

House File 767

Bill Text

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1 1 HOUSE FILE 767
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1 3 AN ACT
1 4 RELATING TO CERTIFIED CAPITAL COMPANIES AND PROVIDING FOR A
1 5 CERTIFIED CAPITAL COMPANY INSURANCE PREMIUM TAX CREDIT.
1 6
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 8
1 9 Section 1. NEW SECTION. 15E.221 SHORT TITLE.
1 10 This division shall be known and may be cited as the
1 11 "Certified Capital Companies Act".
1 12 Sec. 2. NEW SECTION. 15E.222 DEFINITIONS.
1 13 As used in this division, unless the context otherwise
1 14 requires:
1 15 1. "Affiliate" means, with respect to a certified capital
1 16 company or a certified investor, any of the following:
1 17 a. A person who, directly or indirectly, beneficially
1 18 owns, whether through rights, options, convertible interests,
1 19 or otherwise controls or holds power to vote, ten percent or
1 20 more of the outstanding voting securities or other voting
1 21 ownership interests of the certified capital company or
1 22 certified investor, as applicable.
1 23 b. A person, ten percent of whose outstanding voting
1 24 securities or other voting ownership interests are directly or
1 25 indirectly beneficially owned, whether through rights,
1 26 options, convertible interests, or otherwise controlled or
1 27 held with power to vote by the certified capital company or
1 28 certified investor, as applicable.
1 29 c. A person directly or indirectly controlling, controlled
1 30 by, or under common control with, the certified capital
1 31 company or certified investor, as applicable.
1 32 d. A partnership in which the certified capital company or
1 33 certified investor, as applicable, is a general partner.
1 34 e. A person who is an officer, director, or agent of the
1 35 certified capital company or certified investor, as
2 1 applicable, or is an immediate family member of such an
2 2 officer, director, or agent.
2 3 2. "Certified capital company" means a person who is
2 4 certified by the department pursuant to section 15E.223.
2 5 3. "Certified capital company tax credit" means the tax
2 6 credit made available under section 15E.232.
2 7 4. "Certified capital investment" means an investment in a
2 8 certified capital company that is certified pursuant to
2 9 section 15E.224, subsection 2, and that fully funds either the
2 10 investor's equity interest in a certified capital company or a
2 11 qualified debt instrument that a certified capital company
2 12 issues.
2 13 5. "Certified investor" means a person who makes a
2 14 certified capital investment.
2 15 6. "Department" means the department of economic
2 16 development as created in section 15.101.
2 17 7. "Director" means the director of the department or the
2 18 director's designee.
2 19 8. "Investment date" means, with respect to each
2 20 investment pool, the date on which the last certified capital
2 21 investment that is part of that investment pool was invested

