

HB 3072 S

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

House Bill No. 3072

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]



Passed March 10, 2007

In Effect Ninety Days from Passage

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H. B. 3072 OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-1A-23 of said code; to amend and reenact §11-10-5d of said code; and to amend and reenact §11A-2-2 of said code, all relating to local taxation; defining "charitable exemptions" for purposes of the municipal business and occupation tax; authorizing disclosure of property tax data by the assessor to the sheriff and municipal finance officers; authorizing the Division of Taxation to share with local tax collection authorities federal employer identification numbers; and authorizing the costs incurred to collect delinquent taxes to be shared by all levying bodies.

Be it enacted by the Legislature of West Virginia:

That §8-13-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-1A-23 of said code be amended and reenacted; that §11-10-5d of said code be amended

and reenacted; and that §11A-2-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.

1 (a) *Authorization to impose tax.* -- (1) Whenever any
2 business activity or occupation, for which the state imposed
3 its annual business and occupation or privilege tax under
4 article thirteen, chapter eleven of this code, prior to July one,
5 one thousand nine hundred eighty-seven, is engaged in or
6 carried on within the corporate limits of any municipality, the
7 governing body thereof shall have plenary power and
8 authority, unless prohibited by general law, to impose a
9 similar business and occupation tax thereon for the use of the
10 municipality.

11 (2) Municipalities may impose a business and occupation
12 or privilege tax upon every person engaging or continuing
13 within the municipality in the business of aircraft repair,
14 remodeling, maintenance, modification and refurbishing
15 services to any aircraft or to an engine or other component
16 part of any aircraft as a separate business activity.

17 (b) *Maximum tax rates.* -- In no case shall the rate of such
18 municipal business and occupation or privilege tax on a
19 particular activity exceed the maximum rate imposed by the
20 state, exclusive of surtaxes, upon any business activities or
21 privileges taxed under sections two-a, two-b, two-c, two-d,
22 two-e, two-g, two-h, two-i and two-j, article thirteen of said
23 chapter eleven, as such rates were in effect under said article
24 thirteen, on January one, one thousand nine hundred fifty-
25 nine, or in excess of one percent of gross income under

26 section two-k of said article thirteen, or in excess of three
27 tenths of one percent of gross value or gross proceeds of sale
28 under section two-m of said article thirteen. The rate of
29 municipal business and occupation or privilege tax on the
30 activity described in subdivision (2), subsection (a) of this
31 section shall be ten one-hundredths of one percent. The rate
32 of municipal business and occupation or privilege tax on the
33 activity of a health maintenance organization holding a
34 certificate of authority under the provisions of article twenty-
35 five-a, chapter thirty-three of this code, shall not exceed one
36 half of one percent to be applied solely to that portion of
37 gross income received from the Medicaid program pursuant
38 to Title XIX of the Social Security Act, the state employee
39 programs administered by the Public Employees Insurance
40 Agency pursuant to article sixteen, chapter five of this code,
41 and other federal programs, for health care items or services
42 provided directly or indirectly by the health maintenance
43 organization, that is expended for administrative expenses;
44 and shall not exceed one half of one percent to be applied to
45 the gross income received from enrollees, or from employers
46 on behalf of enrollees, from sources other than Medicaid,
47 state employee programs administered by the Public
48 Employees Insurance Agency and other federal programs for
49 health care items or services provided directly or indirectly
50 by the health maintenance organization: *Provided*, That this
51 tax rate limitation shall not extend to that part of the gross
52 income of health maintenance organizations which is
53 received from the use of real property other than property in
54 which any such company maintains its office or offices in
55 this state, whether such income is in the form of rentals or
56 royalties. This provision concerning the maximum municipal
57 business and occupation tax rate on the activities of health
58 maintenance organizations is effective beginning after the
59 thirty-first day of December, one thousand nine hundred
60 ninety-six. Any payments of business and occupation tax
61 made by a health maintenance organization to a municipality
62 for calendar year one thousand nine hundred ninety-seven
63 shall not be subject to recovery by the health maintenance
64 organization. Administrative expenses shall include all

65 expenditures made by a health maintenance organization
66 other than expenses paid for claims incurred or payments
67 made to providers for the benefits received by enrollees.

