

# HB3969



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB3969**

Introduced 2/26/2009, by Rep. Mark L. Walker

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/218 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.

LRB096 11694 HLH 22377 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 218 as follows:

6 (35 ILCS 5/218 new)

7 Sec. 218. Venture capital investment credit.

8 (a) Definitions. In this Section:

9 (1) "Equity investment" means a purchase of an equity  
10 interest, or any other investment expenditure, in a  
11 qualified new business venture either directly or through a  
12 certified investment fund manager as determined by  
13 subsection (e).

14 (2) "Claimant" means an individual who files a claim  
15 for credit under this subsection.

16 (3) "Qualified new business venture" means a business  
17 that is certified under subsection (d).

18 (4) "Certified investment fund manager" means a  
19 business that is certified under subsection (e).

20 (5) "Department" means the Department of Commerce and  
21 Economic Opportunity, unless otherwise specifically  
22 provided.

23 (b) Filing claims for credit. A claimant may claim as a

1 credit against the tax imposed under subsections (a) and (b) of  
2 Section 201 of this Act an amount equal to 25% of the  
3 claimant's equity investment made directly to a qualified new  
4 business venture in the taxable year, or made to a certified  
5 fund manager if the fund manager invests in a business  
6 certified under subsection (d).

7 (c) Limitations.

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

11 (2) The maximum amount of a claimant's investment that  
12 may be used as the basis for a credit under this Section is  
13 \$500,000 for each investment made directly to a business  
14 certified under subsection (d).

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

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

1 Section from more than one tax year that is available to  
2 offset a liability, then the earliest credit arising under  
3 this Section shall be applied first.

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

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

24 (1) It has its headquarters in this State.

25 (2) At least 51% of the employees employed by the  
26 business are employed in this State.

1           (3) It is engaged in, or has committed to engage in,  
2           manufacturing, agriculture, or processing or assembling  
3           products and conducting research and development or  
4           developing a new product or business process.

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

11           (5) It has fewer than 100 employees.

12           (6) It has been in operation in this State for not more  
13           than 7 consecutive years.

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

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

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

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

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

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

16 (1) The total amount of tax credits claimed under this  
17 Section.

18 (2) The name of each business in which investments  
19 qualifying for those tax credits were made, the amount of  
20 the tax credits, and the amount of the investment.

21 (3) Any other information the Department considers  
22 reasonable to include.

23 (h) Rules. The Department, in consultation with the  
24 Department of Revenue, shall promulgate rules to administer  
25 this Section.