

# **WEST VIRGINIA LEGISLATURE**

**FISCAL  
NOTE**

## **2025 REGULAR SESSION**

**Introduced**

## **House Bill 2060**

By Delegates W. Clark, Foggin, Funkhouser, and Hott

[Introduced February 12, 2025; referred  
to the Committee on Government Organization then  
Finance]

A BILL to amend §19-4-1 and §19-4-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-2s, relating to creating a tax exemption for agricultural cooperative associations.

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

## CHAPTER 11. TAXATION.

### ARTICLE 13. BUSINESS AND OCCUPATION TAX.

#### **§11-13-2s. Exemption from tax for agricultural cooperative associations.**

(a) Exemption. — Notwithstanding any provisions of this code to the contrary, for taxable years, or portions thereof, beginning on or after January 1, 2025, an agricultural cooperative association organized pursuant to §19-4-1, et. seq. is exempt from the business and occupation tax imposed by §11-13-1, et seq. on its units located in this state that are owned or leased by the agricultural cooperative association. When the January 1, 2025, date falls during a taxpayer's taxable year, the tax liability for that year shall be prorated based upon the number of months before and the number of months beginning on and after January 1, 2025, in that taxable year.

(b) Definition. — As used in this section, the term "agricultural cooperative association" means an agricultural cooperative association organized pursuant to §19-4-1, et. seq..

(c) Effective date. — The amendments to this section enacted in the year 2025 shall be retroactive to January 1, 2025.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 4. COOPERATIVE ASSOCIATIONS.

#### **§19-4-1. Definitions.**

As used in this article:

(a) "Agricultural products" means horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and any farm products in their natural form or processed.

(b) "Goods and services" means food and beverages, arts and crafts, woodworking and

furniture-making, and recycling, composting and repurposing materials.

(c) "Member" means a member of an association without capital stock and a holder of common stock in an association organized with capital stock.

(d) "Cooperative association" or "association" means any corporation organized under this article. Each association shall also comply with the requisite business corporation provisions of chapter 31D or 31F of this code, or the nonprofit corporation provisions of chapter 31E of this code.

Except within a 35 mile radius of a facility that has been permitted and classified by the West Virginia Department of Environmental Protection as a mixed waste processing resource recovery facility, a recycling cooperative association may be organized as a nonprofit corporation pursuant to chapter thirty-one-e of this code. The recyclable goods must be generated by members of the recycling cooperative association and shall be limited to recyclable goods not collected by a certified waste motor carrier as defined pursuant to §24A-1-2 of this code in the same area the recycling cooperative is located. If a motor carrier receives a certificate of need to serve the same area with the same services as the cooperative, then the cooperative shall cease providing those services.

(e) "Qualified person" means a person who is engaged in the producing, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, utilizing, marketing, financing, selling, distributing, shipping, procuring or providing of agricultural products, or other goods and services, or the by-products thereof.

(f) "Qualified activity" means those engaged in the producing, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, utilizing, marketing, financing, selling, distributing, shipping, procuring or providing of agricultural products, or other goods and services, or the by-products thereof; or the purchase or acquisition of insurance to cover agricultural equipment and/or agricultural products or the by-products thereof.

**§19-4-20. Conflicting laws not to apply; exemptions.**

30 Any provisions of law which are in conflict with this article, including but not limited to the  
31 business and occupation tax imposed by §11-13-1, et seq., shall be construed as not applying to  
32 ~~the~~ any association herein provided for.

33 Any exemptions whatsoever under any and all existing laws applying to Qualified activity  
34 and/or agricultural products in the possession or under the control of the individual producer shall  
35 apply similarly and completely to such products delivered by its former members, in the  
36 possession or under the control of the association.

NOTE: The purpose of this bill is to create a tax exemption for agricultural cooperative associations.

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