOUR TAX FOR THE NEXT YEAR WILL BE \$ _____. IF YOUR ASSESSOR DETERMINES THAT YOUR PROPERTY HAS THE SAME VALUATION AS IN 1983 AND THAT THE LEVY RATES REMAIN THE SAME, THEN IN THAT EVENT YOUR TAX THE TENTH YEAR WILL BE \$ _____.

THE VALUES, ASSESSMENTS AND AMOUNT OF TAXES SHOWN ABOVE DO NOT INCLUDE OR TAKE INTO ACCOUNT ANY CREDIT FOR THE HOMESTEAD EXEMPTION. IF YOU ARE ELIGIBLE FOR THE HOMESTEAD EXEMPTION, NEXT YEAR'S PROPERTY TAX SHOULD BE REDUCED OR ELIMINATED.

THE VALUES SHOWN ABOVE DO NOT INCLUDE OR REFLECT ANY INCREASES OR DECREASES IN VALUE BECAUSE OF REPLACEMENT, ADDITIONS OR OTHER FACTORS OR CIRCUMSTANCES OCCURRING SINCE 1983.

IF YOU DISAGREE WITH THE VALUE PLACED UPON THE ABOVE DESCRIBED PROPERTY OR IF YOU BELIEVE CHANGES HAVE OCCURRED IN SUCH PROPERTY SINCE 1983 WHICH WOULD IN YOUR OPINION REDUCE THE VALUE OF YOUR PROPERTY, THEN YOU SHOULD PETITION THE COUNTY COMMISSION FOR REVIEW.

6.3 Notice Provided by Sheriff. -- The sheriff shall give or provide a notice which advises property owners that the right to petition for review of the value will expire on September 2, 1986.

6.3.1 A petition for review of the value of the property as established by the appraisal must be filed or presented to the county commission on or before September 2, 1986.

6.3.2 No petition for such review shall be received after September 2, 1986.

6.3.3 The notice shall be given or provided by one of the following two methods.

6.3.3a The notice shall be included as a separate document within the same envelope in which tax tickets are mailed.

6.3.3b The notice shall be delivered with such tax tickets to property owners pursuant to W. Va. Code § 11A-1-8.

6.4 Failure to Receive Notice. -- Failure of an owner to receive any notice required pursuant to W. Va. Code § 11-1B-1 et seq. shall not

6.4.1 affect the property owner's right to petition the county commission for review within the prescribed time,

6.4.2 extend the period by or during which any such petition is to be filed, or

6.4.3 serve to toll the time by which any such petition is required to be filed.

6.5 Cooperation of County Officers Required. -- In order to assure the notices required by W. Va. Code § 11-1B-1 et seq. are accurately and proficiently mailed and delivered, the sheriff, clerk of the county commission, assessor and all other county officers shall cooperate and assist the Tax Commissioner in locating and ascertaining proper, correct and current addresses of all owners of property subject to ad valorem property taxes.

Section 7. Additional Newspaper, Radio And Television Advertising Required.

7.1 Newspaper Advertising. -- The Tax Commissioner shall cause retail display advertisements to be published in every general circulation newspaper within each county in this State.

7.1.1 Such retail display advertisements shall generally and plainly inform property owners and taxpayers of each county that the period to file their petitions for review of the appraised value of their property for ad valorem property taxes will expire on September 2, 1986.

7.1.2 Such advertisements shall provide appropriate notice to property owners and taxpayers that in order to obtain review of the appraised value, the petition must be filed with the county commission of the county wherein the property is located and the filing must take place on or before September 2, 1986. The advertisements shall also state that the petition form may be obtained from the county commission.

7.1.3 Such advertisements shall be at least fifteen column inches or its equivalent and be situated within the each newspaper in a portion other than that devoted to legal and classified advertising.

7.1.4 The Tax Commissioner shall solicit the running of such advertisements as a public service or at a reduced cost; the cost of all such advertisements shall be paid by the Tax Commissioner.

7.1.5 The advertisement shall be run

7.1.5a at least three times between July 1, 1986 and August 20, 1986, but not more than once per week, and

7.1.5b the advertisement shall be run a final time no earlier than August 30, 1986, or for weekly newspapers the edition next preceding August 30, 1986.

7.1.6 The Tax Commissioner shall provide to the newspapers news stories which inform the public of those matters required to be advertised.

7.2 Radio and Television Advertising. -- The Tax Commissioner shall arrange for radio and television advertisements to be carried in such a manner so as to assure statewide coverage.

7.2.1 The advertisements shall plainly inform the public that the period during which property owners and taxpayers are permitted to petition for review of the appraised value of property subject to ad valorem property taxation will expire on September 2, 1986, and that petitions requesting such review must be filed with the county commission of the county wherein the property is situated and that the petition must be filed on or before September 2, 1986. The advertisements shall also state that the petition form may be obtained from the county commission.

7.2.2 Such advertisements shall be broadcast at least three times between July 1, 1986 and August 20, 1986.

7.2.3 The Tax Commissioner shall attempt to have such advertisements broadcast as public service announcements.

7.2.4 Such broadcasts shall occur at such times so as to maximize exposure to the viewing and listening public.

7.2.5 In those instances where the advertisements are not broadcast as public service announcements, the Tax Commissioner shall pay the cost of such advertisements.

