

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 623

FISCAL
NOTE

BY SENATOR BLAIR

[Introduced February 15, 2019; Referred
to the Committee on Finance]

1 A BILL to amend and reenact §11A-1-8 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §11A-2-10a and §11A-2-13 of said code; to amend and reenact §11A-3-2 of
 3 said code; and to amend and reenact §59-3-1, §59-3-2, §59-3-3, and §59-3-9 of said code,
 4 all relating to the placement of legal advertisements in qualified newspapers; providing for
 5 notices of taxes due by electronic means; providing for a program for notifications of taxes
 6 and delinquent taxes due; prohibiting additional fees; providing for effective dates;
 7 requiring a report from the Tax Commissioner to expand the electronic notification to other
 8 entities required to publish legal advertisements; providing for rulemaking; providing for
 9 emergency rulemaking; making technical corrections; allowing qualified newspapers to
 10 publish legal notices on their online edition; requiring all newspapers to have an online
 11 edition by July 1, 2021; modifying rates for legal publications to allow for publication online;
 12 requiring newspapers report specified data to the Secretary of State; and defining terms.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

§11A-1-8. Notice of time and place for payment; mailing of tax tickets.

1 (a) The sheriff may give notice by posting at not less than six public places in each
 2 magisterial district, and for at least 10 days before the time appointed, that between July 15, and
 3 ~~the thirty-first day of August 31 he or she will attend at one or more of the most public and~~
 4 ~~convenient places in each district, such places to will be specified in the notice~~ will be available
 5 for the purpose of receiving taxes due by the people residing or paying taxes in such district at a
 6 convenient place as listed in the notice. The notice shall also state that those who pay the first
 7 installment of their taxes on or before September 1, will be entitled to a discount of two and one-
 8 half percent. Like notice may be given that between January 15, and ~~the twenty-eighth day of~~

9 February 28, he or she will again appear in each district for the collection of taxes, and that those
10 who pay their second installment on or before March 1 will be entitled to the same discount.
11 Failure of the sheriff to post such lists shall not impair the right to collect such taxes, the right to
12 collect any interest or penalty imposed as a result of the failure to pay such taxes or the methods
13 of enforcing the payment of such taxes, interest or penalty. Effective July 1, 2019, this notice is
14 required to provide taxpayers with notice that effective July 1, 2021, information regarding taxes
15 due shall be provided via electronic means as set forth in subsection (j) of this section.

16 (b) The county commission of any county may order that the ~~above~~ notice as set forth in
17 subsection (a) of this section shall also be given by advertisement. Such an order, once entered,
18 shall continue in effect until rescinded by the county commission. Upon entry of such order, the
19 sheriff shall, besides posting as required ~~above~~ in subsection (a), publish the proper notice as a
20 Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and
21 the publication area for such publication shall be the county. Such notice shall be so published
22 within 14 consecutive days next preceding July 15, or January 15, as the case may be. For every
23 failure so to advertise, the sheriff shall forfeit \$100. Effective July 1, 2019, this order and the
24 publication as required by this subsection shall also provide taxpayers with notice that effective
25 July 1, 2021, information regarding taxes due shall be provided via electronic means as set forth
26 in subsection (j) of this section.

27 (c) Notwithstanding the ~~foregoing~~ provisions of subsections (a) and (b) of this section, the
28 sheriff shall send to every person owing real or personal property taxes a copy of such taxpayers
29 annual tax ticket or tickets showing what tax is due and how such tax may be paid. Such copy
30 shall be sent to the last known address of such taxpayer by first class United States mail.

31 (d) Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not
32 impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result
33 of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or
34 penalty.

35 (e) At such time as the sheriff prepares the delinquent list for real property, he or she shall
36 compare such list with a copy of the landbooks most recently delivered by the assessor to the
37 board of review and equalization pursuant to §11-3-19 of this code. The assessor shall make a
38 copy of ~~said~~ the landbooks available to the sheriff. If property on the delinquent list should appear
39 as a transfer on ~~said~~ the landbooks with the delinquent owner as the transferor, the sheriff shall
40 send to the transferee at his or her last known address by first class United States mail a copy of
41 the annual tax ticket or tickets showing what taxes are due upon the real property of such
42 transferee and how they may be paid as prescribed in this section.

