



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 3710

2 AMENDMENT NO. _____. Amend Senate Bill 3710, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The New Markets Development Program Act is
6 amended by changing Sections 20 and 25 as follows:

7 (20 ILCS 663/20)

8 Sec. 20. Annual cap on credits. The Department shall limit
9 the monetary amount of qualified equity investments permitted
10 under this Act to a level necessary to limit tax credit use at
11 no more than \$20,000,000 ~~\$10,000,000~~ of tax credits in any
12 fiscal year. This limitation on qualified equity investments
13 shall be based on the anticipated use of credits without regard
14 to the potential for taxpayers to carry forward tax credits to
15 later tax years.

16 (Source: P.A. 95-1024, eff. 12-31-08.)

1 (20 ILCS 663/25)

2 Sec. 25. Certification of qualified equity investments.

3 (a) A qualified community development entity that seeks to
4 have an equity investment or long-term debt security designated
5 as a qualified equity investment and eligible for tax credits
6 under this Section shall apply to the Department. The qualified
7 community development entity must submit an application on a
8 form that the Department provides that includes:

9 (1) The name, address, tax identification number of the
10 entity, and evidence of the entity's certification as a
11 qualified community development entity.

12 (2) A copy of the allocation agreement executed by the
13 entity, or its controlling entity, and the Community
14 Development Financial Institutions Fund.

15 (3) A certificate executed by an executive officer of
16 the entity attesting that the allocation agreement remains
17 in effect and has not been revoked or cancelled by the
18 Community Development Financial Institutions Fund.

19 (4) A description of the proposed amount, structure,
20 and purchaser of the equity investment or long-term debt
21 security.

22 (5) The name and tax identification number of any
23 taxpayer eligible to utilize tax credits earned as a result
24 of the issuance of the qualified equity investment.

25 (6) Information regarding the proposed use of proceeds

1 from the issuance of the qualified equity investment.

2 (7) A nonrefundable application fee of \$5,000. This fee
3 shall be paid to the Department and shall be required of
4 each application submitted.

5 (b) Within 30 days after receipt of a completed application
6 containing the information necessary for the Department to
7 certify a potential qualified equity investment, including the
8 payment of the application fee, the Department shall grant or
9 deny the application in full or in part. If the Department
10 denies any part of the application, it shall inform the
11 qualified community development entity of the grounds for the
12 denial. If the qualified community development entity provides
13 any additional information required by the Department or
14 otherwise completes its application within 15 days of the
15 notice of denial, the application shall be considered completed
16 as of the original date of submission. If the qualified
17 community development entity fails to provide the information
18 or complete its application within the 15-day period, the
19 application remains denied and must be resubmitted in full with
20 a new submission date.

21 (c) If the application is deemed complete, the Department
22 shall certify the proposed equity investment or long-term debt
23 security as a qualified equity investment that is eligible for
24 tax credits under this Section, subject to the limitations
25 contained in Section 20. The Department shall provide written
26 notice of the certification to the qualified community

1 development entity. The notice shall include the names of those
2 taxpayers who are eligible to utilize the credits and their
3 respective credit amounts. If the names of the taxpayers who
4 are eligible to utilize the credits change due to a transfer of
5 a qualified equity investment or a change in an allocation
6 pursuant to Section 15, the qualified community development
7 entity shall notify the Department of such change.

8 (d) The Department shall certify qualified equity
9 investments in the order applications are received by the
10 Department. Applications received on the same day shall be
11 deemed to have been received simultaneously. For applications
12 received on the same day and deemed complete, the Department
13 shall certify, consistent with remaining tax credit capacity,
14 qualified equity investments in proportionate percentages
15 based upon the ratio of the amount of qualified equity
16 investment requested in an application to the total amount of
17 qualified equity investments requested in all applications
18 received on the same day.

19 (e) Once the Department has certified qualified equity
20 investments that, on a cumulative basis, are eligible for
21 \$20,000,000 ~~\$10,000,000~~ in tax credits, the Department may not
22 certify any more qualified equity investments. If a pending
23 request cannot be fully certified, the Department shall certify
24 the portion that may be certified unless the qualified
25 community development entity elects to withdraw its request
26 rather than receive partial credit.