68 (c) *Effective date of local tax.* -- Any taxes levied
69 pursuant to the authority of this section may be made
70 operative as of the first day of the then current fiscal year or
71 any date thereafter: *Provided*, That any new imposition of tax
72 or any increase in the rate of tax upon any business,
73 occupation or privilege taxed under section two-e of said
74 article thirteen shall apply only to gross income derived from
75 contracts entered into after the effective date of such
76 imposition of tax or rate increase, and which effective date
77 shall not be retroactive in any respect: *Provided, however*,
78 That no tax imposed or revised under this section upon public
79 utility services may be effective unless and until the
80 municipality provides written notice of the same by certified
81 mail to said public utility at least sixty days prior to the
82 effective date of said tax or revision thereof.

83 (d) *Exemptions.* -- A municipality shall not impose its
84 business and occupation or privilege tax on any activity that
85 was exempt from the state's business and occupation tax
86 under the provisions of section three, article thirteen of said
87 chapter eleven, prior to July one, one thousand nine hundred
88 eighty-seven, and determined without regard to any annual or
89 monthly monetary exemption also specified therein:
90 *Provided*, That on and after the first day of July, two
91 thousand seven, a municipality may impose its business and
92 occupation or privilege tax on any activity of a corporation,
93 association or society organized and operated exclusively for
94 religious or charitable purposes that was exempt from the
95 state's business and occupation tax under the provisions of
96 section three, article thirteen of chapter eleven, prior to July
97 one, one thousand nine hundred eighty-seven, but only to the
98 extent that the income generated by the activity is subject to
99 taxation under the provisions of section 511 of the Internal
100 Revenue Code of 1986, as amended.

101 (e) *Activity in two or more municipalities.* -- Whenever
102 the business activity or occupation of the taxpayer is engaged
103 in or carried on in two or more municipalities of this state,
104 the amount of gross income, or gross proceeds of sales,
105 taxable by each municipality shall be determined in
106 accordance with such legislative regulations as the Tax
107 Commissioner may prescribe. It being the intent of the
108 Legislature that multiple taxation of the same gross income,
109 or gross proceeds of sale, under the same classification by
110 two or more municipalities shall not be allowed, and that
111 gross income, or gross proceeds of sales, derived from
112 activity engaged in or carried on within this state, that is
113 presently subject to state tax under section two-c or two-h,
114 article thirteen, chapter eleven of this code, which is not
115 taxed or taxable by any other municipality of this state, may
116 be included in the measure of tax for any municipality in this
117 state, from which the activity was directed, or in the absence
118 thereof, the municipality in this state in which the principal
119 office of the taxpayer is located. Nothing in this subsection
120 shall be construed as permitting any municipality to tax gross
121 income or gross proceeds of sales in violation of the
122 Constitution and laws of this state or the United States, or as
123 permitting a municipality to tax any activity that has a
124 definite situs outside its taxing jurisdiction.

125 (f) Where the governing body of a municipality imposes
126 a tax authorized by this section, such governing body shall
127 have the authority to offer tax credits from such tax as
128 incentives for new and expanding businesses located within
129 the corporate limits of the municipality.

130 (g) *Administrative provisions.* -- The ordinance of a
131 municipality imposing a business and occupation or privilege
132 tax shall provide procedures for the assessment and collection
133 of such tax, which shall be similar to those procedures in
134 article thirteen, chapter eleven of this code, as in existence on
135 June thirtieth, one thousand nine hundred seventy-eight, or to
136 those procedures in article ten, chapter eleven of this code,
137 and shall conform with such provisions as they relate to
138 waiver of penalties and additions to tax.

CHAPTER 11. TAXATION.

ARTICLE 1A. APPRAISAL OF PROPERTY.

§11-1A-23. Confidentiality and disclosure of property tax returns and return information; offenses; penalties.

