

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 314

(By Mr. LaFon)



PASSED March 13, 1937

In Effect From Passage

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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

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

21 societies organized and operated exclusively for religious or
22 charitable purposes: *Provided, however,* That the exemptions
23 of this section shall not apply to corporations or cooperative
24 associations organized under the provisions of article four,
25 chapter nineteen of the code of West Virginia, one thousand
26 nine hundred thirty-one, as amended by chapter sixteen, acts
27 of the Legislature, regular session, one thousand nine hun-
28 dred thirty-three.

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

Sec. 13. *Collection of Taxes; Delinquency; Insolvency and*
2 *Receivership.* The tax commissioner may by himself, or a
3 duly appointed agent mentioned in section twenty-two of this

4 article, collect taxes due and unpaid under this article, to-
5 gether with all accrued penalties, by action in assumpsit,
6 motion for judgment, or other appropriate proceeding in the
7 circuit court of the county in which the privilege taxed had
8 been exercised. After delinquency shall have continued sixty
9 days, the tax commissioner may proceed, by himself or agent,
10 in the circuit court of the county in which the privilege
11 taxed had been exercised to obtain an injunction restraining
12 the further exercise of the privilege until full payment shall
13 have been made of all taxes and penalties due under this
14 article. In any proceeding under this section upon judgment
15 or decree for the plaintiff he shall be awarded his costs.

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

Sec. 20. Collection of Taxes; Commissioner May Distrain

2 *on Goods.* The tax commissioner may distrain upon any goods,
3 chattels or intangibles represented by negotiable evidences of

4 indebtedness, or any taxpayer delinquent under this article
5 for the amount of all taxes and penalties accrued and unpaid
6 hereunder. The commissioner may require the assistance of
7 the sheriff of any county of the state in levying such distress
8 in the county of which such sheriff is an officer. A sheriff
9 so collecting taxes due hereunder shall be entitled to com-
10 pensation in the amount of all penalties collected over and
11 above the principal amount of the tax due, but in no case
12 shall such compensation exceed twenty-five dollars. All taxes
13 and penalties so collected shall be reported within ten days
14 after collection to the tax commissioner, who shall prescribe
15 by general regulation the manner of remittance of such funds
16 and of allowing the collecting officer the compensation due
17 him under this section. The lien created by this article on
18 real estate may be enforced by suit in equity and the pro-
19 visions of section fourteen, article nine of this chapter may
20 also be invoked for the collection of taxes accruing under
21 this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carl B. Whitcomb
.....
Chairman Senate Committee

Wm. B. Frazer
.....
Chairman House Committee

Originated in the.....

Takes effect..... passage.

John A. Hays
.....
Clerk of the Senate

Geo. Isaac
.....
Clerk of the House of Delegates

Chas. E. Hoyle
.....
President of the Senate

J. A. Thomas
.....
Speaker House of Delegates

The within *Approved* this the *18th*

day of *March*, 1937.

Samuel R. Holt
.....
Governor.

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

Wm. S. O'BRIEN,
Secretary of State