

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 427

BY SENATORS GAUNCH AND FACEMIRE

[Introduced January 30, 2018; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating
2 to modifying the form of notice for certain tax delinquencies due the state, county, district,
3 or municipal corporations of the state.

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 written notice
15 of ~~the~~ any delinquency greater than \$1,000 by registered or certified mail to each of the delinquent
16 taxpayers at his or her, or its, last known post office address; the Secretary of State shall give
17 written notice of any delinquency less than \$1,000 by first class mail to each of the delinquent
18 taxpayers at his or her, or its, last known post office address for all debts greater than \$1,000;
19 and upon the failure of any delinquent taxpayer to pay the taxes within 30 days from the mailing
20 of the notice.

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

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

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

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

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

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

NOTE: The purpose of this bill is to modify the form of notice for certain tax delinquencies due the state, county, district, or municipal corporations of the state.

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