7.3 Identification of Participants in Advertisements. -- There shall not be included in any advertisement required to be broadcast or seen the name of the Tax Commissioner or of any other public or elected official, whether elected or appointed. The extent to which any participant in any such advertisement may be identified is by reference only to the individuals title or office.

7.4 Failure to Publish or Broadcast an Advertisement. -- The failure to publish or broadcast any newspaper, radio or television advertisement shall not impair or invalidate the additional review of property appraisals provided by W. Va. Code § 11-1B-1 et seq.

Section 8. Review By County Commission; Petition Therefore; Hearing; Decision.

8.1 Owner to Petition. -- The owner of any assessed property may no later than September 2, 1986 petition for review of the appraised value of such property.

8.1.1 Such petition shall be filed with the county commission of the county wherein the property or a greater portion of the property is situate.

8.1.2 In order for the county commission to review the appraised value of the property, the petition

8.1.2a must not be filed or received by the county commission after September 2, 1986, or

8.1.2b if it is received by the county commission after September 2, 1986, it must have been deposited in the regular course of the United States mail on or before September 2, 1986 with the postage prepaid and properly addressed to the county commission.

8.1.3 At least weekly, the county commission shall mail or deliver to the Tax Commissioner and the assessor true copies of all such petitions which have been received, and the true copies shall reflect the date of filing.

8.2 The Petition. -- The Tax Commissioner shall devise and make available a form which may be used as a petition by any owner or taxpayer seeking review of the appraised value of any such property.

8.2.1 The petition shall set forth the following information.

8.2.1a The name of the petitioner

8.2.1b The address or identification of the property in question, preferably that which is reflected on the most recent tax ticket.

8.2.1c The county and district wherein the property in question is located.

8.2.1d In general terms all matters of or to which the owner or owners take exception or believe to be in error with respect to the proposed appraised value of such property.

8.2.1e Such other matters as the owner or petitioner deems necessary.

8.2.1f The owner may include in the petition and raise at anytime any issue, fact or circumstance which has occurred with respect to the subject property since 1983.

8.2.2 The petitioner may use the uniform petition form devised by the Tax Commissioner or a petition of his own design from which the nature of

the complaint and request for review can be ascertained. In any event, the petitioner must clearly identify the property being assessed and, if available, shall use the special identifiers provided on the valuation notice.

8.2.2a The petition form devised by the Tax Commissioner shall be made available to the public at the offices of the county commission, the county clerk, the assessor, the sheriff and any other locations deemed appropriate by the Tax Commissioner.

8.3 The County Commission Hearing. -- The county commission shall sit as an administrative appraisal review board in accordance with W. Va. Code § 11-1A-1 et seq. for the purpose of reviewing the appraised value of the property in question.

8.3.1 The county commission shall hear such testimony under oath, and receive such other information as it may deem pertinent, as the owner, Tax Commissioner or other interested party may offer.

8.3.1a In order to better determine the issue or issues under consideration in the respective petitions, county commissions are authorized to develop a telephone screening procedure.

8.3.1a.1 The telephone screening procedure may be used only for identifying and correcting property description errors and for screening out non-value related complaints.

8.3.1a.2 All such property description errors and non-value related complaints shall be transmitted to the county commission and the assessor. Also, the complaining party shall be directed to contact the assessor.

8.3.1a.3 The assessor shall correct all incorrect property description information and he shall take action sufficient to resolve the non-value related complaints.

8.3.1b In order to expedite the property valuation review process, the respective county commissions may appoint a hearing officer or officers whose duties shall be to receive testimony and other evidence, to examine witnesses, and to direct parties to obtain additional information. A hearing officer shall have no authority to determine property values.

8.3.1b.1 Every hearing officer shall have demonstrable knowledge of property values in the county where he is performing his duties. He should also have knowledge as to how the reappraisal was conducted; provided, that the Tax Commissioner shall brief those who do not possess sufficient information relative to the reappraisal.

8.3.1b.2 All such hearings are public hearings.

8.3.1b.3 All evidence shall be received under oath which shall be administered by the hearing officer. All such testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence received at the hearing shall be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1b.4 While the hearing officer is not authorized to determine property values, he is authorized to comment on the credibility of the witnesses and the evidence and to state whether in his judgment the appraised value is correct or incorrect. At the conclusion of each hearing, the hearing officer shall complete a form to be provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties and other comments as indicated above. The completed form shall be transmitted with the recorded testimony and any other evidence to the county commission.

8.3.1b.5 A hearing officer shall receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a hearing officer. Approved stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the hearing officer. The running of the 5-day time period required by the following subsection 9.4.4 shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1b.6 The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with either the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1, 1986.

8.3.1c In order to expedite the property valuation review process, the respective county commissions may authorize the individual commissioners to sit separately for the purpose of receiving testimony and other evidence, examining witnesses, and directing parties to obtain additional evidence. A county commissioner shall have no authority to independently determine property values.

8.3.1c.1 All such hearings shall be public hearings.

8.3.1c.2 All evidence shall be received under oath which shall be administered by the county commissioner. All testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence shall be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1c.3 At the conclusion of the hearing, the county commissioner shall complete a form provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties, his judgment as to the credibility of the witnesses and the evidence, and his judgment as to whether the appraisal is correct or incorrect. The completed form shall be transmitted with the recorded testimony and other evidence to the county commission.

