ENROLLED

House Bill No. 314

(By Mr. LaFon)

[Passed March 13, 1937; in effect from passage.]

AN ACT to amend sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to privilege tax on business and occupations.

Be it enacted by the Legislature of West Virginia:

That sections three, twelve, thirteen and twenty, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by sections three, twelve, thirteen and twenty, article twelve, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred
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thirty-three, be amended and reenacted to read as follows:

Section 3. Exemptions in Business and Occupation Tax.

2 There shall be an exemption in every case of twenty-five
3 dollars in amount of tax computed under the provisions of
4 this article. A person exercising a privilege taxable here-
5 under for a fractional part of a tax year shall be entitled
6 to an exemption of the sum bearing the proportion to twenty-
7 five dollars that the period of time the privilege is exercised
8 bears to a whole year. Only one exemption shall be allowed
9 to any one person, whether he exercised one or more privi-
10 leges taxable hereunder.

11 The provisions of this article shall not apply to: (a) In-
12 surance companies which pay the state of West Virginia a
13 tax upon premiums; (b) mutual savings banks not having
14 a capital stock represented by shares and non-profit mutual
15 building and loan associations operated for the exclusive
16 benefit of their members; (c) non-profit cemetery companies
17 organized and operated for the exclusive benefit of their
18 members; (d) societies, organizations and associations organ-
19 ized and operated for the exclusive benefit of their members
20 and not for profit; and (e) corporations, associations and
societies organized and operated exclusively for religious or charitable purposes: Provided, however, That the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three.

Sec. 12. Tax Due and Unpaid is Debt to State. A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed and said lien shall have priority over all other liens and obligations except those due the United States. A penalty of five per cent of the tax shall be added for any default for thirty days or less, and for each succeeding thirty days elapsing before payment there shall be an additional penalty of one per cent.

Sec. 13. Collection of Taxes; Delinquency; Insolvency and Receivership. The tax commissioner may by himself, or a duly appointed agent mentioned in section twenty-two of this
article, collect taxes due and unpaid under this article, to-
gether with all accrued penalties, by action in assumpsit,
motion for judgment, or other appropriate proceeding in the
circuit court of the county in which the privilege taxed had
been exercised. After delinquency shall have continued sixty
days, the tax commissioner may proceed, by himself or agent,
in the circuit court of the county in which the privilege
taxed had been exercised to obtain an injunction restraining
the further exercise of the privilege until full payment shall
have been made of all taxes and penalties due under this
article. In any proceeding under this section upon judgment
or decree for the plaintiff he shall be awarded his costs.

In the event a business subject to the tax imposed by this
article shall be operated in connection with a receivership
or insolvency proceeding, the court under whose direction
such business is operated shall, by the entry of a proper order
in the cause, make provision for the regular payment of such
taxes as the same become due.

Sec. 20. Collection of Taxes; Commissioner May Distrain
on Goods. The tax commissioner may distrain upon any goods,
chattels or intangibles represented by negotiable evidences of
indebtedness, or any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder. The commissioner may require the assistance of the sheriff of any county of the state in levying such distress in the county of which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all penalties collected over and above the principal amount of the tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes and penalties so collected shall be reported within ten days after collection to the tax commissioner, who shall prescribe by general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. The lien created by this article on real estate may be enforced by suit in equity and the provisions of section fourteen, article nine of this chapter may also be invoked for the collection of taxes accruing under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the... ...

Takes effect... ...

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... ...

day of... ...

1937.

Governor.

Filed in the office of the Secretary of State of West Virginia MAR 19 1937

Wm. S. O'Brien,
Secretary of State