

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 530

FISCAL
NOTE

BY SENATOR TARR

[Introduced March 2, 2021; 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 specifying additional grounds for revocation,
 3 cancellation, or suspension of business registration certificates; authorizing revocation,
 4 cancellation, or suspension where the registrant has filed a false or fraudulent application
 5 for a business registration certificate, failed to pay taxes, additions to taxes, penalties, or
 6 interest, or where the Secretary of State has revoked the registrant's authority to conduct
 7 business; directing means of notice and opportunity for cure; providing procedures
 8 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 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 the Tax Commissioner on or before its due date, determined
16 with regard to any authorized extension of time for payment, any tax or fee imposed by §11-1-1
17 et seq. of this code, or any tax or fee imposed by another chapter of this code, that is administered
18 under §11-10-1 et seq. of this code, which the registrant collects from any person and holds in
19 trust for this state; or

20 (5) The registrant's authority to do business in this state was revoked by the Secretary of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

22 (b) If an individual or business entity has not filed any tax return or report for a tax or fee
23 administered under the provisions of §11-10-1 et seq. of this code one year after the Tax
24 Commissioner issues a business registration certificate to an individual or business entity, the
25 Tax Commissioner may send the individual or business entity a letter by first-class mail to the
26 address for which the business registration certificate was issued requesting that the individual or
27 business entity explain why no tax return or report was filed. If the individual or business entity
28 fails to respond to the letter within 60 days after it was deposited in the United States mail, postage
29 paid, the Tax Commissioner may begin the process to revoke the individual's or business entity's
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 on July 1, 2021.

NOTE: The purpose of this bill is to implement recommendations of the Legislative Auditor

by establishing causes for revocation, cancellation, or suspension of a business registration certificate, directing means of notice and opportunity for cure, and specifying effective date.

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