8.3.1c.4 A county commissioner may receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a county commissioner. Approved

stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the individual county commissioner. The running of the 5-day time period required by the following subsection 9.4.4. shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1c.5 The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1, 1986.

8.3.2 The county commission shall make a true record of the hearing and evidence presented by nonstenographic recording or any other device which will assure that the recorded testimony is accurately recorded.

8.3.3 The county commission shall also receive evidence of alterations or accretions, or any similar factors or occurrences which have caused or resulted in any change in value of any property subject to reappraisal for use by the assessor and the county commission in fixing values for the year 1987, such change in value having occurred subsequent to July 1, 1983.

8.3.4 Copies or transcriptions of the records shall be available at the request of any party who shall bear the cost thereof.

8.4 Prosecuting Attorney Responsibilities.

8.4.1 When so called upon, the prosecuting attorney of the county shall serve as legal advisor to the county commission with respect to questions of law which concern any hearing held pursuant to W. Va. Code § 11-1B-1 et seq.

8.4.2 The prosecuting attorney shall not represent the Tax Commissioner in any capacity with respect to any such hearing.

8.5 Tax Commissioner Representation. -- At his request, the Tax Commissioner may be represented at any hearing held pursuant to W. Va. Code § 11-1B-1 et seq. by:

8.5.1 The Attorney General of West Virginia,

8.5.2 An attorney employed either permanently or temporarily by the Tax Department, or

8.5.3 An attorney with whom the Tax Commissioner has contracted for the provision of such a service.

8.6 Tax Commissioner to be a Party.

8.6.1 The Tax Commissioner shall be a party to every hearing held pursuant to W. Va. Code § 11-1B-1 et seq.

8.6.2 It shall be the duty of the Tax Commissioner as a party to every hearing to see to the equal and uniform taxation of all species, types, items and parcels of property subject to ad valorem taxation.

8.7 Value to be Fixed by County Commission. -- Upon consideration of all evidence and information presented at every hearing, the county commission shall determine whether the amount of value fixed by the appraisal of the property is correct under the circumstances.

8.7.1 If the county commission finds the value as determined by the appraisal to be correct, it shall enter an order approving the value as appraised and adopting by reference the determination and information provided by the Tax Commissioner.

8.7.2 If the county commission determines that the amount of value fixed by the appraisal of the property is incorrect, and if sufficient evidence has been presented to permit correction of the appraisal, the county commission shall correct the appraisal, fix the value of the appraised property and enter an order so stating the fixed value.

8.7.3 If the county commission shall find that the evidence is not sufficient to determine the correct value, the county commission shall direct the parties to develop and present such additional evidence as may be necessary.

8.7.3a In order to receive such additional evidence sufficient to fix the true and correct appraised value, the county commission may continue the hearing to a specified date and time and the continuance may not to exceed ten days in duration.

8.7.3b If either of the parties needs more time to develop or prepare such additional evidence, then upon so informing the other parties and the county commission, a further period of time, not to exceed ten days in duration, shall be granted for that purpose.

8.7.3c After receiving all additional information and making a determination as to the true and correct appraised value, the county commission shall enter an order establishing such value, which order shall include the county commission's findings and its reasons therefor. The County commission shall forward a true copy of such order to all parties.

8.7.4 The county commission shall transmit to the assessor those circumstances and matters which would cause a change in the value of any property for such use as may be appropriate in fixing the assessed value in 1987. Such matters shall include those situations and circumstances required to be received by the county commission.

8.8 Property Owner's Remedies.

8.8.1 Any owner whose property has been the subject of county commission review in accordance with either W. Va. Code § 11-1A-1 et seq. or W. Va. Code § 11-1B-1 et seq. for the purpose of determining the proper value thereof may pursue or exercise any other right or procedure, or may appear

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before any forum for the purpose of fixing the value of property for ad valorem taxation.

8.8.2 The remedies afforded by W. Va. Code § 11-1A-1 et seq. and W. Va. Code § 11-1B-1 et seq. are not deemed to be jointly or severally exclusive.

Section 9. Agreements By Owner, Tax Commissioner And Assessor;
Stipulations; Agreed Values To Be Used As Appraised
Values.

9.1 Tax Commissioner Correcting Clerical Errors.

9.1.1 The Tax Commissioner may correct incorrect or improper appraised valuations with or without request from the property owner if he concludes they are incorrect or improper as a result of a clerical error, or a mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of the exercise of judgment.

9.1.2 The Tax Commissioner may only correct such error or mistake prior to the county commission rendering a decision pursuant to W. Va. Code § 11-1B-8.

9.1.3 Upon correcting such error or mistake, the Tax Commissioner shall give written notice thereof to the property owner, the appropriate assessor, county commission and sheriff of the county wherein the property is assessed for ad valorem taxation.

9.2 Tax Commissioner Modifying Appraised Value. -- The Tax Commissioner may modify the appraised value if upon receipt of the property owner's petition for county commission review he determines the facts stated therein are correct.

9.2.1 The Tax Commissioner shall provide notice of the modified value to the property owner, the appropriate assessor, county commission and sheriff.

9.2.2 If the property owner agrees with the modified value,

9.2.2a he shall so notify the Tax Commissioner and the county commission, and

9.2.2b the county commission shall enter an order adopting such new value as the value of the property for ad valorem taxation.