1 (f) Within 30 days after receiving notice of certification,
2 the qualified community development entity shall issue the
3 qualified equity investment and receive cash in the amount of
4 the certified amount. The qualified community development
5 entity must provide the Department with evidence of the receipt
6 of the cash investment within 10 business days after receipt.
7 If the qualified community development entity does not receive
8 the cash investment and issue the qualified equity investment
9 within 30 days following receipt of the certification notice,
10 the certification shall lapse and the entity may not issue the
11 qualified equity investment without reapplying to the
12 Department for certification. A certification that lapses
13 reverts back to the Department and may be reissued only in
14 accordance with the application process outline in this Section
15 25.

16 (Source: P.A. 95-1024, eff. 12-31-08.)

17 Section 10. The Illinois Income Tax Act is amended by
18 adding Section 220 as follows:

19 (35 ILCS 5/220 new)

20 Sec. 220. Angel investment credit.

21 (a) As used in this Section:

22 "Applicant" means a corporation, partnership, limited
23 liability company, or a natural person that makes an investment
24 in a qualified new business venture. The term "applicant" does

1 not include a corporation, partnership, limited liability
2 company, or a natural person who has a direct or indirect
3 ownership interest of at least 51% in the profits, capital, or
4 value of the investment or a related member.

5 "Claimant" means a applicant certified by the Department
6 who files a claim for a credit under this Section.

7 "Department" means the Department of Commerce and Economic
8 Opportunity.

9 "Qualified new business venture" means a business that is
10 registered with the Department under this Section.

11 "Related member" means a person that, with respect to the
12 investment, is any one of the following,

13 (1) An individual, if the individual and the members of
14 the individual's family (as defined in Section 318 of the
15 Internal Revenue Code) own directly, indirectly,
16 beneficially, or constructively, in the aggregate, at
17 least 50% of the value of the outstanding profits, capital,
18 stock, or other ownership interest in the applicant.

19 (2) A partnership, estate, or trust and any partner or
20 beneficiary, if the partnership, estate, or trust and its
21 partners or beneficiaries own directly, indirectly,
22 beneficially, or constructively, in the aggregate, at
23 least 50% of the profits, capital, stock, or other
24 ownership interest in the applicant.

25 (3) A corporation, and any party related to the
26 corporation in a manner that would require an attribution

1 of stock from the corporation under the attribution rules
2 of Section 318 of the Internal Revenue Code, if the
3 applicant and any other related member own, in the
4 aggregate, directly, indirectly, beneficially, or
5 constructively, at least 50% of the value of the
6 corporation's outstanding stock.

7 (4) A corporation and any party related to that
8 corporation in a manner that would require an attribution
9 of stock from the corporation to the party or from the
10 party to the corporation under the attribution rules of
11 Section 318 of the Internal Revenue Code, if the
12 corporation and all such related parties own, in the
13 aggregate, at least 50% of the profits, capital, stock, or
14 other ownership interest in the applicant.

15 (5) A person to or from whom there is attribution of
16 stock ownership in accordance with Section 1563(e) of the
17 Internal Revenue Code, except that for purposes of
18 determining whether a person is a related member under this
19 paragraph, "20%" shall be substituted for "5%" whenever
20 "5%" appears in Section 1563(e) of the Internal Revenue
21 Code.

22 (b) For taxable years beginning after December 31, 2010,
23 and ending on or before December 31, 2016, subject to the
24 limitations provided in this Section, a claimant may claim, as
25 a credit against the tax imposed under subsections (a) and (b)
26 of Section 201 of this Act, an amount equal to 25% of the

1 claimant's investment made directly in a qualified new business
2 venture. The credit under this Section may not exceed the
3 taxpayer's Illinois income tax liability for the taxable year.
4 If the amount of the credit exceeds the tax liability for the
5 year, the excess may be carried forward and applied to the tax
6 liability of the 5 taxable years following the excess credit
7 year. The credit shall be applied to the earliest year for
8 which there is a tax liability. If there are credits from more
9 than one tax year that are available to offset a liability, the
10 earlier credit shall be applied first. In the case of a
11 partnership or Subchapter S Corporation, the credit is allowed
12 to the partners or shareholders in accordance with the
13 determination of income and distributive share of income under
14 Sections 702 and 704 and Subchapter S of the Internal Revenue
15 Code.

