WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1999

ENROLLED

SENATE BILL NO. 1000

(By Senators Tomblin, Mr. President, and Sprouse, by Request of the Executive)

PASSED March 22, 1999
In Effect July 1, 1999
ENROLLED

Senate Bill No. 1000

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPOUSE, BY REQUEST OF THE EXECUTIVE)

[Passed March 22, 1999; to take effect July 1, 1999.]

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 tax credits available for investment in qualified West Virginia capital companies generally; reducing the total tax credits allowed for the fiscal year beginning the first day of July, one thousand nine hundred ninety-nine; and allocating a portion of the allowed credits during the first ninety days of each fiscal year to investment in certain small business investment companies.

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.

(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) (1) 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 million five hundred thousand dollars: Provided, however, That for the fiscal year beginning on the first day of July, one thousand nine hundred ninety-eight, the total credits authorized for all companies may not exceed a total of six million dollars: Provided further, That for the fiscal year beginning on the first day of July, one thousand nine hundred ninety-nine, the total credits authorized for all companies may not exceed a total of six million dollars: And provided further, 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.

(2) Beginning on the first day of July, one thousand nine hundred ninety-nine, not more than one million seven hundred fifty thousand dollars of the credits allowed under subdivision (1) of this subsection may be allocated by the authority during each fiscal year to one or more small business investment companies described in this subdivision. The remainder of the tax credits allowed during the fiscal year shall be allocated to qualified companies other than those small business investment companies. The portion of the tax credits allowed for small business investment companies described in this subdivision shall be allowed only if allocated by the authority during the first ninety days of the fiscal year, and may only be allocated to companies that: (A) Were organized on or after the first day of January, one thousand nine hundred ninety-nine; (B) have registered for
licensure by the small business administration as a small business investment company under the small business investment act; and (C) have certified in writing to the authority on the application for credits under this act that the company will diligently seek to obtain and thereafter diligently seek to invest leverage available to such small business investment companies under the small business investment act. These credits shall be allocated by the authority in the order that the companies are qualified. Any credits which have not been allocated to qualified companies meeting the requirements of this subdivision relating to small business investment companies during the first ninety days of the fiscal year shall be made available and allocated to other qualified companies in the manner prescribed in this section for qualified companies generally.

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

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

To take effect July 1, 1999.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... this the... Day of... 1999

Governor
PRESENTED TO THE
GOVERNOR
Date 4/1/99
Time 10:40 a.m.