9.2.3 If the owner further objects to the new value,

9.2.3a he shall forthwith so inform the Tax Commissioner and the county commission, stating his reasons therefor, and

9.2.3b the matter shall proceed to hearing as provided by W. Va. Code § 11-1B-8.

9.2.4 If, upon notice of the modified value, the property owner takes no action within the appeal period, the modified value shall become the value of the property for ad valorem taxation.

9.3 Stipulations and Agreements. -- The Tax Commissioner, property owners, any intervenors, the assessor or any of them may stipulate any issue or issues included in the review before the county commission.

9.3.1 The parties may agree upon a settlement of the matters and may jointly recommend to the county commission such stipulations and agreements. The Tax Commissioner must approve any stipulation or agreement before it is submitted to the county commission.

9.3.2 The county commission may accept or reject such stipulations and agreements.

9.3.2a If accepted, the stipulations and agreements shall be entered by the county commission in the manner provided by the following subsection 9.4 of this regulation.

9.3.2b If rejected, the county commission shall so inform the parties and proceed with the hearing.

9.4 Disposition of Agreements and Stipulations.

9.4.1 Any agreement so reached or stipulation so agreed upon shall be

9.4.1a presented by the parties in open hearing before the county commission, or

9.4.1b filed with the county commission in writing jointly agreed upon by the parties and made available for public inspection.

9.4.2 The presentation or writing shall include the reasons or rationale for the agreement or stipulation.

9.4.3 The county commission shall set forth in brief form the same reasons or rationale in any order which ratifies or confirms the agreement or stipulation.

9.4.4 If the effect of any agreement or stipulation is to fix the value of any property, it shall not be entered or accepted by the county commission and entered of record as finally fixing such value until

9.4.4a a period of five days shall have elapsed since the day of presentation in open hearing, or

9.4.4b a period of five days shall have elapsed since the day of filing with the county commission and made available for public inspection.

9.4.5 The agreement or stipulation shall not be objected to after the completion of the five day period.

Section 10. Property Tax Appraisalment Consultants; Assignment;
Duties; Recommendations To The Tax Commissioner.

10.1 Duties of Property Tax Appraisalment Consultants.

10.1.1 The Tax Commissioner may employ four persons as public property tax appraisalment consultants to be available to and of assistance to the public.

10.1.2 The public property tax appraisalment consultants may be assigned to any county or area of the state in which their assistance is required.

10.1.3 Such consultants shall provide information, guidance, assistance and instructions to any residential, farm or other noncommercial owner or taxpayer regarding real estate and personal property tax appraisalment matters.

10.2 Authorized Activities of Property Tax Appraisalment Consultants. --

The consultant is authorized:

10.2.1 Upon request to examine and review the records of the assessor, the sheriff and the Tax Commissioner,

10.2.2 To investigate matters of complaint by such residential owners or taxpayers who request such assistance.

10.2.3 To make reports and recommendations to the Tax Commissioner with respect to any pertinent information or proposed corrections, such being provided for consideration by the Tax Commissioner in arriving at the true and correct value of such property, and

10.2.4 To otherwise assist residential owners or taxpayers in understanding issues concerning appraised values.

10.3 Experience of Property Tax Appraisalment Consultants.

10.3.1 Such consultants shall be individuals who are experienced in dealing with the public in a congenial and courteous manner.

10.3.2 Such consultants shall be knowledgeable about property and property values in the area assigned.

10.4 Property Tax Appraisalment Consultant Recommendations. -- If the Tax Commissioner determines, based upon, or as a result of, reports of or consultation with the consultants that the appraised value of any property should be modified or adjusted, the Tax Commissioner shall so notify the taxpayer, consultant and assessor of the proposed modification or adjustment.

10.4.1 If the taxpayer agrees with the proposed modification or adjustment, the Tax Commissioner shall modify or adjust the value accordingly and so notify the county commission and the sheriff. The matter shall then

be considered as an agreement and shall be handled in accordance with the procedures provided in subsection 9.4 of these regulations.

10.4.2 The Tax Commissioner shall immediately notify the owner and consultant if he disagrees with the recommendations or reports of the consultant, and in such a situation, the matter shall be resolved as otherwise provided in W. Va. Code § 11-1B-1 et seq.

Section 11. Right Of Other Property Owners Or Assessor To
Petition For Review Or Intervene

11.1 Protest.

11.1.1 Any person who is a taxpayer of ad valorem property taxes in any West Virginia county may for good cause alleged and shown protest an appraisal of property under W. Va. Code § 11-1B-1 et seq.

11.1.2 Such protestor shall petition for a hearing before the county commission in the same manner as an owner would petition for review and hearing pursuant to W. Va. Code § 11-1B-1 et seq.

11.1.3 A petition for protest must be filed with the county commission on or before September 2, 1986. No petition for protest will be received after that date unless it was deposited in the regular course of the United States mail on or before September 2, 1986 with the postage prepaid and property addressed to the county commission.

11.1.4 The hearing of a protest shall be governed by the same procedures described for hearings before the county commission pursuant to W. Va. Code § 11-1B-8.

11.2 Intervening.

11.2.1 Upon a showing of good cause, any person who is a taxpayer of ad valorem property taxes in any West Virginia county may be permitted to intervene after first filing with the county commission a petition in writing in the hearing provided for in W. Va. Code § 11-1B-11.