1 (a) *Secrecy of returns and return information.* -- Property
2 tax returns and return information filed or supplied pursuant
3 to this article and articles three, four, five and six of this
4 chapter and information obtained by subpoena or subpoena
5 duces tecum issued under the provisions of this article shall
6 be confidential and except as authorized in this section, no
7 officer or employee of the State Tax Department, county
8 assessors, county commissions and the board of public works
9 shall disclose any return or return information obtained by
10 him or her, including such return information obtained by
11 subpoena, in any manner in connection with his or her
12 service as such an officer, member or employee: *Provided,*
13 That nothing herein shall make confidential the itemized
14 description of the property listed, in order to ascertain that all
15 property subject to assessment has been subjected to
16 appraisal: *Provided, however,* That the commissioner and the
17 assessors shall withhold from public disclosure the specific
18 description of burglar alarms and other similar security
19 systems held by any person, stocks, bonds and other personal
20 property held by a natural person, except motor vehicles and
21 other tangible property utilized publicly, and shall withhold
22 from public disclosure information claimed by any taxpayer
23 to constitute a trade secret or confidential patent information:
24 *Provided further,* That such property descriptions withheld
25 from public disclosure shall be subject to production and
26 inspection in connection with any review, protest or
27 intervention in the appraisal or assessment process, under
28 such reasonable limitations as the board of review, board of
29 equalization and review or court shall require. The term
30 officer or employee includes a former officer, member or
31 employee. -

32 (b) *Disclosure.* -- (1) Information made confidential by
33 subsection (a) of this section shall be open to inspection by
34 or disclosure to officers, members and employees of the State
35 Tax Department, county assessors, county commissions,
36 county sheriffs, municipal financial officers and to members
37 of the board of public works whose official duties require
38 such inspection or disclosures for property tax administration
39 purposes. Disclosure may be made to persons, or officers or
40 employees thereof, who are employed by the state Tax
41 Commissioner by contract or otherwise, provided such
42 person, or officer or employee thereof, shall be subject to the
43 provisions of this section as fully as if he or she was an
44 officer or employee of the State Tax Department.
45 Information made confidential by subsection (a) of this
46 section shall be open to inspection by the property owner
47 providing such information and to his or her duly authorized
48 representative.

49 (2) Information made confidential by subsection (a) of
50 this section may be disclosed in a judicial or administrative
51 proceeding to collect or ascertain the amount of tax due, but
52 only if: (i) The taxpayer is a party to the proceedings or; (ii)
53 such return information directly relates to a transactional
54 relationship between a person who is a party to the
55 proceeding and the taxpayer which directly affects the
56 resolution of an issue in the proceeding.

57 (c) *Reciprocal exchange.* -- The Tax Commissioner may
58 permit the proper officer of the United States, or the District
59 of Columbia, or any other state, or his or her authorized
60 representative, to inspect reports, declarations or returns filed
61 with the Tax Commissioner or may furnish to such officer or
62 representative a copy of any such document provided such
63 other jurisdiction grants substantially similar privileges to the
64 Tax Commissioner or to the Attorney General of this state.

65 (d) *Penalties.* -- Any officer, member or employee of the
66 State Tax Department, county assessors, county

67 commissions, county sheriffs, municipal financial officers
68 and the board of public works who violates this section shall
69 be guilty of a misdemeanor and, upon conviction thereof,
70 shall be fined not more than one thousand dollars or
71 imprisoned for not more than one year, or both, together with
72 the costs of prosecution.

73 (e) *Limitations.* -- Any person protected by the provisions
74 of this article may, in writing, waive the secrecy provision of
75 this section for such purpose and such period as he or she
76 shall therein state, and the officer with whom such waiver is
77 filed, if he or she so determines may thereupon release to
78 designated recipients such taxpayer's return or other
79 particulars filed under the provisions of the tax articles
80 administered under the provisions of this article.
81 This section shall not be construed to prohibit the publication
82 or release of statistics so classified so as to prevent the
83 identification of particular reports and the items thereof nor
84 to prevent the publication and release of assessments and
85 appraised values of property.

ARTICLE 10. PROCEDURE AND ADMINISTRATION.

§11-10-5d. Confidentiality and disclosure of returns and return information.

1 (a) *General rule.* -- Except when required in an official
2 investigation by the Tax Commissioner into the amount of
3 tax due under any article administered under this article or in
4 any proceeding in which the Tax Commissioner is a party
5 before a court of competent jurisdiction to collect or ascertain
6 the amount of such tax and except as provided in subsections
7 (d) through (n), inclusive, of this section, it shall be unlawful
8 for any officer, employee or agent of this state or of any
9 county, municipality or governmental subdivision to divulge
10 or make known in any manner the tax return, or any part
11 thereof, of any person or disclose information concerning the

