WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 368

(By Senator CRAIGO, GT)

PASSED APRIL 12, 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 ending
on the thirtieth day of June, one thousand nine hundred
ninety-seven, the total credits authorized for all compa-
nies 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 other-
wise 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), section five, inclusive, 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
divided pursuant to election of partners or shareholders.

(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.
1 Not more than forty-nine percent of the total capital base of any capital company may be owned by banks,
savings and loan associations, savings banks or other financial institutions, or any affiliate thereof, as investors. 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.

Randy Schoonover
Chairman Senate Committee

Nick Fantasia
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 dismissed this the 16th day of April, 1997.

Governor