

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: 1f

TITLE OF RULE BEING PROPOSED: ADDITIONAL REVIEW AND IMPLEMENTATION
OF PROPERTY APPRAISALS

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)(f), PASSED ON MAY 13, 1987

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: MAY 13, 1987


MICHAEL E. CARYL
STATE TAX COMMISSIONER

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H. B. 2570

(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 additional review and
15 implementation of property appraisals.

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

2570

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. Both of these determinations shall be
18 made in accordance with the tax department's real property
19 appraisal manual 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.

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2 words "following factors shall be" insert the words "indicative
3 of but not conclusive" and delete the word "considered."
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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."
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11 add a comma and insert the word "utility."
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15 "part of" insert the words "or appurtenant to."
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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
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27 the words "or any nonfarm use."

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4 Page 10.20, Section 10.05(c)(4)(C); following the words
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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 manual¹ 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 eighteenth day of August, one thousand nine hundred eighty-six,
21 relating to the state tax commissioner (additional review and
22 implementation of property appraisals) are authorized with the
23 amendments set forth below:

24 Page 2, Subsection 2.4, by striking the words "this chapter"
25 and inserting in lieu thereof the words "chapter eleven of the
26 code".

1 Page 2, Subsection 2.4, by striking the words "this article"
2 and in inserting in lieu thereof the words "article 1B of chapter
3 11 of the code".

4 Page 3, Subsection 2.11, the definition for "good cause", by
5 striking all of the subsection and inserting in lieu thereof a
6 new subsection 2.11, to read as follows:

7 "2.11 Good cause. The term "good cause" shall mean such
8 sufficient cause or reason set forth by a protestor or intervenor
9 as will allow the county commissioner, in its discretion, to
10 preliminarily determine that the petitioner has properly stated a
11 claim alleging an incorrect valuation of property. When a
12 petition to protest or intervene sets forth facts which, if
13 proved, would entitle the petitioner to have a valuation changed,
14 and the county commission thus has a reasonable ground for belief
15 that a proper claim exists, then good cause has been
16 established."

17 Page 20, Subdivision 9.1.1, in the opening sentence, after
18 the word "valuations", by adding the words "with or in".

19 Page 20, Subdivision 9.1.1, by striking all of paragraphs
20 9.1.1a, 9.1.1b, 9.1.1c, and 9.1.1d, and in inserting in lieu
21 thereof the following:

22 "a clerical error, or a mistake occasioned by an
23 unintentional or inadvertent act as distinguished from a mistake
24 growing out of the exercise of judgment."

25

26 NOTE: The purpose of this bill is to authorize the State Tax
27 Commissioner to promulgate legislative rules relating to the
28 additional review and implementation of property appraisals.

1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.

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Senate Bill No. 33/

(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 additional review and
15 implementation of property appraisals.

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."

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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
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
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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
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19 (b) The legislative rules filed in the state register on the
20 eighteenth day of August, one thousand nine hundred eighty-six,
21 relating to the state tax commissioner (additional review and
22 implementation of property appraisals) are authorized with the
23 amendments set forth below:

24 Page 2, Subsection 2.4, by striking the words "this chapter"
25 and inserting in lieu thereof the words "chapter eleven of the
26 code".

1 Page 2, Subsection 2.4, by striking the words "this article"
2 and in inserting in lieu thereof the words "article 1B of chapter
3 11 of the code".

4 Page 3, Subsection 2.11, the definition for "good cause", by
5 striking all of the subsection and inserting in lieu thereof a
6 new subsection 2.11, to read as follows:

7 "2.11 Good cause. The term "good cause" shall mean such
8 sufficient cause or reason set forth by a protestor or intervenor
9 as will allow the county commissioner, in its discretion, to
10 preliminarily determine that the petitioner has properly stated a
11 claim alleging an incorrect valuation of property. When a
12 petition to protest or intervene sets forth facts which, if
13 proved, would entitle the petitioner to have a valuation changed,
14 and the county commission thus has a reasonable ground for belief
15 that a proper claim exists, then good cause has been
16 established."

17 Page 20, Subdivision 9.1.1, in the opening sentence, after
18 the word "valuations", by adding the words "with or in".

19 Page 20, Subdivision 9.1.1, by striking all of paragraphs
20 9.1.1a, 9.1.1b, 9.1.1c, and 9.1.1d, and in inserting in lieu
21 thereof the following:

22 "a clerical error, or a mistake occasioned by an
23 unintentional or inadvertent act as distinguished from a mistake
24 growing out of the exercise of judgment."

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26 NOTE: The purpose of this bill is to authorize the State Tax
27 Commissioner to promulgate legislative rules relating to the
28 additional review and implementation of property appraisals.

1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.
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