



2005 SENATE BILL 290

August 19, 2005 – Introduced by Senators KANAVAS and OLSEN, cosponsored by Representatives NISCHKE, VAN ROY, ALBERS, HAHN, LOTHIAN and MCCORMICK. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT to repeal** 71.07 (5d) (c) 3.; **to renumber and amend** 71.07 (5b) (b), 71.28
2 (5b) (b) and 71.47 (5b) (b); **to amend** 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 1. b., 71.07
3 (5d) (b), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and **to create** 71.07
4 (5b) (b) 2., 71.07 (5d) (a) 2m., 71.07 (5d) (c) 3m., 71.28 (5b) (b) 2. and 71.47 (5b)
5 (b) 2. of the statutes; **relating to:** claiming early stage seed and angel
6 investment income and franchise tax credits.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an early stage seed investment income and franchise tax credit in an amount equal to 25 percent of the person's initial investment paid to a fund manager that the fund manager invests in a business that is certified by the Department of Commerce (Commerce) to receive such investments. This bill makes certain technical changes to the early stage seed investment credit to simplify the administration of the credit. Under this bill, generally, the amount of the credit that may be claimed by a partner, a member of a limited liability company, or shareholder of a tax-option corporation is based on the total amount invested by the entity to which the partner, member, or shareholder belongs and determined by the entity's organizational documents.

Under current law, an individual may claim an income tax credit in each taxable year for two years, beginning with the taxable year in which the individual's initial investment is made, in an amount equal to 12.5 percent of the individual's

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bona fide angel investment in a new business venture, as determined by Commerce. This bill makes certain technical changes to the bona fide angel investment credit to simplify the administration of the credit. Under this bill, an individual may claim the bona fide angel investment credit in each taxable year for two years, beginning with the taxable year certified by Commerce. In addition, partnerships and limited liability companies may not claim the credit, but, instead, compute the amount of the credit that each of the partners or members may claim, based on the total amount invested by the partnership or company. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in the organizational documents of the partnership or limited liability company.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
2 amended to read:

3 71.07 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
4 to the limitations provided under this subsection and s. 560.205, and except as
5 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
6 ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's
7 initial investment paid in the taxable year to a fund manager that the fund manager
8 invests in a business certified under s. 560.205 (1).

9 **SECTION 2.** 71.07 (5b) (b) 2. of the statutes is created to read:

10 71.07 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
11 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
12 shall be determined at the entity level rather than the claimant level and may be
13 allocated among the claimants who make investments in the manner set forth in the
14 entity's organizational documents. The entity shall provide to the department of
15 revenue and to the department of commerce the names and tax identification

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1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 3.** 71.07 (5d) (a) 1. a. of the statutes is amended to read:

4 71.07 (5d) (a) 1. a. ~~An individual~~ A person who reviews new businesses or
5 proposed new businesses for potential investment of the ~~individual's~~ person's money.

6 **SECTION 4.** 71.07 (5d) (a) 1. b. of the statutes is amended to read:

7 71.07 (5d) (a) 1. b. A network of ~~individuals~~ persons who satisfy subd. 1.

8 **SECTION 5.** 71.07 (5d) (a) 2m. of the statutes is created to read:

9 71.07 (5d) (a) 2m. "Person" means a partnership or limited liability company
10 that is a nonoperating entity, as determined by the department of commerce, a
11 natural person, or fiduciary.

12 **SECTION 6.** 71.07 (5d) (b) of the statutes is amended to read:

13 71.07 (5d) (b) *Filing claims.* Subject to the limitations provided in this
14 subsection and in s. 560.205, a claimant may claim as a credit against the tax
15 imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year
16 for 2 consecutive years, beginning with the taxable year ~~in which the claimant's~~
17 ~~initial investment is made~~ as certified by the department of commerce, an amount
18 equal to 12.5 percent of the claimant's bona fide angel investment made directly in
19 a qualified new business venture ~~in the taxable year.~~

20 **SECTION 7.** 71.07 (5d) (c) 3. of the statutes is repealed.

21 **SECTION 8.** 71.07 (5d) (c) 3m. of the statutes is created to read:

22 71.07 (5d) (c) 3m. Partnerships and limited liability companies may not claim
23 the credit under this subsection, but the eligibility for, and the amount of, the credit
24 are based on their payment of amounts under par. (b). A partnership or limited
25 liability company shall compute the amount of credit that each of its partners or

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1 members may claim and shall provide that information to each of them. Partners
2 and members of limited liability companies may claim the credit in proportion to
3 their ownership interest or as specially allocated in their organizational documents.

