Committee Substitute for

House Bill 4022

BY DELEGATES HAMRICK, BUTLER, BARRETT, DEAN,

FAST, HOLLEN, LOVEJOY AND QUEEN

[Passed March 2, 2018; in effect ninety days from passage.]
Committee Substitute

for

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By Delegates Hamrick, Butler, Barrett, Dean, Fast, Hollen, Lovejoy and Queen

[Passed March 2, 2018; in effect ninety days from passage.]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9p, relating to providing an exemption from the consumer sales and service tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of aircraft operated under a fractional ownership program; defining terms; specifying a method for claiming exemption; authorizing emergency rules and promulgation of legislative rules; and establishing the effective date of the section.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9p. Exemption for purchases of services and tangible personal property sold for the repair, remodeling and maintenance of aircraft operated under a fractional ownership program.

(a) The following sales are exempt from the consumers sales and service tax: Sales of aircraft repair, remodeling and maintenance services when the services are to an aircraft operated under a fractional ownership program, or to an engine or other component part of an aircraft operated under a fractional ownership program; sales of tangible personal property that is permanently affixed or permanently attached as a component part of an aircraft operated under a fractional ownership program, as part of the repair, remodeling or maintenance service; and sales of machinery, tools or equipment directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts for an aircraft operated under a fractional ownership program, or used exclusively in combination with the purposes specified in this subsection and the purposes specified in §11-15-9(a)(33) of this code.

(b) Any person having a right or claim to any exemption set forth in this section shall: First pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or, as provided in §11-15-9d and §11-15a-3d of this code, give to the vendor his or her West Virginia direct pay permit number: Provided, That a person having a right or claim to
the exemption set forth in this section may apply to the Tax Commissioner for permission to use
an exemption certificate. Upon the granting of such permission, a person having a right or claim
to the exemption set forth in this section may, in lieu of paying the tax imposed by this article and
filing a claim for refund, execute a certificate of exemption, in the form required by the Tax
Commissioner, and deliver it to the vendor of the property or service in the manner required by
the Tax Commissioner.

(c) For purposes of this section, “fractional ownership program” means any system of
aerial ownership and exchange that consists of all of the following:
(1) The provision for fractional ownership program management services by a single
fractional ownership program manager on behalf of the fractional owners;
(2) Two or more airworthy aircraft;
(3) One or more fractional owners per program aircraft, with at least one program aircraft
having more than one owner;
(4) Possession of at least a minimum fractional ownership interest in one or more program
aircraft by each fractional owner;
(5) A dry-lease aircraft exchange arrangement among all of the fractional owners; and
(6) Multi-year program agreements covering the fractional ownership, fractional ownership
program management services, and dry-lease aircraft exchange aspects of the program.
(d) The tax commissioner shall promulgate emergency rules and shall propose rules for
legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish
eligibility requirements for the exemption established by this section.
(e) The provisions of this section shall apply to sales made on and after September 1,
2018.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman, House Committee
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

[Signatures]
Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 20th
day of March, 2018.

Governor
PRESENTED TO THE GOVERNOR

Time  2:19 p.m.