11.2.2 The issue of whether a person shall be allowed to intervene shall be determined by the county commission, and notification of its decision either allowing or disallowing intervention shall be provided to the person requesting permission to intervene and to all other parties.

11.3 Rights of Property Owner Under Petition for Protest or Under
Petition to Intervene.

11.3.1 The owner of any property the appraised value of which is subject to a petition of protest, or the protest hearing is subject to a petition for intervention, shall be given all rights afforded by W. Va. Code § 11-1B-1 et seq.

11.3.2 The rights afforded by W. Va. Code § 11-1B-1 et seq. include the right to protection for review by cross petition or otherwise, to the same extent as if the owner had appealed or petitioned in a timely manner in the first instance.

11.4 Information on Petition of Protest or of Intervention.

11.4.1 Any petition of protest or of intervention

11.4.1a shall be filed in writing and

11.4.1b shall set forth the objections of the protestor or intervenor to the appraisal in question or at issue.

11.4.2 A copy of each petition of protest or intervention

11.4.2a shall be served upon, mailed to or delivered to the property owner and the Tax Commissioner, and

11.4.2b shall have appended thereto the certificate of the protestor or intervenor or his attorney stating that true copies of such petition have been served upon or mailed or delivered to the property owner and the Tax Commissioner no later than the same date upon which such copies were so mailed, delivered or served.

Section 12. Time Of Decision By County Commission

12.1 Completion Date. -- All hearings conducted by county commissions sitting for the purposes of W. Va. Code § 11-1B-1 et seq. shall be completed and all determinations on property values shall be rendered thereon by the December 1, 1986. On or before December 15, 1986, the assessor or his delegate shall enter or cause to be entered in the manner prescribed by the State Tax Department on the statewide data processing system all determinations which were rendered by December 1, 1986.

12.2 Consolidation of Hearings. -- The county commission may consolidate hearings and reviews in order to avoid duplication and unnecessary repetition where the same or similar facts or issues in dispute.

Section 13. Duty Of Assessor To Assist County Commission; Inventory
Of Flood Damaged Property.

13.1 Assessor's General Duties.

13.1.1 When sitting in review of appraisals pursuant to W. Va. Code § 11-1B-1 et seq., the county commission may require the assistance of the county assessor in making its determinations.

13.1.2 The assessor shall be competent to testify as to values of property generally or as to the value of a specific item of property.

13.2 Assessor's Additional Duty.

13.2.1 The assessor in those counties which were flooded in the flood of November, 1985 shall prepare an inventory of all property damaged by that flood and the extent of the damage thereto.

13.2.2 The inventory so developed shall be noted for such use as may be proper with respect to any future assessments of any such property.

13.2.3 The counties included in this requirement are Barbour, Berkeley, Braxton, Calhoun, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pocohantas, Preston, Randolph, Summers, Taylor, Tucker, Tyler, Upshur and Webster.

Section 14. Review By Circuit Court On Certiorari.

14.1 Who May Request Review. -- The property owner, Tax Commissioner, protestor or intervenor may request the county commission to certify the evidence and remove and return the record to the circuit court of the county on a writ of certiorari. Parties to the proceeding wherein review by the circuit court is sought shall pay costs and fees as they are incurred: Provided that, the circuit court upon rendering judgment or making any order may award costs to any party in accordance with the provisions of W. Va. Code § 53-3-5.

14.2 Procedures for Previewing Request. -- The request for review by the circuit court on a writ of certiorari shall be instituted in accordance with the provisions W. Va. Code § 53-3-1 et seq.

14.3 Timeliness of Request. -- The foregoing request shall be submitted within thirty (30) days after the day the county commission in writing notified the parties of a final determination of value made pursuant to W. Va. Code § 11-1B-8, such day being the date on the notice.

14.4 Admissible Evidence.

14.4.1 For the purposes of W. Va. Code § 11-1B-1 et seq., the recorded testimony of the hearing, when certified by the county commission may be used by the circuit court as the transcript of testimony. Any and all other evidence presented before the county commission also shall be so certified prior to presentation to the circuit court.

14.4.2 Any party may have the recorded testimony transcribed with the cost therefor to be paid by the party requesting the transcribed testimony.

14.4.3 If the petition for review be made by the Tax Commissioner or the assessor as to two or more separate items or parcels of property and for separate property items, all such matters may be included in the petition if each separate owner is notified thereof and given an opportunity to respond thereto.

14.4.4 Except to the extent it directly conflicts with the provisions of W. Va. Code § 11-1B-14, W. Va. Code § 11-1A-18 shall govern reviews by circuit courts of any proceedings brought under W. Va. Code § 11-1B-1 et seq.

Section 15. Right Of Tax Commissioner, Assessor Or Property Owner
To Review Of Newly Discovered Matters; Limitations

15.1 Petition to Reopen and Review.

15.1.1 At any time after September 2, 1986 but before October 1, 1986, the Tax Commissioner, the assessor or any property owner shall have the right to petition the county commission to reopen and review a property valuation determination in accordance with the provisions of W. Va. Code § 11-1B-1 et seq.

15.1.2 If the Tax Commissioner or assessor petitions the county commission to reopen and review the appraised value, the petitioning party shall forthwith mail or deliver a true copy of the petition to the property owner, and shall so certify on the petition that a true copy of such petition has been mailed or delivered to the property owner.

