

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2734

BY DELEGATES BOGGS, WESTFALL, NELSON AND FRICH

[Originating in the Committee on Finance;

March 20, 2017]

1 A BILL to adding thereto a new section, designated §11-5-15, all relating to authorizing a method
2 for the collection and remittance of property taxes related to dealers' heavy equipment
3 rental inventory.

Be it enacted by the Legislature of West Virginia:

1 That the code be amended by adding thereto a new section, designated §11-5-15, all to
2 read as follows:

ARTICLE 5. ASSESSMENT OF PERSONAL PROPERTY.

§ 11-5-15. Dealer collection of unit property tax on heavy equipment rental inventory.

1 (a) Definitions – When used in this section, or in the administration of this section, the
2 terms defined in this subsection shall have the meanings ascribed to them by this subsection,
3 unless a different meaning is clearly required by the context in which the term is used or by specific
4 definition.

5 (1) “Dealer of heavy equipment rental inventory” means a person or entity principally
6 engaged in the business of short-term rental of property as described under North American
7 Industrial Classification System code 532412, as published by the Bureau of Census.

8 (2) “Heavy equipment rental inventory” means the inventory of any construction,
9 earthmoving or industrial equipment that is mobile and rented by a dealer of heavy equipment
10 rental inventory including attachments for the equipment or other ancillary equipment or tools.
11 Qualified heavy equipment property is mobile if it is not permanently affixed to real property and
12 is capable of being moved to work sites.

13 (3) “Rental” or “renting” means the rental by a dealer of heavy equipment rental inventory:

14 (A) For period of less than one (1) year or for an undefined period; or

15 (B) Under a contract with unlimited terms.

16 (4) “Rental charge” means the total charge for the rental of heavy equipment rental
17 inventory.

18 (b) For the purpose of the collection and remittance of property taxes on heavy equipment
19 rental inventory, each dealer of heavy equipment rental inventory may, with respect to each rental
20 of heavy equipment rental inventory, assign a fee to each item of heavy equipment rental
21 inventory, state the amount of the fee assigned to the item of heavy equipment rental inventory
22 as a separate line item on the invoice or other billing statement issued by the dealer to the renter,
23 and collect the fee from the renter at the time the renter makes a rental payment to the dealer.
24 The fee shall be in any amount not greater than two and one-half percent of the rental charge of
25 each item of heavy equipment rental inventory.

26 (c) Any dealer of equipment rental inventory collecting the fee pursuant to subsection b of
27 this section shall account for and hold those amounts separately from all other business receipts
28 and shall use such amounts solely and exclusively for purposes of paying the property taxes
29 levied upon its heavy equipment rental inventory.

30 (d) Any dealer collecting unit property taxes pursuant to subsection a of this section shall
31 remit such amounts annually to the appropriate county sheriff on or before the thirtieth of
32 September immediately following receipt of annual tax statements for the year in which the taxes
33 collected pursuant to subsection a of this section took place. Any such remittances shall be
34 credited against the dealer's property taxes attributable to the heavy equipment rental inventory
35 for that year. Any unit property taxes remitted to any county in excess of the dealer's actual
36 property tax liability in the applicable tax year attributable to the heavy equipment rental inventory
37 in that county shall be retained by the county having received the payments and no such excess
38 shall be refunded to the dealer.

39 (e) Nothing in this section may be construed to exempt such heavy equipment rental
40 inventory from property taxes.

41 (f) All unit property taxes collected from renters shall be excluded from any amounts
42 subject to state or municipal sales or use taxes.

NOTE: The purpose of this bill is to authorize a method for the collection and remittance of property taxes related to dealer's heavy equipment inventory.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.