

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 368

(By Senator CRAIG, ET AL)



PASSED APRIL 12, 1997

In Effect FROM Passage

OFFICE OF THE CLERK
WEST VIRGINIA LEGISLATURE

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Senate Bill No. 368

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

[Passed April 12, 1997; in effect from passage.]

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 ending
8 on the thirtieth day of June, 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), section five, inclusive, 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.

Kandy Schoonover
.....
Chairman Senate Committee

Nick Fantasia
.....
Chairman House Committee

Originated in the Senate.

In effect from passage

Darrell K. Ross
.....
Clerk of the Senate

Bryson M. Boy
.....
Clerk of the House of Delegates

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

[Signature]
.....
Speaker House of Delegates

The within *is disapproved* is the *16th*
day of *April*, 1997.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR
Date 4/15/97
Time 3:20pm