15.1.3 If the property owner petitions the county commission to reopen and review the appraised value, the property owner shall immediately mail or deliver a true copy of the petition to the Tax Commissioner and the assessor, and shall so certify on the petition that a true copy of such petition has been mailed or delivered to the Tax Commissioner and the assessor.

15.1.4 The petitioning party shall have the affirmative burden of clearly showing that the matters and facts raised in the petition were newly discovered since September 1, 1986, and were theretofore unknown to the party so petitioning. If the petitioning party is unable to clearly show that the facts and matters are newly discovered, the county commission will immediately halt any further action with regard to the petition so submitted.

15.2 Petition by Assessor to Correct Inconsistencies.

15.2.1 The assessor shall petition the county commission to adjust the appraised value of any parcel where that value appears to be

15.2.1a clearly in error, or

15.2.1b based upon inconsistencies in valuation procedures, trends in valuation, clerical errors or other cause.

15.2.2 Notice of any such petition filed by the assessor shall be given to any affected property owner and the Tax Commissioner.

15.2.3 A hearing held pursuant to such petition shall be governed by the procedures which govern review and hearings as provided in W. Va. Code § 11-1B-8.

Section 16. Reimbursement Of Costs To Assessor And Sheriff.

16.1 Which Costs Reimbursed -- With the exception of the notice provided by the sheriff in the same envelope as that in which the tax tickets are mailed, the Tax Commissioner shall reimburse the assessor and sheriff for the postage expended by either of them to mail any notices required to be mailed by such officer pursuant to W. Va. Code § 11-1B-1 et seq.

16.2 Forms -- The Tax Commissioner shall furnish such forms and envelopes as may be required.

Section 17. Report By County Commission Required; Reports To The Legislature.

17.1 County Commission Report. -- The county commission shall make a report to the Tax Commissioner on or before December 31, 1986 of

17.1.1 the number of hearings held by it in review of any and all appraisals, and

17.1.2 any adjustments in valuation made by the county commission; provided, that such adjustments in valuation shall clearly identify each individual parcel of real property or each personal property account for which changes have been made, the classification of every individual parcel of real property or each personal property account for which the valuation was changed, and the amount of the increase or decrease of such valuation.

17.2 Tax Commissioner Report. -- The Tax Commissioner shall provide a summary of all such county commission reports on or before January 15, 1987 to the

17.2.1 President of the Senate and the

17.2.2 Speaker of the House of Delegates

Section 18. Appraisal Of Property; Date Of Implementation; Assessor To Make Assessments.

18.1 Property Appraised. -- All property as defined in W. Va. Code § 11-1B-3 shall be appraised at its true and actual value as that term is defined in W. Va. Code § 11-1A-3(1).

18.2 Implementation of Appraisal.

18.2.1 The final valuations arrived at by and through the appraisal process to establish value of all property for the year 1983, as provided for in W. Va. Code § 11-1A-1 et seq. and 11-1B-1 et seq., shall be used for ad valorem property taxation in the year for which a lien would attach on July 1, 1987: provided, that

18.2.1a the review procedures provided by W. Va. Code § 11-1B-1 et seq. have been completed, and

18.2.1b that the Tax Commissioner has certified to the Governor, President of the Senate and Speaker of the House of Delegates that

18.2.1b.1 with the exception of those matters pending in the circuit courts of this State or on appeal to the Supreme Court of Appeals, the review procedures have been substantially complied with and

18.2.1b.2 the results of those review procedures are substantially correct.

18.2.2 Subsequent to establishing the 1983 base year values, such valuations shall be adjusted by the assessor to reflect any changes in valuations as a result of alterations or accretions, as well as economic and other factors which result in or cause an increase or decrease in the value of any such property or any other divisions, redivision or other change in such property since its reappraisal for the year 1983.

18.2.2a In the implementation of such adjusted values, the assessor of each of the several counties shall assess the property subject to ad valorem taxation (other than public utility property), in the manner and subject to the procedures for return, assessment, equalization and review provided in Chapter 11 of the Code of West Virginia, at 60% of its market value less such exemptions and allowance for phase in which may be applicable.

18.2.2b With respect to any property the market value of which has changed since the reappraisal, the assessor shall enter on the statewide data processing system network provided by W. Va. Code § 11-1A-21 the basis of any change in value utilized in such assessment. The following methodology should be considered by each assessor prior to changing any valuations.

18.2.2b.1 Land. -- The appraised value of each parcel of land shall be its market value as of July 1, 1983. The appraised value of new parcels of land created subsequent to July 1, 1983 but on or before July 1, 1987, either by (1) subdividing an existing parcel into two or more

parcels, or by (2) consolidating two or more parcels into one parcel, shall be the market value determined as if each resulting parcel or parcels had existed on July 1, 1983.

18.2.2b.2 Existing and altered existing buildings and structures. -- The appraised values of buildings and structures existing on July 1, 1983 shall be the market value of such buildings and structures as of July 1, 1983. The appraised value of buildings and structures existing on July 1, 1983, which are altered subsequent to that date but on or before July 1, 1987, shall be determined as if the building or structure, as altered, had been in existence on July 1, 1983. The values of the many and varied types and sizes of structures have been developed into computer models, and the models have been entered into the network. With the July 1, 1983 value of the original structure having been determined, the physical attributes of the altered structure shall be entered into the network. The preprogrammed cost list and county modifier shall be applied to the model which most closely resembles the altered building or structure, and the amount so determined shall be the adjusted appraised value.

