



Sen. Chuck Weaver

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LRB100 09567 HLH 25427 a

1 AMENDMENT TO SENATE BILL 2012

2 AMENDMENT NO. _____. Amend Senate Bill 2012 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 "Investment" means money (or its equivalent) given to a
5 qualified new business venture, at a risk of loss, in
6 consideration for an equity interest of the qualified new
7 business venture. The Department may adopt rules to permit
8 certain forms of contingent equity investments to be considered
9 eligible for a tax credit under this Section.

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

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

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

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

26 (3) A corporation, and any party related to the

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

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

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

23 (b) For taxable years beginning after December 31, 2010,
24 and ending on or before December 31, 2021 ~~December 31, 2016~~,
25 subject to the limitations provided in this Section, a claimant
26 may claim, as a credit against the tax imposed under

1 subsections (a) and (b) of Section 201 of this Act, an amount
2 equal to 25% of the claimant's investment made directly in a
3 qualified new business venture. In order for an investment in a
4 qualified new business venture to be eligible for tax credits,
5 the business must have applied for and received certification
6 under subsection (e) for the taxable year in which the
7 investment was made prior to the date on which the investment
8 was made. The credit under this Section may not exceed the
9 taxpayer's Illinois income tax liability for the taxable year.
10 If the amount of the credit exceeds the tax liability for the
11 year, the excess may be carried forward and applied to the tax
12 liability of the 5 taxable years following the excess credit
13 year. The credit shall be applied to the earliest year for
14 which there is a tax liability. If there are credits from more
15 than one tax year that are available to offset a liability, the
16 earlier credit shall be applied first. In the case of a
17 partnership or Subchapter S Corporation, the credit is allowed
18 to the partners or shareholders in accordance with the
19 determination of income and distributive share of income under
20 Sections 702 and 704 and Subchapter S of the Internal Revenue
21 Code.

22 (c) The minimum amount an applicant must invest in any
23 single qualified new business venture in order to be eligible
24 for a credit under this Section is \$10,000. The maximum amount
25 of an applicant's total investment made in any single qualified
26 new business venture that may be used as the basis for a credit

1 under this Section is \$2,000,000 ~~for each investment made~~
2 ~~directly in a qualified new business venture.~~

3 (d) The Department shall implement a program to certify an
4 applicant for an angel investment credit. Upon satisfactory
5 review, the Department shall issue a tax credit certificate
6 stating the amount of the tax credit to which the applicant is
7 entitled. The Department shall annually certify that: (i) each
8 qualified new business venture that receives an angel
9 investment under this Section has maintained a minimum
10 employment threshold, as defined by rule, in the State (and
11 continues to maintain a minimum employment threshold in the
12 State for a period of no less than 3 years from the issue date
13 of the last tax credit certificate issued by the Department
14 with respect to such business pursuant to this Section); and
15 (ii) the claimant's investment has been made and remains,
16 except in the event of a qualifying liquidity event, in the
17 qualified new business venture for no less than 3 years.

18 If an investment for which a claimant is allowed a credit
19 under subsection (b) is held by the claimant for less than 3
20 years, other than as a result of a permitted sale of the
21 investment to person who is not a related member, ~~or, if within~~
22 ~~that period of time the qualified new business venture is moved~~
23 ~~from the State of Illinois,~~ the claimant shall pay to the
24 Department of Revenue, in the manner prescribed by the
25 Department of Revenue, the aggregate amount of the disqualified
26 credits ~~credit~~ that the claimant received related to the

1 subject investment.

2 If the Department determines that a qualified new business
3 venture failed to maintain a minimum employment threshold in
4 the State through the date which is 3 years from the issue date
5 of the last tax credit certificate issued by the Department
6 with respect to the subject business pursuant to this Section,
7 the claimant or claimants shall pay to the Department of
8 Revenue, in the manner prescribed by the Department of Revenue,
9 the aggregate amount of the disqualified credits that claimant
10 or claimants received related to investments in that business.

11 (e) The Department shall implement a program to register
12 qualified new business ventures for purposes of this Section. A
13 business desiring registration under this Section shall be
14 required to submit a full and complete an application to the
15 Department in each taxable year for which the business desires
16 registration. A submitted application shall be effective only
17 for the taxable year in which it is submitted, and a business
18 desiring registration under this Section shall be required to
19 submit a separate application in and for each taxable year for
20 which the business desires registration. Further, if at any
21 time prior to the acceptance of an application for registration
22 under this Section by the Department one or more events occurs
23 which makes the information provided in that application
24 materially false or incomplete (in whole or in part) the
25 business shall promptly notify the Department of the same. Any
26 failure of a business to promptly provide the foregoing

1 information to the Department may, at the discretion of the
2 Department, result in a revocation of a previously approved
3 application for that business, or disqualification of the
4 business from future registration under this Section, or both.

