

COMMITTEE SUBSTITUTE

FOR

H. B. 2544

(BY DELEGATE(S) WALTERS, CRAIG, HUNT, WHITE, NELSON, J.,
FOLK, RAINES, PAXTON, KUMP, BOGGS AND MILEY)

(Originating in the House Committee on Finance.)

[March 29, 2013]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2 and §11-13DD-3; to amend and reenact §15-5-21 of said code; and to amend and reenact §55-7D-1 of said code, all relating to improving state emergency preparedness; creating an emergency generator tax credit for gas or propane fueled machines; requiring the Office of Emergency Services to coordinate with local radio and television stations to broadcast public service announcements with information as to the location of emergency shelters;

providing tax credits for use of emergency generators; and providing a protection from civil or criminal liability to persons donating food during times of emergencies.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §11-13DD-1, §11-13DD-2 and §11-13DD-3; that §15-5-21 of said code be amended and reenacted; and that §55-7D-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 13DD. EMERGENCY GENERATOR TAX CREDIT.

§11-13DD-1. Amount of credit.

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

§11-13DD-2. Restrictions.

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

§11-13DD-3. Carryover credit allowed; Tax Commissioner to 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
6 of 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.**

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

§15-5-21. Communications.

1 (a) The Office of Emergency Services shall ascertain what
2 means exist for rapid and efficient communication in times of
3 disaster. The office shall consider the desirability of
4 supplementing such communication resources or of integrating
5 them into a comprehensive state or federal-state
6 telecommunications or other communications system or
7 network. In studying the character and feasibility of any system
8 or its several parts, the office shall evaluate the possibility of
9 multipurpose use thereof for various state, regional and local
10 governmental purposes. The office shall make recommendations
11 to the Governor as appropriate.

12 (b) The Office of Emergency Services shall coordinate
13 planning with local radio and television stations to broadcast
14 public service announcements that inform the listening and
15 viewing areas as to the location of emergency shelters during

16 stated emergencies. The plans shall include the requirement that
17 the local radio and television stations broadcast the public
18 service announcements every thirty minutes, fifteen minutes
19 before the hour and fifteen minutes after the hour.

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

ARTICLE 7D. GOOD SAMARITAN FOOD DONATION ACT.

§55-7D-1. Legislative findings.

1 The Legislature finds that wholesale and retail food
2 distributors, shipping terminals and other establishments across
3 the state are disposing of food that could be made available to
4 those in need. However, many potential food donors are
5 discouraged from donating this food because of potential
6 liability. The United States Congress has recognized the need to
7 encourage food distributors to make otherwise disposed-of food
8 products available to those in need and has adopted Title 42
9 United States Code §1791 entitled the “Bill Emerson Good
10 Samaritan Food Donation Act.” This federal law encourages
11 state and local governments to enact good samaritan or donor
12 liability limitation laws to encourage private cooperative efforts

13 to provide food for hungry people within their respective
14 jurisdictions. The Legislature finds that this is a worthy goal, and
15 therefore it is appropriate for the state to encourage participation
16 in food donation programs by providing a statutory framework
17 to protect food donators from liability for their good faith efforts,
18 including food donators during declared states of emergency to
19 local emergency centers.

