

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 637

BY SENATOR BLAIR

[Introduced February 18, 2019; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-12-5b, relating to revocation, cancellation, or suspension of business
 3 registration certificates; providing procedures therefor; and specifying effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. BUSINESS REGISTRATION TAX.

§11-12-5b. Additional authority to revoke, cancel, or suspend business registration certificate.

1 (a) In addition to the authority in §11-12-5 of this code and not in lieu thereof, the Tax
 2 Commissioner may cancel, revoke or suspend a business registration certificate at any time
 3 during a registration period if:

4 (1) The registrant filed an application for a business registration certificate that was false
 5 or fraudulent in any material respect.

6 (2) The registrant failed to file a tax return or to report information required by the Tax
 7 Commissioner for any tax or fee administered under §11-10-1 et seq. of this code, when the return
 8 or report became due and payable, determined with regard to any authorized extension of time
 9 for payment.

10 (3) The registrant failed to pay any tax or fee, additions to tax, penalties or interest, or any
 11 part thereof, when they became due and payable under §11-1-1 et seq. of this code, or any tax
 12 or fee imposed by another chapter of this code and administered under §11-10-1 et seq. of this
 13 code, when they became due and payable, determined with regard to any authorized extension
 14 of time for payment.

15 (4) The registrant failed to pay over to the Tax Commissioner on or before its due date,
 16 determined with regard to any authorized extension of time for payment, any tax or fee imposed
 17 by §11-1-1 et seq. of this code, or any tax or fee imposed by another chapter of this code that is
 18 administered under §11-10-1 et seq. of this code, which the registrant collects from any person
 19 and holds in trust for this state.

20 (5) The registrant's authority to do business in this state was revoked by the Secretary of
21 State.

22 (b) When a business registration certificate is issued to an individual, or a business entity,
23 and one year after the certificate is issued by the Tax Commissioner the individual, or business
24 entity, has not filed any tax return or report for a tax or fee administered under the provisions of
25 §11-10-1 et seq. of this code, the Tax Commissioner may send the individual, or business entity,
26 a letter by first class mail, to the address for which business registration certificate was issued
27 asking the individual, or business entity to explain why no return or report was filed. If the
28 individual, or business entity, fails to respond to the letter within 60 days after it was deposited in
29 the United States mail, postage paid, the Tax Commissioner may begin the process to revoke the
30 business registration certificate.

31 (c) All individuals and business entities that have applied for, or been issued, a business
32 registration certificate shall file for each taxable year a business activity report with the Tax
33 Commissioner. The report must be filed, in a form prescribed by the Tax Commissioner, on or
34 before the 15th day of the fourth month after the end of the registrant's taxable year for income
35 tax purposes. An individual, or business entity, is not required to file a business activity report
36 under this section if the individual, or business entity, filed a tax return for that taxable year for
37 any of the taxes, or fees, administered under the provisions of §11-10-1 et seq. of this code.

38 (d) This section takes effect July 1, 2019.

NOTE: The purpose of this bill is to implement recommendations of the Legislative Auditor regarding revocation of business registration certificates.

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