

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

SENATE BILL No. 244

(By Mr. Paull )



PASSED March 12<sup>th</sup> 1937

In Effect 10 days from Passage

676

**ENROLLED**  
**Senate Bill No. 244**

(BY MR. PAULL) (by request)

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[Passed March 12, 1937; in effect ninety days from passage.]

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AN ACT to amend and reenact section twenty-three, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to collection of taxes against public service corporations and persons engaged in a public service business.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-three, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 23. The amount of taxes and levies assessed under  
2 this article shall constitute a debt due the state or county,  
3 district or municipal corporation entitled thereto, and shall  
4 be a lien on all of the property and assets of the taxpayer  
5 within the state. The lien shall attach as of the date fixed  
6 by law for the commencement of the assessment year, and  
7 shall be prior to all other liens and charges. The auditor shall,  
8 between the first and fifteenth day of July of each year,  
9 prepare a list of the taxpayers delinquent in the payment of  
10 such taxes and levies, setting forth their respective addresses  
11 and the amount of state, county, district and municipal taxes  
12 due from each, which said list shall be certified by the auditor  
13 to the board of public works and filed in the office of the  
14 secretary of state. The secretary of state shall preserve the  
15 list in his office, and a certificate from him that any taxpayer  
16 mentioned in such list is delinquent in the amount of taxes  
17 assessed under this article shall be prima facie evidence  
18 thereof. Within ten days after the filing of such list, the  
19 secretary of state shall give written notice of such delinquency  
20 by registered mail to each of such delinquent taxpayers at  
21 his, or its, last known post office address; and upon the failure

22 of any such delinquent taxpayer to pay said taxes within  
23 thirty days from the mailing of such notice, it shall be the  
24 duty of the attorney general to enforce the collection of such  
25 taxes and levies, and for that purpose he may distrain upon  
26 any personal property of such delinquent taxpayer, or a suffi-  
27 cient amount thereof to satisfy said taxes, including accrued  
28 interest, penalties and costs.

29 The attorney general may also enforce the lien created  
30 by this section on the real estate of such delinquent taxpayer  
31 by instituting a suit, or suits, in equity in the circuit court  
32 of Kanawha county in the name of the state, in which such  
33 delinquent taxpayers shall be made defendants. In the bill  
34 filed in any such suit it shall be sufficient to allege that the  
35 defendant or defendants have failed to pay the taxes here-  
36 under and that each of them justly owes the amount of  
37 property taxes, levies and penalties stated therein, which  
38 amount shall be computed up to the first day of the month  
39 in which the bill was filed. No such defendant shall plead  
40 that the secretary of state failed to give notice as prescribed  
41 by this section. If, upon the hearing of such suit, it shall  
42 appear to the court that any defendant has failed to pay such

43 taxes and accrued penalties, the court shall enter a decree  
44 against such defendant for the amount due, and if the decree  
45 be not paid within ten days after made the court shall enter  
46 a decree directing a sale of the real estate subject to said lien,  
47 or so much thereof as may be necessary to satisfy said taxes,  
48 including interest, penalties and costs. When two or more  
49 taxpayers are included in one suit, the court shall apportion  
50 the cost thereof among them as it may deem just.

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

*Chas. B. Galt*  
-----  
Chairman Senate Committee

*Wm. J. Belter*  
-----  
Chairman House Committee

Originated in the.....

Takes effect..... passage.

*Charles H. ...*  
-----  
Clerk of the Senate

*Geo. S. ...*  
-----  
Clerk of the House of Delegates

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

*J. K. Thomas*  
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Speaker House of Delegates

The within *Approved* this the *19<sup>th</sup>*

day of *March*, 1937.

*James A. ...*  
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Governor

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.



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

Wm. S. O'BRIEN,  
Secretary of State