

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 178

(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

178

ENROLLED

Senate Bill No. 178

(By MR. McCOURT)

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

AN ACT to amend and reenact section eight, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business and occupation tax, 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, and the procedure on appeal.

Be it enacted by the Legislature of West Virginia:

That section eight, article thirteen, 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. Appeal.—An appeal may be taken by the
2 taxpayer to the circuit court of the county in which the

3 activity taxed was engaged, or in which the taxpayer
4 resides, or in the circuit court of Kanawha county, within
5 thirty days after he shall have received notice from the
6 tax commissioner of his determination as provided in
7 section seven-b.

8 The appeal shall be taken by written notice to the tax
9 commissioner and served as an original notice. When said
10 notice is so served it shall, with the return thereon, be
11 filed in the office of the clerk of the circuit court and dock-
12 eted as other cases with the taxpayer as plaintiff and the
13 tax commissioner as defendant. Before the appeal is heard,
14 the plaintiff shall file with such clerk a bond for the use
15 of the defendant, with sureties approved by said clerk,
16 the penalty of the bond to be not less than the total amount
17 of the tax and penalties appealed from, and conditioned
18 that the plaintiff shall perform the orders of the court;
19 except that in lieu of said bond, the tax commissioner may
20 upon a proper showing find and certify to said clerk that
21 the properties of the plaintiff subject to the liens imposed
22 by sections twelve and fourteen 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
25 all questions submitted to it on appeal from the deter-
26 mination of the tax commissioner. In such appeal a cer-
27 tified copy of the tax commissioner's assessment shall be
28 admissible and shall constitute prima facie evidence of
29 the 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.

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

Roy Parker
Chairman Senate Committee

Chas. L. Caudall
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

Howard Meyers
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singleton
Speaker House of Delegates

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

W. W. Bacon
Governor

