WEST VIRGINIA CODE: §21a-5-10B

§21A-5-10b. Transfer of business.

If a subject employer transfers his or her entire organization, trade or business, or substantially all the assets thereof, to another employer, the commissioner shall combine the contribution records and the benefit experience records of the transferring and acquiring employers. The acquiring employer's contribution rate for the remainder of the calendar year shall not be affected by the transfer but such rate shall apply to the whole of his or her business, including the portion acquired by the transfer, through the following thirty-first day of December. If a subject employer makes such transfer to an employing unit which is not an employer on the date of the transfer, such subject employer's rate continues as the rate of the acquiring employing unit until the next effective rate date. If an employing unit acquires simultaneously the entire organization, trade or business, or substantially all the assets thereof, of two or more covered employers, the successor shall be assigned as a contribution rate the then current rate of the transferring employer which had, in the calendar quarter immediately preceding the date of the transfer, the higher or highest payroll. If a subject employer transfers his or her entire organization, trade or business, or substantially all the assets thereof, to two or more employers or employing units, apportionment of the contribution records and benefit experience records of the transferring employer shall be made between the acquiring units in accordance with the ratio that the total assets acquired by each transferee bears to the total assets transferred by the transferring employer as of the date of the transfers. The current contribution rate of the transferring employer continues as the rate of each transferee who or which is an employing unit until the next effective rate date; the current contribution rate of each transferee who or which is an employer continues as his or her or its rate until the next effective rate date. For the succeeding calendar year the rate of each transferee shall be determined as provided in section ten of this article. As to any transfers which occur prior to the thirty-first day of July of the current calendar year such rate remains effective for the balance of that calendar year: Provided, That if the transfers occur subsequent to the thirty-first day of July such rate remains effective for the balance of that calendar year and the rate for the succeeding calendar year shall, notwithstanding anything to the contrary provided in section seven of this article, be recomputed on the basis of the combined experience of the transferring employers as of the thirty-first day of July of the year in which the transfers occur. In case the transferring employer is delinquent in the payment of contributions or interest thereon the acquiring employer is not entitled to any benefit of the contribution record of the transferring employer unless payment of such delinquent contributions and interest thereon is assumed by the acquiring employer. The commissioner shall upon joint request of the transferor and transferee furnish the transferee a statement of the amount of any contribution and interest due and unpaid by the transferor. A statement so furnished is controlling for the purposes of the foregoing proviso.

The provisions of this section do not apply to any employer which is established through the

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assistance of any state economic development agency irrespective of the contribution rate of any related predecessor.

A reorganized employer keeps the contribution rate of the employing unit before the reorganization until December 31, immediately following the date of reorganization and is liable for all contributions, interest and penalties owed by the employing unit. Effective with January 1, of the calendar year immediately following reorganization, a reorganized employer will have his or her contribution rate based on all of his or her experience with the fund in accordance with section ten of this article. If the predecessor does not remain in business after the transfer of all or part of the assets, business, organization, or trade of the predecessor employer: (1) The successor employer is liable for all contributions, interest and penalties owed by the predecessor employer at the time of the transfer; and (2) if two or more successor employers receive the transfer, the successor employers are liable in the same proportion as the assets of the unit being transferred is to the total assets of the predecessor employer.

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