



Senate Finance Committee

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BILL SUMMARY

Legislation: Senate Bill 141, P.N. 96

Sponsor: Senator Fontana

Topic: Establishes the Angel Investment Tax Credit Program.

Date: February 7, 2013

Synopsis:

Amends Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, providing for an Angel Investment Tax Credit.

Summary:

Defines an "accredited investor" as one of the following:

- A natural person whose individual net worth or joint net worth with that individual's spouse exceeds \$1,000,000.
- A natural person who had an individual income in excess of \$200,000 or a joint income with that individual's spouse in excess of \$300,000 in each of the two most recent years and has a reasonable expectation of reaching that same income level in the current year.
- An entity in which all equity partners satisfy one of the previous requirements or both.

Defines a "business plan" as an outline of business structure and a formal statement of business goals that indicates the potential for increasing jobs and capital investments in the Commonwealth.

Defines "net worth" as the value of all long-term assets minus liabilities, but excludes from liabilities the person's primary residence and any indebtedness secured by the primary residence equal or less than the estimated fair market value.

Defines a "qualified business venture" as a business based on a business plan that:

- Is headquartered in the Commonwealth;
- Maintains its headquarters in the Commonwealth for at least five years after applying for the credit;
- Has at least 51% of its employees employed in the Commonwealth for at least three years after applying for the credit;
- Has fewer than 100 employees;

- Has been in operation in the Commonwealth for five consecutive years; and
- Has not received more than \$5,000,000 in private equity investments.

Defines a “qualified investment” as a private equity interest in a for-profit business by an accredited investor or network of accredited investors, which is subject to approval by the Department of Community and Economic Development.

Provides that a taxpayer that made a qualified investment in a taxable year may apply for the tax credit. The application filing deadlines shall be established by the Department of Community and Economic Development in consultation with the Department of Revenue. Requires an application to be accompanied by a business plan.

Authorizes the Department of Community and Economic Development to approve an application that meets all of the specified requirements, including the definition of a qualified business venture, and any guidelines developed by the department. Prior to approval, the Department of Revenue must find that the applicant: has filed all required state tax reports and returns for all taxable years; and entered into a payment plan under which payments have been maintained or paid any balance of state tax due.

An approved tax credit shall equal 25% of the taxpayer’s qualified investment in a qualified business venture.

If the taxpayer cannot use the entire amount of the tax credit for the taxable year because it exceeds the taxpayer’s liability, the taxpayer may carry the remaining amount of the credit over to apply against future liabilities. Allows tax credits to be carried over for no more than seven taxable years following the first year the taxpayer was entitled to claim the credits. Prohibits credits to be carried back or for a refund of an unused tax credit.

Authorizes a taxpayer, with approval by the Department of Community and Economic Development in consultation with the Department of Revenue, to sell or assign a tax credit granted if the taxpayer does not have a tax liability against which the credit may be applied in the current taxable year. Prior to approval, the Department of Revenue must find that the taxpayer and assignee: have filed all required state tax reports and returns for all taxable years; and entered into a payment plan under which payments have been maintained or paid any balance of state tax due. Authorizes the purchaser or assignee to immediately use the tax credit against any liability or to carry over any unused portion for up to two taxable years. Purchasers or assignees are only permitted to use the credit for up to 75% of any one qualified tax liability.

Requires a taxpayer’s adjusted basis in a qualified investment to be reduced by the amount equal to an approved tax credit.

Imposes a limitation on the total amount of tax credits approved by the Department of Community and Economic Development in a fiscal year to the difference between \$25,000,000 and the total amount of keystone innovation zone tax credits issued through December 15th of each year. Requires that tax credits shall be allocated on a first-come-first-served basis.

If a Pennsylvania S corporation or pass-through entity does not have a qualified tax liability against which the tax credit may be applied, a shareholder, owner or member shall be entitled to a share of the tax credit based on the percentage of distributive income to which the shareholder, owner or member is entitled.

Requires repayment of any tax credit received, any monetary value received from the sale or assignment of a tax credit and the imposition of a 10% penalty if the Department of Community and Economic Development in conjunction with the Department of Revenue determines that: the qualified business venture did not satisfy the requirements of a certified qualified business plan; the business in which the taxpayer made the qualified investment is no longer a qualified venture; or the taxpayer received the credit as a result of fraud or false pretenses. Authorizes the Department of Community and Economic Development to waive payments and penalties if it is determined that failure to meet the requirements were due to circumstances outside the recipient taxpayer's control.

Provides for certain reporting requirements to the standing committees of the Senate and the House of Representatives with jurisdiction over the two departments.

Sunsets the tax credit program as of December 31, 2021.

Effective immediately.