12 personal affairs of any individual or the business of any
13 single firm or corporation, or disclose the amount of income,
14 or any particulars set forth or disclosed in any report,
15 declaration or return required to be filed with the Tax
16 Commissioner by any article of this chapter imposing any tax
17 administered under this article or by any rule or regulation of
18 the Tax Commissioner issued thereunder, or disclosed in any
19 audit or investigation conducted under this article. For
20 purposes of this article, tax returns and return information
21 obtained from the Tax Commissioner pursuant to an
22 exchange of information agreement or otherwise pursuant to
23 the provisions of subsections (d) through (n), inclusive, of
24 this section which is in the possession of any officer,
25 employee, agent or representative of any local or municipal
26 governmental entity or other governmental subdivision is
27 subject to the confidentiality and disclosure restrictions set
28 forth in this article: *Provided*, That such officers, employees
29 or agents may disclose the information in an official
30 investigation, by a local or municipal governmental authority
31 or agency charged with the duty and responsibility to
32 administer the tax laws of the jurisdiction, into the amount of
33 tax due under any lawful local or municipal tax administered
34 by that authority or agency, or in any proceeding in which the
35 local or municipal governmental subdivision, authority or
36 agency is a party before a court of competent jurisdiction to
37 collect or ascertain the amount of the tax. Unlawful
38 disclosure of the information by any officer, employee or
39 agent of any local, municipal or governmental subdivision is
40 subject to the sanctions set forth in this article.

41 (b) *Definitions.* -- For purposes of this section:

42 (1) *Background file document.* -- The term "background
43 file document", with respect to a written determination,
44 includes the request for that written determination, any
45 written material submitted in support of the request and any
46 communication (written or otherwise) between the State Tax
47 Department and any person outside the State Tax Department
48 in connection with the written determination received before
49 issuance of the written determination.

50 (2) *Disclosure.* -- The term "disclosure" means making
51 known to any person in any manner whatsoever a return or
52 return information.

53 (3) *Inspection.* -- The terms "inspection" and "inspected"
54 means any examination of a return or return information.

55 (4) *Return.* -- The term "return" means any tax or
56 information return or report, declaration of estimated tax,
57 claim or petition for refund or credit or petition for
58 reassessment that is required by, or provided for, or permitted
59 under the provisions of this article (or any article of this
60 chapter administered under this article) which is filed with
61 the Tax Commissioner by, on behalf of, or with respect to
62 any person and any amendment or supplement thereto,
63 including supporting schedules, attachments or lists which
64 are supplemental to, or part of, the return so filed.

65 (5) *Return information.* -- The term "return information"
66 means:

67 (A) A taxpayer's identity; the nature, source or amount of
68 his or her income, payments, receipts, deductions,
69 exemptions, credits, assets, liabilities, net worth, tax liability,
70 tax withheld, deficiencies, overassessments or tax payments,
71 whether the taxpayer's return was, is being, or will be
72 examined or subject to other investigation or processing, or
73 any other data received by, recorded by, prepared by,
74 furnished to or collected by the Tax Commissioner with
75 respect to a return or with respect to the determination of the
76 existence, or possible existence, of liability (or the amount
77 thereof) or by any person under the provisions of this article
78 (or any article of this chapter administered under this article)
79 for any tax, additions to tax, penalty, interest, fine, forfeiture
80 or other imposition or offense; and

81 (B) Any part of any written determination or any
82 background file document relating to such written
83 determination. "Return information" does not include,
84 however, data in a form which cannot be associated with or
85 otherwise identify, directly or indirectly, a particular
86 taxpayer. Nothing in the preceding sentence, or in any other
87 provision of this code, shall be construed to require the
88 disclosure of standards used or to be used for the selection of
89 returns for examination or data used or to be used for
90 determining such standards.

91 (6) *Tax administration.* -- The term "tax administration"
92 means:

93 (A) The administration, management, conduct, direction
94 and supervision of the execution and application of the tax
95 laws or related statutes of this state and the development and
96 formulation of state and local tax policy relating to existing
97 or proposed state and local tax laws and related statutes of
98 this state; and

99 (B) Includes assessment, collection, enforcement,
100 litigation, publication and statistical gathering functions
101 under the laws of this state and of local governments.

102 (7) *Taxpayer identity.* -- The term "taxpayer identity"
103 means the name of a person with respect to whom a return is
104 filed, his or her mailing address, his or her taxpayer
105 identifying number or a combination thereof.

106 (8) *Taxpayer return information.* -- The term "taxpayer
107 return information" means return information as defined in
108 subdivision (5) of this subsection which is filed with, or
109 furnished to, the Tax Commissioner by or on behalf of the
110 taxpayer to whom such return information relates.

