

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Enrolled**

## **Senate Bill 427**

BY SENATORS GAUNCH AND FACEMIRE

[Passed March 7, 2018; in effect 90 days from passage]



1 AN ACT to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating  
2 to allowing the Secretary of State to give written notice of delinquency in the payment of  
3 certain taxes to certain taxpayers by first class mail.

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

**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 article shall constitute a debt due  
2 the state, county, district, or municipal corporation entitled thereto, and shall be a lien on all  
3 property and assets of the taxpayer within the state.

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

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

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

14 (e) Within 10 days after the filing of the list, the Secretary of State shall give final written  
15 notice of any delinquency of \$1,000 or greater by registered or certified mail to each of the  
16 delinquent taxpayers at his or her, or its, last known post office address; the Secretary of State  
17 may give final written notice of any delinquency of less than \$1,000 by first class mail to each of  
18 the delinquent taxpayers at his or her, or its, last known post office address; and upon the failure  
19 of any delinquent taxpayer to pay the taxes within 30 days from the mailing of the notice.

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

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

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

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

32 (j) If, upon the hearing of the suit, it shall appear to the court that any defendant has failed  
33 to pay the taxes and accrued penalties, the court shall enter a decree against the defendant for  
34 the amount due, and if the decree is not paid within 10 days, the court shall enter a decree  
35 directing a sale of the real estate subject to the lien, or so much as may be necessary to satisfy  
36 the taxes, including interest, penalties, and costs.

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

The 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*

Originated in the Senate.

In effect 90 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*

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The within ..... this the.....  
Day of ....., 2018.

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*Governor*