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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

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# ENROLLED

SENATE BILL NO. 513

(By Senator CRAIG, ET AL)

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PASSED APRIL 12, 1997

In Effect NINETY DAYS FROM Passage

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**ENROLLED**

**Senate Bill No. 513**

(BY SENATOR CRAIGO)

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

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AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-f, relating to appraisal of property as part of qualified capital addition to a manufacturing facility for ad valorem property tax purposes; legislative findings; definition of terms; certification by state tax commissioner; and rules including emergency rules and effective dates.

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

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-f, to read as follows:

**ARTICLE 6F. SPECIAL METHOD FOR APPRAISING QUALIFIED CAPITAL ADDITIONS TO MANUFACTURING FACILITIES.**

**§11-6F-1. Legislative findings.**

1 The Legislature finds that the encouragement of eco-  
2 nomic growth and development in this state is in the  
3 public interest and promotes the general welfare of the  
4 people of this state. The Legislature further finds that the  
5 ad valorem property tax valuation set forth in this article  
6 for certified capital addition property, as defined in  
7 section two of this article, will help preserve the tax base  
8 and preserve and create jobs attributable to manufactur-  
9 ing facilities existing in this state.

**§11-6F-2. Definitions.**

1 As used in this article, the term:

2 (a) "Certified capital addition property" means all real  
3 property and personal property included within or to be  
4 included within a qualified capital addition to a manufac-  
5 turing facility that has been certified by the state tax  
6 commissioner in accordance with section four of this  
7 article: *Provided*, That airplanes and motor vehicles  
8 licensed by the division of motor vehicles shall in no event  
9 constitute certified capital addition property.

10 (b) "Manufacturing facility" means any factory, mill,  
11 chemical plant, refinery, warehouse, building or complex  
12 of buildings, including land on which it is located, and all  
13 machinery, equipment, improvements and other real  
14 property and personal property located at or within the  
15 facility used in connection with the operation of the  
16 facility in a manufacturing business.

17 (c) "Personal property" means all property specified in  
18 subdivision (q), section ten, article two, chapter two of this  
19 code and, includes, but is not limited to, furniture, fix-  
20 tures, machinery and equipment, pollution control equip-  
21 ment, computers and related data processing equipment,  
22 spare parts and supplies.

23 (d) "Qualified capital addition to a manufacturing  
24 facility" means all real property and personal property,  
25 the combined original cost of all of the property which  
26 exceeds fifty million dollars to be constructed, located or  
27 installed at or within two miles of a manufacturing

28 facility owned or operated by the person making the  
29 capital addition that has a total original cost before the  
30 capital addition of at least one hundred million dollars:  
31 *Provided*, That if the capital addition is made in a polymer  
32 alliance zone as designated from time-to-time by execu-  
33 tive order of the governor, then the person making the  
34 capital addition may for purposes of satisfying the re-  
35 quirements of this subsection join in a multiparty project  
36 with a person owning or operating a manufacturing  
37 facility that has a total original cost before the capital  
38 addition of at least one hundred million dollars if the  
39 capital addition creates additional production capacity of  
40 existing or related products or feedstock or derivative  
41 products respecting the manufacturing facility.

42 (e) "Real property" means all property specified in  
43 subdivision (p), section ten, article two, chapter two of this  
44 code and, includes, but is not limited to, lands, buildings  
45 and improvements on the land such as sewers, fences,  
46 roads, paving and leasehold improvements.

**§11-6F-3. Tax treatment of certified capital addition property.**

1 Notwithstanding any other provisions of law, the value  
2 of certified capital addition property, for purposes of ad  
3 valorem property taxation under this chapter, shall be its  
4 salvage value, which for purposes of this article is five  
5 percent of the certified capital addition property's original  
6 cost.

**§11-6F-4. Application and certification.**

1 Any person seeking designation of property as certified  
2 capital addition property shall first make a sworn applica-  
3 tion to the state tax commissioner on forms prescribed by  
4 the state tax commissioner on or before the date the  
5 property is first required to be reported on an annual  
6 return for ad valorem property tax purposes. The state  
7 tax commissioner shall within ninety days of the applica-  
8 tion determine in writing whether the property is or will  
9 be part of a qualified capital addition to a manufacturing  
10 facility as defined in section two of this article and shall  
11 provide a copy of the written determination to the appli-  
12 cant and the assessor or assessors in the county or counties

13 in which the manufacturing facility is located. The  
14 applicant may file an appeal with the state tax commis-  
15 sioner to have a formal hearing for a review and  
16 redetermination on qualified capital additions to a  
17 manufacturing facility which have been disallowed by the  
18 state tax commissioner within thirty days of the official  
19 written notification from the state tax commissioner.  
20 After the state tax commissioner determines that property  
21 is or will be part of a qualified capital addition to a  
22 manufacturing facility, the property is and remains  
23 certified capital addition property for purposes of this  
24 article until the earlier of: (a) The disposition of the  
25 property to an unrelated third party other than a trans-  
26 feree who continues to operate the manufacturing facility;  
27 (b) the cessation of all business at the manufacturing  
28 facility; or (c) the tenth year succeeding the year in which  
29 the qualified capital addition to a manufacturing facility  
30 to which the property relates is first placed in service. All  
31 applications and determinations under this section  
32 constitute return information and are subject to section  
33 twenty-three, article one-a of this chapter. The state tax  
34 commissioner shall report annually the number of appli-  
35 cations filed, certified, denied and pending pursuant to  
36 this section for the preceding year along with recommen-  
37 dations regarding the structure, benefits and costs of the  
38 valuation method specified in this article to the joint  
39 committee on government and finance and to the gover-  
40 nor: *Provided*, That identifying characteristics and facts  
41 about applicants may not in any event be disclosed under  
42 this section.

**§11-6F-5. Authority to propose rules.**

1 The state tax commissioner shall propose rules for  
2 promulgation in accordance with article three, chapter  
3 twenty-nine-a of this code for the administration of this  
4 article as may be necessary to implement the provisions of  
5 this article: *Provided*, That the state tax commissioner  
6 may promulgate emergency rules to implement the  
7 provisions of this article.

**§11-6F-6. Effective date.**

1 This article is effective for the tax years beginning on  
2 and after the first day of July, one thousand nine hundred  
3 ninety-seven.

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

*Ray Schouver*  
.....  
Chairman Senate Committee

*Nick Fantasia*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Russell B. Pollock*  
.....  
Clerk of the Senate

*Begonia M. King*  
.....  
Clerk of the House of Delegates

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

*P. K. [Signature]*  
.....  
Speaker House of Delegates

The within *is appended* this the *2nd*.....  
day of *May*....., 1997.

*Jeff Blodgett*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/22/97  
Time 3:15pm