



Rep. Grant Wehrli

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LRB100 10603 HLH 24220 a

1 AMENDMENT TO HOUSE BILL 3527

2 AMENDMENT NO. _____. Amend House Bill 3527 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 220 as follows:

6 (35 ILCS 5/220)

7 Sec. 220. Angel investment credit.

8 (a) As used in this Section:

9 "Applicant" means a corporation, partnership, limited
10 liability company, or a natural person that makes an investment
11 in a qualified new business venture. The term "applicant" does
12 not include a corporation, partnership, limited liability
13 company, or a natural person who has a direct or indirect
14 ownership interest of at least 51% in the profits, capital, or
15 value of the investment or a related member.

16 "Claimant" means an applicant certified by the Department

1 who files a claim for a credit under this Section.

2 "Department" means the Department of Commerce and Economic
3 Opportunity.

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

6 "Related member" means a person that, with respect to the
7 investment, is any one of the following:

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

14 (2) A partnership, estate, or trust and any partner or
15 beneficiary, if the partnership, estate, or trust and its
16 partners or beneficiaries own directly, indirectly,
17 beneficially, or constructively, in the aggregate, at
18 least 50% of the profits, capital, stock, or other
19 ownership interest in the applicant.

20 (3) A corporation, and any party related to the
21 corporation in a manner that would require an attribution
22 of stock from the corporation under the attribution rules
23 of Section 318 of the Internal Revenue Code, if the
24 applicant and any other related member own, in the
25 aggregate, directly, indirectly, beneficially, or
26 constructively, at least 50% of the value of the

1 corporation's outstanding stock.

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

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

17 (b) For taxable years beginning after December 31, 2010,
18 and ending on or before December 31, 2021 ~~2016~~, subject to the
19 limitations provided in this Section, a claimant may claim, as
20 a credit against the tax imposed under subsections (a) and (b)
21 of Section 201 of this Act, an amount equal to 25% of the
22 claimant's investment made directly in a qualified new business
23 venture. In order for an investment in a qualified new business
24 venture to be eligible for tax credits, the business must have
25 applied for and received certification under subsection (e) for
26 the taxable year in which the investment was made prior to the

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

15 (c) The maximum amount of an applicant's investment that
16 may be used as the basis for a credit under this Section is
17 \$2,000,000 for each investment made directly in a qualified new
18 business venture. For taxable years ending on or after December
19 31, 2017, the applicant must make a minimum investment of
20 \$10,000 in a qualified new business venture.

21 (d) The Department shall implement a program to certify an
22 applicant for an angel investment credit. Upon satisfactory
23 review, the Department shall issue a tax credit certificate
24 stating the amount of the tax credit to which the applicant is
25 entitled. The Department shall annually certify that (i) each
26 approved applicant remains in the State (and continues to

1 remain in the State for a period of not less than 3 years from
2 the issue date of the last tax credit certificate issued by the
3 Department with respect to that business); and (ii) the
4 claimant's investment has been made ~~and remains in the~~
5 ~~qualified new business venture for no less than 3 years.~~

6 If an investment for which a claimant is allowed a credit
7 under subsection (b) is held by the claimant for less than 3
8 years, other than as a result of a permitted sale of such
9 investment to a person that is not a related member, ~~or, if~~
10 ~~within that period of time the qualified new business venture~~
11 ~~is moved from the State of Illinois,~~ the claimant shall pay to
12 the Department of Revenue, in the manner prescribed by the
13 Department of Revenue, the aggregate amount of the disqualified
14 credit that the claimant received related to the subject
15 investment.

16 If the Department determines that a previously approved
17 applicant has moved from the State prior to the date that
18 occurs 3 years from the issue date of the last tax credit
19 certificate issued by the Department with respect to the
20 subject business, that business must pay to the Department of
21 Revenue, in the manner prescribed by the Department of Revenue,
22 the aggregate amount of the disqualified credits that claimants
23 received related to investments in that business.

24 (e) The Department shall implement a program to register
25 qualified new business ventures for purposes of this Section. A
26 business desiring registration shall submit an application to

1 the Department in each taxable year for which the business
2 desires registration. The Department may register the business
3 only if the business satisfies all of the following conditions:

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

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

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

10 (A) it is principally engaged in innovation in any
11 of the following: manufacturing; biotechnology;
12 nanotechnology; communications; agricultural sciences;
13 clean energy creation or storage technology;
14 processing or assembling products, including medical
15 devices, pharmaceuticals, computer software, computer
16 hardware, semiconductors, other innovative technology
17 products, or other products that are produced using
18 manufacturing methods that are enabled by applying
19 proprietary technology; or providing services that are
20 enabled by applying proprietary technology; or

21 (B) it is undertaking pre-commercialization
22 activity related to proprietary technology that
23 includes conducting research, developing a new product
24 or business process, or developing a service that is
25 principally reliant on applying proprietary
26 technology;

1 (4) it is not principally engaged in real estate
2 development, insurance, banking, lending, lobbying,
3 political consulting, professional services provided by
4 attorneys, accountants, business consultants, physicians,
5 or health care consultants, wholesale or retail trade,
6 leisure, hospitality, transportation, or construction,
7 except construction of power production plants that derive
8 energy from a renewable energy resource, as defined in
9 Section 1 of the Illinois Power Agency Act;

10 (5) at the time it is first certified:

11 (A) it has fewer than 100 employees;

12 (B) it has been in operation in Illinois for not
13 more than 10 consecutive years prior to the year of
14 certification; and

15 (C) it has received not more than \$10,000,000 in
16 aggregate private equity investment in cash;

17 (6) (blank); and

18 (7) it has received not more than \$4,000,000 in
19 investments that qualified for tax credits under this
20 Section.

