

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Originating

House Bill 4969

BY DELEGATES MAYNARD, HILL, PACK, WILLIAMS,
SPONAUGLE, BOGGS, ROWAN, PETHTEL, SKAFF AND
SYPOLT

[Originating in the Committee on Finance; Reported
on February 21, 2020.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
2 designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, §11-13FF-5, §11-13FF-6
3 and §11-13FF-7; all relating to providing a tax credit for the donation or sale of a vehicle
4 to certain charitable organizations; defining terms; providing limitations; providing
5 requirements; providing for applicability of as is provisions; providing rulemaking authority;
6 requiring reporting; and providing effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13FF. TAX CREDIT FOR DONATION OR SALE OF VEHICLE.

§11-13FF-1. Definitions.

1 As used in this article:

2 (1) "Commissioner" means the Tax Commissioner of the State of West Virginia, or his or
3 her delegate.

4 (2) "Division" means the Tax Division of the Department of Revenue.

5 (3) "Low-Income Worker" means a person living in a household with total income at or
6 below 200 percent of the Federal Poverty Level.

7 (4) "Program Value" means the fair market value of the vehicle less an amount to be
8 determined by the qualifying charitable organization based upon the suitability of the vehicle to its
9 program.

10 (5) "Qualified Charitable Organization" means a nonprofit association which:

11 (A) Is recognized as exempt from federal taxation under §501(c)(3) of the United States
12 Code;

13 (B) Is registered as a charitable organization pursuant to §29-19-1 et seq. of this code;

14 and

15 (C) Operates a program that provides the following services:

16 (i) Providing low-income workers in the state with below-market, affordable financing to
17 purchase vehicles through cooperating financial institutions; and

18 (ii) Providing financial counseling and other training and assistance to low-income workers
19 to meet the terms of the loans used to purchase the vehicles through the program.

20 (6) "Vehicle" means a passenger motor vehicle that is suitable for daily commutes for
21 employment purposes and is acceptable to the qualifying charitable organization as to its
22 suitability for its program.

§11-13FF-2. Amount of credit; limitation of credit.

23 (a) There is allowed to taxpayers who make donations of vehicles to qualified charitable
24 organizations in the state a credit against taxes imposed by §11-21-1 et seq. and §11-24-1 et
25 seq. of this code in an amount equal to 50 percent of the program value of the vehicle or \$2,000,
26 whichever is less.

27 (b) There is allowed to new or used motor vehicle dealers licensed pursuant to §17A-6-3
28 of this code that sell a vehicle at a reduced sales price to low-income workers through a program
29 administered by a qualified charitable organization, a credit against taxes imposed by §11-21-1
30 et seq. and §11-24-1 et seq. of this code in an amount equal to no more than 50 percent of the
31 difference between the program value of the vehicle and the reduced sales price, or \$2,000,
32 whichever is less.

33 (c) There shall be no credit allowed pursuant to this article for a new or used motor vehicle
34 dealer unless the dealer certifies that the dealer has no knowledge or reason to believe the vehicle
35 is subject to any unperformed safety recall or was junked or salvaged or should have been
36 branded or reported as junked or salvaged.

37 (d) If any credit remains after application of the credit against tax for any taxable year
38 under this article, the amount thereof is forfeited. No carryback to a prior taxable year is allowed
39 for the amount of any unused portion of this credit.

40 (e) No more than \$300,000 of tax credits may be allocated to the department in any fiscal
41 year. The division shall allocate the tax credits in the order the donation forms are received.

§11-13FF-3. Determination of value of credit.

1 (a) At the time of the donation or sale of the vehicle, the taxpayer shall provide to the
2 qualified charitable organization an estimate of the fair market value of the vehicle.

3 (b) Upon accepting the vehicle to be used in their program, the qualified charitable
4 organization shall provide the taxpayer a signed and dated form prescribed by the division
5 containing at a minimum:

6 (1) The vehicle identification number of the vehicle, its make and model;

7 (2) The name, address and taxpayer identification number of the taxpayer;

8 (3) The name and address of the qualifying charitable organization;

9 (4) The qualifying charitable organization's determination of the program value of the
10 vehicle, based upon the taxpayer's estimate of the fair market value of the vehicle and the
11 suitability of the vehicle for the qualifying charitable organization's programs; and

12 (5) The maximum amount of tax credit authorized for the donation or sale of the vehicle;
13 as calculated by the qualifying charitable organization: *Provided*, That the actual amount of tax
14 credit authorized shall be determined by the tax division as provided in section two of this article.

15 (c) To claim the tax credit, the taxpayer shall send the form provided by the qualified
16 charitable organization to the division for certification.

§11-13FF-4. Applicability to "as is" vehicles.

1 Notwithstanding any other provision of this code to the contrary, the fair market value of
2 the vehicle and not the sales price shall be used to determine the applicability of §46A-6-
3 107a(a)(3)(A) of this code to any vehicle the sale of which qualifies for a tax credit as provided by
4 this article.

§11-13FF-5. Legislative rules.

1 The Tax Commissioner shall propose rules for legislative approval in accordance with the
2 provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this
3 article.

§11-13FF-6. Tax credit review report.

1 Beginning on the first day of the second taxable year after the passage of this article and
2 every two years thereafter, the division shall submit to the Governor, the President of the Senate
3 and the Speaker of the House of Delegates a tax credit review and accountability report evaluating
4 the cost effectiveness of the tax credit and donations during the most recent two-year period for
5 which information is available.

§11-13FF-7. Effective date.

1 The credit allowed by this article shall be allowed upon donations occurring after
2 December 31, 2020.

NOTE: The purpose of this bill is to provide a new tax credit against personal income or corporate net income for the donation or sale of a vehicle to a charitable organization for low-income workers.

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