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## **WEST VIRGINIA LEGISLATURE**

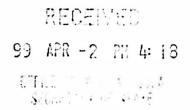
FIRST EXTRAORDINARY SESSION, 1999

# ENROLLED

SENATE BILL NO. 1000

(Bv	Senators	To	IBLIN, Mr. PRESIDO	ENT.	<b>}</b> —
AND	SPROUSE,	By	Reguest of THE E.	KECUTI	WE)

PASSED March 22 1999
In Effect July 4, 1999 Passage



# 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.

- 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) (1) The total credits authorized by the authority for 6 all companies may not exceed a total of ten million dollars 7 each fiscal year: Provided, That for the fiscal year begin-8 ning on the first day of July, one thousand nine hundred ninety-seven, the total credits authorized for all companies 9 may not exceed a total of five million five hundred thou-10 11 sand dollars: Provided, however, That for the fiscal year 12 beginning on the first day of July, one thousand nine hundred ninety-eight, the total credits authorized for all 13 14 companies may not exceed a total of six million dollars: Provided further, That for the fiscal year beginning on the 15 first day of July, one thousand nine hundred ninety-nine, 16 17 the total credits authorized for all companies may not 18 exceed a total of six million dollars: And provided further, 19 That the capital base of any such qualified company shall 20 be invested in accordance with the provisions of this 21 The authority shall allocate these credits to 22 qualified companies in the order that said companies are 23 qualified.
- 24 (2) Beginning on the first day of July, one thousand nine 25 hundred ninety-nine, not more than one million seven 26 hundred fifty thousand dollars of the credits allowed 27 under subdivision (1) of this subsection may be allocated 28 by the authority during each fiscal year to one or more 29 small business investment companies described in this 30 subdivision. The remainder of the tax credits allowed 31 during the fiscal year shall be allocated to qualified 32 companies other than those small business investment 33 companies. The portion of the tax credits allowed for 34 small business investment companies described in this 35 subdivision shall be allowed only if allocated by the 36 authority during the first ninety days of the fiscal year, 37 and may only be allocated to companies that: (A) Were 38 organized on or after the first day of January, one thousand nine hundred ninety-nine; (B) have registered for 39

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.

- 81 (e) The tax credit provided for in this section is available
- 82 only to those taxpayers whose investment in a qualified
- 83 West Virginia capital company occurs after the first day of
- 84 July, one thousand nine hundred eighty-six.
- 85 (f) The tax credit allowed under this section may not be
- 86 used against any liability the taxpayer may have for
- 87 interest, penalties or additions to tax.
- 88 (g) Notwithstanding any provision in this code to the
- 89 contrary, the tax commissioner shall publish in the state
- 90 register the name and address of every taxpayer, and the
- 91 amount, by category, of any credit asserted under this
- 92 article. The categories by dollar amount of credit received
- 93 shall be as follows:
- 94 (1) More than \$1.00, but not more than \$50,000;
- 95 (2) More than \$50,000, but not more than \$100,000;
- 96 (3) More than \$100,000, but not more than \$250,000;
- 97 (4) More than \$250,000, but not more than \$500,000;
- 98 (5) More than \$500,000, but not more than \$1,000,000;
- 99 (6) More than \$1,000,000.

Governor

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

Chairman Senate Committee Chairm In 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 .... this the 🤼 The within..... Day of .....

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PRESENTED TO THE

GOVERNOR

Date 41/99

Time 10:40