

Senate File 114 - Enrolled

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SENATE FILE 114

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AN ACT

RELATING TO TAX CREDIT CERTIFICATES ISSUED BY THE IOWA CAPITAL INVESTMENT BOARD AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 15E.63, subsections 6 and 7, Code 2005, are amended to read as follows:

6. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return ~~and scheduled redemptions~~ of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.66, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable year or years for date or dates on~~ which the credit may be first claimed.

Sec. 2. Section 15E.65, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a ~~designated scheduled rate of return and a scheduled redemption which shall occur not less than five years following the issuance of such equity interests.~~ The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.64, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

Sec. 3. Section 15E.66, subsections 1, 2, 3, and 5, Code 2005, are amended to read as follows:

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of one hundred million dollars of tax credits. The certificates shall be issued contemporaneously with ~~an investment a commitment to invest~~ in the Iowa fund of funds by a designated investor. A certificate issued by the board shall have a specific ~~calendar year~~ maturity date ~~or dates~~ designated by the board of ~~not less than five years after the date of~~

3 6 issuance and shall be redeemable on a schedule similar to the
3 7 ~~scheduled redemption of investments by designated investors~~
3 8 ~~only in accordance with the contingencies reflected on the~~
3 9 ~~certificate or incorporated therein by reference.~~ A
3 10 certificate and the related tax credit shall be transferable
3 11 by the designated investor. A tax credit shall not be claimed
3 12 or redeemed except by a designated investor or transferee in
3 13 accordance with the terms of a certificate from the board. A
3 14 tax credit shall not be claimed for a tax year that begins
3 15 ~~during earlier than the calendar year~~ maturity date or dates
3 16 stated on the certificate. An individual may claim the credit
3 17 of a partnership, limited liability company, S corporation,
3 18 estate, or trust electing to have the income taxed directly to
3 19 the individual. The amount claimed by the individual shall be
3 20 based upon the pro rata share of the individual's earnings
3 21 from the partnership, limited liability company, S
3 22 corporation, estate, or trust. Any tax credit in excess of
3 23 the taxpayer's tax liability for the tax year may be credited
3 24 to the tax liability for the following seven years, or until
3 25 depleted, whichever is earlier.

3 26 2. The board shall certify the maximum amount of a tax
3 27 credit which could be issued to a designated investor and
3 28 identify the specific ~~calendar year~~ earliest date or dates the
3 29 certificate may be redeemed pursuant to this division. The
3 30 amount of the tax credit shall be limited to an amount
3 31 equivalent to any difference between the scheduled aggregate
3 32 return to the designated investor at rates of return
3 33 authorized by the board and aggregate actual return received
3 34 by the designated investor and any predecessor in interest of
3 35 capital and interest on the capital. The rates, whether fixed
4 1 rates or variable rates, shall be determined pursuant to a
4 2 formula stipulated in the certificate or incorporated therein
4 3 by reference. The board shall clearly indicate on the
4 4 certificate, or incorporate therein by reference, the
4 5 schedule, the amount of equity investment, the calculation
4 6 formula for determining the scheduled aggregate return on
4 7 invested capital, and the calculation formula for determining
4 8 the amount of the tax credit that may be claimed. Once ~~moneys~~
4 9 ~~are invested by~~ issued to a designated investor, ~~the a~~
4 10 certificate shall be binding on the board and the department
4 11 of revenue and shall not be modified, terminated, or
4 12 rescinded.

4 13 3. If a designated investor or transferee elects to redeem
4 14 a certificate, the certificate shall not be redeemed ~~on June~~
4 15 ~~30 of prior to the calendar year~~ maturity date or dates stated
4 16 on the certificate. At the time of redemption, the board
4 17 shall determine the amount of the tax credit that may be
4 18 claimed by the designated investor based upon the returns
4 19 received by the designated investor and its predecessors in
4 20 interest and the provisions of the certificate. The board
4 21 shall issue a verification to the department of revenue
4 22 setting forth the maximum tax credit which can be claimed by
4 23 the designated investor with respect to the redemption of the
4 24 certificate.

4 25 5. The board shall issue the tax credits in such a manner
4 26 that not more than twenty million dollars of tax credits may
4 27 be initially redeemable in any fiscal year. The board shall
4 28 indicate on the tax certificate the principal amount of the
4 29 tax credit and the ~~taxable year or years for~~ maturity date or
4 30 dates on which the credit may be first claimed.

4 31 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
4 32 immediate importance, takes effect upon enactment.
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5 2 JEFFREY M. LAMBERTI
5 3 President of the Senate
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5 5 _____
5 6 CHRISTOPHER C. RANTS
5 7 Speaker of the House
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5 9 I hereby certify that this bill originated in the Senate and
5 10 is known as Senate File 114, Eighty-first General Assembly.
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5 15 MICHAEL E. MARSHALL
5 16 Secretary of the Senate

5 16 Approved _____, 2005

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5 20 THOMAS J. VILSACK

5 21 Governor