18.2.2b.3 New and altered new buildings and structures. -- The appraised value of new buildings and structures constructed subsequent to July 1, 1983, but on or before July 1, 1987 shall be its market value on July 1, 1983 as if it was in existence on that date. This appraised value shall be determined by applying against the model developed for the type of building or structure, the cost list and county modifier. The appraised value of new buildings and structures constructed subsequent to July 1, 1983, but on or before July 1, 1987 and which are also altered during that time period, shall be the July 1, 1983 market value for the altered new building or structure as if it were in existence on that date. The appraised value of the altered new building or structure shall be determined in the same manner as that for an altered existing building or structure, such method being stated in paragraph 18.2.2b.2 above: Provided, That the appraised value of the new structure has already been entered into the network. If the appraised value of the new building or structure, at the time of alteration, had not been entered into the network, the appraised value of the altered new building or structure shall be determined in the same manner as for a new structure.

18.2.2b.4 Machinery and equipment.

18.2.2b.4a Existing machinery and equipment shall not be depreciated beyond the July 1, 1983 level, and its appraised value shall be its market value as of July 1, 1983. This market value shall be determined based on generally recognized and accepted machinery and equipment price listing guides, or on price listings compiled by the Tax Commissioner from other reliable sources, or both. This price information shall either be incorporated into the network or separately maintained.

18.2.2b.4b The market value of machinery and equipment manufactured and acquired subsequent to July 1, 1983, shall be determined as if such machinery and equipment had been in existence on July 1, 1983. The value of such property shall be based on generally recognized and accepted price listing guides and listings as aforesaid, that

provide sufficient information about similar property so as to determine a comparable appraised value.

18.2.2b.5 Motor vehicles, aircraft and watercraft.

18.2.2b.5a The appraised value of motor vehicles, aircraft and watercraft shall be market value as of July 1, 1983. Such market values shall be obtained from generally recognized and accepted price listing guides, selected by the Tax Commissioner or price listings compiled by the Tax Commissioner from other reliable sources, or both, for such property and incorporated into the network or separately maintained.

18.2.2b.5b The appraised value of motor vehicles, air craft and watercraft manufactured and acquired subsequent to July 1, 1983, shall be determined as if such properties were in existence on July 1, 1983. The value of such property shall be obtained from generally recognized and accepted guides and listings as aforesaid, that provide sufficient information about similar property so as to determine a comparable appraised value.

18.2.2b.6 Intangible personal property. -- The appraised value of intangible personal property, regardless of whether it was acquired on or before July 1, 1983, or subsequent to July 1, 1983, shall be its market value as of July 1, 1983. The market value of such property shall be obtained from the sources provided in ~~W. Va. Leg. Reg. 11-1A, Series IA, § 11.11, pages 133-165~~ (1984). The market value of such intangible personal property shall not be subject to appraisal or ad valorem taxation after July 1, 1987.

18.2.2b.7 Livestock and agricultural products. -- The appraised value of livestock and products of agriculture, regardless of whether it was acquired on or before July 1, 1983 or subsequent to July 1, 1983, shall be its market value as of July 1, 1983. The market value of such property shall be the price for such properties as they are listed on a nationally recognized commodities market at the close of business on July 1, 1983.

18.2.2b.8 Natural resource properties. -- The appraised value of natural resources properties existing on July 1, 1983, shall be its market value as of July 1, 1983, such value being determined in the manner described in ~~W. Va. Leg. Reg. 11-1A, Series IA, §§ 11.04, 11.05, 11.06, 11.07 and 11.08~~ (1984). For natural resource properties acquired or developed subsequent to July 1, 1983, the appraised value shall be its market value as of July 1, 1983, such value being calculated in accordance with the above cited Legislative Regulations, and discounted utilizing the appropriate factors as developed by the Tax Commissioner.

18.3 Assessor Justification for Valuation Changes. -- The assessor shall provide the Tax Commissioner with any information, findings, or reasons relied upon by the assessor in increasing or decreasing values as a result of economic or other factors if applied by the assessor to any species or class of property generally or uniformly.

18.4 Assessor Discovery Responsibilities.

18.4.1 County assessors shall be responsible for discovering all new construction and all alterations or real property (including public utility real property) having a tax situs in their county, except for alterations to real property owned by a governmental entity that is exempt from ad valorem property taxes. County assessors shall also be responsible for discovering all new personal property (tangible and intangible) having a tax situs in their county, and for discovering all alterations in personal property (tangible and intangible) having a tax situs in their county.

18.4.2 Immediately upon discovery of any new property or discovery of any alterations in property having a tax situs in their county, the county assessor shall enter all such new property and alterations of existing property into the network. This is essential in order to assure that all physical characteristics of property, the ownership thereof and valuation information are available for the annual assessment process.

18.4.3 The Tax Commissioner shall be responsible for reviewing such information entered by the county assessors under subparagraph 18.4.2 to insure its completeness and accuracy. This review may be conducted through selective sampling or by such other means as the Tax Commissioner believes to be prudent, expeditious and cost effective.

