

ENGROSSED

**Senate Bill No. 503**

(By Senators Kirkendoll, Beach, Facemire,  
D. Hall, Kessler, Laird, Stollings, Yost,  
Romano and Palumbo)

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[Introduced February 17, 2015;  
referred to the Committee on Government Organization;  
and then to the Committee on the Judiciary. ]

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A BILL to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting sheriff to hire outside attorneys to assist in the collection of taxes through the courts; and sharing cost of collection with the various taxing units.

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

That §7-5-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §11A-2-2 of said code be amended and reenacted, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 5. FISCAL AFFAIRS.**

**§7-5-24. Sheriff may commence civil action without paying fees and costs; fees and costs recoverable from defendants after completion of litigation.**

1           The sheriff ~~will~~ is not ~~be~~ required to pay any filing fee, cost, bond or security, as may  
2 otherwise be required of other civil litigants by provisions of this code, in any action in which the  
3 sheriff commences the action in his or her official capacity or on behalf of the county government:

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1 *Provided*, That where the sheriff or county government prevails in the action and any filing fees,  
2 costs, bond or security are recovered from the opposing party, the sheriff shall pay therefrom the  
3 fees, costs, bond or security to the officer who otherwise would have been entitled thereto but for  
4 the provisions of this section: *Provided, however, That any legal fees and costs not so recovered*  
5 *from the opposing party shall be paid out of the taxes so collected prior to the distribution of the*  
6 *taxes to the various taxing units.*

7 **CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.**

8 **ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.**

9 **§11A-2-2. Collection by civil action; fees and costs not required of sheriff.**

10 (a) Taxes are hereby declared to be debts owing by the taxpayer, for which he or she shall  
11 be personally liable. After delinquency, the sheriff may enforce this liability by appropriate action  
12 in any court of competent jurisdiction. No such action ~~shall~~ may be brought after five years from  
13 the time the action accrued.

14 (b) In any such action, the sheriff ~~shall be permitted to~~ may prosecute the same without  
15 paying fees or costs and without providing bond or security, as may otherwise be required of civil  
16 litigants by the provisions of this code, and shall have all services and process, including the services  
17 of witnesses, without paying therefor: *Provided*, That the sheriff shall maintain for each action for  
18 the recovery of delinquent taxes records sufficient to demonstrate the total fees and costs paid and  
19 that would have been paid but for the authority provided herein to seek recovery without such  
20 payment: *Provided, however*, That where the sheriff recovers delinquent taxes in or as the result of  
21 such action, whether by way of settlement or judgment, such fees and costs as above required to be  
22 recorded shall be recoverable from the opposite party and upon receipt of any recovery, the sheriff

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1 shall pay from the amount recovered such fees or costs to the officer who otherwise would have been  
2 entitled thereto but for the provisions of this section: *Provided further*, That the fees and costs shall  
3 be paid prior to payment to the various taxing units of the balance of the recovered taxes: *And*  
4 *provided further*, That the payment to the various taxing units shall be prorated on the basis of the  
5 total amount of taxes due them.

6 (c) The sheriff may hire an attorney to prosecute any such action: *Provided*, That any  
7 attorney so hired shall be paid, in addition to actual expenses directly incurred in the course of the  
8 representation: (1) An hourly rate, the cumulative sum of which shall not exceed fifty percent of the  
9 taxes so collected; or (2) a percentage of the taxes so collected, not to exceed twenty-five percent  
10 thereof.