43 (f) Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not
44 impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result
45 of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or
46 penalty.

47 ~~(b)~~ (g) In addition to the notice of real or property taxes owed, provided in this section, the
48 county commission of any county may order that the sheriff include in the ~~mailing~~ notice of any
49 taxes or other fees owed to the county or a municipality in the county.

50 ~~(e)~~ (h) (1) The sheriff may accept credit cards in payment of any of the taxes, interest or
51 penalty described in this section. The type of credit card accepted shall be at the discretion of the
52 sheriff.

53 (2) The sheriff may set a fee to be added to each credit card transaction equal to the
54 charge paid by the state, county, sheriff or taxpayer for the use of the credit card by the taxpayer.
55 Except for fees imposed pursuant to this subdivision, no other fees for the use of a credit card
56 may be imposed upon the taxpayer.

57 (3) Except as provided in subsection (a) of this section, in no event shall the sheriff
58 discount or otherwise reduce the tax liability of a taxpayer who has elected to use a credit card
59 for the payment of the tax liability.

60 ~~(d)~~ (i) (1) The Tax Commissioner may promulgate legislative rules to provide for the

61 payment of tax liability by installment payments other than those prescribed in subsection (a) of
62 this section.

63 (2) The Tax Commissioner shall propose rules for legislative approval in accordance with
64 the provisions of §29A-3-1 et seq. of this code to provide for the operation and procedure for
65 implementing the notice by electronic means as set forth in subsection (j) of this section.

66 (3) The Tax Commissioner may promulgate emergency rules pursuant to the provisions
67 of §29A-3-15 to effectuate the provisions of this section.

68 (4) These rules shall provide, at a minimum:

69 (A) A registration or application process;

70 (B) A means of notifying taxpayers of receiving notice via electronic means;

71 (C) The length of time before renewal is required;

72 (D) A means of notifying the Tax Commissioner of change of phone number or email
73 address or other means of electronic communication; and

74 (E) Any other provisions necessary to effectuate the provisions of this article.

75 (j) (1) The Tax Commissioner is required to prepare a written plan for expanding the
76 system of electronic notification to include electronic notifications for legal advertisements for
77 municipal, county, and state government as set forth in §59-3-1 et seq. of this code;

78 (2) This report is required to be submitted to the Legislature by December 31, 2022.

79 (k) Effective July 1, 2021, taxpayers shall receive notice of taxes due pursuant to this
80 subsection via an electronic format generated from the Tax Commissioner and the sheriff is no
81 longer required to send the notice as set forth in subsections (c) and (e) of this section. A taxpayer
82 shall be notified electronically of the amount of the tax that is due, how such tax may be paid, the
83 location of the payment as stated in the order provided in subsection (a) of this section, and any
84 other information deemed necessary by the Tax Commissioner. Neither the sheriff or the county
85 commission may charge a taxpayer an additional fee for the use of this service.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

§11A-2-10a. Notice of delinquency.

1 (a) On or after April 1 of each year, the sheriff may prepare and publish a notice stating
2 in effect that the taxes assessed for the previous year have become delinquent, and that unless
3 paid by April 13, will be included for publication in the forthcoming delinquent lists, which notice,
4 if published, shall be published as a Class II-O legal advertisement in compliance with the
5 provisions of §59-3-1 et seq. of this code, and the publication area for such publication shall be
6 the county. This notice is required to provide taxpayers with notice that effective July 1, 2021,
7 information regarding taxes due shall be provided via electronic means as set forth in subsection
8 (b) of this section.

9 (b) (1) The Tax Commissioner shall propose rules for legislative approval in accordance
10 with the provisions of §29-3-1 et seq. of this code to provide for the operation and procedure for
11 implementing the notice by electronic means as set forth in subsection (b) of this section.