2 22 in the certified capital company.
2 23 9. "Investment pool" means the aggregate of all certified
2 24 capital investments in a certified capital company that are
2 25 made as part of the same transaction, except that investments
2 26 received more than thirty days apart shall not be considered
2 27 part of the same investment pool.
2 28 10. "Qualified business" means a business which is a
2 29 qualified business under section 15E.225.
2 30 11. "Qualified debt instrument" means a debt instrument
2 31 that meets all of the following criteria:
2 32 a. A certified capital company issues the instrument at
2 33 par value or at a premium.
2 34 b. The instrument has an original maturity date of at
2 35 least five years from the date on which it was issued.
3 1 c. The instrument has a repayment schedule that is no
3 2 faster than a level principal amortization over five years.
3 3 d. The instrument has an annualized internal rate of
3 4 return not to exceed the then current yield of the most
3 5 recently issued five-year United States treasury security at
3 6 the time of issuance of the qualified debt instrument by more
3 7 than three hundred basis points calculated using the purchase
3 8 price of the qualified debt instrument, all payments of
3 9 principal and interest thereon, and all future tax credits
3 10 projected to be received with respect thereto.
3 11 e. The instrument does not contain an equity component or
3 12 interest, distribution, or payment features which are related
3 13 to the certified capital company's profitability or the
3 14 performance of its investment portfolio, whether the component
3 15 or features are part of or attached to the qualified debt
3 16 instrument or are distributed or sold separately and purchased
3 17 or obtained by the holder of the qualified debt instrument or
3 18 any of its affiliates.
3 19 12. "Qualified distribution" means a distribution or
3 20 payment by certified capital company for any of the following:
3 21 a. The reasonable costs of forming, syndicating, managing,
3 22 or operating the certified capital company, provided that no
3 23 such distribution or payment is made directly or indirectly to
3 24 a certified investor or an affiliate thereof.
3 25 b. An annual management fee that does not exceed two and
3 26 one-half percent of the certified capital company's total
3 27 certified capital.
3 28 c. Reasonable and necessary fees paid for professional
3 29 services related to the operation of the certified capital
3 30 company.
3 31 d. A projected increase in federal or state taxes,
3 32 including penalties and interest on those taxes, of the equity
3 33 owners of the certified capital company if those amounts are
3 34 related to the certified capital company's ownership,
3 35 management, or operation.
4 1 13. "Qualified investment" means an investment in a
4 2 qualified business by a certified capital company that meets
4 3 the requirements under section 15E.226, subsection 1.
4 4 Sec. 3. NEW SECTION. 15E.223 CERTIFICATION OF CERTIFIED
4 5 CAPITAL COMPANIES.
4 6 1. A person applying to become a certified capital company
4 7 shall submit an application to the department. The department
4 8 shall grant or deny an application for certification within
4 9 thirty days of the date of application. If the department
4 10 denies the application, the department shall include with the
4 11 denial a detailed description of the grounds for the refusal,
4 12 including suggestions for removal of those grounds.
4 13 2. The department shall certify a person as a certified
4 14 capital company if the department determines that all of the
4 15 following conditions have been met and the application is
4 16 competitive with other applications:
4 17 a. The person is a partnership, corporation, trust, or
4 18 limited liability company, whether organized for profit or not

4 19 for profit, that has as its primary business activity the
4 20 investment of cash in qualified businesses.

4 21 b. The person has a net worth, at the time of application,
4 22 of at least five hundred thousand dollars and has at least
4 23 five hundred thousand dollars in cash, cash equivalents, or
4 24 marketable securities. The person shall submit with the
4 25 initial application an audited balance sheet with an
4 26 unqualified opinion from a firm of independent certified
4 27 public accountants as of a date not more than thirty-five days
4 28 prior to the date the application is submitted.

4 29 c. The directors, officers, general partners, trustees,
4 30 managers, members, or persons having a similar function are
4 31 familiar with the requirements of this division.

4 32 d. At least two officers, directors, general partners,
4 33 trustees, managers, or members each have at least two years of
4 34 experience in the venture capital industry.

4 35 e. The person has included, in any offering material
5 1 involving the sale of securities, the statements required
5 2 under section 15E.224, subsection 1.

5 3 f. The person has paid a nonrefundable application fee of
5 4 seven thousand five hundred dollars.

5 5 g. The person has not engaged in dishonest or unethical
5 6 practices as the department may define by rule pursuant to
5 7 chapter 17A.

5 8 3. The department may certify a person as a certified
5 9 capital company if the company has been previously qualified
5 10 under section 15E.208, has a net worth at the time of the
5 11 application of at least five hundred thousand dollars, and has
5 12 at least five hundred thousand dollars in cash, cash
5 13 equivalents, or marketable securities. The company must
5 14 include in any offering material involving the sale of
5 15 securities relying upon this section, the statements required
5 16 under section 15E.224, subsection 1.

5 17 4. The department shall adopt rules pursuant to chapter
5 18 17A relating to procedures for defining conflicts of
5 19 interests.

5 20 Sec. 4. NEW SECTION. 15E.224 INVESTMENTS IN CERTIFIED
5 21 CAPITAL COMPANIES.

5 22 1. Any offering material involving the sale of securities
5 23 of a certified capital company shall include all of the
5 24 following statements:

5 25 a. "By authorizing the formation of a certified capital
5 26 company, the state does not necessarily endorse the quality of
5 27 management or the potential for earnings of the company and is
5 28 not liable for damages or losses to a certified investor in
5 29 the company. Use of the word "certified" in an offering is
5 30 not a recommendation or endorsement of the investment by the
5 31 Department of Economic Development."

