

# WEST VIRGINIA CODE: §5E-1-13

## §5E-1-13. Restrictions on investment.

(a) No more than thirty percent of the equity raised by a West Virginia capital company under this article may be invested in any one West Virginia business.

(b) No portion of the capital base of a West Virginia capital company may be invested in a business that is the "alter ego" of that West Virginia capital company. Furthermore, after the effective date of this article no investments shall be made by a West Virginia capital company to a business that is an "alter ego" of the West Virginia capital company: Provided, That this restriction on investments shall not effect any contracts entered into prior to the effective date of this article. For purposes of this subsection, a business is an "alter ego" of the West Virginia capital company if any one or more of the following criteria are satisfied:

(1) The ownership of the business is substantially related to the ownership of the capital company; or

(2) The board of directors of the business is controlled by the capital company: Provided, That a capital company may control the board of directors of a business if control consists of no more than a simple majority of the board.

(c) No owner, director, officer or employee of a West Virginia capital company may occupy any management position in any business in which that capital company has invested, unless that person is filling that management position in an effort to remedy problems arising from a lack of profitability of the business or from dishonesty of the persons otherwise managing the business.

(d) West Virginia capital companies that are small business investment companies are not governed by the restrictions described in subsections (b) and (c) of this section but shall conform the rules and regulations promulgated by the small business administration.

(e) Each qualified West Virginia capital company may not invest any of its capital base in any of the following businesses:

(1) Banks;

(2) Savings and loan associations;

(3) Credit companies;

(4) Financial or investment advisors;

(5) Brokerage or financial firms;

- (6) Other capital companies;
- (7) Charitable and religious institutions;
- (8) Conventional oil and gas exploration;
- (9) Insurance companies;
- (10) Residential housing or development; or
- (11) Any other business which the authority determines to be against the public interest, the purposes of this article or in violation of any law.

The authority, by the promulgation of rules in accordance with section five of this article, may designate, in addition to those listed in this subsection, other businesses in which capital companies may not invest any of their capital base.