

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 4086

(By Mr. Speaker, Mr. Thompson)
[By Request of the Executive]



Passed January 25, 2012

To Take Effect July 21, 2012

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4086

(BY MR. SPEAKER, MR. THOMPSON)
[BY REQUEST OF THE EXECUTIVE]

[Passed January 25, 2012; in effect July 1, 2012.]

AN ACT to amend and reenact §11-6F-2 and §11-6F-4 of the Code of West Virginia, 1931, as amended, all relating to designating certain property as a qualified capital addition to a manufacturing facility and extending that property special valuation to the twenty-fifth year succeeding the year in which the qualified capital addition is first placed in service.

Be it enacted by the Legislature of West Virginia:

That §11-6F-2 and §11-6F-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6F. SPECIAL METHOD FOR APPRAISING
QUALIFIED CAPITAL ADDITIONS TO
MANUFACTURING FACILITIES.**

§11-6F-2. Definitions.

- 1 As used in this article, the term:
- 2 (a) “Certified capital addition property” means all real
- 3 property and personal property included within or to be

4 included within a qualified capital addition to a
5 manufacturing facility that has been certified by the State Tax
6 Commissioner in accordance with section four of this article:
7 *Provided*, That airplanes and motor vehicles licensed by the
8 Division of Motor Vehicles shall in no event constitute
9 certified capital addition property.

10 (b) “Manufacturing” means any business activity
11 classified as having a sector identifier, consisting of the first
12 two digits of the six-digit North American Industry
13 Classification System code number of thirty-one, thirty-two
14 or thirty-three or the six digit code number 211112.

15 (c) “Manufacturing facility” means any factory, mill,
16 chemical plant, refinery, warehouse, building or complex of
17 buildings, including land on which it is located, and all
18 machinery, equipment, improvements and other real property
19 and personal property located at or within the facility used in
20 connection with the operation of the facility in a
21 manufacturing business.

22 (d) “Personal property” means all property specified in
23 subdivision (q), section ten, article two, chapter two of this
24 code and includes, but is not limited to, furniture, fixtures,
25 machinery and equipment, pollution control equipment,
26 computers and related data processing equipment, spare parts
27 and supplies.

28 (e) “Qualified capital addition to a manufacturing
29 facility” means either:

30 (1) All real property and personal property, the combined
31 original cost of which exceeds \$50 million to be constructed,
32 located or installed at or within two miles of a manufacturing
33 facility owned or operated by the person making the capital
34 addition that has a total original cost before the capital
35 addition of at least \$100 million. If the capital addition is

36 made in a steel, chemical or polymer alliance zone as
37 designated from time-to-time by executive order of the
38 Governor, then the person making the capital addition may
39 for purposes of satisfying the requirements of this subsection
40 join in a multiparty project with a person owning or operating
41 a manufacturing facility that has a total original cost before
42 the capital addition of at least \$100 million if the capital
43 addition creates additional production capacity of existing or
44 related products or feedstock or derivative products
45 respecting the manufacturing facility, consists of a facility
46 used to store, handle, process or produce raw materials for
47 the manufacturing facility, consists of a facility used to store,
48 handle or process natural gas to produce fuel for the
49 generation of steam or electricity for the manufacturing
50 facility or consists of a facility that generates steam or
51 electricity for the manufacturing facility, including but not
52 limited to a facility that converts coal to a gas or liquid for
53 the manufacturing facility's use in heating, manufacturing or
54 generation of electricity. Beginning on and after July 1,
55 2011, when the new capital addition is a facility that is or will
56 be classified under the North American Industry
57 Classification System with a six digit code number 211112,
58 or is a manufacturing facility that uses product produced at a
59 facility with code number 211112, then wherever the term
60 "100 million" is used in this subsection, the term "20
61 million" shall be substituted and where the term "50 million"
62 is used, the term "10 million" shall be substituted; or

63 (2) (A) All real property and personal property, the
64 combined original cost of which exceeds \$2 billion to be
65 constructed, located or installed at a facility, or a combination
66 of facilities by a single entity or combination of entities
67 engaged in a unitary business, that:

68 (i) Is or will be classified under the North American
69 Industry Classification System with a six digit code number
70 211112; or

71 (ii) Is a manufacturing facility that uses one or more
72 products produced at a facility with code number 211112; or

73 (iii) Is a manufacturing facility that uses one or more
74 products produced at a facility described in subparagraph (ii)
75 of this subdivision.

76 (B) No preexisting investment made, or in place before
77 the capital addition shall be required for property specified in
78 this subdivision (2). The requirements set forth in subdivision
79 (1) of this subsection shall not apply to property specified in
80 this subdivision (2) relating to:

81 (i) Location or installation of investment at or within two
82 miles of a manufacturing facility owned or operated by the
83 person making the capital addition;

84 (ii) Total original cost of preexisting investment before
85 the capital addition of at least \$100 million or \$20 million; or

86 (iii) Multiparty projects.

87 (f) “Real property” means all property specified in
88 subdivision (p), section ten, article two, chapter two of this
89 code and includes, but is not limited to, lands, buildings and
90 improvements on the land such as sewers, fences, roads,
91 paving and leasehold improvements: *Provided*, That for
92 capital additions certified on or after July 1, 2011, the value
93 of the land before any improvements shall be subtracted from
94 the value of the capital addition and the unimproved land
95 value shall not be given salvage value treatment.

§~~16~~-6F-4. Application and certification.

97 Any person seeking designation of property as certified
98 capital addition property shall first make a sworn application
99 to the State Tax Commissioner on forms prescribed by the

100 State Tax Commissioner on or before the date the property is
101 first required to be reported on an annual return for ad valorem
102 property tax purposes. The State Tax Commissioner shall
103 within ninety days of the application determine in writing
104 whether the property is or will be part of a qualified capital
105 addition to a manufacturing facility as defined in section two
106 of this article and shall provide a copy of the written
107 determination to the applicant and the assessor or assessors in
108 the county or counties in which the manufacturing facility is
109 located. The applicant may file an appeal with the State Tax
110 Commissioner to have a formal hearing for a review and
111 redetermination on qualified capital additions to a
112 manufacturing facility which have been disallowed by the
113 State Tax Commissioner within thirty days of the official
114 written notification from the State Tax Commissioner. After
115 the State Tax Commissioner determines that property is or will
116 be part of a qualified capital addition to a manufacturing
117 facility, the property is and remains certified capital addition
118 property for purposes of this article until the earlier of: (a) The
119 disposition of the property to an unrelated third party other
120 than a transferee who continues to operate the manufacturing
121 facility; (b) the cessation of all business at the manufacturing
122 facility; or (c) with regard to: (1) Property described in
123 subdivision (1), subsection (e), section two of this article, the
124 tenth year succeeding the year in which the qualified capital
125 addition to a manufacturing facility to which the property
126 relates is first placed in service; or (2) property described in
127 subdivision (2), subsection (e), section two of this article, the
128 twenty-fifth year succeeding the year in which the qualified
129 capital addition to a manufacturing facility to which the
130 property relates is first placed in service.

131 All applications and determinations under this section
132 constitute return information and are subject to section
133 twenty-three, article one-a of this chapter. The State Tax
134 Commissioner shall report annually the number of

135 applications filed, certified, denied and pending pursuant to
136 this section for the preceding year along with
137 recommendations regarding the structure, benefits and costs
138 of the valuation method specified in this article to the Joint
139 Committee on Government and Finance and to the Governor:
140 *Provided*, That identifying characteristics and facts about
141 applicants may not in any event be disclosed under this
142 section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect July 1, 2012.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor