

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

ENROLLED

SENATE BILL NO. 423

(By Mr. Ward)

PASSED March 9, 1974

In Effect July 1, 1974 Passage



FILED IN THE OFFICE
EDGAR F. NEISKELL III
SECRETARY OF STATE

THIS DATE 3-20-74

423

ENROLLED

Senate Bill No. 423

(By MR. WARD)

[Passed March 9, 1974; in effect July 1, 1974.]

AN ACT to repeal section ten-a, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section ten of said article, relating to forfeiture for the failure to list property for taxation; procedure for collection of forfeiture.

Be it enacted by the Legislature of West Virginia:

That section ten-a, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section ten of said article be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-10. Failure to list property, etc.; collection of penalties and forfeitures.

1 If any person, firm or corporation, including public
2 service corporations whose duty it is by law to list any
3 real estate or personal property for taxation, shall refuse
4 to furnish a proper list thereof or refuse to list within
5 the time required by law, or to make such oath as required
6 by this chapter; or if any person, firm or corporation,
7 including public service corporations, shall refuse to
8 answer or shall answer falsely any question asked by the
9 assessor or by the tax commissioner, or shall fail or refuse
10 to deliver any statement required by law, he or it shall
11 forfeit not less than twenty-five nor more than one hun-
12 dred dollars, and shall be denied all remedy provided by
13 law for the correction of any assessment made by the as-
14 sessor or by the board of public works. If any person, firm

15 or corporation, including public service corporations, re-
16 quired by law to make return of property for taxation,
17 whether such return is to be made to the assessor, the
18 board of public works, or any other assessing officer or
19 body, fails to return a true list of all property which
20 should be assessed in this state, including notes, bonds,
21 bills and accounts receivable, stocks and any other intan-
22 gible personal property, such person, firm or corporation,
23 in addition to all other penalties provided by law, shall
24 forfeit one percent of the value of the property not yet
25 returned and not otherwise taxed in this state. A forfei-
26 ture as to all property aforesaid may be enforced for any
27 such default occurring in any year not exceeding five
28 years immediately prior to the time the same is discovered,
29 but no liability to penalty or forfeiture as to notes, bonds,
30 bills and accounts receivable, stocks and other intangible
31 personal property arising prior to the first day of January,
32 one thousand nine hundred thirty-three, shall be enforce-
33 able on behalf of the state or of any of its subdivisions.
34 Each failure to make a true return as herein required shall
35 constitute a separate offense, and a forfeiture shall apply
36 to each of them, but all such forfeitures, to which the same
37 person, firm or corporation is liable, shall be enforced in
38 one proceeding against such person, firm or corporation, or
39 against the estate of any deceased person and shall not
40 exceed five percent of the value of the property not
41 returned. Such forfeitures shall be collected as is here-
42 inafter provided under the provision of article two,
43 chapter eleven-a of this code, the same as any tax lia-
44 bility, against the defaulting taxpayer, or in case of a
45 decedent, against his personal representative. The sheriff
46 shall apportion such fund among the state, county, dis-
47 trict, school district and municipalities which would have
48 been entitled to the taxes upon such property if it had
49 been assessed, in proportion to the rates of taxation for
50 each such levying unit for the year in which the judgment
51 was obtained bears to the sum of rates for all. When the
52 list of property returned by the appraisers of the estate of
53 any deceased person shows an amount greater than the
54 last assessment list of such deceased person next preceding
55 the appraisal of his estate, it shall be prima facie evidence

56 that such deceased person returned an imperfect list of his
57 property: *Provided*, That any person liable for the tax or
58 his personal representative, may always be permitted to
59 prove by competent evidence that the discrepancy be-
60 tween such assessment list and the appraisal of the estate
61 is caused by a difference of valuation returned by the
62 assessor and that made by the appraisers of the same prop-
63 erty or by property acquired after assessment, or that any
64 property enumerated in the appraisers' list had been other-
65 wise listed for taxation, or that it was not liable for tax-
66 ation. Any judgment recovered under this section shall be
67 a lien, from the time of the service of the notice, upon all
68 real estate and personal property of such defaulting tax-
69 payer, owned at the time subsequently acquired, in pref-
70 erence to any other lien.

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

H. Laurel Starby
Chairman Senate Committee

Clarence B. Chausser, Jr.
Chairman House Committee

Originated in the Senate.

In effect July 1, 1974.

Howard W. Carson
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

H. D. Brotherton, Jr.
President of the Senate

Lewis J. McManus
Speaker House of Delegates

The within approved this the 19th
March
day of _____, 1974.

Paul A. Shaw, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/13/14

Time 2:20 p.m.