

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2013
EXTRAORDINARY



ENROLLED

House Bill No. 105

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



Passed April 18, 2013

In effect from passage.

WEST VIRGINIA
LEGISLATURE
OFFICE OF THE CLERK

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HB 105

FILED
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SECRETARY OF STATE

E N R O L L E D
H. B. 105

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

[Passed April 18, 2013; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-11c, relating to administration of local sales and use taxes and local excise taxes; granting the Tax Commissioner exclusive responsibility for administering, collecting and enforcing specified local sales and use taxes and excise taxes; specifying jurisdiction and standing before the Office of Tax Appeals; authorizing the Tax Commissioner to propose for promulgation legislative rules to assess a fee for the administration, collection and enforcement of specified local sales and use taxes and excise taxes; providing a special fund for deposit of the certain fees; and specifying an effective date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-10-11c, to read as follows:

ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.**§11-10-11c. State administration of local sales and use taxes and excise taxes; jurisdiction and standing before the office of tax appeals; rule-making authority.**

1 (a) The Tax Commissioner has exclusive responsibility for
2 administering, collecting and enforcing all local sales and use
3 taxes and excise taxes imposed pursuant to article twenty-two,
4 chapter seven of this code, section five-a, article one, chapter
5 eight of this code, article thirteen-c, chapter eight of this code
6 and article thirty-eight, chapter eight of this code.

7 (b) Pursuant to, and limited by, the provisions of section
8 eight, article ten-a of this chapter, the Office of Tax Appeals has
9 exclusive and original jurisdiction to hear disputes arising from
10 any local sales and use taxes and excise taxes for which the Tax
11 Commissioner has exclusive administration, enforcement and
12 collection responsibility. No municipality or county has standing
13 before the Office of Tax Appeals in any dispute arising under
14 any local sales and use tax and excise tax upon which the Tax
15 Commissioner has exclusive responsibility for administration,
16 enforcement and collection.

17 (c) Notwithstanding any other provision of this code to the
18 contrary, the Tax Commissioner may assess a fee, to be estab-
19 lished by legislative rule pursuant to the provisions of article
20 three, chapter twenty nine-a of this code, to be retained from
21 collections authorized by section five-a, article one, chapter eight
22 of this code, and section six, article thirteen-c, chapter eight of
23 this code: *Provided*, That the fee may not exceed five percent of
24 such collections in total including any fee otherwise authorized
25 by this code or any duly enacted ordinance.

26 (d) Establishment of special revenue account.

27 (1) There is created in the State Treasury a special revenue
28 revolving fund account known as the "Local Sales Tax and

29 Excise Tax Administration Fund”. Expenditures from the fund
30 shall be for the purposes set forth in this section and are not
31 authorized from collections but are to be made only in accor-
32 dance with appropriation by the Legislature and in accordance
33 with the provisions of article three, chapter twelve of this code:
34 *Provided*, That for the fiscal year ending June 30, 2014, expendi-
35 tures are authorized from collections rather than pursuant to
36 appropriation by the Legislature. The fund shall consist of:

37 (A) Any funds collected pursuant to section (c) of this
38 section; and

39 (B) Any funds received on and after July 1, 2013, from fees
40 retained by the Tax Commissioner pursuant to section six, article
41 thirteen-c, chapter eight of this code; and

42 (C) Amounts deducted and retained by the Tax Commis-
43 sioner under subsection (e), section eleven-a of this article; and

44 (D) Any future funds appropriated by the Legislature or
45 transferred by any public agency as contemplated or permitted
46 by applicable federal or state law; and

47 (E) Any accrued interest or other return on the moneys in the
48 fund.

49 (2) On July 1, 2013, all moneys in the Tax Department
50 “Municipal Sales and Use Tax Operations Fund” established
51 under section six, article thirteen-c, chapter eight of this code
52 shall be transferred to the Local Sales Tax and Excise Tax
53 Administration Fund established in this section.

54 (3) On July 1, 2013, all moneys in the “Special District
55 Excise Tax Administration Fund” established under section
56 eleven-b of this article shall be transferred to the Local Sales Tax
57 and Excise Tax Administration Fund established in this section.

58 (4) Amounts deposited in the Local Sales Tax and Excise
59 Tax Administration Fund may be expended by the Tax Commis-

60 sioner for the general administration, collection and enforcement
61 of all local sales and use taxes and excise taxes imposed pursuant
62 to article twenty-two, chapter seven of this code, section five-a,
63 article one, chapter eight of this code, article thirteen-c, chapter
64 eight of this code and article thirty-eight, chapter eight of this
65 code.

66 (e) Notwithstanding the provisions of section eleven-b of
67 this article, The Tax Commissioner may prescribe by rule the
68 schedule and manner for deposits of moneys into the Local Sales
69 Tax and Excise Tax Administration Fund and any other adminis-
70 trative and procedural requirements as may be useful or neces-
71 sary for the management and handling of the fund.

72 (f) Effective Date - The provisions of this section enacted in
73 2013 are effective on and after July 1, 2013.

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

Rocky Fulmer
Member ~~Chairman, House Committee~~
Senate

Danny Wells
Chairman, Senate Committee
House

Originating in the House.

In effect from passage.

Steve R. Soy
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
President of the Senate

The within is approved this the 3rd
day of May, 2013.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 3 pm