

HB3318



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3318

by Rep. Mark L. Walker

SYNOPSIS AS INTRODUCED:

35 ILCS 5/229 new

Amends the Illinois Income Tax Act. Provides for a credit in an amount equal to 25% of the taxpayer's equity investment in a qualified new business venture, including investments made through a certified fund manager. Sets forth limitations on the credit.

LRB101 05873 HLH 50893 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by adding
5 Section 229 as follows:

6 (35 ILCS 5/229 new)

7 Sec. 229. Venture capital investment credit.

8 (a) Definitions. As used in this Section:

9 "Certified investment fund manager" means a business that
10 is certified under subsection (e).

11 "Claimant" means an individual who files a claim for credit
12 under this Section.

13 "Department" means the Department of Commerce and Economic
14 Opportunity, unless otherwise specifically provided.

15 "Equity investment" means a purchase of an equity interest,
16 or any other investment expenditure, in a qualified new
17 business venture either directly or through a certified
18 investment fund manager as determined by subsection (e).

19 "Qualified new business venture" means a business that is
20 certified under subsection (d).

21 (b) Filing claims for credit. A claimant may claim as a
22 credit against the tax imposed under subsections (a) and (b) of
23 Section 201 of this Act an amount equal to 25% of the

1 claimant's equity investment made directly to a qualified new
2 business venture in the taxable year, or made to a certified
3 fund manager if the fund manager invests in a business
4 certified under subsection (d).

5 (c) Limitations.

6 (1) The maximum amount of the credits that may be
7 claimed under this Section for all taxable years combined
8 is \$50,000,000.

9 (2) The maximum amount of a claimant's investment that
10 may be used as the basis for a credit under this Section is
11 \$500,000 for each investment made directly to a business
12 certified under subsection (d).

13 (3) If an investment for which a claimant claims a
14 credit under subsection (b) is held by the claimant for
15 less than one year, then the claimant shall pay to the
16 Department, in the manner prescribed by the Department, the
17 amount of the credit that the claimant received related to
18 the investment.

19 (4) Any credit allowed under this Section that is
20 unused in the year the credit is earned may be carried
21 forward to each of the 5 taxable years following the year
22 for which the credit is first computed until it is used.
23 This credit shall be applied first to the earliest year for
24 which there is a liability. If there is a credit under this
25 Section from more than one tax year that is available to
26 offset a liability, then the earliest credit arising under

1 this Section shall be applied first.

2 (5) A partnership may elect to pass through to its
3 partners the credits to which the partnership is entitled
4 under this Section for the taxable year. A partner may use
5 the credit allocated to him or her under this paragraph
6 only against the tax imposed in subsections (a) and (b) of
7 Section 201 of this Act. If the partnership makes that
8 election, those credits shall be allocated among the
9 partners in the partnership in accordance with the rules
10 set forth in Section 704(b) of the Internal Revenue Code,
11 and the rules promulgated under that Section, and the
12 allocated amount of the credits shall be allowed to the
13 partners for that taxable year.

14 (d) Qualified new business ventures. The Department shall
15 implement a program to certify businesses for purposes of this
16 credit. A business desiring certification shall submit an
17 application to the Department in each taxable year for which
18 the business desires certification. Unless otherwise provided
19 under the rules of the Department, a business may be certified
20 under this subsection and may maintain that certification only
21 if the business satisfies all of the following conditions:

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

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

25 (3) it is engaged in, or has committed to engage in,
26 manufacturing, agriculture, or processing or assembling

1 products and conducting research and development or
2 developing a new product or business process;

3 (4) it is not engaged in real estate development,
4 insurance, banking, lending, lobbying, political
5 consulting, professional services provided by attorneys,
6 accountants, business consultants, physicians, or health
7 care consultants, wholesale or retail trade, leisure,
8 hospitality, transportation, or construction;

9 (5) it has fewer than 100 employees;

10 (6) it has been in operation in this State for not more
11 than 7 consecutive years; and

12 (7) it has not received more than \$1,000,000 in
13 investments that have qualified for tax credits under this
14 Section.

15 The Department shall maintain a list of certified
16 businesses and shall permit public access to the lists through
17 the Department's Internet website.

18 (e) Certified investment fund managers. The Department
19 shall implement a program to certify investment fund managers
20 for purposes of this Section. An investment fund manager
21 desiring certification shall submit an application to the
22 Department. In determining whether to certify an investment
23 fund manager, the Department shall consider the investment fund
24 manager's experience in managing venture capital funds, the
25 past performance of investment funds managed by the applicant,
26 the expected level of investment in the investment fund to be

1 managed by the applicant, and any other relevant factors. The
2 Department may certify only investment fund managers that
3 commit to placing investments in businesses certified under
4 subsection (d). The Department shall maintain a list of
5 certified investment fund managers and shall permit public
6 access to the lists through the Department's Internet website.

7 (f) The Department shall notify the Department of Revenue
8 of every certification issued under this Section and the date
9 on which any such certification is revoked or expires.

10 (g) Annual report. Annually, no later than February 1, the
11 Department shall submit a report to the General Assembly for
12 distribution to legislators, listing all of the following
13 information:

14 (1) the total amount of tax credits claimed under this
15 Section;

16 (2) the name of each business in which investments
17 qualifying for those tax credits were made, the amount of
18 the tax credits, and the amount of the investment; and

19 (3) any other information the Department considers
20 reasonable to include.

21 (h) Rules. The Department, in consultation with the
22 Department of Revenue, shall adopt rules to administer this
23 Section.