



General Assembly

February Session, 2020

Raised Bill No. 435

LCO No. 2363



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING INVEST CT FUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-88a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2020*):

3 (a) As used in this section:

4 (1) "Facility" means an insurance business facility;

5 (2) "Insurance business" means a business with a North American
6 Industry Classification System code of 524113 to 524298, inclusive, that
7 is engaged in the business of insuring risks or of providing services
8 necessary to the business of insuring risks;

9 (3) "New job" means a job that did not exist in the business of a subject
10 insurance business in this state prior to the subject insurance business's
11 application to the commissioner for an eligibility certificate under this
12 section for a new facility and that is filled by a new employee, but does
13 not include a job created when an employee is shifted from an existing

14 location of the subject insurance business in this state to a new facility;

15 (4) "New employee" means a person who resides in Connecticut and
16 is hired by a subject insurance business to fill a position for a new job or
17 a person shifted from an existing location of the subject insurance
18 business outside this state to a new facility in this state, provided (A) in
19 no case shall the total number of new employees allowed for purposes
20 of this credit exceed the total increase in the taxpayer's employment in
21 this state, which increase shall be the difference between (i) the number
22 of employees employed by the subject insurance business in this state at
23 the time of application for an eligibility certificate to the commissioner
24 plus the number of new employees who would be eligible for inclusion
25 under the credit allowed under this section without regard to this
26 calculation, and (ii) the highest number of employees employed by the
27 subject insurance business in this state in the year preceding the subject
28 insurance business's application for an eligibility certificate to the
29 commissioner, and (B) a person shall be deemed to be a "new employee"
30 only if such person's duties in connection with the operation of the
31 facility are on a regular, full-time, or equivalent thereof, and permanent
32 basis;

33 (5) "New facility" means a facility [which] that (A) is acquired by,
34 leased to, or constructed by, a subject insurance business on or after the
35 date of the subject insurance business's application to the commissioner
36 for an eligibility certificate under this section, unless, upon application
37 of the subject insurance business and upon good and sufficient cause
38 shown, the commissioner waives the requirement that such activity take
39 place after the application, and (B) was not in service or use during the
40 one-year period immediately prior to the date of the subject insurance
41 business's application to [said] the commissioner for an eligibility
42 certificate under this section, unless upon application of the subject
43 insurance business and upon good and sufficient cause shown, the
44 commissioner consents to waiving the one-year period;

45 (6) "Related person" means (A) a corporation, limited liability
46 company, partnership, association or trust controlled by the taxpayer or

47 subject insurance business, as the case may be, (B) an individual,
48 corporation, limited liability company, partnership, association or trust
49 that is in control of the taxpayer or subject insurance business, as the
50 case may be, (C) a corporation, limited liability company, partnership,
51 association or trust controlled by an individual, corporation, limited
52 liability company, partnership, association or trust that is in control of
53 the taxpayer or subject insurance business, as the case may be, or (D) a
54 member of the same controlled group as the taxpayer or subject
55 insurance business, as the case may be. For purposes of this section,
56 "control", with respect to a corporation, means ownership, directly or
57 indirectly, of stock possessing fifty per cent or more of the total
58 combined voting power of all classes of the stock of such corporation
59 entitled to vote. "Control", with respect to a trust, means ownership,
60 directly or indirectly, of fifty per cent or more of the beneficial interest
61 in the principal or income of such trust. The ownership of stock in a
62 corporation, of a capital or profits interest in a partnership or association
63 or of a beneficial interest in a trust shall be determined in accordance
64 with the rules for constructive ownership of stock provided in Section
65 267(c) of the Internal Revenue Code of 1986, or any subsequent
66 corresponding internal revenue code of the United States, as from time
67 to time amended, other than paragraph (3) of Section 267(c) of said
68 [internal revenue] code;

69 (7) "Moneys of the taxpayer" means all amounts invested in a fund,
70 directly or indirectly, on behalf of a taxpayer, including, but not limited
71 to, (A) direct investments made by the taxpayer, and (B) loans made to
72 the fund for the benefit of the taxpayer which loans are guaranteed by
73 the taxpayer, provided no amounts represented by any such loan shall
74 be used for the purpose of obtaining any tax credit by any person
75 making such loan against any tax levied by this state;

76 (8) "Income year" means (A) with respect to corporations subject to
77 taxation under chapter 208, the income year as determined under said
78 chapter, (B) with respect to insurance companies, hospital service
79 corporations and medical service corporations subject to taxation under
80 chapter 207, the income year as determined under said chapter, and (C)

81 with respect to taxpayers subject to taxation under chapter 229, the
82 taxable year determined under chapter 229;

83 (9) "Taxpayer" means any person as defined in section 12-1, whether
84 or not subject to any taxes levied by this state; and

85 (10) "Commissioner" means the Commissioner of Economic and
86 Community Development.

87 (b) (1) On or before July 1, 2000, the commissioner shall register
88 managers of funds created for the purpose of investing in insurance
89 businesses. Any manager registered under this subsection shall have its
90 primary place of business in this state. Each applicant shall submit an
91 application under oath to the commissioner to be registered and shall
92 furnish evidence satisfactory to the commissioner of its financial
93 responsibility, integrity, and professional competence to manage
94 investments. Failure to maintain adequate fiduciary standards shall
95 constitute cause for the commissioner to revoke, after hearing, any
96 registration granted under this section. The fund manager shall make a
97 report on or before the first day of March in each year, under oath, to
98 the Commissioner of Revenue Services specifying the name, address
99 and Social Security number or employer identification number of each
100 investor, the year during which each investment was made by each
101 investor, the amount of each investment and a description of the fund's
102 investment objectives and relative performance.

