

HB 3072 S

FILED

2007 APR -2 PM 2: 52

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

FILED  
ENROLLED 2007 APR -2 PM 2: 52

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.

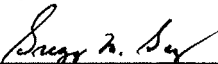
  
\_\_\_\_\_  
Chairman Senate Committee

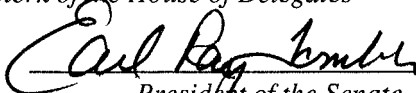
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

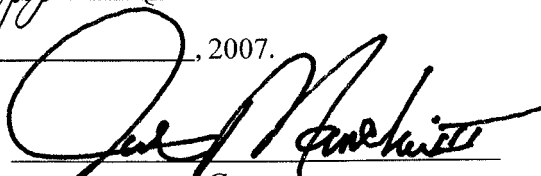
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
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