# HB5805

LRB09719447HLH64700b

## 97TH GENERAL ASSEMBLY

## State of Illinois

## 2011 and 2012

### HB5805

Introduced 2/16/2012, by Rep. Dwight Kay

## SYNOPSIS AS INTRODUCED:

35 ILCS 5/223 new

Amends the Illinois Income Tax Act. Provides that a taxpayer shall be allowed an income tax credit equal to 50% of the taxpayer's qualified investments in a qualified business during the taxable year. Defines "qualified investments" and "qualified business". Provides that any credit not usable for the taxable year may be carried over for the next 15 succeeding taxable years. Provides that the amount of tax credit available for a calendar year shall be $5,000,000.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning revenue.

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

Section 5. The Illinois Income Tax Act is amended by adding Section 223 as follows:

(35 ILCS 5/223 new)

Sec. 223. Qualified equity and subordinated debt investments tax credit.

(a) As used in this Section:

"Commercialization investment" means a qualified investment in a qualified business that was created to commercialize research developed at or in partnership with an institution of higher education.

"Equity" means common stock or preferred stock, regardless of class or series, of a corporation; a partnership interest in a limited partnership; or a membership interest in a limited liability company, which is not required or subject to an option on the part of the taxpayer to be redeemed by the issuer within 3 years from the date of issuance.

"Qualified business" means a business which (i) has annual gross revenues of no more than $3,000,000 in its most recent fiscal year, (ii) has its principal office or facility in the State of Illinois, (iii) is engaged in business primarily in or does substantially all of its production in the State of Illinois, (iv) has not obtained during its existence more than $3,000,000 in aggregate gross cash proceeds from the issuance of its equity or debt investments (not including commercial loans from chartered banking or savings and loan institutions), and (v) is primarily engaged, or is primarily organized to engage, in the fields of advanced computing, advanced materials, advanced manufacturing, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, information technology, medical device technology, nanotechnology, or any similar technology-related field.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds the investment, or any of the taxpayer's family members, or any entity affiliated with the taxpayer, receives or has received compensation from the qualified business in exchange for services provided to the business as an employee, officer, director, manager, independent contractor or otherwise in connection with or within one year before or after the date of the investment. For the purposes of this Section, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first 3 years after issuance; (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person; and (iii) is subordinated to all indebtedness and obligations of the issuer to national or State-chartered banking or savings and loan institutions.

(b) For taxable years beginning on or after January 1, 2012, a taxpayer shall be allowed an income tax credit equal to 50% of the taxpayer's qualified investments during the taxable year. No credit shall be allowed to any taxpayer that has committed capital under management in excess of $10,000,000 and engages in the business of making debt or equity investments in private businesses, or to any taxpayer that is allocated a credit as a partner, shareholder, member, or owner of an entity that engages in such business.

(c) The amount of any credit attributable to a qualified investment by a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, as the case may be, as they may determine.

(d) The aggregate amount of the credit for each taxpayer shall not exceed the lesser of (i) the tax imposed for the taxable year or (ii) $50,000. Any credit not usable for the taxable year in which the credit was allowed may be, to the extent usable, carried over for the next 15 succeeding taxable years or until the total amount of the tax credit has been taken, whichever occurs first.

(e) The amount of tax credits available under this Section for a calendar year shall be $5,000,000. Of the amount of available credits, one-half of the amount shall be allocated exclusively for credits for commercialization investments. That allocation of tax credits shall constitute the minimum amount of tax credits to be allocated for commercialization investments. However, if the amount of tax credits requested for commercialization investments is less than one-half of the total amount of credits available under this Section, the balance of the credits shall be allocated for qualified investments in any qualified business under this Section.

(f) The Department of Revenue shall promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this Section.