12 (2) The Tax Commissioner may promulgate emergency rules pursuant to the provisions
13 of §29A-3-15 to effectuate the provisions of this section.

14 (3) These rules shall provide, at a minimum:

15 (A) A registration or application process;

16 (B) A means of notifying taxpayers of receiving notice via electronic means;

17 (C) The length of time before renewal is required;

18 (D) A means of notifying the Tax Commissioner of change of phone number or email
19 address or other means of electronic communication; and

20 (E) Any other provisions necessary to effectuate the provisions of this article.

21 (c) (1) The Tax Commissioner is required to prepare a written plan for expanding the
22 system of electronic notification to include electronic notifications for legal advertisements for
23 municipal, county and state government as set forth in §59-3-1 et seq. of this code;

24 (2) This report is required to be submitted to the Legislature by December 31, 2022.

§11A-2-13. Publication and posting of delinquent tax lists.

1 (a) A copy of each of the delinquent lists shall be posted at the front door of the courthouse
 2 of the county at least two weeks before the session of the county commission at which they are
 3 to be presented for examination. At the same time a copy of each list shall be published as a
 4 Class I-O legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code,
 5 and the publication area for such publication shall be the county. Only the aggregate amount of
 6 the taxes owed by each person need be published. To cover the costs of preparing, publishing,
 7 and posting the delinquent lists, a charge of \$20 shall be added to the taxes and interest already
 8 due on each item listed.

9 (b) Any person whose taxes were delinquent on May 1 may have his or her name removed
 10 from the delinquent lists prior to the time the same is delivered to the newspapers for publication
 11 by paying to the sheriff the full amount of the taxes and costs owed by such person at the date of
 12 such redemption. The sheriff shall collect a charge of only \$3 if redemption is made before the list
 13 is delivered for publication. Costs collected by the sheriff hereunder which are not expended for
 14 publication shall be paid into the general county fund.

15 (c) Effective July 1, 2019, the posting as required by this subsection shall also provide
 16 taxpayers with notice that effective July 1, 2021, information regarding taxes due shall be provided
 17 via electronic means as set forth in subsection (j) of this section.

**ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE
 AND UNAPPROPRIATED LANDS.**

§11A-3-2. Second publication of list of delinquent real estate; notice.

1 (a) On or before September 10, of each year, the sheriff shall prepare a second list of
 2 delinquent lands, which shall include all real estate in his or her county remaining delinquent as
 3 ~~of first day~~ of September 1, together with a notice of sale, in form or effect as follows:

4 “Notice is hereby given that tax liens for the following described tracts or lots of land or
 5 undivided interests therein in the County of _____ which are delinquent for the

6 nonpayment of taxes for the year (or years) 20____, will be offered for sale by the undersigned
 7 sheriff (or collector) at public auction at the front door of the courthouse of the county, between
 8 the hours of nine in the morning and four in the afternoon, on the ____ day of
 9 _____, 20_____.

10 Tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided
 11 interest therein, will be sold at public auction to the highest bidder in an amount which shall not
 12 be less than the taxes, interest and charges which shall be due thereon to the date of sale, as set
 13 forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale

14 Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be
 15 redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount
 16 of taxes, interest and charges due thereon up to the date of redemption. Payment received within
 17 14 business days prior to the date of sale must be paid by cashier check, money order, certified
 18 check or United States currency. Payment must be received in the tax office by the close of
 19 business on the last business day prior to the sale.

20 Given under my hand this _____ day of

21 _____, 20_____.

22 _____

23 Sheriff (or collector).”

24 The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a
 25 Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq* of this code,

26 and the publication area for such publication shall be the county.

