

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2333**

By Delegate C. Pritt

[Introduced January 11, 2023; Referred to the  
Committee on Banking and Insurance then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-29-1, §11-29-2, §11-29-3, and §11-29-4, all relating to creating the "Legal  
 3 Tender Act;" establishing gold and silver as legal tender in West Virginia; creating a  
 4 nonrefundable tax credit for the use of gold and silver in West Virginia; and creating a sales  
 5 tax credit for the use of gold and silver as legal tender.

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

**ARTICLE                    29.                    LEGAL                    TENDER                    ACT.**

**§11-29-1. Short title.**

1            This article shall be known as the "Legal Tender Act."

**§11-29-2. Recognizing gold and silver as legal tender in West Virginia.**

1            (a) Gold and silver coin issued by the federal government is legal tender in this state.

2            (b) A person may not compel any other person to tender or accept gold and silver coin that  
 3 is issued by the federal government.

**§11-29-3. Nonrefundable tax credit for capital gain transactions on exchange of gold and**  
silver for another coin or form of legal tender.

1            (a) As used in this section:

2            (1) "Capital gain transaction" means a transaction that results in a:

3            (i) Short-term capital gain; or

4            (ii) Long-term capital gain.

5            (2) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

6            (3) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

7            (b) Except as provided otherwise, for taxable years beginning on or after January 1, 2023,  
 8 a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

9            (1) To the extent a capital gain is not offset by a capital loss under Chapter 1, Subchapter P,  
 10 Capital Gains and Losses, Internal Revenue Code, the total amount of the claimant's, estate's, or  
 11 trust's short-term capital gain or long-term capital gain on a capital gain transaction from an

12 exchange made on or after January 1, 2023, of gold or silver coin issued by the federal  
13 government for another form of legal tender; and

14 (2) Five percent.

15 (c) A claimant, estate, or trust may not carry forward or carry back a tax credit under this  
16 section.

**§11-29-4. Nonrefundable tax credit on sales tax for gold and silver.**

1 (a) There is a nonrefundable credit established for any capital gains incurred from the  
2 exchange of gold and silver coin issued by the federal government for another form of legal tender  
3 as otherwise provided.

4 (b) The exchange of gold and silver coin issued by the federal government for another form  
5 of legal tender is exempt from sales and use taxes as otherwise provided in this code.

NOTE: The purpose of this bill is to create the Legal Tender Act, establish gold and silver as legal tender in West Virginia, and to allow for tax credits for capital gains when gold and silver are used.

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