

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4022**

BY DELEGATES HAMRICK, BUTLER, BARRETT, DEAN,

FAST, HOLLEN, LOVEJOY AND QUEEN

[Originating in the Committee on Finance;

February 16, 2018.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §11-15-9p, relating to providing an exemption from the consumer sales and  
3 service tax for purchases of certain services and tangible personal property sold for the  
4 repair, remodeling and maintenance of aircraft operated under a fractional ownership  
5 program; defining terms; specifying a method for claiming exemption; authorizing  
6 emergency rules and promulgation of legislative rules; and establishing the effective date  
7 of the section.

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

**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§11-15-9p. Exemption for purchases of services and tangible personal property sold for  
the repair, remodeling and maintenance of aircraft operated under a fractional  
ownership program.**

1 (a) The following sales are exempt from the consumers sales and service tax: Sales of  
2 aircraft repair, remodeling and maintenance services when the services are to an aircraft operated  
3 under a fractional ownership program, or to an engine or other component part of an aircraft  
4 operated under a fractional ownership program; sales of tangible personal property that is  
5 permanently affixed or permanently attached as a component part of an aircraft operated under  
6 a fractional ownership program, as part of the repair, remodeling or maintenance service; and  
7 sales of machinery, tools or equipment directly used or consumed exclusively in the repair,  
8 remodeling or maintenance of aircraft, aircraft engines or aircraft component parts for an aircraft  
9 operated under a fractional ownership program, or used exclusively in combination with the  
10 purposes specified in this subsection and the purposes specified in §11-15-9(a)(33) of this code.

11 (b) Any person having a right or claim to any exemption set forth in this section shall: First  
12 pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a  
13 refund or credit, or, as provided in §11-15-9d and §11-15a-3d of this code, give to the vendor his  
14 or her West Virginia direct pay permit number: *Provided*, That a person having a right or claim to

15 the exemption set forth in this section may apply to the Tax Commissioner for permission to use  
16 an exemption certificate. Upon the granting of such permission, a person having a right or claim  
17 to the exemption set forth in this section may, in lieu of paying the tax imposed by this article and  
18 filing a claim for refund, execute a certificate of exemption, in the form required by the Tax  
19 Commissioner, and deliver it to the vendor of the property or service in the manner required by  
20 the Tax Commissioner.

21 (c) For purposes of this section, "fractional ownership program" means any system of  
22 aircraft ownership and exchange that consists of all of the following:

23 (1) The provision for fractional ownership program management services by a single  
24 fractional ownership program manager on behalf of the fractional owners;

25 (2) Two or more airworthy aircraft;

26 (3) One or more fractional owners per program aircraft, with at least one program aircraft  
27 having more than one owner;

28 (4) Possession of at least a minimum fractional ownership interest in one or more program  
29 aircraft by each fractional owner;

30 (5) A dry-lease aircraft exchange arrangement among all of the fractional owners; and

31 (6) Multi-year program agreements covering the fractional ownership, fractional ownership  
32 program management services, and dry-lease aircraft exchange aspects of the program.

33 (d) The tax commissioner shall promulgate emergency rules and shall propose rules for  
34 legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish  
35 eligibility requirements for the exemption established by this section.

36 (e) The provisions of this section shall apply to sales made on and after September 1,  
37 2018.