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WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1999

ENROLLED

SENATE BILL NO. 1000

(By Senators TUMBLIN, MR. PRESIDENT, &
AND SPROUSE, BY REQUEST OF THE EXECUTIVE)

PASSED MARCH 22, 1999
In Effect JULY 1, 1999 ~~Passage~~

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OFFICE OF THE
SECRETARY OF STATE

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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
9 ninety-seven, the total credits authorized for all companies
10 may not exceed a total of five million five hundred thou-
11 sand dollars: *Provided, however*, That for the fiscal year
12 beginning on the first day of July, one thousand nine
13 hundred ninety-eight, the total credits authorized for all
14 companies may not exceed a total of six million dollars:
15 *Provided further*, That for the fiscal year beginning on the
16 first day of July, one thousand nine hundred ninety-nine,
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 article. 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 thou-
39 sand nine hundred ninety-nine; (B) have registered for

40 licensure by the small business administration as a small
41 business investment company under the small business
42 investment act; and (C) have certified in writing to the
43 authority on the application for credits under this act that
44 the company will diligently seek to obtain and thereafter
45 diligently seek to invest leverage available to such small
46 business investment companies under the small business
47 investment act. These credits shall be allocated by the
48 authority in the order that the companies are qualified.
49 Any credits which have not been allocated to qualified
50 companies meeting the requirements of this subdivision
51 relating to small business investment companies during
52 the first ninety days of the fiscal year shall be made
53 available and allocated to other qualified companies in the
54 manner prescribed in this section for qualified companies
55 generally.

56 (c) Any investor, including an individual, partnership or
57 corporation who makes a capital investment in a qualified
58 West Virginia capital company, is entitled to a tax credit
59 equal to fifty percent of the investment, except as other-
60 wise provided in this section or in this article. The credit
61 allowed by this article shall be taken after all other credits
62 allowed by chapter eleven of this code. It shall be taken
63 against the same taxes and in the same order as set forth
64 in subsections (c) through (i), inclusive, section five, article
65 thirteen-c, chapter eleven of this code. The credit for
66 investments by a partnership or by a corporation electing
67 to be treated as a Subchapter S corporation may be
68 divided pursuant to election of partners or shareholders.

69 (d) The tax credit allowed under this section is to be
70 credited against the taxpayer's tax liability for the taxable
71 year in which the investment in a qualified West Virginia
72 capital company is made. If the amount of the tax credit
73 exceeds the taxpayer's tax liability for the taxable year,
74 the amount of the credit which exceeds the tax liability for
75 the taxable year may be carried to succeeding taxable
76 years until used in full, or until forfeited: *Provided, That:*
77 (i) Tax credits may not be carried forward beyond fifteen
78 years; and (ii) tax credits may not be carried back to prior
79 taxable years. Any tax credit remaining after the fifteenth
80 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.

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

Randy Schuman
.....
Chairman Senate Committee

Jack Smith
.....
Chairman House Committee

Originating in the Senate.

To take effect July 1, 1999.

Barry Sticker
.....
Clerk of the Senate

Gregory E. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

John H. Harman
.....
Speaker House of Delegates

The within..... *approved* this the *2nd* ..
Day of..... *April* .., 1999

Jeff O. Berenson
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/1/99

Time 10:40 am