

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2539

FISCAL
NOTE

BY DELEGATES EVANS, A., HAMILTON, AMBLER, WAGNER,

ROMINE, R., FRICH, SPONAUGLE, LEWIS AND ROWAN

[Introduced February 17, 2017; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §16-15-26, relating to permitting a housing authority to garnish delinquent
3 rents and other amounts owed to the authority from the renter's income tax refund; setting
4 forth a procedure; permitting the Tax Commissioner and the applicable courts to receive
5 a fee and costs; and providing for rule-making.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §16-15-26, to read as follows

ARTICLE 15. STATE HOUSING LAW.

**§16-15-26. Withholding from personal income tax refunds for delinquent rents in
magistrate actions, in magistrate appeals to circuit court and for failure to appear
in court; rule-making.**

1 (a) If delinquent rents or amounts due to a housing authority by a renter of public housing
2 as determined by the magistrate court, determined by the circuit court upon judgment on an
3 appeal to circuit court of that determination, or determined by either court for failure to appear are
4 not paid in full within one year of the judgment, the magistrate court clerk or, upon a judgment
5 rendered on appeal, the circuit clerk shall notify the Tax Commissioner that the defendant has
6 failed to pay the amounts assessed by the court. The notice provided by the magistrate clerk or
7 the circuit clerk to the Tax Commissioner shall include the defendant's Social Security number.
8 The Tax Commissioner, or his or her designee, shall withhold from any personal income tax
9 refund due and owing to a defendant the amounts due, the Tax Commissioner's administration
10 fee for the withholding and any and all fees or other amounts that the magistrate court and the
11 circuit court would have collected had the defendant appeared. However, no withholding may be
12 made under this section if there is an unsatisfied withholding request made pursuant to section
13 two-b, article ten, chapter eight of this code. The Tax Commissioner's administration fee may not
14 exceed \$25, unless this maximum amount is increased by legislative rule promulgated in

15 accordance with article three, chapter twenty-nine-a of this code. The administrative fees
16 deducted shall be deposited in the Magistrate Fines and Fees Collection Fund created by section
17 two-c, article three, chapter fifty of this code. The Tax Commissioner shall make such
18 expenditures from the fund as he or she deems appropriate for the administration of this
19 subsection.

20 (b) (1) After deduction of the Tax Commissioner's administration fee, the Tax
21 Commissioner shall remit all remaining amounts withheld pursuant to this section to the clerk of
22 the court that notified the Tax Commissioner of the failure to pay under subsection (a) of this
23 section.

24 (2) From the amounts received from the Tax Commissioner, the circuit clerk shall distribute
25 the portion attributable to costs owed to magistrate court to the magistrate clerk, withhold costs
26 owed to circuit court, and distribute the amounts owed to the housing authority to the authority.

27 (c) In the event the costs owed to the court or courts and amounts due the housing
28 authority exceed the defendant's income tax refund, the Tax Commissioner shall withhold the
29 remaining balance in subsequent years until such time as the costs and the amounts owed are
30 paid in full. The Tax Commissioner shall remit the moneys that he or she collects to the
31 appropriate clerk no later than July 1 of each year. If the circuit court or the magistrate court
32 subsequently determines that any costs or amounts were erroneously imposed, the clerk of the
33 court shall promptly notify the Tax Commissioner. If the amounts due are paid in full to the court
34 from a source other than the Tax Commissioner after the clerk of the court has provided notice of
35 the failure to pay to the Tax Commissioner, the clerk of the court shall promptly notify the Tax
36 Commissioner of the payment. If the refunds have not been withheld and remitted, the Tax
37 Commissioner may not withhold and remit payment to the appropriate court and shall so inform
38 the clerk of the court. If the refunds have already been withheld and remitted to the court, the Tax
39 Commissioner shall so inform the clerk of the court. In either event, all refunds for erroneously
40 imposed costs or amounts shall be made by the appropriate court and not by the Tax

41 Commissioner.

42 (d) Rules. -- The Tax Commissioner may propose for legislative approval such rules as
43 may be useful or necessary to carry out the purpose of this section and to implement the intent of
44 the Legislature. Rules shall be promulgated in accordance with article three, chapter twenty-nine-
45 a of this code.

NOTE: The purpose of this bill is to permit a housing authority to garnish delinquent rents and other amounts owed to the authority from the renter's income tax refund. The bill sets forth a procedure. The bill permits the Tax Commissioner and the applicable courts to receive a fee and costs. The bill provides for rule-making.

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