5 32 b. "Investments in a prospective certified capital company
5 33 prior to the time the company is certified are not eligible
5 34 for a certified capital company investment credit under
5 35 section 15E.232 of the Iowa Code. Investments in a certified
6 1 capital company are not eligible for a certified capital
6 2 company investment tax credit under section 15E.232 of the
6 3 Iowa Code, unless the proposed investment is certified under
6 4 section 15E.224, subsection 2 of the Iowa Code, before the
6 5 investment is made. In the event that certain statutory
6 6 provisions are violated, the state may require forfeiture of
6 7 unused certified capital company investment credits and
6 8 repayment of used certified capital company investment
6 9 credits."

6 10 2. Certification of certified capital investments shall
6 11 occur according to the following procedure:

6 12 a. Application to make a certified capital investment
6 13 shall be by providing notice to the department on a form
6 14 prescribed by the department. The notice shall include the
6 15 name of the person applying for certification, the name of the

6 16 certified capital company, the amount of the proposed
6 17 investment, and any other information specified by the
6 18 department. The notice shall also include an undertaking by
6 19 the person to make the investment within five days after the
6 20 department notifies the person that the investment has been
6 21 certified.

6 22 b. The department may certify an investment under this
6 23 subsection only if, after the certification, the department
6 24 will not have certified a total of more than sixty million in
6 25 certified capital investments under this subsection. The
6 26 department shall not certify more than twenty-five percent of
6 27 the total certified capital investments allowed under this
6 28 paragraph for investments in a certified capital company that
6 29 has been previously qualified under section 15E.208. A
6 30 certified capital company, together with its affiliates, shall
6 31 not file applications on behalf of its certified investors to
6 32 make certified capital investments in excess of the maximum
6 33 amount of investments that may be certified under this
6 34 subsection.

6 35 c. Prior to the first day of the thirteenth month
7 1 beginning after the effective date of this Act, the department
7 2 shall not certify an investment under this subsection if,
7 3 after the certification, the certified investor, together with
7 4 all affiliates of the certified investor, would have invested
7 5 more than ten million dollars in certified capital
7 6 investments.

7 7 d. If, as a result of the limitations under paragraph "b"
7 8 or "c", the department does not certify the full amount
7 9 requested in applications for certified capital investments
7 10 submitted under paragraph "a", the department shall allocate
7 11 the amounts available for certification in order of priority
7 12 based on the date on which the application was submitted. If
7 13 the amounts available for certification are insufficient to
7 14 certify the full amount of all applications for certified
7 15 capital investments that are submitted on the same day, the
7 16 department shall prorate the available amount on the basis of
7 17 the amount that the investor has committed to invest in the
7 18 certified capital company under paragraph "a".

7 19 3. An insurance company, group of insurance companies,
7 20 affiliate of an insurance company, or group of such affiliates
7 21 shall not beneficially own, directly or indirectly, whether
7 22 through rights, options, convertible interests or otherwise,
7 23 ten percent or more of the equity securities in, be a general
7 24 partner or manager of, or otherwise control the investments of
7 25 a certified capital company. This subsection does not
7 26 preclude any such person from exercising its legal rights and
7 27 remedies, including interim management of a certified capital
7 28 company, in the event that a certified capital company is in
7 29 default of its statutory or contractual obligations to such
7 30 person.

7 31 4. Capital investments shall not be certified on behalf of
7 32 the certified investors of a certified capital company unless
7 33 the aggregate amount of capital certified on behalf of all of
7 34 the certified investors of such certified capital company
7 35 would be at least five million dollars, after giving effect to
8 1 any allocation required by subsection 2, paragraph "d". Any
8 2 capital investments that are not allocated to the certified
8 3 investors of a certified capital company by operation of this
8 4 subsection shall be reallocated to the other capital companies
8 5 making applications for certified capital investments on the
8 6 same day in accordance with the provisions of subsection 2,
8 7 paragraph "d", as if the certified capital company which
8 8 received no allocation pursuant to this subsection had never
8 9 submitted applications for certified capital investments.

8 10 Sec. 5. NEW SECTION. 15E.225 QUALIFIED BUSINESSES.