21 The Department shall require each qualified new business
22 venture to renew its registration on an annual basis. If, at
23 the time of the renewal, the business fails to satisfy any of
24 the conditions of this subsection, or if the business fails to
25 renew its registration, then the business shall no longer be
26 considered a qualified new business venture.

1 (f) The Department, in consultation with the Department of
2 Revenue, shall adopt rules to administer this Section. The
3 aggregate amount of the tax credits that may be claimed under
4 this Section for investments made in qualified new business
5 ventures shall be limited at \$25,000,000 ~~\$10,000,000~~ per
6 calendar year, of which \$2,500,000 is reserved for investments
7 made in minority owned businesses, female owned businesses, or
8 businesses owned by a person with a disability, and an
9 additional \$2,500,000 is reserved for investments made in
10 businesses headquartered in counties with a population of not
11 more than 250,000. As used in this subsection (f), "minority
12 owned business", "female owned business", and "business owned
13 by a person with a disability" have the meanings given to those
14 terms in the Business Enterprise for Minorities, Females, and
15 Persons with Disabilities Act. The aggregate amount of tax
16 credits allocated by the Department for any one of the first 3
17 calendar quarters of any year shall not exceed \$7,000,000;
18 however, any portion of that amount remaining unused as of the
19 end of any of the first 3 calendar quarters of a given calendar
20 year shall be rolled into, and added to, the total allocated
21 amount available for the next calendar quarter. If any of the
22 \$2,500,000 that is reserved for investments made in minority
23 owned businesses, female owned businesses, or businesses owned
24 by a person with a disability or any of the \$2,500,000 that is
25 reserved for investments made in businesses headquartered in
26 counties with a population of not more than 250,000 remains

1 unused at the end of the third calendar quarter of any year,
2 then those amounts may be claimed in the fourth quarter of that
3 calendar year for investments in qualified new business
4 ventures that are not minority owned businesses, female owned
5 businesses, businesses owned by a person with a disability, or
6 businesses headquartered in a county with a population of not
7 more than 250,000.

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

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

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

16 (A) the name of the claimant, ~~and~~ the amount of
17 credit awarded or allocated to that claimant, and the
18 name of the recipient qualified new business venture
19 that received the investment;

20 (B) the name and address, including the county, the
21 North American Industry Classification System (NAICS)
22 code, and the number of employees of the qualified new
23 business venture that received an investment giving
24 rise to the credit ~~the name and address of the~~
25 ~~qualified new business venture that received the~~
26 ~~investment giving rise to the credit and the county in~~

1 ~~which the qualified new business venture is located;~~
2 and

3 (C) the date of approval by the Department of each
4 claimant's ~~the applications for the tax credit~~
5 certificate.

6 (2) The report must also include:

7 (A) the total number of applicants and the total
8 number of claimants, including the amount of each tax
9 credit certificate and amount for tax credit
10 ~~certificates~~ awarded to a claimant under this Section
11 in the prior calendar year;

12 (B) the total number of applications from
13 businesses seeking registration, the total number of
14 new qualified business ventures registered by the
15 Department, and the aggregate amount of investment
16 upon which tax credit certificates were issued in the
17 prior calendar year ~~the total number of applications~~
18 ~~and amount for which tax credit certificates were~~
19 ~~issued in the prior calendar year; and~~

20 (C) the total amount of tax credit certificates
21 sought by applicants, the amount of each tax credit
22 certificate issued to a claimant, the aggregate amount
23 of all tax credit certificates issued in the prior
24 calendar year and the aggregate amount of tax credit
25 certificates issued as authorized under this Section
26 for all calendar years. ~~the total tax credit~~

1 ~~certificates and amount authorized under this Section~~
2 ~~for all calendar years.~~

3 (3) On and after the effective date of this amendatory
4 Act of the 100th General Assembly, the Department shall
5 require a business seeking registration as a qualified new
6 business venture to include in its application the North
7 American Industry Classification System (NAICS) code
8 associated with the business and the number of employees at
9 the time of application. Each business registered by the
10 Department as a qualified new business venture that
11 receives an investment giving rise to the issuance of a tax
12 credit certificate shall, for each of the 3 subsequent
13 years, report to the Department the following:

14 (A) the number of employees at the end of each
15 year;

16 (B) the amount of additional new capital
17 investment raised within each year; and

18 (C) any liquidity event transpiring within the
19 3-year period; for purposes of this paragraph (C), a
20 liquidity event shall mean an event that allows some or
21 all investors in a company to cash out some or all of
22 their ownership shares or that is considered an exit
23 strategy for an illiquid investment.

24 It is the intent of the General Assembly that the credit
25 under this Section applies continuously for all taxable years
26 beginning after December 31, 2010 and ending on or before

1 December 31, 2021. Any actions taken in reliance on the
2 continuation of the credit under this Section are hereby
3 validated.

4 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;
5 97-1097, eff. 8-24-12.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."