

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 177

(By Mr. McCourt)

PASSED Feb. 21 1963

In Effect from Passage



Filed in Office of the Secretary of State
of West Virginia 3-1-63

JOE F. BURDETT
SECRETARY OF STATE

177

ENROLLED

Senate Bill No. 177

(By MR. McCOURT)

[Passed February 21, 1963; in effect from passage.]

AN ACT to amend and reenact sections eight-d and ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the privilege tax on certain carrier corporations, the right of appeal from an assessment of such tax, an appeal bond, a certificate of the tax commissioner in lieu of such appeal bond, the procedure on appeal, the lien of such tax, the priority of such lien, a penalty for delinquency and a waiver of any penalty in whole or in part.

Be it enacted by the Legislature of West Virginia:

That sections eight-d and ten, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 8-d. Appeal.—An appeal may be taken by the taxpayer to the circuit court of the county in which the activity taxed was engaged, or in which the taxpayer resides, or in the circuit court of Kanawha county, within thirty days after he shall have received notice from the tax commissioner of his determination as provided in section eight-c.

The appeal shall be taken by written notice to the tax commissioner and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of the circuit court and docketed as other cases with the taxpayer as plaintiff and the tax commissioner as defendant. Before the appeal is heard, the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by said clerk, the penalty of the bond to be not less than the total amount of the tax and penalties appealed from, and conditioned that the plaintiff shall perform the orders of the court; except that in lieu of said bond, the tax commissioner may upon a proper showing find and certify to said clerk that the properties of the plaintiff subject to the liens

22 imposed by sections ten and ten-a of this article are ade-
23 quate to secure the performance of the orders of the court.

24 The court shall hear the appeal and determine anew all
25 questions submitted to it on appeal from the determina-
26 tion of the tax commissioner. In such appeal a certified
27 copy of the tax commissioner's assessment shall be ad-
28 missible and shall constitute prima facie evidence of the
29 tax due under the provisions of this article. The court
30 shall render its decree thereon and a certified copy of
31 said decree shall be filed by the clerk of said court with
32 the tax commissioner who shall then correct the assess-
33 ment in accordance with said decree. An appeal may be
34 taken by the taxpayer or the tax commissioner to the
35 supreme court of appeals of this state.

Sec. 10. Lien of Tax; Penalty.—The amount of the tax
2 imposed by this article shall be a debt due the state. It
3 shall be a personal obligation of the taxpayer and shall
4 be a lien upon all property used in the business or occu-
5 pation upon which such tax is imposed, and said lien shall
6 have priority over all other liens and obligations except
7 those due the United States. A penalty of one per cent

8 per month shall be added to the amount of tax for each
9 month of delinquency and shall be secured by said lien:
10 *Provided*, That if such delinquency is due to reasonable
11 cause the tax commissioner may waive or remit in whole
12 or in part said penalties.

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

O. Roy Parker

Chairman Senate Committee

Charles L. Sandall

Chairman House Committee

Originated in the Senate.

Takes effect From passage.

Stanley Myers

Clerk of the Senate

Blankenship

Clerk of the House of Delegates

Howard W. Carson

President of the Senate

Julius W. Siefert Jr

Speaker House of Delegates

The within approved this the 28th
day of February, 1963.

Tommy Bann

Governor