111 (9) *Written determination.* -- The term "written
112 determination" means a ruling, determination letter, technical
113 advice memorandum or letter or administrative decision
114 issued by the Tax Commissioner.

115 (c) *Criminal penalty.* -- Any officer, employee or agent
116 (or former officer, employee or agent) of this state or of any
117 county, municipality or governmental subdivision who
118 violates this section shall be guilty of a misdemeanor and,
119 upon conviction thereof, shall be fined not more than one
120 thousand dollars or imprisoned for not more than one year, or
121 both, together with costs of prosecution.

122 (d) *Disclosure to designee of taxpayer.* -- Any person
123 protected by the provisions of this article may, in writing,
124 waive the secrecy provisions of this section for such purpose
125 and such period as he or she shall therein state. The Tax
126 Commissioner may, subject to such requirements and
127 conditions as he or she may prescribe, thereupon release to
128 designated recipients such taxpayer's return or other
129 particulars filed under the provisions of the tax articles
130 administered under the provisions of this article, but only to
131 the extent necessary to comply with a request for information
132 or assistance made by the taxpayer to such other person.
133 However, return information shall not be disclosed to such
134 person or persons if the Tax Commissioner determines that
135 such disclosure would seriously impair administration of this
136 state's tax laws.

137 (e) *Disclosure of returns and return information for use*
138 *in criminal investigations.* -

139 (1) *In general.* -- Except as provided in subdivision (3) of
140 this subsection, any return or return information with respect
141 to any specified taxable period or periods shall, pursuant to
142 and upon the grant of an ex parte order by a federal district
143 court judge, federal magistrate or circuit court judge of this

144 state, under subdivision (2) of this subsection, be open (but
145 only to the extent necessary as provided in such order) to
146 inspection by, or disclosure to, officers and employees of any
147 federal agency, or of any agency of this state, who personally
148 and directly engaged in:

149 (A) Preparation for any judicial or administrative
150 proceeding pertaining to the enforcement of a specifically
151 designated state or federal criminal statute to which this state,
152 the United States or such agency is or may be a party;

153 (B) Any investigation which may result in such a
154 proceeding; or

155 (c) Any state or federal grand jury proceeding pertaining
156 to enforcement of such a criminal statute to which this state,
157 the United States or such agency is or may be a party. Such
158 inspection or disclosure shall be solely for the use of such
159 officers and employees in such preparation, investigation or
160 grand jury proceeding.

161 (2) *Application of order.* -- Any United States attorney,
162 any special prosecutor appointed under Section 593 of Title
163 28, United States Code, or any attorney in charge of a United
164 States justice department criminal division organized crime
165 strike force established pursuant to Section 510 of Title 28,
166 United States Code, may authorize an application to a circuit
167 court judge or magistrate, as appropriate, for the order
168 referred to in subdivision (1) of this subsection. Any
169 prosecuting attorney of this state may authorize an
170 application to a circuit court judge of this state for the order
171 referred to in said subdivision. Upon the application, the
172 judge or magistrate may grant such order if he or she
173 determines on the basis of the facts submitted by the
174 applicant that:

175 (A) There is reasonable cause to believe, based upon
176 information believed to be reliable, that a specific criminal
177 act has been committed;

178 (B) There is reasonable cause to believe that the return or
179 return information is or may be relevant to a matter relating
180 to the commission of such act; and

181 (c) The return or return information is sought exclusively
182 for use in a state or federal criminal investigation or
183 proceeding concerning such act and the information sought
184 to be disclosed cannot reasonably be obtained, under the
185 circumstances, from another source.

186 (3) The Tax Commissioner may not disclose any return
187 or return information under subdivision (1) of this subsection
188 if he or she determines and certifies to the court that the
189 disclosure would identify a confidential informant or
190 seriously impair a civil or criminal tax investigation.

191 (f) *Disclosure to person having a material interest.* -- The
192 Tax Commissioner may, pursuant to legislative regulations
193 promulgated by him or her, and upon such terms as he or she
194 may require, disclose a return or return information to a
195 person having a material interest therein: *Provided*, That
196 such disclosure shall only be made if the Tax Commissioner
197 determines, in his or her discretion, that the disclosure would
198 not seriously impair administration of this state's tax laws.

199 (g) *Statistical use.* -- This section shall not be construed
200 to prohibit the publication or release of statistics so classified
201 as to prevent the identification of particular returns and the
202 items thereof.

