

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

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ENROLLED

HOUSE BILL No. 135

(By Mr. Strouss)

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PASSED March 2, 1939

In Effect ninety days from Passage

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House Bill No. 135

(BY MR. STROUSS)

[Passed March 2, 1939; in effect ninety days from passage.]

AN ACT to amend article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section designated section two-f, and by amending and reenacting sections three, three-a, twelve and sixteen, all relating to privilege tax on business and occupations.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new section designated two-f, and by amending and reenacting sections three, three-a, twelve and sixteen, all to read as follows:

Article 13. Business and Occupation Tax.

Section 2-f. *Business of Industrial Loan Company.* Upon

2 every industrial loan company engaging or continuing in busi
3 ness in this state, the tax shall be equal to one per cent of
4 the gross income of the business. The term "industrial loan
5 company" as herein used shall mean any corporation formed
6 under the provisions of article seven, chapter thirty-one of
7 the code of West Virginia, one thousand nine hundred
8 thirty-one, and any corporation formed, prior to the enact-
9 ment of said article seven, with the approval of the commis-
10 sioner of banking of this state under the laws governing
11 formation of building and loan associations, whose plan of
12 operation is as provided in said article seven.

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

10 The provisions of this article shall not apply to: (a) In-
11 surance companies which pay the state of West Virginia a tax
12 upon premiums: *Provided, however,* That said exemption shall
13 not extend to that part of the gross income of insurance com-
14 panies which is received for the use of real property, other
15 than property in which any such company maintains its office
16 or offices, in this state, whether such income be in the form of
17 rentals or royalties; (b) persons engaged in the business of
18 banking: *Provided, however,* That said exemption shall not
19 extend to that part of the gross income of such persons which
20 is received for the use of real property owned, other than the
21 banking house or building in which the business of the bank
22 is transacted, whether such income be in the form of rentals
23 or royalties; (c) non-profit cemetery companies organized
24 and operated for the exclusive benefit of their members;
25 (d) societies, organizations and associations organized and
26 operated for the exclusive benefit of their members and not
27 for profit; (e) corporations, associations and societies organ-
28 ized and operated exclusively for religious or charitable pur-
29 poses: *Provided, however,* That the exemptions of this section
30 shall not apply to corporations or cooperative associations or-

ganized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; (f) building and loan associations and federal savings and loan associations.

Sec. 3-a. *Surtaxes; Businesses Exempt.* Every person taxable under sections two-a, two-b, two-c, two-d and two-g of this article shall pay, in addition to that tax, and all other taxes, an additional surtax of three-tenths of each tax imposed by such sections.

The surtax imposed by this section shall not apply to:

1. Water companies.
2. Privileges taxed under section two-c except in the case of wholesalers or jobbers.

Sec. 12. *Lien of Tax Due and Unpaid.* 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

9 succeeding thirty days elapsing before payment there shall
10 be an additional penalty of one per cent, all of which penal-
11 ties shall be secured by the lien herein provided.

Sec. 16. *Prerequisite to Final Settlement with State Con-*
2 *tractor.* All state, county, district and municipal officers and
3 agents making contracts on behalf of the state of West Vir-
4 ginia or any political subdivision thereof shall withhold pay-
5 ment in the final settlement of such contracts until the re-
6 ceipt of a certificate from the tax commissioner to the effect
7 that all taxes levied or accrued under this article against
8 the contractor with respect to such contracts have been paid.
9 Any official violating this section shall be guilty of a misde-
10 meanor and, on conviction thereof, shall be fined not more
11 than one thousand dollars or imprisoned not exceeding one
12 year in the county jail, or shall be subject to both said fine
13 and imprisonment, in the discretion of the court.

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

E. L. Wiseman
Chairman Senate Committee

Deo D. Walter
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

Chas. D. Miller
Clerk of the Senate

Mo. S. Hall
Clerk of the House of Delegates

Wm. L. Harrison
President of the Senate

James L. Thomas
Speaker House of Delegates

The within *approved* this the *9th*

day of *March*, 1939.

James A. L.

Governor.



Filed in the office of the Secretary of State
of West Virginia. **MAR 9 1939**

Wm. S. O'BRIEN,
Secretary of State