

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 315

(By Mr. Lafor)



PASSED March 13, 1937

In Effect From Passage

ENROLLED

House Bill No. 315

(By MR. LAFON)

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

An ACT to amend section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and to amend said article twelve-a by the addition thereto of sections ten-a to ten-e, inclusive, relating to privilege taxes on certain carried corporations.

Be it enacted by the Legislature of West Virginia:

That section ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by article twelve-a, chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted, and that said article twelve-a be

amended by the addition thereto of sections ten-a to ten-e, inclusive, to read as follows:

Section 10. *Tax Imposed by Article to be Lien on Property; Penalty for Delinquency.* The amount of the tax imposed by 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 one per cent per month shall be added to the amount of tax for each month of delinquency and shall be secured by the lien herein provided.

Sec. 10-a. *Assessment Filed with County Clerk to Create Lien on Taxpayer's Property.* The tax commissioner for the more effective collection of such taxes, may file with the clerk of the county court of any county a certified copy of any assessment of taxes under this article. A certificate so filed shall be recorded in a book provided for the purpose and shall thereby create a lien upon all property and assets of the taxpayer located in the county, which lien shall likewise be binding against all other parties whose interest may arise

10 after such recordation. Upon payment of taxes delinquent
11 under this article and for which such lien shall have been
12 perfected as herein provided, the tax commissioner shall
13 certify in duplicate the fact and amount of payment and
14 the balance due, if any, and shall forward the certificates,
15 one to the taxpayer and one to the clerk of the county court
16 of the county wherein such certificate of assessment shall
17 have been recorded. The clerk of the county court shall
18 record the certificate in the book in which releases are re-
19 corded, without payment of any fee, and the recordation of
20 such certificate, certifying to the payment in full of such
21 delinquent taxes, shall constitute a release and full discharge
22 of said lien.

Sec. 10-b. *Tax Commissioner May Distrain on Goods; Re-*
2 *ports of Such Collections.* The tax commissioner may dis-
3 train upon any goods, chattels or intangibles represented by
4 negotiable evidences of indebtedness, of any taxpayer delin-
5 quent under this article for the amount of all taxes and pen-
6 alties accrued. The commissioner may require the assistance
7 of the sheriff of any county of the state in levying such dis-
8 tress in the county of which such sheriff is an officer. A

9 sheriff so collecting taxes due hereunder shall be entitled to
10 compensation in the amount of all penalties collected over
11 and above the principal amount of the tax due, but in no
12 case shall such compensation exceed twenty-five dollars. All
13 taxes and penalties so collected shall be reported within ten
14 days after collection to the tax commissioner, who shall pre-
15 scribe by general regulation the manner of remittance of
16 such funds and of allowing the collecting officer the com-
17 pensation due him under this section. The lien created by this
18 article on real estate may be enforced by suit in equity, and
19 the provisions of section fourteen, article nine of this chapter
20 may also be invoked for the collection of taxes accruing
21 under this article.

Sec. 10-c. *Secretary of State to Withhold Dissolution*
2 *Papers of Corporations Till Taxes Paid.* The secretary of
3 state shall withhold the issuance of a certificate of dissolution
4 of any corporation organized under the laws of this state,
5 or a certificate of withdrawal to any foreign corporation au-
6 thorized to do business in this state, until notified in writing
7 by the tax commissioner that all taxes imposed against such
8 corporation have been paid in full.

Sec. 10-d. *Contracts With Political Subdivisions Withheld*

2 *Till Taxes Paid By Contractor.* All state, county, district
3 and municipal officers and agents making contracts on be-
4 half of the state of West Virginia or any political subdivis-
5 ions thereof shall withhold final settlement under such con-
6 tracts until notified in writing by the tax commissioner that
7 all taxes imposed by this article against such contractors
8 have been paid.

Sec. 10-e. *Taxes to be Paid of First Moneys In Creditors'*

2 *Suit, Bankruptcy, etc.* In the distribution of the estate of any
3 person, firm or corporation, arising out of a creditor's suit,
4 bankruptcy or receivership proceeding, or assignment for the
5 benefit of creditors, all unpaid taxes accruing under this
6 article shall be paid from the first moneys available for dis-
7 tribution for that purpose, in conformity with the liens cre-
8 ated by this article. Any person charged with the adminis-
9 tration of an estate who shall violate the provisions of this
10 section shall be personally liable for any taxes accrued and
11 unpaid under this article, which are chargeable against the
12 person, firm or corporation whose estate is in administra-
13 tion.

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

W. B. Keith

Chairman Senate Committee

Wesley Wells

Chairman House Committee

Originated in the.....

Takes effect..... passage.

Charles G. Miller

Clerk of the Senate

Geo. S. Hance

Clerk of the House of Delegates

Chas. E. Hoagy

President of the Senate

J. K. Thomas

Speaker House of Delegates

The within *Approved* this the *18th*

day of *March*, 1937.

Sam A. Holt

Governor.

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

Wm. S. O'BRIEN,
Secretary of State