WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 549

(By Senator Ross, et al)

PASSED April 13, 2001

In Effect 90 days from Passage
AN ACT to amend and reenact section seven, article thirteen-d, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the tax commissioner to waive the requirement that prior approval be given by the tax commissioner for a transfer or sale of property with respect to which a tax credit has been allowed under said article thirteen-d so the transfer or sale will not be treated as a premature disposition of the property under the provisions of section six of said article.

Be it enacted by the Legislature of West Virginia:

That section seven, article thirteen-d, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13D. TAX CREDITS FOR INDUSTRIAL EXPANSION AND REVITALIZATION, RESEARCH AND DEVELOPMENT PROJECTS, CERTAIN HOUSING DEVELOPMENT PROJECTS, MANAGEMENT INFORMATION SERVICES FACILITIES, INDUSTRIAL FACILITIES PRODUCING COAL-BASED

(a) Mere change in form of business. — Property may not be treated as disposed of under section six of this article by reason of a mere change in the form of conducting the business as long as the property is retained in a similar industrial business or management information services business activity in this state and the taxpayer retains a controlling interest in the successor business. In this event, the successor business may claim the amount of credit still available with respect to the industrial facility or facilities transferred or to the eligible research and development project or management information services facility and the taxpayer (transferor) may not be required to redetermine the amount of credit allowed in earlier years.

(b) Transfer or sale to successor. — Provided that the tax commissioner gives prior approval for a transfer or sale, property may not be treated as disposed of under section six by reason of any transfer or sale to a successor business which continues to operate the industrial facility or management information services facility in this state. This requirement for prior approval may be waived by the tax commissioner at any time prior to, or subsequent to, the transfer or sale. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this article for each taxable year subsequent to the taxable year of the transferor during which the transfer occurred and, for the year of transfer, an amount of annual credit for the year in the same proportion as the number of days remaining in the transferor’s taxable year bears to the total number of days in the taxable year and the taxpayer (transferor) shall not be required to redetermine the amount of credit allowed in earlier years. In determining whether or not to approve a disposition pursuant to this subsection, the tax commissioner shall take into
account the legislative findings and purpose contained in section one of this article in making the decision.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st Day of May, 2001.

Governor