

FILED

2001 MAY -2 P 4: 28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

SENATE BILL NO. 549

(By Senator Ross, et al **)**

PASSED April 13, 2001

In Effect 90 days from **Passage**

FILED

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Senate Bill No. 549

(BY SENATORS ROSS, SHARPE, ANDERSON AND McCABE)

[Passed April 13, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article thirteen-d, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the tax commissioner to waive the requirement that prior approval be given by the tax commissioner for a transfer or sale of property with respect to which a tax credit has been allowed under said article thirteen-d so the transfer or sale will not be treated as a premature disposition of the property under the provisions of section six of said article.

Be it enacted by the Legislature of West Virginia:

That section seven, article thirteen-d, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13D. TAX CREDITS FOR INDUSTRIAL EXPANSION AND REVITALIZATION, RESEARCH AND DEVELOPMENT PROJECTS, CERTAIN HOUSING DEVELOPMENT PROJECTS, MANAGEMENT INFORMATION SERVICES FACILITIES, INDUSTRIAL FACILITIES PRODUCING COAL-BASED

PS # 9 5 - JAN 1005
LIQUIDS USED TO PRODUCE SYNTHETIC FUELS, AND
AEROSPACE INDUSTRIAL FACILITY INVESTMENTS.

AUXILIARY VIRGINIA
SECRETARY OF STATE
§11-13D-7. **Transfer of eligible investment to successors.**

1 (a) *Mere change in form of business.* – Property may not
2 be treated as disposed of under section six of this article
3 by reason of a mere change in the form of conducting the
4 business as long as the property is retained in a similar
5 industrial business or management information services
6 business activity in this state and the taxpayer retains a
7 controlling interest in the successor business. In this
8 event, the successor business may claim the amount of
9 credit still available with respect to the industrial facility
10 or facilities transferred or to the eligible research and
11 development project or management information services
12 facility and the taxpayer (transferor) may not be required
13 to redetermine the amount of credit allowed in earlier
14 years.

15 (b) *Transfer or sale to successor.* – Provided that the tax
16 commissioner gives prior approval for a transfer or sale,
17 property may not be treated as disposed of under section
18 six by reason of any transfer or sale to a successor business
19 which continues to operate the industrial facility or
20 management information services facility in this state.
21 This requirement for prior approval may be waived by the
22 tax commissioner at any time prior to, or subsequent to,
23 the transfer or sale. Upon transfer or sale, the successor
24 shall acquire the amount of credit that remains available
25 under this article for each taxable year subsequent to the
26 taxable year of the transferor during which the transfer
27 occurred and, for the year of transfer, an amount of annual
28 credit for the year in the same proportion as the number of
29 days remaining in the transferor's taxable year bears to
30 the total number of days in the taxable year and the
31 taxpayer (transferor) shall not be required to redetermine
32 the amount of credit allowed in earlier years. In determin-
33 ing whether or not to approve a disposition pursuant to
34 this subsection, the tax commissioner shall take into

35 account the legislative findings and purpose contained in
36 section one of this article in making the decision.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

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

The within is approved this the 1st
Day of May, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/30/01

Time

2:55 p