8 11 1. A business is a qualified business if the business is
8 12 in need of venture capital and is unable to obtain sufficient

8 13 conventional financing, as defined by the department, and if
8 14 all of the following requirements are met at the time that a
8 15 certified capital company, or any affiliate of the certified
8 16 capital company, makes its first investment in the business:

- 8 17 a. The business is headquartered in this state and its
8 18 principal business operations are located in this state.
- 8 19 b. The business has no more than one hundred employees, at
8 20 least seventy-five percent of whom are employed in the state.
- 8 21 c. During the two most recent fiscal years of the
8 22 business, the business had, together with all of the
8 23 affiliates of the business, an average annual net income,
8 24 after federal income taxes and excluding any carry-over
8 25 losses, of not more than two million dollars as determined in
8 26 accordance with generally accepted accounting principles.
- 8 27 d. The business has, together with the affiliates of the
8 28 business, a net worth that is not in excess of five million
8 29 dollars.
- 8 30 e. The business is not predominately engaged in the
8 31 provision of professional services provided by accountants,
8 32 attorneys, or physicians.

8 33 f. The business is not engaged in the development of real
8 34 estate for resale.

8 35 g. The business is not engaged in banking or lending and
9 1 does not make any loans to, or investments in, certified
9 2 capital companies.

9 3 h. The business is predominantly engaged in a targeted
9 4 industry as described in section 15.329, subsection 2,
9 5 paragraph "b", with the exception of subparagraph (2).

9 6 i. It is the intent of the business to provide long-term
9 7 attractive compensation packages with many of the compensation
9 8 packages for owners and employees to be risk and venture based
9 9 with a focus on future returns.

9 10 2. A certified capital company may, prior to making an
9 11 investment in a specified business, request a written opinion
9 12 from the department that a business in which it proposes to
9 13 invest is a qualified business. If the department determines
9 14 that the business meets the requirements under subsection 1,
9 15 the department shall issue a written opinion stating that the
9 16 business is a qualified business. If the department
9 17 determines that the business in which the certified capital
9 18 company proposes to invest does not meet the requirements
9 19 under subsection 1, paragraphs "a" through "i", the department
9 20 may consider the business a qualified business and approve the
9 21 investment if the department determines that the proposed
9 22 investment will further economic development in this state.

9 23 3. Upon approval by the department, any business which is
9 24 classified as a qualified business at the time of the first
9 25 investment in the business by a certified capital company
9 26 shall remain classified as a qualified business and may
9 27 receive follow-on investments from any certified capital
9 28 company or any of its affiliates, and the follow-on
9 29 investments shall be qualified investments even though the
9 30 business does not meet the definition of a qualified business
9 31 at the time of such follow-on investments, provided that at
9 32 the time of the follow-on investment the business certifies in
9 33 writing that it is unable to obtain conventional financing,
9 34 which means that the business has failed in an attempt to
9 35 obtain funding for a loan from a bank or other commercial
10 1 lender or that the business cannot reasonably be expected to
10 2 qualify for such financing under the standards of commercial
10 3 lending.

10 4 Sec. 6. NEW SECTION. 15E.226 OPERATION OF CERTIFIED
10 5 CAPITAL COMPANIES.

10 6 1. In order for a certified capital company to prevent
10 7 disqualification of an investment pool under section 15E.229,
10 8 the certified capital company shall ensure that the investment
10 9 pool makes qualified investments in accordance with the

10 10 schedule under subsection 2. An investment is a qualified
10 11 investment if the investment meets all of the following
10 12 requirements:

10 13 a. The investment is a cash investment in a qualified
10 14 business for the purchase of any of the following:

10 15 (1) An equity security of the qualified business.
10 16 (2) A debt security of the qualified business if the debt
10 17 has a maturity of at least five years and if one of the
10 18 following conditions is met:

10 19 (a) The debt is unsecured.
10 20 (b) The debt is convertible into equity securities or
10 21 equity participation instruments such as options or warrants.

10 22 b. As a condition of the investment, the qualified
10 23 business agrees not to use the proceeds from the investment
10 24 for the purpose of relocating its operations.

10 25 c. As a condition of the investment, the qualified
10 26 business agrees, as long as the certified capital company
10 27 continues to hold the investment, not to relocate its
10 28 headquarters out of this state.

10 29 d. As a condition of the investment, the qualified
10 30 business agrees, as long as the certified capital company
10 31 continues to hold the investment, to maintain at least
10 32 seventy-five percent of its employees in this state.

