WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

---

ENROLLED

SENATE BILL NO. 368

(By Senator CRAIGO, ET AL.)

---

PASSED APRIL 20, 1997

In Effect From Passage
AN ACT to amend and reenact sections eight and twenty, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the West Virginia capital company act; reducing for one fiscal year the total tax credits to all companies, which the West Virginia economic development authority may authorize; allowing officers, employees or directors of a financial institution owning part of any capital company to serve on the capital company’s board; and prohibiting capital company board members from a financial institution owning a part of the capital company from voting on an issue relating to that institution.

Be it enacted by the Legislature of West Virginia:
That sections eight and twenty, article one, chapter five-e of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. WEST VIRGINIA CAPITAL COMPANY ACT.

§5E-1-8. Tax credits.

(a) The total amount of tax credits authorized for a single qualified company may not exceed two million dollars. Capitalization of the company may be increased pursuant to rule of the authority.

(b) The total credits authorized by the authority for all companies may not exceed a total of ten million dollars each fiscal year: Provided, That for the fiscal year beginning on the first day of July, one thousand nine hundred ninety-seven, the total credits authorized for all companies may not exceed a total of five and one half million dollars. The authority shall, for the first one hundred eighty days of the fiscal year, accept applications only from companies who certify in their application that the investment of its entire capital base will be in one or more small business investment corporations organized under the small business investment act: Provided, however, that the capital base of any such qualified company shall be invested in accordance with the provisions of this article. The authority shall allocate these credits to qualified companies in the order that said companies are qualified.

(c) Any investor, including an individual, partnership or corporation who makes a capital investment in a qualified West Virginia capital company, is entitled to a tax credit equal to fifty percent of the investment, except as otherwise provided in this section or in this article. The credit allowed by this article shall be taken after all other credits allowed by chapter eleven of this code. It shall be taken against the same taxes and in the same order as set forth in subsections (c) through (i), inclusive, section five, article thirteen-c, chapter eleven of this code. The credit for investments by a partnership or by a corporation electing to be treated as a Subchapter S corporation may be
(d) The tax credit allowed under this section is to be credited against the taxpayer's tax liability for the taxable year in which the investment in a qualified West Virginia capital company is made. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax liability for the taxable year may be carried to succeeding taxable years until used in full, or until forfeited: Provided, That:
(i) Tax credits may not be carried forward beyond fifteen years; and (ii) tax credits may not be carried back to prior taxable years. Any tax credit remaining after the fifteenth taxable year is forfeited.
(e) The tax credit provided for in this section is available only to those taxpayers whose investment in a qualified West Virginia capital company occurs after the first day of July, one thousand nine hundred eighty-six.
(f) The tax credit allowed under this section may not be used against any liability the taxpayer may have for interest, penalties or additions to tax.
(g) Notwithstanding any provision in this code to the contrary, the tax commissioner shall publish in the state register the name and address of every taxpayer, and the amount, by category, of any credit asserted under this article. The categories by dollar amount of credit received shall be as follows:
(1) More than $1.00, but not more than $50,000;
(2) More than $50,000, but not more than $100,000;
(3) More than $100,000, but not more than $250,000;
(4) More than $250,000, but not more than $500,000;
(5) More than $500,000, but not more than $1,000,000;
(6) More than $1,000,000.
§5E-1-20. Limitation on financial institutions.
Not more than forty-nine percent of the total capital base of any capital company may be owned by banks,
3 savings and loan associations, savings banks or other financial institutions, or any affiliate thereof, as investors.
4 No officer, employee or director of any such financial institution may vote as a member of the board of any capital company formed under the provisions of this article if the matter being voted upon affects the financial institution for which the board member serves as an officer, employee or director.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 7th day of May, 1997.

Governor