

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2544**

4 (By Delegates Walters, Craig, Hunt, White, Nelson, J., Folk,

5 Raines, Paxton, Kump, Boggs and Miley)

6 (Originating in the House Committee on Finance.)

7
8 [March 29, 2013]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §11-13DD-1,
12 §11-13DD-2 and §11-13DD-3; to amend and reenact §15-5-21 of
13 said code; and to amend and reenact §55-7D-1 of said code, all
14 relating to improving state emergency preparedness; creating
15 an emergency generator tax credit for gas or propane fueled
16 machines; requiring the Office of Emergency Services to
17 coordinate with local radio and television stations to
18 broadcast public service announcements with information as to
19 the location of emergency shelters; providing tax credits for
20 use of emergency generators; and providing a protection from
21 civil or criminal liability to persons donating food during
22 times of emergencies.

23 *Be it enacted by the Legislature of West Virginia:*

24 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §11-13DD-1, §11-13DD-2
2 and §11-13DD-3; that §15-5-21 of said code be amended and
3 reenacted; and that §55-7D-1 of said code be amended and reenacted,
4 all to read as follows:

5 **CHAPTER 11. TAXATION.**

6 **ARTICLE 13DD. EMERGENCY GENERATOR TAX CREDIT.**

7 **§11-13DD-1. Amount of credit.**

8 Any taxpayer who installs or causes to be installed an
9 emergency generator powered by natural gas or propane on property
10 located in this state and used as a place of business or residence
11 by the taxpayer after July 1, 2013, shall be allowed a credit
12 against the taxes imposed in articles twenty-one, twenty-three and
13 twenty-four of this chapter in an amount equal to thirty percent of
14 the cost to purchase and install the system up to a maximum amount
15 of \$3,000.

16 **§11-13DD-2. Restrictions.**

17 In order to receive the credit for an emergency generator, the
18 generator shall use natural gas or propane fueled machines for its
19 operation. The generator shall be permanently installed and wired
20 to the electrical panel in the residence or building with
21 insulating back-flow and shut off protection.

22 **§11-13DD-3. Carryover credit allowed; Tax Commissioner to**
23 **promulgate rules.**

1 If the amount of the credit exceeds the taxpayer's liability
2 for the taxable year, the amount which exceeds the tax liability
3 may be carried over and applied as a credit against the tax
4 liability of the taxpayer pursuant to the provisions of articles
5 twenty-one, twenty-three and twenty-four of this chapter to each of
6 the next taxable years unless sooner used.

7 The State Tax Commissioner shall promulgate rules for
8 legislative approval pursuant to the provisions of chapter
9 twenty-nine-a of this code regarding the applicability, method of
10 claiming of the credit, recapture of the credit and documentation
11 necessary to claim the credit allowed by this article. No taxpayer
12 may take a credit pursuant to this article for an emergency
13 generator purchased or installed after July 1, 2015, except to the
14 extent that the credit was not used in a prior tax year and is
15 carried forward.

16 **CHAPTER 15. PUBLIC SAFETY.**

17 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

18 **§15-5-21. Communications.**

19 (a) The Office of Emergency Services shall ascertain what
20 means exist for rapid and efficient communication in times of
21 disaster. The office shall consider the desirability of
22 supplementing such communication resources or of integrating them
23 into a comprehensive state or federal-state telecommunications or
24 other communications system or network. In studying the character

1 and feasibility of any system or its several parts, the office
2 shall evaluate the possibility of multipurpose use thereof for
3 various state, regional and local governmental purposes. The
4 office shall make recommendations to the Governor as appropriate.

5 (b) The Office of Emergency Services shall coordinate
6 planning with local radio and television stations to broadcast
7 public service announcements that inform the listening and viewing
8 areas as to the location of emergency shelters during stated
9 emergencies. The plans shall include the requirement that the
10 local radio and television stations broadcast the public service
11 announcements every thirty minutes, fifteen minutes before the hour
12 and fifteen minutes after the hour.

13 **CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.**

14 **ARTICLE 7D. GOOD SAMARITAN FOOD DONATION ACT.**

15 **§55-7D-1. Legislative findings.**

16 The Legislature finds that wholesale and retail food
17 distributors, shipping terminals and other establishments across
18 the state are disposing of food that could be made available to
19 those in need. However, many potential food donors are discouraged
20 from donating this food because of potential liability. The United
21 States Congress has recognized the need to encourage food
22 distributors to make otherwise disposed-of food products available
23 to those in need and has adopted Title 42 United States Code §1791
24 entitled the "Bill Emerson Good Samaritan Food Donation Act." This

1 federal law encourages state and local governments to enact good
2 samaritan or donor liability limitation laws to encourage private
3 cooperative efforts to provide food for hungry people within their
4 respective jurisdictions. The Legislature finds that this is a
5 worthy goal, and therefore it is appropriate for the state to
6 encourage participation in food donation programs by providing a
7 statutory framework to protect food donators from liability for
8 their good faith efforts, including food donators during declared
9 states of emergency to local emergency centers.