



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 3710

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

4 "Section 5. The Illinois Income Tax Act is amended by
5 adding Sections 219 and 220 as follows:

6 (35 ILCS 5/219 new)

7 Sec. 219. Early stage seed investment credit.

8 (a) As used in this Section:

9 "Claimant" means a person who files a claim for a credit
10 under this Section.

11 "Department" means the Department of Commerce and Economic
12 Opportunity.

13 "Fund manager" means an investment fund manager certified
14 under subsection (e) of this Section.

15 (b) For taxable years beginning after December 31, 2010,
16 subject to the limitations provided under this Section, a

1 claimant may claim, as a credit against the tax imposed under
2 subsection (a) and (b) of Section 201 of this Act, an amount
3 equal to 25% of the amount invested by the claimant with a fund
4 manager and invested by the fund manager in a business
5 certified under Section 220 of this Act. The credit under this
6 Section may not exceed the taxpayer's Illinois income tax
7 liability for the taxable year. If the amount of the credit
8 exceeds the tax liability for the year, the excess may be
9 carried forward and applied to the tax liability of the 5
10 taxable years following the excess credit year. The credit
11 shall be applied to the earliest year for which there is a tax
12 liability. If there are credits from more than one tax year
13 that are available to offset a liability, the earlier credit
14 shall be applied first.

15 In the case of a partnership or limited liability company,
16 the computation of the 25% limitation under this subsection
17 shall be determined at the entity level rather than the
18 claimant level and may be allocated among the claimants who
19 make investments in the manner set forth in the entity's
20 organizational documents. The partnership or limited liability
21 company shall provide to the Department and the Department of
22 Revenue the names and tax identification numbers of the
23 claimants, the amounts of the credits allocated to the
24 claimants, and the computation of the allocations.

25 (c) The Illinois adjusted basis of any investment for which
26 a credit is claimed under this Section shall be reduced by the

1 amount of the credit that is offset against Illinois income
2 taxes. The Illinois basis of a partner's interest in a
3 partnership, a member's interest in a limited liability
4 company, or stock in an S corporation shall be adjusted to
5 reflect adjustments made under this subsection.

6 (d) If an investment for which a claimant claims a credit
7 under subsection (b) is held by the claimant for less than 3
8 years, the claimant shall pay to the Department, in the manner
9 prescribed by the Department, the amount of the credit that the
10 claimant received related to the investment.

11 (e) The Department shall implement a program to certify
12 investment fund managers for purposes of this Section. An
13 investment fund manager desiring certification shall submit an
14 application to the Department. The investment fund manager
15 shall specify in the application the investment amount that the
16 manager wishes to raise, and the Department may certify the
17 manager and determine the amount that qualifies for purposes of
18 this Section. In determining whether to certify an investment
19 fund manager, the Department shall consider the investment fund
20 manager's experience in managing venture capital funds, the
21 past performance of investment funds managed by the applicant,
22 the expected level of investment in the investment fund to be
23 managed by the applicant, and any other relevant factors. The
24 Department may certify only investment fund managers that
25 commit to consider placing investments in businesses certified
26 under Section 220 of this Act.

1 The Department shall maintain a list of businesses
2 certified under Section 220 of this Act and investment fund
3 managers certified under this subsection, and shall permit
4 public access to the lists through the Department's Internet
5 website.

6 The Department shall notify the Department of Revenue of
7 every certification issued under this subsection and under
8 Section 220 of this Act and the date on which any such
9 certification is revoked or expires.

10 (f) The Department, in consultation with the Department of
11 Revenue, shall adopt rules to administer this Section. The
12 rules shall further define "bona fide angel investment" for
13 purposes of the Angel Investment Tax Credit under Section 220
14 of this Act. The rules shall limit the aggregate amount of the
15 tax credits under this Section that may be claimed for
16 investments paid to fund managers certified under subsection
17 (e) at \$10,000,000 per calendar year. The rules shall also
18 provide that no claimant may receive a credit under this
19 Section unless the claimant's investment is kept in a certified
20 business, or with a certified fund manager, for no less than 3
21 years.