203 (h) *Disclosure of amount of outstanding lien.* -- If notice
204 of lien has been recorded pursuant to section twelve of this
205 article, the amount of the outstanding obligation secured by
206 such lien may be disclosed to any person who furnishes
207 written evidence satisfactory to the Tax Commissioner that
208 such person has a right in the property subject to the lien or
209 intends to obtain a right in such property.

210 (i) *Reciprocal exchange.* -- The Tax Commissioner may,
211 pursuant to written agreement, permit the proper officer of
212 the United States, or the District of Columbia or any other
213 state, or any political subdivision of this state, or his or her
214 authorized representative, who is charged by law with
215 responsibility for administration of a similar tax, to inspect
216 reports, declarations or returns filed with the Tax
217 Commissioner or may furnish to such officer or
218 representative a copy of any document, provided any other
219 jurisdiction grants substantially similar privileges to the Tax
220 Commissioner or to the Attorney General of this state:
221 *Provided,* That pursuant to written agreement the Tax
222 Commissioner may provide to the assessor of any county,
223 sheriff of any county, or the mayor of any West Virginia
224 municipality the federal employer identification number of
225 any business being carried on within the jurisdiction of the
226 requesting assessor, sheriff or mayor. The disclosure shall be
227 only for the purpose of, and only to the extent necessary in,
228 the administration of tax laws: *Provided,* That the
229 information may not be disclosed to the extent that the Tax
230 Commissioner determines that such disclosure would identify
231 a confidential informant or seriously impair any civil or
232 criminal tax investigation.

233 (j) *Exchange with municipalities.* -- The Tax
234 Commissioner shall, upon the written request of the mayor or
235 governing body of any West Virginia municipality, allow the
236 duly authorized agent of the municipality to inspect and make
237 copies of the state business and occupation tax return filed by

238 taxpayers of the municipality and any other state tax returns
239 (including, but not limited to, consumers sales and services
240 tax return information and health care provider tax return
241 information) as may be reasonably requested by the
242 municipality. Such inspection or copying shall include
243 disclosure to the authorized agent of the municipality for tax
244 administration purposes of all available return information
245 from files of the tax department relating to taxpayers who
246 transact business within the municipality. The Tax
247 Commissioner shall be permitted to inspect or make copies
248 of any tax return and any return information or other
249 information related thereto in the possession of any
250 municipality or its employees, officers, agents or
251 representatives that has been submitted to or filed with the
252 municipality by any person for any tax including, but not
253 limited to, the municipal business and occupation tax, public
254 utility tax, municipal license tax, tax on purchases of
255 intoxicating liquors, license tax on horse racing or dog racing
256 and municipal amusement tax.

257 (k) *Release of administrative decisions.* -- The Tax
258 Commissioner shall release to the public his or her
259 administrative decisions, or a summary thereof: *Provided,*
260 That unless the taxpayer appeals the administrative decision
261 to circuit court or waives in writing his or her rights to
262 confidentiality, any identifying characteristics or facts about
263 the taxpayer shall be omitted or modified to an extent so as
264 to not disclose the name or identity of the taxpayer.

265 (l) *Release of taxpayer information.* -- If the Tax
266 Commissioner believes that enforcement of the tax laws
267 administered under this article will be facilitated and
268 enhanced thereby, he or she shall disclose, upon request, the
269 names and address of persons:

- 270 (A) Who have a current business registration certificate.
- 271 (B) Who are licensed employment agencies.
- 272 (C) Who are licensed collection agencies.
- 273 (D) Who are licensed to sell drug paraphernalia.
- 274 (E) Who are distributors of gasoline or special fuel.
- 275 (F) Who are contractors.
- 276 (G) Who are transient vendors.
- 277 (H) Who are authorized by law to issue a sales or use tax
278 exemption certificate.
- 279 (I) Who are required by law to collect sales or use taxes.
- 280 (J) Who are foreign vendors authorized to collect use tax.
- 281 (K) Whose business registration certificate has been
282 suspended or canceled or not renewed by the Tax
283 Commissioner.
- 284 (L) Against whom a tax lien has been recorded under
285 section twelve of this article (including any particulars stated
286 in the recorded lien).
- 287 (M) Against whom criminal warrants have been issued
288 for a criminal violation of this state's tax laws.

