

HB 3074

FILED

2009 MAY -8 PM 3:42

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2009



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 3074**

(By Delegate Miley)



Passed April 11, 2009

In Effect Ninety Days from Passage

**ENROLLED FILED**

COMMITTEE SUBSTITUTE

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FOR

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SECRETARY OF STATE

**H. B. 3074**

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(BY DELEGATE MILEY)

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[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating to notice of delinquent taxes by certified mail.

*Be it enacted by the Legislature of West Virginia:*

That §11-6-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. ASSESSMENT OF PUBLIC SERVICE BUSINESSES.**

**§11-6-23. Lien of taxes; notice; collection by suit.**

- 1 (a) The amount of taxes and levies assessed under this
- 2 article shall constitute a debt due the state, county, district or
- 3 municipal corporation entitled thereto, and shall be a lien on
- 4 all property and assets of the taxpayer within the state.

5 (b) The lien shall attach December 31, following the  
6 commencement of the assessment year, and shall be prior to  
7 all other liens and charges.

8 (c) The auditor shall, between May 1 and May 15 of each  
9 year, prepare a list of the taxpayers delinquent in the payment  
10 of the taxes and levies, setting forth their respective addresses  
11 and the amount of state, county, district and municipal taxes  
12 due from each, which list shall be certified by the Auditor to  
13 the Board of Public Works and filed in the office of the  
14 Secretary of State.

15 (d) The Secretary of State shall preserve the list in his or  
16 her office, and a certificate from him or her that any taxpayer  
17 mentioned in the list is delinquent in the amount of taxes  
18 assessed under this article shall be prima facie evidence  
19 thereof.

20 (e) Within ten days after the filing of the list, the  
21 Secretary of State shall give written notice of the delinquency  
22 by registered or certified mail to each of the delinquent  
23 taxpayers at his or her, or its, last known post-office address;  
24 and upon the failure of any delinquent taxpayer to pay the  
25 taxes within thirty days from the mailing of the notice.

26 (f) The Attorney General shall enforce the collection of  
27 the taxes and levies, and for that purpose he or she may  
28 distraint upon any personal property of the delinquent  
29 taxpayer, or a sufficient amount thereof to satisfy the taxes,  
30 including accrued interest, penalties and costs.

31 (g) The Attorney General may also enforce the lien  
32 created by this section on the real estate of the delinquent  
33 taxpayer by instituting a suit, or suits, in equity in the Circuit  
34 Court of Kanawha County.

35 (h) In the bill filed in the suit it shall be sufficient to  
36 allege that the defendant or defendants have failed to pay the  
37 taxes and that each of them justly owes the amount of  
38 property taxes, levies and penalties, which amount shall be  
39 computed up to the first day of the month in which the bill  
40 was filed.

41 (i) No defendant may plead that the Secretary of State  
42 failed to give notice as prescribed by this section.

43 (j) If, upon the hearing of the suit, it shall appear to the  
44 court that any defendant has failed to pay the taxes and  
45 accrued penalties, the court shall enter a decree against the  
46 defendant for the amount due, and if the decree is not paid  
47 within ten days, the court shall enter a decree directing a sale  
48 of the real estate subject to the lien, or so much as may be  
49 necessary to satisfy the taxes, including interest, penalties and  
50 costs.

51 (k) When two or more taxpayers are included in one suit,  
52 the court shall apportion the cost among them as it may deem  
53 just.

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

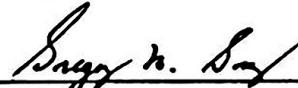
  
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Chairman Senate Committee

  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

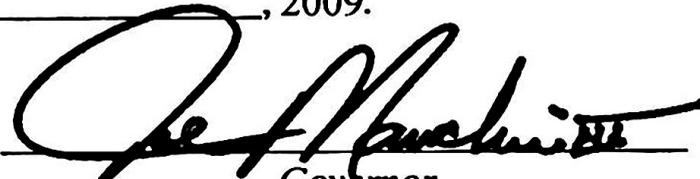
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 22  
day of May, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAY · 5 2009

Time 2:50 pm