WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

HOUSE BILL No. 135

(By Mr. Stross)

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:


Section 2-f. Business of Industrial Loan Company. Upon
every industrial loan company engaging or continuing in business in this state, the tax shall be equal to one per cent of the gross income of the business. The term "industrial loan company" as herein used shall mean any corporation formed under the provisions of article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, and any corporation formed, prior to the enactment of said article seven, with the approval of the commissioner of banking of this state under the laws governing formation of building and loan associations, whose plan of operation is as provided in said article seven.

Sec. 3. Exemptions. There shall be an exemption in every case of twenty-five dollars in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion to twenty-five dollars that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercises one or more privileges taxable hereunder.
The provisions of this article shall not apply to: (a) Insurance companies which pay the state of West Virginia a tax upon premiums: Provided, however, That said exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in this state, whether such income be in the form of rentals or royalties; (b) persons engaged in the business of banking: Provided, however, That said exemption shall not extend to that part of the gross income of such persons which is received for the use of real property owned, other than the banking house or building in which the business of the bank is transacted, whether such income be in the form of rentals or royalties; (c) non-profit cemetery companies organized and operated for the exclusive benefit of their members; (d) societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; (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 or-
organized 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 tax-
able 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 un-
paid 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, all of which penalties shall be secured by the lien herein provided.

Sec. 16. Prerequisite to Final Settlement with State Contractor. All state, county, district and municipal officers and agents making contracts on behalf of the state of West Virginia or any political subdivision thereof shall withhold payment in the final settlement of such contracts until the receipt of a certificate from the tax commissioner to the effect that all taxes levied or accrued under this article against the contractor with respect to such contracts have been paid. Any official violating this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than one thousand dollars or imprisoned not exceeding one year in the county jail, or shall be subject to both said fine and imprisonment, in the discretion of the court.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegate
Takes effect immediately upon passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within... this the 9th day of March 1939.

[Signature]
Governor.

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

Wm. S. O'Brien,
Secretary of State