27 (b) In addition to such publication, no less than 30 days prior to the sale, the sheriff shall
28 send a notice of the delinquency and the date of sale by certified mail: (1) To the last known
29 address of each person listed in the land books whose taxes are delinquent; (2) to each person
30 having a lien on real property upon which the taxes are due as disclosed by a statement filed with
31 the sheriff pursuant to the provisions of section three of this article; (3) to each other person with
32 an interest in the property or with a fiduciary relationship to a person with an interest in the property
33 who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request
34 for such notice of delinquency; and (4) in the case of property which includes a mineral interest
35 but does not include an interest in the surface other than an interest for the purpose of developing
36 the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by
37 the Tax Commissioner, a request for such notice which identifies the person as an owner of an
38 interest in the surface of real property that is included in the boundaries of such property:
39 *Provided*, That in a case where one owner owns more than one parcel of real property upon which
40 taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and
41 each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single
42 notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice,
43 that notice shall set forth a legally sufficient description of all parcels of property on which taxes
44 are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder
45 affect the validity of the title of the property conveyed if it is conveyed pursuant to section 27 or
46 59 of this article.

47 (c) (1) To cover the cost of preparing and publishing the second delinquent list, a charge
48 of \$25 shall be added to the taxes, interest and charges already due on each item and all such
49 charges shall be stated in the list as a part of the total amount due.

50 (2) To cover the cost of preparing and mailing notice to the landowner, lienholder or any
51 other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be

52 added to the taxes, interest and charges already due on each item and all such charges shall be
53 stated in the list as a part of the total amount due.

54 (d) Any person whose taxes were delinquent on September 1, may have his or her name
55 removed from the delinquent list prior to the time the same is delivered to the newspapers for
56 publication by paying to the sheriff the full amount of taxes and costs owed by the person at the
57 date of such redemption. In such case, the sheriff shall include but \$3 of the costs provided in this
58 section in making such redemption. Costs collected by the sheriff hereunder which are not
59 expended for publication and mailing shall be paid into the General County Fund.

60 (e) Effective July 1, 2021, taxpayers shall receive notice of delinquent taxes due pursuant
61 to this section via an electronic message generated by the Tax Commissioner. Taxpayers should
62 be notified in the electronic message of the amount of the delinquent tax that is due, how such
63 tax may be paid, the location of the payment, and any other information deemed necessary by
64 the Tax Commissioner. Neither the sheriff or the county commission may charge a taxpayer an
65 additional fee for the use of this service.

66 (f) (1) The Tax Commissioner shall propose rules for legislative approval pursuant to the
67 provisions of §29A-3-1 et seq. of this code to provide for the operation and procedure for
68 implementing the notice by electronic means as set forth in subsection (e) of this section.

69 (2) The Tax Commissioner may promulgate emergency rules pursuant to the provisions
70 of §29A-3-15 to effectuate the provisions of this section.

71 (3) These rules shall provide, at a minimum:

72 (A) A registration or application process;

73 (B) A means of notifying taxpayers of receiving notice via electronic means;

74 (C) The length of time before renewal is required;

75 (D) A means of notifying the Tax Commissioner of change of phone number or email
76 address or other means of electronic communication; and

77 (E) Any other provisions necessary to effectuate the provisions of this article.

78 (d) (1) The Tax Commissioner is required to prepare a written plan for expanding the
 79 system of electronic notification to include electronic notifications for legal advertisements for
 80 municipal, county and state government as set forth in §59-3-1 et seq. of this code;

81 (2) This report is required to be submitted to the Legislature by December 31, 2022.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS;
 LEGAL ADVERTISEMENTS.**

ARTICLE 3. NEWSPAPERS AND LEGAL ADVERTISEMENTS.

§59-3-1. Definitions and general provisions.

1 (a) As used in this article, elsewhere in this code or in any other provision of law:

2 (1) “Legal advertisement” means any notice, advertisement, statement, information or
 3 other matter required by law or court to be published. Effective July 1, 2021, a “legal
 4 advertisement” may be made on the online version of a newspaper as provided in this article.

5 (2) “Publication area” means the area or areas for which a legal advertisement is required
 6 by law or court to be made.

