WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2005

ENROLLED

House Bill No. 3236
(By Delegates Michael and Kominar)

Passed April 9, 2005
In Effect From Passage.
AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §22-3-11a and 22-3-32a, all relating generally to the special reclamation tax and special tax on coal production; clarifying that both of these taxes apply to production of thin seam coal and providing for payment thereof; and providing that the special reclamation is subject to the West Virginia Tax Crimes and Penalties Act and the West Virginia Tax Procedure and Administration Act.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §22-3-11a and §22-3-32a, all to read as follows:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-11a. Special reclamation tax; clarification of imposition of tax; procedures for collection and administration of tax; application of Tax Procedure and Administration Act and Tax Crimes and Penalties Act.
(a) It is the intent of the Legislature to clarify that from the
date of its enactment, the special reclamation tax imposed
pursuant to the provisions of section eleven of this article is
intended to be in addition to any other taxes imposed on
persons conducting coal surface mining operations including,
but not limited to the tax imposed by section thirty-two of this
article, the tax imposed by article twelve-b, chapter eleven of
this code, the taxes imposed by article thirteen-a of said chapter
eleven, and the tax imposed by article thirteen-v of said chapter.

(b) Notwithstanding any other provisions of section eleven
of this article to the contrary, under no circumstance shall an
exemption from the taxes imposed by article twelve-b, thirteen-
a or thirteen-v, chapter eleven of this code be construed to be an
exemption from the tax imposed by section eleven of this
article.

(c) When coal included in the measure of the tax imposed
by section eleven of this article is exempt from the tax imposed
by article twelve-b, chapter eleven of this code, the tax imposed
by section eleven of this article shall be paid to the tax commis-

sioner in accordance with the provisions of sections four
through fourteen, inclusive, article twelve-b, chapter eleven of
this code, which provisions are hereby incorporated by refer-
ence in this article.

(d) General procedure and administration. — Each and
every provision of the “West Virginia Tax Procedure and
Administration Act” set forth in article ten, chapter eleven of
the code applies to the special tax imposed by section eleven of
this article with like effect as if such act were applicable only
to the special tax imposed by said section eleven and were set
forth in extenso in this article, notwithstanding the provisions
of section three of said article ten.
(e) *Tax crimes and penalties.* — Each and every provision of the “West Virginia Tax Crimes and Penalties Act” set forth in article nine of said chapter eleven applies to the special tax imposed by section eleven of this article with like effect as if such act were applicable only to the special tax imposed by said section eleven and set forth in extenso in this article, notwithstanding the provisions of section two of said article nine.

§22-3-32a. Special tax on coal; clarification of imposition of tax; procedures for collection and administration of tax.

(a) It is the intent of the Legislature to clarify that from the date of its enactment, the special tax on coal imposed pursuant to the provisions of section thirty-two of this article is intended to be in addition to any other taxes imposed on every person in this state engaging in the privilege of severing, extracting, reducing to possession or producing coal for sale profit or commercial use including, but not limited to the tax imposed by section eleven of this article, the tax imposed by article twelve-b, chapter eleven of this code, the taxes imposed by article thirteen-a of said chapter eleven and the tax imposed by article thirteen-v of said chapter.

(b) Notwithstanding any other provisions of section thirty-two of this article to the contrary, under no circumstance shall an exemption from the taxes imposed by article twelve-b, thirteen-a or thirteen-v, chapter eleven of this code be construed to be an exemption from the tax imposed by section thirty-two of this article.

(c) When coal included in the measure of the tax imposed by section thirty-two of this article is exempt from the tax imposed by article twelve-b, chapter eleven of this code, the tax imposed by section thirty-two of this article shall be paid to the tax commissioner in accordance with the provisions of sections
four through fourteen, article twelve-b, chapter eleven of this code, which provisions are hereby incorporated by reference in this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the ___

day of ___ 2005.

Governor