4 **SECTION 9.** 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and
5 amended to read:

6 71.28 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
7 to the limitations provided under this subsection and s. 560.205, and except as
8 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
9 s. 71.23, up to the amount of those taxes, 25 percent of the claimant's ~~initial~~
10 investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests
11 in a business certified under s. 560.205 (1).

12 **SECTION 10.** 71.28 (5b) (b) 2. of the statutes is created to read:

13 71.28 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
14 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
15 shall be determined at the entity level rather than the claimant level and may be
16 allocated among the claimants who make investments in the manner set forth in the
17 entity's organizational documents. The entity shall provide to the department of
18 revenue and to the department of commerce the names and tax identification
19 numbers of the claimants, the amounts of the credits allocated to the claimants, and
20 the computation of the allocations.

21 **SECTION 11.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
22 amended to read:

23 71.47 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
24 to the limitations provided under this subsection and s. 560.205, and except as
25 provided in subd. 2., a claimant may claim as a credit against the tax imposed under

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1 s. 71.43, up to the amount of those taxes, 25 percent of the claimant's initial
2 investment paid in the taxable year to a fund manager that the fund manager invests
3 in a business certified under s. 560.205 (1).

4 **SECTION 12.** 71.47 (5b) (b) 2. of the statutes is created to read:

5 71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or
6 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
7 shall be determined at the entity level rather than the claimant level and may be
8 allocated among the claimants who make investments in the manner set forth in the
9 entity's organizational documents. The entity shall provide to the department of
10 revenue and to the department of commerce the names and tax identification
11 numbers of the claimants, the amounts of the credits allocated to the claimants, and
12 the computation of the allocations.

13 **SECTION 13.** 560.205 (3) (d) of the statutes is amended to read:

14 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
15 department of revenue, shall promulgate rules to administer this section. The rules
16 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
17 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
18 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
19 ~~taxable~~ calendar year for ~~taxable~~ calendar years beginning after December 31, 2004.
20 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
21 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
22 certified under sub. (2) at \$3,500,000 per ~~taxable~~ calendar year for ~~taxable~~ calendar
23 years beginning after December 31, 2004.

24 **SECTION 14.** 560.275 (2) (b) of the statutes, as affected by 2005 Wisconsin Act
25, is amended to read:

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1 560.275 (2) (b) *Matching grants and loans.* 1. The department may make a
2 grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) for the purpose of
3 funding professional ~~services~~ activities related to developing a proposed
4 technologically innovative product, process, or service, if the applicant has received
5 a grant from the federal government for a substantially similar purpose.

6 2. The department may make a grant or loan from the appropriation under s.
7 20.143 (1) (c) or (ie) for the purpose of funding professional ~~services~~ activities related
8 to the accelerated commercialization of a technologically innovative product,
9 process, or service, if the federal government has notified the applicant that the
10 applicant will receive a grant from the federal government for a substantially similar
11 purpose.

12 **SECTION 15.** 560.275 (2) (c) of the statutes, as affected by 2005 Wisconsin Act
13 25, is amended to read:

14 560.275 (2) (c) *Bridge grants and loans.* The department may make a grant
15 or loan from the appropriation under s. 20.143 (1) (c) or (ie) to a person who has
16 received early stage financing from 3rd parties or a grant from the federal
17 government to fund early stage research and development and who has sought
18 additional early stage financing from 3rd parties or applied for an additional grant
19 from the federal government to fund early stage research and development. A grant
20 or loan under this paragraph shall be for the purpose of funding professional ~~services~~
21 activities necessary to maintain the project research and management team and
22 funding basic operations until the applicant's additional 3rd party financing request
23 or federal grant application is approved or denied.

24 **SECTION 16. Initial applicability.**

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1 (1) EARLY STAGE SEED AND ANGEL VESTMENT CREDITS. The treatment of sections
2 71.07 (5d) (a) 1. a. and b. and 2m., (b), and (c) 3. and 3m. and 560.205 (3) (d) of the
3 statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b) (b),
4 and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2., 71.28
5 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years beginning
6 on January 1, 2005.

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(END)