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
Chapter 11-1B
Series V
(1986)

Additional Review And Implementation Of Property Appraisals

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State Tax Department

Additional Review and implementation of property reappraisals

Mr. Casey moves to amend the rule on page twenty-eight, subsection 14.1, by striking the sentence "The party seeking such review of the county commission determination of value shall bear the expense of the review, including any filing fee." and inserting in lieu thereof the following:

"Parties to the proceeding wherein review by the circuit court is sought shall pay costs and fees as they are incurred: Provided that, the circuit court upon rendering judgment or making any order may award costs to any party in accordance with the provisions of W.Va. Code, §53-3-5."

Approved 9-28-86

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property Appraisals

Mr. _____ moves to amend the rule on page 17, Subsection 8.3.1, by adding the following paragraphs to Subsection 8.3.1.

8.3.1a. In order to better determine the issue or issues under consideration in the respective petitions, county commissions are authorized to develop a telephone screening procedure.

8.3.1a1. The telephone screening procedure may be used only for identifying and correcting property description errors and for screening out non-value related complaints.

8.3.1a2. All such property description errors and non-value related complaints shall be transmitted to the county commission and the assessor. Also, the complaining party shall be directed to contact the assessor.

8.3.1a3. The assessor shall correct all incorrect property description information and he shall take action sufficient to resolve the non-value related complaints.

8.3.1b. In order to expedite the property valuation review process, the respective county commissions may appoint a hearing officer or officers whose duties shall be to receive testimony and other evidence, to examine witnesses, and to direct parties to obtain additional information. A hearing officer shall have no authority to determine property values.

8.3.1b1. Every hearing officer shall have demonstrable knowledge of property values in the county where he is performing his duties. He should also have knowledge as to how the reappraisal was conducted; provided, that the Tax Commissioner shall brief those who do not possess sufficient information relative to the reappraisal.

8.3.1b2. All such hearings are public hearings.

8.3.1b3. All evidence shall be received under oath which shall be administered by the hearing officer. All such testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence received at the hearing shall

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be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1b4. While the hearing officer is not authorized to determine property values, he is authorized to comment on the credibility of the witnesses and the evidence and to state whether in his judgment the appraised value is correct or incorrect. At the conclusion of each hearing, the hearing officer shall complete a form to be provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties and other comments as indicated above. The completed form shall be transmitted with the recorded testimony and any other evidence to the county commission.

8.3.1b5. A hearing officer may receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a hearing officer. Approved stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the hearing officer. The running of the 5 day time period required by the following subsection 9.4.4 shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1b6. The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with either the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1, 1986.

8.3.1c. In order to expedite the property valuation review process, the respective county commissions may authorize the individual commissioners to sit separately for the purpose of receiving testimony and other evidence, examining witnesses, and directing parties to obtain additional evidence. A county commissioner shall have no authority to independently determine property values.

8.3.1c1. All such hearings shall be public hearings.

8.3.1c2. All evidence shall be received under oath which shall be administered by the county commissioner. All testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence shall be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1c3. At the conclusion of the hearing, the county commissioner shall complete a form provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties, his judgment as to the credibility of the witnesses and the evidence, and his judgment as to whether the appraisal is

correct or incorrect. The completed form shall be transmitted with the recorded testimony and other evidence to the county commission.

8.3.1c4. A county commissioner may receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a county commissioner. Approved stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the individual county commissioner. The running of the 5 day time period required by the following subsection 9.4.4. shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1c5. The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1 1986.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property Appraisals

Mr. _____ moves to amend the rule on page 2, Subsection 2.3, by striking the word "accretion";

and

On page 11, Subsection 6.2.7 by striking the word "commencing" and inserting in lieu thereof the words "for which the lien attaches on";

and

On page 17, Subdivision 8.3.3, by striking "resulting from any substitutions," and "improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences or any similar factors or occurrences," and inserting the word "or" after the word "alterations";

and

On page 32, Subdivision 19.2.2 by striking the word "Such" and inserting in lieu thereof the words "Subsequent to establishing the 1983 base year values, such"

and

On page 32, Subdivision 19.2.2 by striking the words "substitutions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or like occurrences or circumstances and by inserting the word "or" after the word "alterations";

and

On page 32, Subdivision 18.2.2a by inserting the word "adjusted" after the word "such."

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property
Appraisals

Mr. _____ moves to amend the rule on page 21, Subsection 9.3.1 by adding the following sentence thereto: The Tax Commissioner must approve any stipulation or agreement before it is submitted to the county commission.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property
Appraisals

Mr. _____ moves to amend the rule on page 26,
subsection 12.1 by adding the following sentence thereto:

On or before December 15, 1986, the assessor or his delegate
shall enter or cause to be entered in the manner prescribed by
the State Tax Department on the statewide data processing system
all determinations which were rendered by December 1, 1986.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of
Property Appraisals

Mr. _____ moves to amend the rule on page 31, subsection 17.1.2 by changing the period to a comma and by adding the following thereafter: the classification of every individual parcel of real property or each personal property account for which the valuation was changed, and the amount of the increase or decrease of such valuation.

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee



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SECRETARY OF STATE

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

October 9, 1986

TO: Ken Hechler, Secretary of State, State Register

TO: Michael E. Caryl, Commissioner
State Tax Department
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Additional Review and implementation of property
reappraisals

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule as originally filed or as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. X
4. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.

cc: John Montgomery, Esquire
Tax Department