

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE TENNANT
ADMINISTRATIVE LAW DIVISION**

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Form #6

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia State Tax Department TITLE NUMBER: 110

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 10

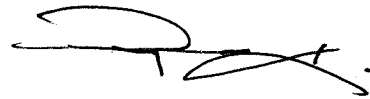
TITLE OF RULE BEING PROPOSED: Appointment of Special Assessors By The State Tax Commissioner.

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

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. No. 187

SECTION W. Va. Code §64-7-2., PASSED ON February 28, 2015

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 15, 2015



Authorized Signature

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2015 APR 13 P 3: 29

TITLE 110
LEGISLATIVE RULE
STATE TAX DEPARTMENT

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 1Q
APPOINTMENT OF SPECIAL ASSESSORS BY THE STATE TAX COMMISSIONER

§110-1Q-1. General

- 1.1. Scope. - This legislative rule provides for the appointment of special assessors at the county's expense when a county assessor is failing, neglecting or refusing to assess all property at sixty-percent of its true and actual value, under authority of W. Va. Code §11-3-1 and 18-9A-11.
- 1.2. Authority. - WV Code §29A-3-1.
- 1.3. Filing Date. - 04-13-2015.
- 1.4. Effective Date. - May 15, 2015.

§110-1Q-2. Definitions.

Any terms used in this rule have the meanings ascribed to them in the West Virginia Code.

§110-1Q-3. Notice to Assessor of non-compliance.

- 3.1. For each tax year beginning on or after the assessment date of July 1, 2013, if at any time it is ascertained by the Tax Commissioner that an assessor is failing, neglecting, or refusing to list and assess all property in his or her county at sixty percent of its true and actual value, the Tax Commissioner shall notify, on or before the first day of the following tax year, the assessor and the county commission for the county from which the assessor is elected of that failure in writing, and instruct the assessor to make all necessary corrections.
- 3.2. If the assessor has failed to make corrections for the following tax year, the Tax Commissioner shall appoint special assessors, in accordance with this rule, unless the assessor can show that substantial progress is being made to meet the criteria for compliance set forth in W. Va. Code §11-3-1(d).
- 3.3. If the Tax Commissioner has determined that assessor has not complied, or has failed, neglected or refused to list and assess property at sixty percent of its true and actual value for three consecutive years, the Tax Commissioner shall appoint special assessors, as needed, for the purpose of making assessment and correcting the values of property in the county.

§110-1Q-4. Determining whether an assessor is in compliance

4.1. The Tax Commissioner shall use the following criteria to determine whether an assessor is in compliance with the Constitutional requirement that all property be assessed at sixty percent of its true and actual value:

4.1.1. Sales validity – Recent sales of property that form the basis for determining current property values in the county are arm’s length sales, and accurately reflect current property values in that county.

4.1.2. Appraisal uniformity – The Tax Commissioner will review valid sales from the most current sales ratio analysis. Sales will be selected for review from residential neighborhoods only. This review will be made by comparing the equalization of the sale parcel as it relates to prior years values/listings and comparable properties located in the same neighborhood. The practice of “sales chasing” by an assessor is expressly disapproved.

4.1.3. Appraisal evaluation – The appraisal evaluation shall be based on the ratio of the assessed value of real property to the sale price of that property for all arm’s-length sales of real property in a county during any assessment year, as reported to the Tax Commissioner by the assessor of that county, pursuant to his lawful duties. Any sales that are more than plus or minus two standard deviations from the median, or any sales of industrial real property or any sales which include the transfer of a mineral interest or interests, may be eliminated from the ratio study calculations by the State Tax Department. The median sales ratio will be rounded to the nearest whole percentage using standard rounding rules. The ratio of the assessed value of valid property sales to the sale price of such property shall be within ten percent, plus or minus, of the constitutionally mandated sixty percent. The determination will be made in January of the tax year, when the property books are submitted for equalization and review. The Tax Commissioner will use the higher of either the median ratio or the aggregate ratio.

4.1.4. Any other criteria prescribed by the Tax Commissioner – If the criteria in this section are not sufficient to determine whether an assessor is in compliance with Constitution Art. X, §§ 1 and 1b, the Tax Commissioner may use any other criteria that he or she considers relevant and reliable.

§110-1Q-5. Appointment of Special Assessors.

5.1. Special assessors have all of the power and authority vested by law in assessors. The work of special assessors shall be accepted and treated for all purposes by the county boards of review and equalization and the levying bodies as the true and lawful assessment of all property valued by the special assessors for that tax year.

5.2. The county shall provide the special assessors with full access to and complete use of the offices and premises of the assessor, including the use of all equipment and vehicles.

5.3. The county shall pay special assessors salaries commensurate with their duties and reimburse them for all actual expenses incurred in the performance of their duties.

5.4. The expense of employing special assessors, including salaries and expenses, shall be borne by the county in which they are employed, in accordance with the provisions of this section.

5.5. Certificate to clerk of county commission - The Tax Commissioner shall certify all expenses pertaining to the employment of special assessors to the clerk of the county commission for presentation to the county commission.

5.6. Audit of special assessors' expenses by county commission - The county commission shall cause an audit to be performed of all special assessors' expenses to ascertain their correctness. Upon completion and approval of the audit, the county commission shall order all salaries and expenses of special assessors to be paid immediately from the county fund.

5.7. In the event that the county commission refuses to order the necessary disbursement of funds to pay the expenses, the Tax Commissioner shall apply to the circuit court for a writ of mandamus ordering the county commission to release the necessary funds.

5.8. In any county where the Tax Commissioner has appointed special assessors to perform duties otherwise performed by the assessor, the assessor of the county is not eligible to receive the additional compensation authorized in chapter seven, article seven of the West Virginia Code.