7 (3) “Once a week for two successive weeks” means two publications of a legal
 8 advertisement in a qualified newspaper, or on the internet as provided in this article, occurring
 9 within a period of 14 consecutive days with at least an interval of six full days within the period
 10 between the date of the first publication and the date of the second publication.

11 (4) “Once a week for three successive weeks” means three publications of a legal
 12 advertisement in a qualified newspaper, or on the internet as provided in this article, occurring
 13 within a period of 21 consecutive days with at least an interval of six full days within the period
 14 between the date of the first publication and the date of the second publication and with at least
 15 an interval of six full days within the period between the date of the second publication and the
 16 date of the third publication.

17 (5) “Publication date” means the date on which a notice is placed in a qualified newspaper

18 is first placed in circulation or when the notice is first placed on the online version of a newspaper.

19 (6) "General circulation" means not only a newspaper meeting the other qualifications
20 specified in subsection (b) of this section and circulated among and of interest to the general
21 public in the area in which it circulates, but also a newspaper meeting said other qualifications,
22 the actual circulation of which throughout the publication area is large enough to give basis for a
23 reasonable belief that publication of a legal advertisement in the newspaper will give effective
24 notice to the residents of the publication area. Effective July 1, 2021, "general circulation" shall
25 also mean placement of a legal advertisement on the online version of a newspaper.

26 (b) Wherever the term "qualified newspaper" or "qualified newspapers" is used in this
27 article, or the term "newspaper" or "newspapers" is used elsewhere in this code or in any other
28 provision of law in connection with a legal advertisement as ~~herein~~ defined in this section, the
29 terms shall be taken to mean ~~only~~ a newspaper or newspapers ~~as the case may be~~, published
30 (unless otherwise expressly provided) in the State of West Virginia and which meet the following
31 qualifications:

32 (1) Any newspaper shall be of regular issue and must have a bona fide, general circulation
33 in the publication area. A newspaper is considered to be of regular issue if it is published regularly,
34 as frequently as once a week, for at least 50 weeks during the calendar year as prescribed by its
35 mailing permit; and has been published for at least one year immediately preceding the date on
36 which the legal advertisement is delivered to the newspaper for publication. A newspaper is
37 considered to be of bona fide, general circulation in the publication area if it meets the definition
38 of "general circulation" as defined in this section and is circulated to the general public at a definite
39 price or consideration, is posted online, including all public notice and legal advertisements, and
40 provides the reader the opportunity to sign up for automatic delivery of notice of legal
41 advertisements through alternative electronic means;

42 (2) Any newspaper shall bear a title or name, consist of not less than four pages without
43 a cover, and be a newspaper to which the general public resorts for passing events of a political,

44 religious, commercial and social nature, and for current happenings, announcements,
45 miscellaneous reading matters, advertisements and other notices; or

46 (c) Notwithstanding any other provision of this code or law to the contrary, a qualified
47 newspaper shall for all purposes be considered to be published where it is first placed in
48 circulation.

**§59-3-2. Classification of legal advertisements; designation of newspapers; frequency of
publication; posting; manner of publishing.**

1 (a) A Class I legal advertisement shall be published one time, a Class II legal
2 advertisement shall be published once a week for two successive weeks and a Class III legal
3 advertisement shall be published once a week for three successive weeks in a qualified
4 newspaper published in the publication area; or if there is no qualified newspaper published in
5 the publication area or if no qualified newspaper published in the publication area will publish the
6 legal advertisement at the rates specified in section three of this article, the legal advertisement
7 shall be published in a qualified newspaper published outside the publication area; or if no
8 qualified newspaper is published outside the publication area or if no qualified newspaper
9 published outside the publication area will publish the legal advertisement at the rates specified
10 in section three of this article, the legal advertisement shall be posted in at least three public
11 places in the publication area, one of which postings shall be in the county courthouse, at or near
12 the front door of the county courthouse, if a county courthouse is located in the publication area
13 and one of which postings shall be in the municipal office building or municipal office or offices,
14 at or near the front door thereof, if the publication area is a municipality.

