

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-AB579)**

Received: 10/29/2001

Received By: kahlepj

Wanted: Today

Identical to LRB:

For: Glenn Grothman (608) 264-8486

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: kahlepj

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Subject: Econ. Development - bus. dev.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Grothman@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Administrative fee

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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**LRBa0860**

FE Sent For:

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## CERTIFIED CAPITAL COMPANY (CAPCO) CHANGES

### 1. **Certified Capital Company Headquarters In Wisconsin**

20859  
Current Law: Existing law does not require a CAPCO to have staff or maintain an office in the State of Wisconsin. By administrative rule, the department imposed a requirement that the CAPCO maintain in the State of Wisconsin an investment office and staff actively engaged in making investments.

Problem: Of the seven persons certified as a CAPCO in 1999, one was headquartered in the State of Wisconsin; the other six were headquartered in New York, Louisiana or Missouri. Presently, there are three active CAPCOs. None of the three CAPCOs with certified capital available for investment is headquartered in the state, resulting in Wisconsin CAPCO decisions being made in either Louisiana or New York.

Recommended Solution: The administrative rule requirement should be codified in law by creating section 560.31(2)(g), Stats., as follows:

"The person agrees to maintain an investment office and staff actively engaged in making investments in this state."

7  
In addition, consideration should be given to expanding the proposed statutory requirement to require the CAPCO to be headquartered in the state and to maintain its principal business operations in the state.

### 2. **Administrative Fee**

20860  
Current Law: Section 560.30 (10), Stats., permits the CAPCO to make payments to its equity holders for the costs associated with forming, syndicating, managing or operating the CAPCO. It may also pay an annual management fee that does not exceed 2.5% of its certified capital, plus fees for professional services related to the CAPCO's operation. Finally, the CAPCO may disburse funds to equity holders for projected increases in federal or state taxes, including penalties and interest thereon, if the increase is related to the ownership, operation or management of the CAPCO.

Problem: As of December 31, 2000, qualified distributions made by the CAPCOs totaled \$12,704,158, or 25% of certified capital. Eighty-three percent of the qualified distributions, or \$10,524,088, represented costs associated with forming and syndicating the CAPCO. As of the same date, \$7,536,039 of certified capital had been placed in qualified businesses.

Recommended Solution: The department recommends several technical corrections to the existing categories of qualified distributions, including the imposition of reasonable

limits to the costs of forming and syndicating the CAPCO and for professional fees paid. The Department recommends the following changes to ss. 560.30 (10) (a) to (d), Stats.:

- a) The costs of forming, and syndicating, ~~managing or operating~~ the CAPCO provided such costs do not exceed 10% of the CAPCO's certified capital;
- b) An annual management fee that does not exceed 2.5% of the CAPCO's total certified capital;
- c) Reasonable and necessary fees paid for professional services related to the operation of the CAPCO not to exceed 10% unless approved by Commerce; *of cert cap?*
- d) A projected increase in federal or state taxes, ~~including penalties and interest on those taxes~~, of the equity owners of the CAPCO if those amounts are related to the CAPCO's ownership, management or operation.

The Department further recommends that the costs associated with applying for certification as a Small Business Investment Company ("SBIC") should be a qualified distribution to remove barriers for the CAPCO to pursue certification as the same. The suggested language is to create section 560.30 (10) (e), Stats.,

- (e) Reasonable costs incurred to apply for qualified federal funding programs as determined by the department.

### 3. Insurance Company Participation

Current Law: Presently, only insurance companies paying "premium taxes" are eligible to take a credit against the same for an investment in a certified capital company. The controlling statutes include: ss. 76.63, 76.65, 76.66, or 76.67. Tax credits equal to 100% of the certified capital invested may be taken over 10 years, at a rate of 10% per year. Two explanations have been offered for the focus on premium insurance companies, including: First, it is viewed as a fee for each premium sold in the state, with the fee collected by the Office of the Commissioner of Insurance. It is not a tax, such as those paid by the Property and Casualty Insurance companies to the Department of Revenue, which are deposited in the General Fund. As a consequence, there is not a "Uniformity Clause" issue. Second, the premium tax is a more stable funding source.

Problem: Thirty-three (33) insurance companies are eligible to take this credit. Yet, this number includes only two Wisconsin-based companies, Sentry and Northwestern Mutual.

Recommended Solution: The Department recommends that language be created to permit all insurance companies, domestic and non-domestic, operating in Wisconsin to participate in the program. The credit should be eligible to be taken against the income tax or franchise tax paid by insurance companies.

*including  
yes →  
per Ron  
Skolansky*

*yes  
per Ron  
Skolansky*



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa0860/1

PJK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~  
ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 579

Tues.  
9am

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 5: after "limitations," insert "qualified distributions of certified  
3 capital companies,".

4 2. Page 3, line 1: before that line insert:

5 "SECTION 1f. 560.30 (10) (a) of the statutes is amended to read:

6 560.30 (10) (a) The costs of forming, and syndicating, ~~managing or operating~~  
7 the certified capital company, not to exceed 10% of the certified capital company's  
8 total certified capital.

9 History: 1997 a. 215.

9 SECTION 1h. 560.30 (10) (c) of the statutes is amended to read:

10 560.30 (10) (c) Reasonable and necessary fees paid for professional services  
11 related to the operation of the certified capital company, not to exceed 10% of the  
12 certified capital company's total certified capital unless approved by the department.

History: 1997 a. 215.

1            **SECTION 1j.** 560.30 (10) (d) of the statutes is amended to read:

2            560.30 (10) (d) A projected increase in federal or state taxes, ~~including~~  
3            excluding penalties and interest on those taxes, of the equity owners of the certified  
4            capital company if those amounts are related to the certified capital company's  
5            ownership, management, or operation.

6        History: 1997 a. 215.

6            **SECTION 1m.** 560.30 (10) (e) of the statutes is created to read:

7            560.30 (10) (e) Reasonable costs associated with applying for qualified federal  
8            funding programs, as determined by the department. ')

9            **3.** Page 3, line 1: delete "SECTION 1" and substitute "SECTION 1x".

10

(END)