

SB 368

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WEST VIRGINIA  
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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

SENATE BILL NO. 368

(By Senator CRAIGO, ET AL)



PASSED APRIL 20, 1997

In Effect From Passage

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SENATE, WEST VIRGINIA

**ENROLLED**

**Senate Bill No. 368**

(BY SENATORS CRAIGO, ANDERSON, BAILEY, CHAFIN, HELMICK,  
JACKSON, LOVE, MACNAUGHTAN, PLYMALE, PREZIOSO, SHARPE,  
WALKER, BOLEY, DUGAN, MCKENZIE, MINEAR AND SPROUSE)

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[Passed April 20, 1997; in effect from passage.]

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AN ACT to amend and reenact sections eight and twenty, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the West Virginia capital company act; reducing for one fiscal year the total tax credits to all companies, which the West Virginia economic development authority may authorize; allowing officers, employees or directors of a financial institution owning part of any capital company to serve on the capital company's board; and prohibiting capital company board members from a financial institution owning a part of the capital company from voting on an issue relating to that institution.

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

That sections eight and twenty, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 1. WEST VIRGINIA CAPITAL COMPANY ACT.**

**§5E-1-8. Tax credits.**

1 (a) The total amount of tax credits authorized for a  
2 single qualified company may not exceed two million  
3 dollars. Capitalization of the company may be increased  
4 pursuant to rule of the authority.

5 (b) The total credits authorized by the authority for all  
6 companies may not exceed a total of ten million dollars  
7 each fiscal year: *Provided*, That for the fiscal year begin-  
8 ning on the first day of July, one thousand nine hundred  
9 ninety-seven, the total credits authorized for all compa-  
10 nies may not exceed a total of five and one half million  
11 dollars. The authority shall, for the first one hundred  
12 eighty days of the fiscal year, accept applications only  
13 from companies who certify in their application that the  
14 investment of its entire capital base will be in one or more  
15 small business investment corporations organized under  
16 the small business investment act: *Provided, however*,  
17 That the capital base of any such qualified company shall  
18 be invested in accordance with the provisions of this  
19 article. The authority shall allocate these credits to  
20 qualified companies in the order that said companies are  
21 qualified.

22 (c) Any investor, including an individual, partnership or  
23 corporation who makes a capital investment in a qualified  
24 West Virginia capital company, is entitled to a tax credit  
25 equal to fifty percent of the investment, except as other-  
26 wise provided in this section or in this article. The credit  
27 allowed by this article shall be taken after all other credits  
28 allowed by chapter eleven of this code. It shall be taken  
29 against the same taxes and in the same order as set forth  
30 in subsections (c) through (i), inclusive, section five, article  
31 thirteen-c, chapter eleven of this code. The credit for  
32 investments by a partnership or by a corporation electing  
33 to be treated as a Subchapter S corporation may be

34 divided pursuant to election of partners or shareholders.

35 (d) The tax credit allowed under this section is to be  
36 credited against the taxpayer's tax liability for the taxable  
37 year in which the investment in a qualified West Virginia  
38 capital company is made. If the amount of the tax credit  
39 exceeds the taxpayer's tax liability for the taxable year,  
40 the amount of the credit which exceeds the tax liability  
41 for the taxable year may be carried to succeeding taxable  
42 years until used in full, or until forfeited: *Provided, That:*  
43 (i) Tax credits may not be carried forward beyond fifteen  
44 years; and (ii) tax credits may not be carried back to prior  
45 taxable years. Any tax credit remaining after the fifteenth  
46 taxable year is forfeited.

47 (e) The tax credit provided for in this section is available  
48 only to those taxpayers whose investment in a qualified  
49 West Virginia capital company occurs after the first day  
50 of July, one thousand nine hundred eighty-six.

51 (f) The tax credit allowed under this section may not be  
52 used against any liability the taxpayer may have for  
53 interest, penalties or additions to tax.

54 (g) Notwithstanding any provision in this code to the  
55 contrary, the tax commissioner shall publish in the state  
56 register the name and address of every taxpayer, and the  
57 amount, by category, of any credit asserted under this  
58 article. The categories by dollar amount of credit received  
59 shall be as follows:

- 60 (1) More than \$1.00, but not more than \$50,000;
- 61 (2) More than \$50,000, but not more than \$100,000;
- 62 (3) More than \$100,000, but not more than \$250,000;
- 63 (4) More than \$250,000, but not more than \$500,000;
- 64 (5) More than \$500,000, but not more than \$1,000,000;
- 65 (6) More than \$1,000,000.

**§5E-1-20. Limitation on financial institutions.**

- 1 Not more than forty-nine percent of the total capital
- 2 base of any capital company may be owned by banks,

3 savings and loan associations, savings banks or other  
4 financial institutions, or any affiliate thereof, as investors.  
5 No officer, employee or director of any such financial  
6 institution may vote as a member of the board of any  
7 capital company formed under the provisions of this  
8 article if the matter being voted upon affects the financial  
9 institution for which the board member serves as an  
10 officer, employee or director.

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

*Randy Schoonover*  
.....  
Chairman Senate Committee

*Mike Santalla*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Carroll Adams*  
.....  
Clerk of the Senate

*Suzanne M. Day*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*P. Ke*  
.....  
Speaker House of Delegates

The within *is approved* this the *7<sup>th</sup>* .....  
day of *May* ....., 1997.

*Jeff D. Brannon*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/28/97

Time 2:27 pm