15 (b) A Class I-0 legal advertisement shall be published one time, a Class II-0 legal
16 advertisement shall be published once a week for two successive weeks, and a Class III-0 legal
17 advertisement shall be published once a week for three successive weeks, in two qualified
18 newspapers of opposite politics published in the publication area; or if two qualified newspapers
19 of opposite politics are not published in the publication area or if two qualified newspapers of

20 opposite politics published in the publication area will not publish the legal advertisement at the
21 rates specified in section three of this article, the legal advertisement shall be published in one
22 qualified newspaper published in the publication area; or if there is no qualified newspaper
23 published in the publication area or if no qualified newspaper published in the publication area
24 will publish the legal advertisement at the rates specified in section three of this article, the legal
25 advertisement shall be published in one qualified newspaper published outside the publication
26 area; or if no qualified newspaper is published outside the publication area or if no qualified
27 newspaper published outside the publication area will publish the legal advertisement at the rates
28 specified in section three of this article, the legal advertisement shall be posted in at least three
29 public places in the publication area, one of which postings shall be in the county courthouse, at
30 or near the front door thereof, if a county courthouse is located in the publication area and one of
31 which postings shall be in the municipal office building or municipal office or offices, at or near the
32 front door thereof, if the publication area is a municipality.

33 (c) A legal advertisement may be published in a qualified newspaper published on any
34 day of the week except Sunday.

35 (d) All legal advertisements shall be published together in continuous columns on one
36 page of the newspaper publishing them under a general heading styled "Legal Advertisements",
37 unless the number or size of the legal advertisements requires the use of more than one page, in
38 which event the legal advertisements shall be published as near as practicable in continuous
39 columns on as many pages as necessary under the same heading as above required. Legal
40 advertisements published on the online version of a newspaper shall be clearly labeled "Legal
41 Advertisement" and shall be in an easily readable and accessible location in the online version of
42 the newspaper.

43 (e) Pursuant to the provisions of the article, publication on an online version of a
44 newspaper as provided in this article shall be maintained pursuant to the time restrictions set forth
45 in this section.

§59-3-3. Rates for legal advertisements; computation; filing affidavits with Secretary of State.

1 (a) The rates which a publisher or proprietor of a qualified newspaper in West Virginia may
2 charge and receive for a single or first publication of any legal advertisement set solid depends
3 on the bona fide circulation of the newspaper, as follows:

4 (1) Four cents per word if the qualified newspaper has a bona fide circulation of less than
5 1,000, except as provided in subdivision (1), subsection (a) of this section;

6 (2) Eight and one-half cents per word if the qualified newspaper has a bona fide circulation
7 of 1,000 to 5,000;

8 (3) Nine cents per word if the qualified newspaper has a bona fide circulation of more than
9 5,000 but less than 10,000;

10 (4) Ten cents per word if the qualified newspaper has a bona fide circulation of more than
11 10,000 and less than 30,000; or

12 (5) Eleven cents per word if the qualified newspaper has a bona fide circulation of 30,000
13 or more: *Provided*, That on July 1, 2003 and on July 1, 2004 and on July 1, 2005 the allowable
14 rate per word in each of the classifications of qualified newspapers with reference to circulation
15 as set forth in this subsection shall, for each classification, increase 1¢ per word over the prior
16 year's rate.

17 (b) In computing the number of words in a legal advertisement, not set solid, the basis is
18 the size of type in which legal advertising is set by the qualified newspaper making the publication
19 and shall be computed at the legal rate as though the matter were solid type, that is to say, on
20 the basis of 84 words to the single column inch in six point type and 54 words to the single column
21 inch in eight point type and any other size type in proportion.

22 (c) In determining the cost of a legal advertisement which is to appear more than once in
23 the same qualified newspaper, the cost for the first publication shall be computed as specified in
24 subsections (a) and (b) of this section and the cost of the second and each subsequent publication

25 shall be 75 percent of the cost of the first publication computed as specified in subsections (a)
26 and (b) of this section.