16 (c) The maximum amount of an applicant's investment that
17 may be used as the basis for a credit under this Section is
18 \$2,000,000 for each investment made directly in a qualified new
19 business venture.

20 (d) The Department shall implement a program to certify an
21 applicant for an angel investment credit. Upon satisfactory
22 review, the Department shall issue a tax credit certificate
23 stating the amount of the tax credit to which the applicant is
24 entitled. The Department shall annually certify that the
25 claimant's investment has been made and remains in the
26 qualified new business venture for no less than 3 years. If an

1 investment for which a claimant is allowed a credit under
2 subsection (b) is held by the claimant for less than 3 years,
3 or, if within that period of time the qualified new business
4 venture is moved from the State of Illinois, the claimant shall
5 pay to the Department of Revenue, in the manner prescribed by
6 the Department of Revenue, the amount of the credit that the
7 claimant received related to the investment.

8 (e) The Department shall implement a program to register
9 qualified new business ventures for purposes of this Section. A
10 business desiring registration shall submit an application to
11 the Department in each taxable year for which the business
12 desires registration. The Department may register the business
13 only if the business satisfies all of the following conditions:

14 (1) it has its headquarters in this State;

15 (2) at least 51% of the employees employed by the
16 business are employed in this State;

17 (3) it has the potential for increasing jobs in this
18 State, increasing capital investment in this State, or
19 both, and either of the following apply:

20 (A) it is principally engaged in innovation in any
21 of the following: manufacturing; biotechnology;
22 nanotechnology; communications; agricultural sciences;
23 clean energy creation or storage technology;
24 processing or assembling products, including medical
25 devices, pharmaceuticals, computer software, computer
26 hardware, semiconductors, other innovative technology

1 products, or other products that are produced using
2 manufacturing methods that are enabled by applying
3 proprietary technology; or providing services that are
4 enabled by applying proprietary technology; or

5 (B) it is undertaking pre-commercialization
6 activity related to proprietary technology that
7 includes conducting research, developing a new product
8 or business process, or developing a service that is
9 principally reliant on applying proprietary
10 technology;

11 (4) it is not principally engaged in real estate
12 development, insurance, banking, lending, lobbying,
13 political consulting, professional services provided by
14 attorneys, accountants, business consultants, physicians,
15 or health care consultants, wholesale or retail trade,
16 leisure, hospitality, transportation, or construction,
17 except construction of power production plants that derive
18 energy from a renewable energy resource, as defined in
19 Section 1 of the Illinois Power Agency Act;

20 (5) it has fewer than 100 employees;

21 (6) it has been in operation in Illinois for not more
22 than 10 consecutive years prior to the year of
23 certification; and

24 (7) it has received not more than (i) \$10,000,000 in
25 aggregate private equity investment in cash or (ii)
26 \$4,000,000 in investments that qualified for tax credits

1 under this Section.

2 (f) The Department, in consultation with the Department of
3 Revenue, shall adopt rules to administer this Section. The
4 aggregate amount of the tax credits that may be claimed under
5 this Section for investments made in qualified new business
6 ventures shall be limited at \$10,000,000 per calendar year.

7 (g) A claimant may not sell or otherwise transfer a credit
8 awarded under this Section to another person.

9 (h) On or before March 1 of each year, the Department shall
10 report to the Governor and to the General Assembly on the tax
11 credit certificates awarded under this Section for the prior
12 calendar year.

13 (1) This report must include, for each tax credit
14 certificate awarded:

15 (A) the name of the claimant and the amount of
16 credit awarded or allocated to that claimant;

17 (B) the name and address of the qualified new
18 business venture that received the investment giving
19 rise to the credit and the county in which the
20 qualified new business venture is located; and

21 (C) the date of approval by the Department of the
22 applications for the tax credit certificate.

23 (2) The report must also include:

24 (A) the total number of applicants and amount for
25 tax credit certificates awarded under this Section in
26 the prior calendar year;

1 (B) the total number of applications and amount for
2 which tax credit certificates were issued in the prior
3 calendar year; and

4 (C) the total tax credit certificates and amount
5 authorized under this Section for all calendar years.

6 Section 99. Effective date. This Section and Section 5 take
7 effect on July 1, 2010. Section 10 takes effect on January 1,
8 2011."