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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 4692

(By Delegates Michael, Doyle and Facemyer)



Passed March 12, 1998

*Ninety Days*

In Effect, from Passage

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# **H. B. 4692**

(BY DELEGATES MICHAEL, DOYLE AND FACEMYER)

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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 maximum tax credits available for qualified West Virginia capital companies and deleting restrictions requiring that the authority only accept applications from those companies which certify that their entire capital base will be invested in one or more small business investment corporations.

*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  
2 single qualified company may not exceed two million  
3 dollars. Capitalization of the company may be increased  
4 pursuant to rule of the authority.

5 (b) The total credits authorized by the authority for all  
6 companies may not exceed a total of ten million dollars  
7 each fiscal year: *Provided*, That for the fiscal year  
8 beginning on the first day of July, one thousand nine  
9 hundred ninety-seven, the total credits authorized for all

10 companies may not exceed a total of five million five  
11 hundred thousand dollars: *Provided, however,* That for  
12 the fiscal year beginning on the first day of July, one  
13 thousand nine hundred ninety-eight, the total credits  
14 authorized for all companies may not exceed a total of six  
15 million dollars: *Provided further,* That the capital base of  
16 any such qualified company shall be invested in  
17 accordance with the provisions of this article. The  
18 authority shall allocate these credits to qualified  
19 companies in the order that said companies are qualified.

20 (c) Any investor, including an individual, partnership  
21 or corporation who makes a capital investment in a  
22 qualified West Virginia capital company, is entitled to a  
23 tax credit equal to fifty percent of the investment, except  
24 as otherwise provided in this section or in this article. The  
25 credit allowed by this article shall be taken after all other  
26 credits allowed by chapter eleven of this code. It shall be  
27 taken against the same taxes and in the same order as set  
28 forth in subsections (c) through (i), inclusive, section five,  
29 article thirteen-c, chapter eleven of this code. The credit  
30 for investments by a partnership or by a corporation  
31 electing to be treated as a Subchapter S corporation may  
32 be divided pursuant to election of partners or  
33 shareholders.

34 (d) The tax credit allowed under this section is to be  
35 credited against the taxpayer's tax liability for the taxable  
36 year in which the investment in a qualified West Virginia  
37 capital company is made. If the amount of the tax credit  
38 exceeds the taxpayer's tax liability for the taxable year, the  
39 amount of the credit which exceeds the tax liability for the  
40 taxable year may be carried to succeeding taxable years  
41 until used in full, or until forfeited: *Provided, That:* (i)  
42 Tax credits may not be carried forward beyond fifteen  
43 years; and (ii) tax credits may not be carried back to prior  
44 taxable years. Any tax credit remaining after the fifteenth  
45 taxable year is forfeited.

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

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

53 (g) Notwithstanding any provision in this code to the  
54 contrary, the tax commissioner shall publish in the state  
55 register the name and address of every taxpayer, and the  
56 amount, by category, of any credit asserted under this  
57 article. The categories by dollar amount of credit received  
58 shall be as follows:

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

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

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

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

63 (5) More than \$500,000, but not more than  
64 \$1,000,000;

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

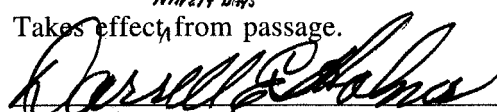
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

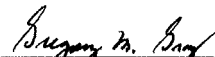
  
Chairman Senate Committee

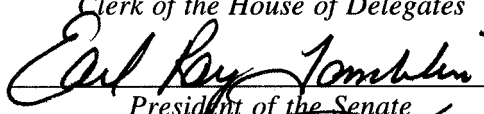
  
Chairman House Committee

Originating in the House.

<sup>NINETY DAYS</sup>  
Takes effect from passage.

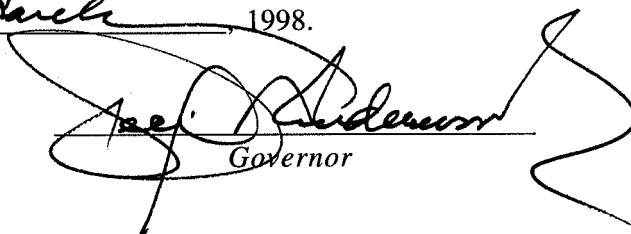
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 25th  
day of March 1998.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/98

Time 4:30 pm