10 33 e. As a condition of the investment, the qualified
10 34 business agrees, as long as the certified capital company
10 35 continues to hold the investment, to maintain at least
11 1 seventy-five percent of its employees at work sites that were
11 2 maintained by the qualified business at the time that the
11 3 investment was made, unless the qualified business obtains an
11 4 exemption from the department under this paragraph. The
11 5 department may grant an exemption unless it determines that
11 6 the qualified business is locating the employees at new sites
11 7 to take advantage of lower wage rates in the areas where the
11 8 new sites are located.

11 9 f. As an alternative to a qualified business making the
11 10 agreements set forth in paragraphs "c", "d", and "e", a
11 11 certified capital company making the investment may agree that
11 12 if, during the period in which its investment in such
11 13 qualified business is outstanding or within three months after
11 14 the termination or repayment of such investment, the qualified
11 15 business relocates its headquarters outside of this state or
11 16 fails to continue to satisfy the conditions set forth in
11 17 paragraph "d" or "e", then the cumulative amount of qualified
11 18 investments for the investment pool from which such qualified
11 19 investments were made shall be reduced by the amount of the
11 20 qualified investment in such business for the purposes of
11 21 section 15E.228 only, unless either of the following apply:

11 22 (1) The certified capital company invests an amount, at
11 23 least equal to the investment within six months of the
11 24 relocation or failure to satisfy the conditions set forth in
11 25 paragraph "d" or "e", as applicable.
11 26 (2) The qualified business demonstrates that it has
11 27 returned its headquarters to this state or has reestablished
11 28 compliance with the conditions set forth in paragraph "d" or
11 29 "e", as applicable, within three months of such relocation or
11 30 failure, as applicable.

11 31 2. a. A certified capital company shall ensure that each
11 32 of its investment pools makes qualified investments according
11 33 to the following schedule:

11 34 (1) Within two years after the investment date for a
11 35 particular investment pool, the certified capital company
12 1 shall have made qualified investments cumulatively equal to at
12 2 least twenty-five percent of the investment pool.

12 3 (2) Within three years after the investment date for a
12 4 particular investment pool, the certified capital company
12 5 shall have made qualified investments cumulatively equal to at
12 6 least forty percent of the investment pool.

12 7 (3) Within four years after the investment date for a
12 8 particular investment pool, the certified capital company
12 9 shall have made qualified investments cumulatively equal to at
12 10 least fifty percent of the investment pool.

12 11 b. The proceeds of all capital of a qualified investment
12 12 returned to a certified capital company by a qualified
12 13 business may be placed in new qualified investments, which
12 14 shall count toward the percentage requirements under paragraph
12 15 "a" and section 15E.228, subsection 3. The department shall
12 16 adopt rules that provide that proceeds from the sale of an
12 17 investment in a qualified business that are reinvested in that
12 18 qualified business, or an affiliate of the qualified business,
12 19 shall be only partially counted toward the percentage
12 20 requirements under paragraph "a", section 15E.228, subsection
12 21 3, and section 15E.229, subsection 4, paragraph "a",
12 22 subparagraph (2).

12 23 3. All certified capital investments in a certified
12 24 capital company that are not invested in qualified investments
12 25 may be held or invested by the certified capital company as it
12 26 considers appropriate, except that a certified capital company
12 27 shall not invest certified capital investments in an insurance
12 28 company or in an affiliate of an insurance company.

12 29 4. A certified capital company shall not make a qualified
12 30 investment in a person if, at the time of the investment, more
12 31 than fifteen percent of the total certified capital of the
12 32 certified capital company would be invested in that person and
12 33 affiliates of that person.

12 34 5. A certified capital company shall not be managed or
12 35 controlled by, or have a general partner that is, an insurance
13 1 company or an affiliate of an insurance company.

13 2 Sec. 7. NEW SECTION. 15E.227 REPORTING REQUIREMENTS AND
13 3 FEES.

13 4 1. As soon as practical after the receipt of a certified
13 5 capital investment, a certified capital company shall report
13 6 all of the following to the department:

13 7 a. The name of the certified investor from which the
13 8 certified capital was received, including the certified
13 9 investor's tax identification number.

13 10 b. The amount of the certified capital investment.

13 11 c. The date on which the certified capital investment was
13 12 received by the certified capital company.

13 13 d. The investment date for the investment pool of which
13 14 the certified capital investment will be a part.

