



2011 SENATE BILL 463

1 **AN ACT** *to amend* 71.07 (5b) (d) 3., 71.07 (5d) (d) 1., 71.28 (5b) (d) 3., 71.47 (5b)
2 (d) 3., 238.15 (1) (intro.), 238.15 (1) (h), 238.15 (1) (j), 238.15 (1) (km) and 238.15
3 (3) (d) (intro.); and *to create* 238.15 (1) (m) of the statutes; **relating to:** the
4 angel investment and early stage seed investment tax credit programs.

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1d.** 71.07 (5b) (d) 3. of the statutes, as affected by 2011 Wisconsin Act
6 32, is amended to read:
7 71.07 **(5b)** (d) 3. For Except as provided under s. 238.15 (3) (d) (intro.), for
8 investments made after December 31, 2007, if an investment for which a claimant
9 claims a credit under par. (b) is held by the claimant for less than 3 years, the
10 claimant shall pay to the department, in the manner prescribed by the department,
11 the amount of the credit that the claimant received related to the investment.

SENATE BILL 463**SECTION 1h**

1 **SECTION 1h.** 71.07 (5d) (d) 1. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.07 **(5d)** (d) 1. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for
4 investments made after December 31, 2007, if an investment for which a claimant
5 claims a credit under par. (b) is held by the claimant for less than 3 years, the
6 claimant shall pay to the department, in the manner prescribed by the department,
7 the amount of the credit that the claimant received related to the investment.

8 **SECTION 1j.** 71.28 (5b) (d) 3. of the statutes, as affected by 2011 Wisconsin Act
9 32, is amended to read:

10 71.28 **(5b)** (d) 3. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for
11 investments made after December 31, 2007, if an investment for which a claimant
12 claims a credit under par. (b) is held by the claimant for less than 3 years, the
13 claimant shall pay to the department, in the manner prescribed by the department,
14 the amount of the credit that the claimant received related to the investment.

15 **SECTION 1m.** 71.47 (5b) (d) 3. of the statutes, as affected by 2011 Wisconsin Act
16 32, is amended to read:

17 71.47 **(5b)** (d) 3. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for
18 investments made after December 31, 2007, if an investment for which a claimant
19 claims a credit under par. (b) is held by the claimant for less than 3 years, the
20 claimant shall pay to the department, in the manner prescribed by the department,
21 the amount of the credit that the claimant received related to the investment.

22 **SECTION 3.** 238.15 (1) (intro.) of the statutes, as affected by 2011 Wisconsin Act
23 32, is amended to read:

24 238.15 **(1)** ANGEL INVESTMENT TAX CREDITS. (intro.) The corporation shall
25 implement a program to certify businesses for purposes of s. 71.07 (5d). A business

SENATE BILL 463

1 desiring certification shall submit an application to the corporation in each taxable
2 year for which the business desires certification. The business shall specify in its
3 application the investment amount it wishes to raise and the corporation may certify
4 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).
5 ~~A business may be certified under this subsection, and may maintain such~~
6 ~~certification.~~ The corporation may certify or recertify a business for purposes of s.
7 71.07 (5d) only if the business satisfies all of the following conditions:

8 **SECTION 4.** 238.15 (1) (h) of the statutes, as affected by 2011 Wisconsin Act 32,
9 is amended to read:

10 238.15 (1) (h) ~~It~~ At the time it is initially certified under this subsection, it has
11 less than 100 employees.

12 **SECTION 5.** 238.15 (1) (j) of the statutes, as affected by 2011 Wisconsin Act 32,
13 is amended to read:

14 238.15 (1) (j) ~~It~~ At the time it is initially certified under this subsection, it has
15 been in operation in this state for not more than 10 consecutive years.

16 **SECTION 6.** 238.15 (1) (km) of the statutes, as affected by 2011 Wisconsin Act
17 32, is amended to read:

18 238.15 (1) (km) It has not received aggregate private equity investment in cash
19 of more than \$10,000,000 ~~prior to being~~ before it is initially certified under this
20 subsection.

21 **SECTION 7.** 238.15 (1) (m) of the statutes is created to read:

22 238.15 (1) (m) 1. It agrees that it will not relocate outside of this state during
23 the 3 years after it receives an investment for which a person may claim a tax credit
24 under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount
25 determined under subd. 2., if the business relocates outside of this state during that

SENATE BILL 463**SECTION 7**

1 3-year period. For the purposes of this paragraph, a business relocates outside of
2 this state when the business locates more than 51 percent of any of the following
3 outside of this state:

4 a. The business's employees.

5 b. The business's total payroll.

6 c. The activities of the business's headquarters, as determined by the
7 corporation.

8 2. The amount of a penalty payment under subd. 1. is any of the following:

9 a. If the relocation occurs less than 12 months after the investment, 100 percent
10 of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.

11 b. If the relocation occurs 12 months or more after the investment but less than
12 24 months after the investment, 80 percent of the tax credit that was claimed under
13 s. 71.07 (5d) as the result of the investment.

14 c. If the relocation occurs occurs 24 months or more after the investment but
15 less than 36 months after the investment, 60 percent of the tax credit that was
16 claimed under s. 71.07 (5d) as the result of the investment.

17 **SECTION 8.** 238.15 (3) (d) (intro.) of the statutes, as affected by 2011 Wisconsin
18 Act 32, is amended to read:

19 238.15 **(3)** (d) *Rules.* (intro.) The corporation, in consultation with the
20 department of revenue, shall adopt rules to administer this section. The rules shall
21 further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1. The
22 rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be
23 claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
24 calendar year for calendar years beginning after December 31, 2004, and before
25 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after

SENATE BILL 463

1 December 31, 2007, and before January 1, 2010, \$6,500,000 for calendar year 2010,
2 and \$20,000,000 per calendar year for calendar years beginning after December 31,
3 2010, plus, for taxable years beginning after December 31, 2010, an additional
4 \$250,000 for tax credits that may be claimed for investments in nanotechnology
5 businesses certified under sub. (1). The rules shall also limit the aggregate amount
6 of the tax credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638 that may be
7 claimed for investments paid to fund managers certified under sub. (2) at \$3,500,000
8 per calendar year for calendar years beginning after December 31, 2004, and before
9 January 1, 2008, \$6,000,000 per calendar year for calendar years beginning after
10 December 31, 2007, and before January 1, 2010, \$8,000,000 for calendar year 2010,
11 and \$20,500,000 per calendar year for calendar years beginning after December 31,
12 2010, plus, for taxable years beginning after December 31, 2010, an additional
13 \$250,000 for tax credits that may be claimed for investments in nanotechnology
14 businesses certified under sub. (1). The rules shall also provide that, for calendar
15 years beginning after December 31, 2007, ~~no a person may receive~~ who receives a
16 credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), or 76.638 ~~unless the~~
17 ~~person's~~ must keep the investment is kept in a certified business, or with a certified
18 fund manager, for no less than 3 years, unless the person's investment becomes
19 worthless, as determined by the corporation, during the 3-year period or the person
20 has kept the investment for no less than 12 months and a bona fide liquidity event,
21 as determined by the corporation, occurs during the 3-year period. The rules shall
22 permit the corporation to reallocate credits under this section that are unused in any
23 calendar year to a person eligible for tax benefits, as defined under s. 238.16 (1) (d),
24 if all of the following apply:

25

(END)