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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

## House Bill No. 4663

(By Delegates Michael, Doyle, Compton, Cann,  
R. M. Thompson, Anderson and Hall)



Passed March 7, 2002

In Effect July 1, 2002

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**E N R O L L E D**

**H. B. 4663**

(BY DELEGATES MICHAEL, DOYLE, COMPTON, CANN,  
R. M. THOMPSON, ANDERSON AND HALL)

[Passed March 7, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact section eight, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the total tax credits available under the capital company act during the fiscal year beginning on the first day of July, two thousand two.

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

That section eight, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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 single
- 2 qualified company may not exceed two million dollars.
- 3 Capitalization of the company may be increased pursuant to
- 4 rule of the authority.

5 (b)(1) The total credits authorized by the authority for all  
6 companies may not exceed a total of ten million dollars each  
7 fiscal year: *Provided*, That for the fiscal year beginning on the  
8 first day of July, one thousand nine hundred ninety-nine, the  
9 total credits authorized for all companies may not exceed a total  
10 of six million dollars: *Provided, however*, That for the fiscal  
11 year beginning on the first day of July, two thousand, the total  
12 credits authorized for all companies may not exceed a total of  
13 four million dollars: *Provided further*, That for the fiscal year  
14 beginning on the first day of July, two thousand one, the total  
15 credits authorized for all companies may not exceed a total of  
16 four million dollars: *And provided further*, That for the fiscal  
17 year beginning on the first day of July, two thousand two, the  
18 total credits authorized for all companies may not exceed a total  
19 of three million dollars: *And provided further*, That the capital  
20 base of any qualified company shall be invested in accordance  
21 with the provisions of this article. The authority shall allocate  
22 these credits to qualified companies in the order that the  
23 companies are qualified.

24 (2) Not more than two million dollars of the credits allowed  
25 under subdivision (1) of this subsection may be allocated by the  
26 authority during each fiscal year to one or more small business  
27 investment companies described in this subdivision. The  
28 remainder of the tax credits allowed during the fiscal year shall  
29 be allocated by the authority under the provisions of section  
30 four, article two of this chapter. The portion of the tax credits  
31 allowed for small business investment companies described in  
32 this subdivision shall be allowed only if allocated by the  
33 authority during the first thirty days of the fiscal year, and may  
34 only be allocated to companies that: (A) Were organized on or  
35 after the first day of January, one thousand nine hundred ninety-  
36 nine; (B) are licensed by the small business administration as a  
37 small business investment company under the small business  
38 investment act; and (C) have certified in writing to the authority  
39 on the application for credits under this act that the company

40 will diligently seek to obtain and thereafter diligently seek to  
41 invest leverage available to the small business investment  
42 companies under the small business investment act. These  
43 credits shall be allocated by the authority in the order that the  
44 companies are qualified. Any credits which have not been  
45 allocated to qualified companies meeting the requirements of  
46 this subdivision relating to small business investment compa-  
47 nies during the first thirty days of the fiscal year shall be made  
48 available and allocated by the authority under the provisions of  
49 section four, article two of this chapter.

50 (c) Any investor, including an individual, partnership,  
51 limited liability company, corporation or other entity who  
52 makes a capital investment in a qualified West Virginia capital  
53 company, is entitled to a tax credit equal to fifty percent of the  
54 investment, except as otherwise provided in this section or in  
55 this article. The credit allowed by this article shall be taken  
56 after all other credits allowed by chapter eleven of this code. It  
57 shall be taken against the same taxes and in the same order as  
58 set forth in subsections (c) through (i), inclusive, section five,  
59 article thirteen-c, chapter eleven of this code. The credit for  
60 investments by a partnership, limited liability company, a  
61 corporation electing to be treated as a subchapter S corporation  
62 or any other entity which is treated as a pass through entity  
63 under federal and state income tax laws may be divided  
64 pursuant to election of the entity's partners, members, share-  
65 holders or owners.

66 (d) The tax credit allowed under this section is to be  
67 credited against the taxpayer's tax liability for the taxable year  
68 in which the investment in a qualified West Virginia capital  
69 company is made. If the amount of the tax credit exceeds the  
70 taxpayer's tax liability for the taxable year, the amount of the  
71 credit which exceeds the tax liability for the taxable year may  
72 be carried to succeeding taxable years until used in full, or until  
73 forfeited: *Provided*, That: (i) Tax credits may not be carried

74 forward beyond fifteen years; and (ii) tax credits may not be  
75 carried back to prior taxable years. Any tax credit remaining  
76 after the fifteenth taxable year is forfeited.

77 (e) The tax credit provided for in this section is available  
78 only to those taxpayers whose investment in a qualified West  
79 Virginia capital company occurs after the first day of July, one  
80 thousand nine hundred eighty-six.

81 (f) The tax credit allowed under this section may not be  
82 used against any liability the taxpayer may have for interest,  
83 penalties or additions to tax.

84 (g) Notwithstanding any provision in this code to the  
85 contrary, the tax commissioner shall publish in the state register  
86 the name and address of every taxpayer and the amount, by  
87 category, of any credit asserted under this article. The catego-  
88 ries by dollar amount of credit received are as follows:

89 (1) More than \$1.00, but not more than \$50,000;

90 (2) More than \$50,000, but not more than \$100,000;

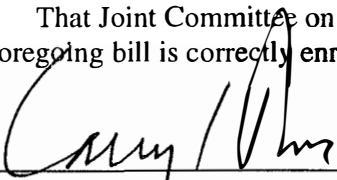
91 (3) More than \$100,000, but not more than \$250,000;

92 (4) More than \$250,000, but not more than \$500,000;

93 (5) More than \$500,000, but not more than \$1,000,000; and

94 (6) More than \$1,000,000.

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

  
\_\_\_\_\_  
Chairwoman Senate Committee

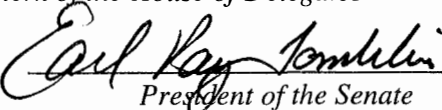
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect July 1, 2002.


  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 15<sup>th</sup>  
day of March, 2002.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date: 3/11/02

Time: 4:05 pm