13 15 2. As soon as practical after the receipt of information
13 16 by the certified capital company that a qualified business has
13 17 violated an agreement made under section 15E.226, subsection
13 18 1, paragraphs "b" through "e", the certified capital company
13 19 shall notify the department of the violation and the facts
13 20 giving rise to the violation.

13 21 3. On or before January 31 each year, a certified capital
13 22 company shall report all of the following to the department:

13 23 a. The amount of the certified capital company's certified
13 24 capital at the end of the preceding calendar year.

13 25 b. Whether the certified capital company has invested more
13 26 than fifteen percent of its total certified capital in any one
13 27 person.

13 28 c. All qualified investments that the certified capital
13 29 company has made during the previous calendar year and the
13 30 investment pool from which each qualified investment was made.

13 31 4. Within ninety days of the end of the certified capital
13 32 company's fiscal year, the certified capital company shall
13 33 provide to the department a copy of its annual audited
13 34 financial statements, including the opinion of an independent
13 35 certified public accountant. The audit shall address the
14 1 methods of operation and conduct of the business of the
14 2 certified capital company to determine whether the certified
14 3 capital company is complying with this division and the rules

14 4 adopted under this division, including whether certified
14 5 capital investments have been invested in the manner required
14 6 under section 15E.226. The financial statements provided
14 7 under this subsection shall be segregated by investment pool
14 8 and shall be separately audited on that basis to allow the
14 9 department to determine whether the certified capital company
14 10 is in compliance with section 15E.226, subsection 2.

14 11 5. On or before January 31 of each year, a certified
14 12 capital company shall pay a nonrefundable certification fee of
14 13 five thousand dollars to the department, unless January 31 is
14 14 within six months of the date on which the certified capital
14 15 company was certified under section 15E.223.

14 16 6. If the department determines that a document submitted
14 17 by a certified capital company under this section contains a
14 18 trade secret as defined in section 550.2, the information
14 19 shall be treated as a confidential trade secret which is not
14 20 subject to release under section 22.7.

14 21 Sec. 8. NEW SECTION. 15E.228 DISTRIBUTIONS.

14 22 A certified capital company may make a distribution or
14 23 payment only if one of the following conditions is met:

14 24 1. The distribution or payment is a qualified
14 25 distribution.

14 26 2. The department made a written determination that the
14 27 distribution or payment may be made without adversely
14 28 affecting the ability of the certified capital company to make
14 29 qualified investments in an amount cumulatively equal in the
14 30 aggregate to one hundred percent of the certified capital
14 31 investment in the investment pool from which the distribution
14 32 or payment is to be made.

14 33 3. The certified capital company has made qualified
14 34 investments in an amount cumulatively equal in the aggregate
14 35 to one hundred percent of the certified capital investments in
15 1 the investment pool.

15 2 4. The distribution or payment is payment of principal or
15 3 interest owed to a debt holder of a certified capital company,
15 4 even if the debt holder is also a holder of equity and even if
15 5 the indebtedness is a certified capital investment.

15 6 Sec. 9. NEW SECTION. 15E.229 COMPLIANCE REVIEWS
15 7 DECERTIFICATION DISQUALIFICATION.

15 8 1. The department shall conduct an annual review of each
15 9 certified capital company to determine if the certified
15 10 capital company is complying with the requirements of this
15 11 division, to advise the certified capital company regarding
15 12 the status of its investments as qualified investments, and to
15 13 ensure that an investment has not been made in violation of
15 14 this division. The cost of the annual review shall be paid by
15 15 each certified capital company according to a reasonable fee
15 16 schedule adopted by the department.

15 17 2. Any material violation of section 15E.226, subsection
15 18 2, is a ground for disqualification of the noncomplying
15 19 investment pool. If the department determines that the
15 20 certified capital company is not in compliance with section
15 21 15E.226, subsection 2, with respect to an investment pool, the
15 22 department shall send a written notice to the certified
15 23 capital company and the department of revenue and finance
15 24 stating that the investment pool has been disqualified.

