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SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2013



**ENROLLED**

**House Bill No. 3043**

(By Mr. Speaker, (Mr. Thompson) and Delegate(s) Craig,  
Hunt, Marcum, Caputo, Ferro, R. Phillips, Williams and Boggs)



Passed April 13, 2013

In effect ninety days from passage.

HB 3043

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**E N R O L L E D**

**H. B. 3043**

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(BY MR. SPEAKER, (MR. THOMPSON)  
AND DELEGATE(S) CRAIG, HUNT, MARCUM, CAPUTO, FERRO,  
R. PHILLIPS, WILLIAMS AND BOGGS)

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AN ACT to amend and reenact §11-13BB-3 of the Code of West Virginia, 1931, as amended, relating to including methane monitoring equipment as eligible safety equipment for tax credit purposes.

*Be it enacted by the Legislature of West Virginia:*

That §11-13BB-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 13BB. WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY TAX CREDIT ACT.**

**§11-13BB-3. Definitions.**

- 1 (a) Any term used in this article has the meaning ascribed by
- 2 this section unless a different meaning is clearly required by the
- 3 context of its use or by definition in this article.

4 (b) For purposes of this article, the term:

5 (1) "Certified eligible safety property" means eligible safety  
6 property in which an eligible taxpayer has made qualified  
7 investment for which credit has been certified under this article.

8 (2) "Coal mining company" means:

9 (A) A person subject to tax imposed on the severance of coal  
10 by section three, article thirteen-a of this chapter; or

11 (B) A person working as a contract miner of coal, mining  
12 coal in this state, under contract with a person subject to tax  
13 imposed on the severance of coal by section three, article  
14 thirteen-a of this chapter.

15 (3) "Director" means the Director of the Office of Miners'  
16 Health, Safety and Training or West Virginia Office of Miners'  
17 Health, Safety and Training established under article one,  
18 chapter twenty two-a of this code.

19 (4) "Eligible safety property" means safety technology  
20 equipment that, at the time of acquisition, is on the list of  
21 approved innovative mine safety technology: *Provided*, That  
22 eligible safety property includes machine mounted methane  
23 monitors required by section forty-three, article two, chapter  
24 twenty-two-a of this code.

25 (5) "Eligible taxpayer" means a coal mining company that  
26 purchases eligible safety property.

27 (6) "List of approved innovative mine safety technology"  
28 means the list required to be compiled and maintained by the  
29 Mine Safety Technology Task Force and approved and published  
30 by the director under this article.

31 (7) "Office of Miners' Health, Safety and Training" or  
32 "West Virginia Office of Miners' Health, Safety and Training"

33 means the Office of Miners' Health, Safety and Training  
34 established under article one, chapter twenty two-a of this code.

35 (8) "Person" includes any corporation, limited liability  
36 company or partnership.

37 (9) "Qualified investment" means the eligible taxpayer's  
38 investment in eligible safety property pursuant to a qualified  
39 purchase as qualified and limited by section six of this article.

40 (10) "Qualified purchase" means and includes only acqui-  
41 sitions of eligible safety property for use in this state.

42 (A) A lease of eligible safety property may constitute a  
43 qualified purchase if the lease was entered into and became  
44 effective at a time when the equipment is on the list of approved  
45 innovative mine safety technology and if the primary term of the  
46 lease for the eligible safety property is five years or more. Leases  
47 having a primary term of less than five years do not qualify.

48 (B) "Qualified purchase" does not include:

49 (i) Purchases or leases of realty or any cost for, or related to,  
50 the construction of a building, facility or structure attached to  
51 realty;

52 (ii) Purchases or leases of property not exclusively used in  
53 West Virginia;

54 (iii) Repair costs including materials used in the repair  
55 unless, for federal income tax purposes, the cost of the repair  
56 must be capitalized and not expensed;

57 (iv) Motor vehicles licensed by the Division of Motor  
58 Vehicles;

59 (v) Clothing;

60 (vi) Airplanes;

- 61 (vii) Off-premises transportation equipment;
- 62 (viii) Leases of tangible personal property having a primary  
63 term of less than five years;
- 64 (ix) Property that is used outside this state; and
- 65 (x) Property that is acquired incident to the purchase of the  
66 stock or assets of an industrial taxpayer that was or had been  
67 used by the seller in his or her industrial business in this state or  
68 in which investment was previously the basis of a credit against  
69 tax taken under any other article of this chapter.
- 70 (C) Acquisitions, including leases, of eligible safety property  
71 may constitute qualified purchases for purposes of this article  
72 only if:
- 73 (i) The property is not acquired from a person whose  
74 relationship to the person acquiring it would result in the  
75 disallowance of deductions under Section 267 or 707(b) of the  
76 United States Internal Revenue Code of 1986, as amended;
- 77 (ii) The property is not acquired from a related person or by  
78 one component member of a controlled group from another  
79 component member of the same controlled group but the Tax  
80 Commissioner may waive this requirement if the property was  
81 acquired from a related party for its then fair market value; and
- 82 (iii) The basis of the property for federal income tax  
83 purposes, in the hands of the person acquiring it, is not deter-  
84 mined, in whole or in part, by reference to the federal adjusted  
85 basis of the property in the hands of the person from whom it  
86 was acquired or under Section 1014(e) of the United States  
87 Internal Revenue Code of 1986, as amended.
- 88 (11) "Safety technology" means depreciable tangible  
89 personal property and equipment, other than clothing, principally

90 designed to directly minimize workplace injuries and fatalities  
91 in coal mines.

92 (12) "Taxpayer" means a person subject to any of the taxes  
93 imposed by article thirteen-a, twenty-three or twenty-four of this  
94 chapter.

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

*Don Wells*

Chairman, House Committee

*Rocky Fikeman*  
Member Chairman, Senate Committee

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OFFICE OF STATE CLERK

Originating in the House.

In effect ninety days from passage.

*Shirley M. Suf*  
Clerk of the House of Delegates

*Joseph M. Minard*  
Clerk of the Senate

*R. C.*  
Speaker of the House of Delegates

*Jeffrey K.*  
President of the Senate

The within is approved this the 3rd  
day of May, 2013.

*Carl Ray Tomblin*  
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:27 am