289 (N) Who have been convicted of a criminal violation of
290 this state's tax laws.

291 (m) *Disclosure of return information to child support*
292 *enforcement division.* --

293 (1) *State return information.* -- The Tax Commissioner
294 may, upon written request, disclose to the child support
295 enforcement division created by article two, chapter forty-
296 eight-a of this code:

297 (A) Available return information from the master files of
298 the tax department relating to the Social Security account
299 number, address, filing status, amounts and nature of income
300 and the number of dependents reported on any return filed
301 by, or with respect to, any individual with respect to whom
302 child support obligations are sought to be enforced; and

303 (B) Available state return information reflected on any
304 state return filed by, or with respect to, any individual
305 described in paragraph (A) of this subdivision relating to the
306 amount of the individual's gross income, but only if such
307 information is not reasonably available from any other
308 source.

309 (2) *Restrictions on disclosure.* -- The Tax Commissioner
310 shall disclose return information under subdivision (1) of this
311 subsection only for purposes of, and to the extent necessary
312 in, collecting child support obligations from and locating
313 individuals owing such obligations.

314 (n) *Disclosure of names and addresses for purposes of*
315 *jury selection.* -- The Tax Commissioner shall, at the written
316 request of a circuit court or the chief judge thereof, provide
317 to the circuit court within thirty calendar days a list of the

318 names and addresses of individuals residing in the county or
 319 counties comprising the circuit who have filed a state
 320 personal income tax return for the preceding tax year. The
 321 list provided shall set forth names and addresses only. The
 322 request shall be limited to counties within the jurisdiction of
 323 the requesting court.

324 The court, upon receiving the list or lists, shall direct the
 325 jury commission of the appropriate county to merge the
 326 names and addresses with other lists used in compiling a
 327 master list of residents of the county from which prospective
 328 jurors are to be chosen. Immediately after the master list is
 329 compiled, the jury commission shall cause the list provided
 330 by the Tax Commissioner and all copies thereof to be
 331 destroyed and shall certify to the circuit court and to the Tax
 332 Commissioner that the lists have been destroyed.

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

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

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

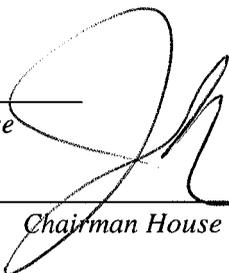
7 (b) In any such action, the sheriff shall be permitted to
 8 prosecute the same without paying fees or costs, and without

9 providing bond or security, as may otherwise be required of
10 civil litigants by the provisions of this code, and shall have all
11 services and process, including the services of witnesses,
12 without paying therefor: *Provided*, That the sheriff shall
13 maintain for each action for the recovery of delinquent taxes
14 records sufficient to demonstrate the total fees and costs paid
15 and that would have been paid but for the authority provided
16 herein to seek recovery without such payment: *Provided*,
17 *however*, That where the sheriff recovers delinquent taxes in
18 or as the result of such action, whether by way of settlement
19 or judgment, such fees and costs as above required to be
20 recorded shall be recoverable from the opposite party and
21 upon receipt of any recovery, the sheriff shall pay from the
22 amount recovered such fees or costs to the officer who
23 otherwise would have been entitled thereto but for the
24 provisions of this section: *Provided further*, That the fees
25 and costs shall be paid prior to payment to the various taxing
26 units of the balance of the recovered taxes: *And provided*
27 *further*, That the payment to the various taxing units shall be
28 prorated on the basis of the total amount of taxes due them.

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



Chairman Senate Committee



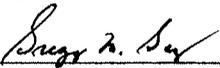
Chairman House Committee

Originating in the House.

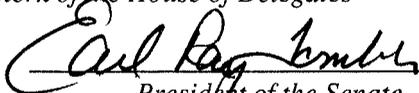
In effect ninety days from passage.



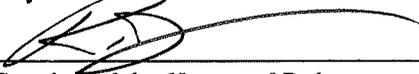
Clerk of the Senate



Clerk of the House of Delegates

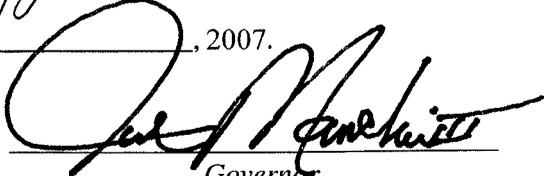


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2007

Time

4:00 pm