15 25 3. Any material violation of section 15E.226, subsections
15 26 2 through 4, or section 15E.227, subsections 1 through 4, is a
15 27 ground for decertification of the noncomplying certified
15 28 capital company. If the department determines that the
15 29 certified capital company is not in compliance with section
15 30 15E.226, subsections 2 through 4, or section 15E.227,
15 31 subsections 1 through 4, the department shall send a written
15 32 notice to the certified capital company that the certified
15 33 capital company may be subject to decertification in one
15 34 hundred twenty days from the date on which the notice was
15 35 mailed, unless the certified capital company brings itself

16 1 into full compliance. If at the end of the one hundred twenty
16 2 day period the certified capital company has not brought
16 3 itself into full compliance, the department shall send a
16 4 notice to the certified capital company and the commissioner
16 5 of insurance stating that the certified capital company has
16 6 been decertified.

16 7 4. a. A certified capital company may voluntarily
16 8 decertify itself as a certified capital company if any of the
16 9 following conditions are met:

16 10 (1) It has been at least ten years since the last
16 11 certified capital investment was made in the certified capital
16 12 company.

16 13 (2) The certified capital company has made qualified
16 14 investments an amount cumulatively equal to at least one
16 15 hundred percent of the certified capital investment in the
16 16 certified capital company.

16 17 b. A certified capital company wishing to decertify itself
16 18 under this subsection shall send a notice to the department
16 19 certifying that the certified capital company is eligible for
16 20 decertification under paragraph "a". The decertification is
16 21 effective on the date that the notice under this paragraph is
16 22 received by the department.

16 23 5. Approval by the department of a voluntary
16 24 decertification of a certified capital company shall be
16 25 required prior to the voluntary decertification if the
16 26 decertification occurs within five years from the date the
16 27 certified capital company was originally certified.

16 28 6. Decertification of a certified capital company or
16 29 disqualification of an investment pool has the effects
16 30 specified in section 15E.232.

16 31 7. The department shall notify a certified investor when
16 32 the certified capital company tax credit arising from a
16 33 certified investment is no longer subject to recapture and
16 34 forfeiture under section 15E.232.

16 35 Sec. 10. NEW SECTION. 15E.230 DEPARTMENT EVALUATION OF
17 1 THE PROGRAM.

17 2 Beginning on January 31, 2000, and on every January 31 of
17 3 each even-numbered year thereafter, the department shall
17 4 submit a report to the general assembly regarding the program
17 5 under this division. The report shall include all of the
17 6 following:

17 7 1. The total amount of certified capital investments made
17 8 during the previous two calendar years, as well as the total
17 9 amount of certified capital investments made since the
17 10 effective date of this Act.

17 11 2. Statistical information on the qualified investments
17 12 made by certified capital companies during the previous two
17 13 calendar years.

17 14 3. The department's assessment of the number of jobs
17 15 created in this state during the previous two calendar years
17 16 as a result of the certified capital company program under
17 17 this division.

17 18 Sec. 11. NEW SECTION. 15E.231 RULES.

17 19 The department shall adopt rules pursuant to chapter 17A
17 20 necessary to administer this division.

17 21 Sec. 12. NEW SECTION. 15E.232 CERTIFIED CAPITAL COMPANY
17 22 INSURANCE PREMIUM TAX CREDIT.

17 23 1. A certified investor which is an insurance company
17 24 organized under the laws of this state or admitted to do
17 25 business in this state shall earn, in the year it makes a
17 26 certified capital investment, a vested tax credit against the
17 27 insurance premium tax liability of the certified investor
17 28 under chapter 432, or similar taxes, equal to one hundred
17 29 percent of the certified investor's certified capital
17 30 investment. A certified investor shall be entitled to claim
17 31 up to ten percent of the vested premium tax credit in any
17 32 taxable year of the certified investor. The credit to be

17 33 applied against a certified investor's premium tax liability
17 34 in any one year shall not exceed such certified investor's
17 35 premium tax liability for such taxable year. Any credit in
18 1 excess of the tax liability for a calendar year may be
18 2 credited to the tax liability for succeeding calendar years
18 3 until depleted.

18 4 2. If a certified capital company is decertified, or an
18 5 investment pool is disqualified, under section 15E.229, before
18 6 the certified capital company fulfills the investment
18 7 requirement under section 15E.226, subsection 2, paragraph
18 8 "a", subparagraph (1), with respect to the investment pool, a
18 9 certified investor that has received a tax credit under this
18 10 section shall be subject to a recapture tax equal to the tax
18 11 credit claimed with respect to the investment pool. A
18 12 certified investor shall not claim any remaining tax credits
18 13 with respect to that investment pool.