5 The Department may register the business only if ~~the business~~
6 ~~satisfies~~ all of the following conditions are satisfied:

7 (1) it has its principal place of business ~~headquarters~~
8 in this State;

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

11 (3) the business ~~it~~ has the potential for increasing
12 jobs in this State, increasing capital investment in this
13 State, or both, as determined by the Department, and either
14 of the following apply:

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

26 (B) it is undertaking pre-commercialization

1 activity related to proprietary technology that
2 includes conducting research, developing a new product
3 or business process, or developing a service that is
4 principally reliant on applying proprietary
5 technology;

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

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

16 (A) it has fewer than 100 employees;

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

20 (C) it has received not more than \$10,000,000 in
21 aggregate investments ~~private equity investment in~~
22 ~~cash~~;

23 (5.1) it agrees to maintain a minimum employment
24 threshold in the State of Illinois prior to the date which
25 is 3 years from the issue date of the last tax credit
26 certificate issued by the Department with respect to that

1 business pursuant to this Section;

2 (6) (blank); and

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

6 (f) The Department, in consultation with the Department of
7 Revenue, shall adopt rules to administer this Section. The
8 aggregate amount of the tax credits that may be claimed under
9 this Section for investments made in qualified new business
10 ventures shall be limited at \$10,000,000 per calendar year, of
11 which \$500,000 shall be reserved for investments made in
12 qualified new business ventures which are "minority owned
13 businesses", "female owned businesses", or "businesses owned
14 by a person with a disability" (as those terms are used and
15 defined in the Business Enterprise for Minorities, Females, and
16 Persons with Disabilities Act), and an additional \$500,000
17 shall be reserved for investments made in qualified new
18 business ventures with their principal place of business in
19 counties with a population of not more than 250,000. The
20 foregoing annual allowable amounts shall be allocated by the
21 Department, on a per calendar quarter basis and prior to the
22 commencement of each calendar year, in such proportion as
23 determined by the Department, provided that: (i) the amount
24 initially allocated by the Department for any one calendar
25 quarter shall not exceed 35% of the total allowable amount; and
26 (ii) any portion of the allocated allowable amount remaining

1 unused as of the end of any of the first 2 calendar quarters of
2 a given calendar year shall be rolled into, and added to, the
3 total allocated amount for the next available calendar quarter.

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

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

10 (1) This report must include, for each tax credit
11 certificate awarded:

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

14 (B) the name and address (including the county) of
15 the qualified new business venture that received the
16 investment giving rise to the credit, the North
17 American Industry Classification System (NAICS)
18 applicable to that qualified new business venture, and
19 the number of employees of the ~~the~~ qualified new
20 business venture that received the investment giving
21 rise to the credit and the county in which the
22 ~~qualified new business venture is located;~~ and

23 (C) the date of approval by the Department of each
24 claimant's ~~the applications for the~~ tax credit
25 certificate.

26 (2) The report must also include:

1 (A) the total number of applicants and the total
2 number of claimants, including the amount of each tax
3 credit certificate and amount for tax credit
4 ~~certificates~~ awarded to a claimant under this Section
5 in the prior calendar year;

6 (B) the total number of applications from
7 businesses seeking registration under this Section,
8 the total number of new qualified business ventures
9 registered by the Department, and the aggregate amount
10 of investment upon which tax credit certificates were
11 issued in the prior calendar year ~~the total number of~~
12 ~~applications and amount for which tax credit~~
13 ~~certificates were issued in the prior calendar year;~~
14 and

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

24 (i) For each businesses seeking registration under this
25 Section after December 31, 2016, the Department shall require
26 the business to include in its application the North American

1 Industry Classification System (NAICS) code applicable to the
2 business and the number of employees of the business at the
3 time of application. Each business registered by the Department
4 as a qualified new business venture that receives an investment
5 giving rise to the issuance of a tax credit certificate
6 pursuant to this Section shall, for each of the 3 years
7 following the issue date of the last tax credit certificate
8 issued by the Department with respect to such business pursuant
9 to this Section, report to the Department the following:

10 (1) the number of employees and the location at which
11 those employees are employed, both as of the end of each
12 year;

13 (2) the amount of additional new capital investment
14 raised as of the end of each year, if any; and

15 (3) the terms of any liquidity event occurring during
16 such year; for the purposes of this Section, a "liquidity
17 event" means any event that would be considered an exit for
18 an illiquid investment, including any event that allows the
19 equity holders of the business (or any material portion
20 thereof) to cash out some or all of their respective equity
21 interests.

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