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DEC 5 5 42 PM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

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Delegate Mark Hunt, Co-Chairman
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Teri Anderson, Administrative Assistant*

December 04, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: John Montgomery
State Tax Commission
P.O. Box 1005
Charleston, WV 25324

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4

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

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) 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.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.



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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Tax Commissioner

Subject: Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4

PERTINENT DATES

Filed for public comment: June 16, 2000
Public comment period ended: July 17, 2000
Filed following public comment period: July 24, 2000
Filed LRMRC: July 24, 2000
Filed as emergency:

Fiscal Impact: No

OFFICE OF THE
SECRETARY OF STATE

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ABSTRACT

The proposed rule is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 states that an assessor is not to use the recordation of a plan or plat or the designation of a proposed land use by a county or municipal planning authority as a basis of assessment except in accordance with the provisions of the section.

This section requires the assessor or Tax Commissioner to revalue a sold lot from a recorded plan or plat at market value. It requires the assessor or Tax Commissioner to revalue a lot based upon its actual use when it is first developed and used for a residential, commercial or industrial purpose. It also prohibits revaluing of the remaining lots based solely on the sale of other lots.

Section 4 related to the valuation of remaining lots. It requires the assessor or the Tax Commissioner to use a cost method of valuation. It requires them to use the value of the raw land and any costs associated with improvements or infrastructure development that is in place as of the assessment date each year. This section sets forth the valuation methodology in detail.

Section 5 relates to proposed land use. It states that proposed land use may not be used as a basis for valuation until the actual use has changed to correspond to the proposed use.

Section 6 contains an administrative remedy. It allows aggrieved owners of property to appeal the assessed value to the county commission.

Section 7 provides that the effective date of the valuation methodologies in the proposed rule are effective for all recorded plans or plats filed after June 30, 2000.

AUTHORITY

Statutory authority: W.Va. Code, §11-3-1b(b), which provides, in part, as follows:

...The tax commissioner shall propose a legislative rule for submission to the Legislature pursuant to the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code, which rule shall describe in detail the methodology and use of the factors set out above, as well as any other factors determined by the tax commissioner to be applicable, for valuation of percentage of completion of improvements and infrastructure development...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has minor technical modifications to suggest.