27 (d) The average bona fide circulation stated by each qualified newspaper in the statement
28 filed by the newspaper with the United States post office department in October of each year, and
29 effective July 1, 2021 with the additional number of paid online-only digital subscribers, shall
30 control the rate of circulation classification of the qualified newspaper for the period commencing
31 July 1, of each year until the last day of June of the following year. On or before November 1, of
32 each year, the publisher or proprietor of each newspaper desiring to publish any legal
33 advertisement during the ensuing one year time period commencing July 1, shall file with the
34 Secretary of State an affidavit stating the average bona fide circulation of the newspaper during
35 the preceding 12 month time period ending September 30, of each year and shall set forth
36 sufficient facts in the affidavit to show whether the newspaper is a qualified newspaper. The
37 average bona fide circulation stated in the affidavit by each qualified newspaper and effective July
38 1, 2021, with the additional number of paid online-only digital subscribers, shall control the rate
39 circulation classification for the ensuing 12 month period commencing July 1. Any qualified
40 newspaper for which the required affidavit and effective July 1, 2021, a notarized number of
41 online-only digital subscribers and analytics is not filed on or before March 1 of any calendar year
42 shall be conclusively presumed to have for the ensuing 12 month period commencing July 1, of
43 such year a bona fide circulation of less than 1,000. At the time a publisher or proprietor of a
44 qualified newspaper files an affidavit and effective July 1, 2021, a notarized number of online-only
45 digital subscribers with the Secretary of State, as required by this subsection, the publisher or
46 proprietor shall notify the clerk of the county commission and the Board of Education of the county
47 in which the qualified newspaper is published of the circulation classification of the qualified
48 newspaper and of the applicable rate for publishing legal advertisements in the qualified
49 newspaper during the ensuing 12 month period commencing July 1. If the qualified newspaper is
50 published in a municipality, the publisher or proprietor shall at the same time also furnish the same

51 notification to the clerk or recorder of the municipality.

52 (e) In addition to the filing requirements set forth in subsection (d) of this section, on or
 53 before November 1 of each year, the publisher or proprietor of each newspaper desiring to publish
 54 any legal advertisement during the ensuing one year time period commencing July 1, shall also
 55 file with the Secretary of State a notarized number of online-only digital subscribers and an
 56 analytics report documenting the average overall online traffic and online legal advertising during
 57 the preceding 12 month period for the period ending September 30. This report is not required to
 58 be submitted until November 1, 2022.

59 ~~(e)~~ (f) The rate charged for political advertising appearing in a newspaper at any time or
 60 times during the time period commencing 30 days prior to any primary or general election and
 61 ending the day following the election may not exceed 105 percent of the lowest commercial rate
 62 charged by the newspaper in which the political advertising appears.

63 ~~(f)~~ (g) Nothing contained in this section prohibits qualified newspapers from charging less
 64 than the specified rates for any legal advertisement or from charging usual and customary rates
 65 for notarizing and producing additional copies of the affidavits and statements required in section
 66 four of this article.

§59-3-9. Severability Online newspapers.

1 ~~If any provision of this act or the application thereof to any person or circumstances is held~~
 2 ~~unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or~~
 3 ~~applications of the act, and to this end, the provisions of this act are declared to be severable~~

4 Effective July 1, 2021, all qualified newspapers as defined in this article shall have an
 5 online version. On and after that date all legal advertising as set forth in the article shall be
 6 published in the online version of a qualified newspaper. Nothing contained herein precludes a
 7 qualified newspaper from publishing an online version prior to that date and from publishing any
 8 legal advertising in the online version pursuant to the provisions of this article.

NOTE: The purpose of this bill is to require legal advertisements regarding taxes due or other legal advertisements be published in online newspapers; notice regarding taxes due or delinquent are to be sent electronically; and providing for rule-making authority with the Tax Commissioner to promulgate rules to effectuate provisions relating to online legal advertisements or electronic notice.

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