18 14 3. If a certified capital company fulfills the investment
18 15 requirement under section 15E.226, subsection 2, paragraph
18 16 "a", subparagraph (1), with respect to the investment pool but
18 17 the certified capital company is decertified, or an investment
18 18 pool is disqualified under section 15E.229, before the
18 19 certified capital company fulfills the investment requirement
18 20 under section 15E.226, subsection 2, paragraph "a",
18 21 subparagraph (2), for that investment pool, a certified
18 22 investor that has received a tax credit under this section
18 23 with respect to that investment pool shall be subject to a
18 24 recapture tax equivalent to all tax credits claimed under this
18 25 section for taxable years after the taxable year that includes
18 26 the second anniversary of the investment date of the
18 27 investment pool. A certified investor shall not claim any
18 28 remaining tax credits for taxable years after the taxable year
18 29 that includes the second anniversary of the investment date of
18 30 the investment pool.

18 31 4. If a certified capital company fulfills the investment
18 32 requirement under section 15E.226, subsection 2, paragraph
18 33 "a", subparagraphs (1) and (2), with respect to the investment
18 34 pool but the certified capital company is decertified, or an
18 35 investment pool is disqualified under section 15E.229, before
19 1 the certified capital company fulfills the investment
19 2 requirement under section 15E.226, subsection 2, paragraph
19 3 "a", subparagraph (3), for that investment pool, a certified
19 4 investor that has received a tax credit under this section
19 5 with respect to that investment pool shall be subject to a
19 6 recapture tax equivalent to all tax credits claimed under this
19 7 section for taxable years after the taxable year that includes
19 8 the third anniversary of the investment date of the investment
19 9 pool. A certified investor shall not claim any remaining tax
19 10 credits for taxable years after the taxable year that includes
19 11 the third anniversary of the investment date of the investment
19 12 pool.

19 13 5. If a certified capital company satisfies the investment
19 14 requirements under section 15E.226, subsection 2, paragraph
19 15 "a", with respect to the investment pool, but the certified
19 16 capital company is decertified, a certified investor that has
19 17 received a tax credit under this section with respect to that
19 18 investment pool shall not be subject to a recapture tax with
19 19 respect to the tax credits previously utilized or forfeit any
19 20 unused credits, provided that such decertification did not
19 21 occur prior to the fourth anniversary of the investment date
19 22 of the investment pool. If the decertification did occur
19 23 prior to the fourth anniversary of the investment date of the
19 24 investment pool, all tax credits claimed or to be claimed
19 25 prior to such anniversary shall not be subject to recapture or
19 26 forfeiture, but all credits to be taken after such anniversary
19 27 shall be forfeited.

19 28 6. A certified investor may sell a certified capital
19 29 company tax credit to another insurance company organized

19 30 under the laws of this state or admitted to do business in
19 31 this state if the certified investor notifies the department
19 32 of revenue and finance of the sale and includes with the
19 33 notification a copy of the transfer documents.

19 34 7. Once a certified capital company has voluntarily
19 35 decertified all investment pools under its control, the
20 1 certified capital company shall not be subject to regulation
20 2 by the department. However, after a certified capital company
20 3 has voluntarily decertified, the department shall continue to
20 4 monitor any qualified business which received an investment
20 5 from the decertified certified capital company and make an
20 6 annual report to the general assembly by January 31 of each
20 7 year regarding the monitoring of qualified businesses. The
20 8 report shall include the number of jobs created by the
20 9 qualified business, the average wage of the jobs in that
20 10 business, and other useful information as deemed appropriate
20 11 by the department which would illustrate the impact the
20 12 business has on the economy of the state. The department
20 13 shall continue to monitor and report to the general assembly
20 14 on the qualified business until all tax credits have been
20 15 claimed by the certified investors of that decertified
20 16 certified capital company or ten years have elapsed from the
20 17 date the decertified certified capital company was certified,
20 18 whichever is longer.

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BRENT SIEGRIST
Speaker of the House

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MARY E. KRAMER
President of the Senate

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20 30 I hereby certify that this bill originated in the House and
20 31 is known as House File 767, Seventy-eighth General Assembly.

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ELIZABETH ISAACSON
Chief Clerk of the House

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21 2 Approved _____, 1999
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THOMAS J. VILSACK
Governor