22 (g) A claimant may sell or otherwise transfer a credit
23 awarded under this Section to another person who is subject to
24 the taxes or fees imposed under subsections (a) or (b) of
25 Section 201, if the transferee receives prior authorization
26 from the investment fund manager and the manager then notifies

1 the Department and the Department of Revenue of the transfer
2 and submits with the notification a copy of the transfer
3 documents. The Department may charge any person selling or
4 otherwise transferring a credit under this subsection a fee
5 equal to 1% of the credit amount sold or transferred.

6 (h) This Section is exempt from the provisions of Section
7 250.

8 (35 ILCS 5/220 new)

9 Sec. 220. Angel investment credit.

10 (a) As used in this Section:

11 "Bona fide angel investment" means a purchase of an equity
12 interest, or any other expenditure, as determined by rule under
13 this Section, that is made by:

14 (1) a person who reviews new businesses or proposed new
15 businesses for potential investment of the person's money;
16 or

17 (2) a network of persons each of whom satisfies item
18 (1).

19 "Claimant" means an individual who files a claim for a
20 credit under this Section.

21 "Department" means the Department of Commerce and Economic
22 Opportunity.

23 "Person" means a partnership or limited liability company
24 that is a non-operating entity, as determined by the
25 Department, a natural person, or fiduciary.

1 "Qualified new business venture" means a business that is
2 certified under this Section.

3 (b) For taxable years beginning after December 31, 2010,
4 subject to the limitations provided in this Section, a claimant
5 may claim, as a credit against the tax imposed under
6 subsections (a) and (b) of Section 201 of this Act, an amount
7 equal to 25% of the claimant's bona fide angel investment made
8 directly in a qualified new business venture. The credit under
9 this Section may not exceed the taxpayer's Illinois income tax
10 liability for the taxable year. If the amount of the credit
11 exceeds the tax liability for the year, the excess may be
12 carried forward and applied to the tax liability of the 5
13 taxable years following the excess credit year. The credit
14 shall be applied to the earliest year for which there is a tax
15 liability. If there are credits from more than one tax year
16 that are available to offset a liability, the earlier credit
17 shall be applied first.

18 (c) The maximum amount of a claimant's investment that may
19 be used as the basis for a credit under this Section is
20 \$2,000,000 for each investment made directly in a business
21 certified under this Section.

22 (d) If an investment for which a claimant claims a credit
23 under subsection (b) is held by the claimant for less than 3
24 years, the claimant shall pay to the Department, in the manner
25 prescribed by the Department, the amount of the credit that the
26 claimant received related to the investment.

1 (e) The Illinois adjusted basis of any investment for which
2 a credit is claimed under subsection (b) shall be reduced by
3 the amount of the credit that is offset against Illinois income
4 taxes.

5 (f) The Department shall implement a program to certify
6 businesses for purposes of this Section. A business desiring
7 certification shall submit an application to the Department in
8 each taxable year for which the business desires certification.
9 The business shall specify in its application the investment
10 amount it wishes to raise, and the Department may certify the
11 business and determine the amount that qualifies for purposes
12 this Section. Unless otherwise provided under the rules of the
13 Department, a business may be certified under this subsection,
14 and may maintain such certification, only if the business
15 satisfies all of the following conditions:

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

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

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

22 (A) it is engaged in, or has committed to engage
23 in, innovation in any of the following: manufacturing;
24 biotechnology; nanotechnology; communications;
25 agriculture; clean energy creation or storage
26 technology; processing or assembling products,

1 including medical devices, pharmaceuticals, computer
2 software, computer hardware, semiconductors, other
3 innovative technology products, or other products that
4 are produced using manufacturing methods that are
5 enabled by applying proprietary technology; or
6 providing services that are enabled by applying
7 proprietary technology; or

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

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

23 (5) it has less than 100 employees;

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

1 (7) prior to certification, it has received not more
2 than (i) \$1,000,000 in investments that qualified for tax
3 credits under this Section, (ii) \$10,000,000 in aggregate
4 private equity investment in cash, and (iii) \$4,000,000 in
5 investments that qualified for tax credits under this
6 Section or Section 219 of this Act.

7 (g) This Section is exempt from the provisions of Section
8 250.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".