

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of Senate Bill No. 808

"VENTURE CAPITAL INVESTMENT ACT OF 2001."

Amendment No. 1 to Senate Bill No. 808.

Amend Senate Bill No. 808 as originally introduced:

Delete everything following the enacting clause and substitute the following:

SECTION 1. Title.

This act shall be known and may be cited as the "Venture Capital Investment Act of 2001".

SECTION 2. Purpose.

The State of Arkansas desires to increase the availability of equity and near-equity capital for emerging, expanding, relocating, and restructuring enterprises in the state. Such investments will help strengthen the state's economic base and create jobs.

SECTION 3. Definitions.

For purposes of this act:

(1) "Authority" means the Arkansas Development Finance Authority;

(2) "Certificate" means a document executed by the authority granting tax credits to the designated investor group;

(3) "Designated investor group" means the investor group selected by the authority under this act;

(4) "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private businesses;

(5) "Investor group" means any individual, corporation, partnership, limited liability company, or other lawfully organized entity;

(6) "Near-equity capital" means capital invested in unsecured, undersecured, subordinated or convertible loans or debt securities;

(7) "Person" means any individual, corporation, partnership or other lawfully organized entity;

(8) "Revolving fund" means a bank account:

(A) Created by the designated investor group in a financial institution located in this state; and

(B) Used solely as provided in this act; and

(9) "Tax credit" means a tax credit granted to the authority under

this act.

SECTION 4. Designated investor group.

(a)(1) The authority shall solicit from investor groups investment plans for the raising and investing of capital in accordance with the requirements of this act.

(2) Investment plans submitted shall address the investor group's level of experience, quality of management, investment philosophy and process, probability of success in fund raising, and plan for achieving the purposes of the act.

(b)(1) The authority shall consider and select the investment plans and shall select and certify as the designated investor group the one (1) investor group deemed best qualified to generate the amount of capital required by this act.

(2) The designated investor group must have a manager who is a person with demonstrated substantial successful experience in design, implementation, and management of state-sponsored seed and venture capital investment programs and in capital formation.

SECTION 5. Tax Credits.

(a) The State of Arkansas shall issue tax credits that may be used to reduce the tax liability of a person, firm, or corporation.

(b) Tax credits against liabilities shall be limited to the amount that would otherwise be collected and allocated to the Treasurer of State.

(c) The total amount of credits issued and transferable to the authority is sixty million dollars (\$60,000,000).

(d) The credits shall be freely transferable to subsequent transferees; however, no tax credit shall be exercisable before July 1, 2001, nor after July 1, 2026.

(e) The authority shall not transfer tax credits except in conjunction with a legitimate call on an authority guarantee.

(f)(1) The authority shall immediately notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor in writing if any tax credit is transferred in conjunction with a legitimate call on a authority guarantee.

(2) The authority shall not be required to make such notification for transfers to subsequent transferees.

(g) The Arkansas Development Finance Authority shall determine the amount of individual tax credits to be transferred under this act and may negotiate for sale of the credits subject only to the limits imposed under this act.

(h) The authority shall clearly indicate upon the face of the certificate or other document transferring the tax credit the principle amount of the tax credit and the taxable year or years for which the credit may be claimed.

(i) The authority may pay a fee in connection with the purchase by the authority of an option or other agreement under which the transfer of the tax credits authorized under this act may be made.

(j) The authority shall have the power to make any contract, execute any document, charge reasonable fees for any services rendered, perform any act or enter into any financial or other transaction necessary in order to carry out its mission.

(k)(1) The authority may employ any person as required for proper implementation of this act, the management of its assets, or the performance of any function authorized or required by this act or necessary for the accomplishment of any function.

(2) The person employed shall be selected by the authority based upon outstanding knowledge and leadership in the field for which the person performs services for the authority.

SECTION 6. Registration of Tax Credits.

(a) The authority shall, in conjunction with the Revenue Division of the Department of Finance and Administration, develop a system for registration of all tax credits claimed under this act.

(b) The system shall verify that any:

(1) Tax credit claimed upon a tax return is valid and properly taken in the year of claim;

(2) Transfer of the tax credit is made in accordance with the requirements of this act.

(c) The registration system shall permit:

(1) Any person claiming a security interest in any tax credits to record the security interest; and

(2) In the case of tax credits redeemed, direct payment from the Department of Finance and Administration.

SECTION 7. Annual report.

The designated investor group shall publish an annual report within six (6) months after the close of its fiscal year, which shall:

(1) Include its annual audit of the activities conducted by the designated investor group;

(2) Be presented in writing, and by testimony if requested, to the Governor, the House and Senate Interim Committees on Agriculture and Economic Development of the Arkansas General Assembly, and the authority;

(3) Document and review the progress of the designated investor group in implementing its investment plan; and

(4) List any use, redemption or transfer of tax credits allowed under this act.

SECTION 8. Powers of the authority.

The authority shall have the power to promulgate regulations and make any contract, execute any document, perform any act, or enter into any financial or other transaction necessary to implement this act."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator K. Smith

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Secretary