103 (2) There shall be allowed as a credit against the tax imposed under
104 chapter 207, 208 or 229 or section 38a-743 an amount equal to the
105 following percentage of the moneys of the taxpayer invested through a
106 fund manager in an insurance business with respect to the following
107 income years of the taxpayer: (A) With respect to the income year in
108 which the investment in the subject insurance business was made and
109 the two next succeeding income years, zero per cent; (B) with respect to
110 the third full income year succeeding the year in which the investment
111 in the subject insurance business was made and the three next
112 succeeding income years, ten per cent; (C) with respect to the seventh

113 full income year succeeding the year in which the investment in the
114 subject insurance business was made and the two next succeeding
115 income years, twenty per cent. The sum of all tax [credit] credits granted
116 pursuant to the provisions of this subsection shall not exceed fifteen
117 million dollars with respect to investments made by a fund or funds in
118 any single insurance business, and with respect to all investments made
119 by a fund shall not exceed the total amount originally invested in such
120 fund. Any fund manager may apply to the Commissioner of Economic
121 and Community Development for a credit that exceeds the limitations
122 established by this subdivision. The commissioner shall evaluate the
123 benefits of such application and make recommendations to the General
124 Assembly if [he] the commissioner determines that the proposal would
125 be of economic benefit to the state.

126 (3) The credit allowed by this subsection may be claimed only by a
127 taxpayer who has invested in an insurance business through a fund that
128 (A) [which] has a total asset value of not less than thirty million dollars
129 for the income year for which the initial credit is taken; (B) has not less
130 than three investors who are not related persons with respect to each
131 other or to any insurance business in which any investment is made
132 other than through the fund at the date the investment is made; and (C)
133 [which] invests only in insurance businesses that are not related persons
134 with respect to each other.

135 (4) The credit allowed by this subsection may be claimed only with
136 respect to a subject insurance business [which] that (A) occupies the new
137 facility for which an eligibility certificate has been issued by the
138 commissioner and with respect to which the certification required under
139 subdivision (6) of this subsection has been issued as its home office, and
140 (B) employs not less than twenty-five per cent of its total work force in
141 new jobs.

142 (5) The credit allowed by this subsection may be claimed only with
143 respect to an income year for which a certification of continued
144 eligibility required under subdivision (6) of this subsection has been
145 issued. If, with respect to any year for which a tax credit is claimed, any

146 subject insurance business ceases at any time to employ at least twenty-
147 five per cent of its total work force in new jobs, then, except as provided
148 in subdivision (6) of this subsection, the entitlement to the credit allowed
149 by this subsection shall not be allowed for the taxable year in which such
150 employment ceases, and there shall not be a pro rata application of the
151 credit to such taxable year, [; provided,] except that if the reason for such
152 cessation is the dissolution, liquidation or reorganization of such
153 insurance business in a bankruptcy or delinquency proceeding, as
154 defined in section 38a-905, the credit shall be allowed.

155 (6) The commissioner, upon application, shall issue an eligibility
156 certificate for an insurance business occupying a new facility in this state
157 and employing new employees, after it has been established [,] to [his]
158 the commissioner's satisfaction [,] that subject insurance business has
159 complied with the provisions of this subsection. If the commissioner
160 determines that such requirements have been met as a result of
161 transactions with a related person for other than bona fide business
162 purposes, [he] the commissioner shall deny such application. The
163 commissioner shall require the subject insurance business to submit
164 annually such information as may be necessary to determine whether
165 the appropriate occupancy and employment requirements have been
166 met at all times during an income year. If the commissioner determines
167 that such requirements have been so met, [he] the commissioner shall
168 issue a certification of continued eligibility to that effect to the subject
169 insurance business on or before the first day of the third month
170 following the close of the subject insurance business's income year.

171 (7) The commissioner shall, upon request, provide a copy of the
172 eligibility certificate and the certification required under subdivision (6)
173 of this subsection to the Commissioner of Revenue Services.

174 (8) (A) If (i) the number of new employees on account of which a
175 taxpayer claimed the credit allowed by this subsection decreases to less
176 than twenty-five per cent of its total work force for more than sixty days
177 during any of the taxable years for which a credit is claimed, (ii) those
178 employees are not replaced by other employees who have not been

179 shifted from an existing location of the subject insurance business in this
180 state, and (iii) the subject insurance business has relocated operations
181 conducted in the new facility to a location outside this state, the taxpayer
182 shall be required to recapture a percentage, as determined under the
183 provisions of subparagraph (B) of this subdivision, of the credit allowed
184 under this subsection on its tax return and no subsequent credit shall be
185 allowed. If the credit claimed by the taxpayer under this subsection is
186 attributable to investments made in more than one insurance business,
187 the credit recaptured and disallowed under this subdivision shall be
188 that portion of the credit attributable to the investment in the insurance
189 business as described in subparagraphs (A)(i) to (A)(iii), inclusive, of
190 this subdivision.

191 (B) If the taxpayer is required under the provisions of subparagraph
192 (A) of this subdivision to recapture a portion of the credit during (i) the
193 first year such credit was claimed, then ninety per cent of the credit
194 allowed shall be recaptured on the tax return required to be filed for
195 such year, (ii) the second of such years, then sixty-five per cent of the
196 credit allowed for the entire period of eligibility shall be recaptured on
197 the tax return required to be filed for such year, (iii) the third of such
198 years, then fifty per cent of the credit allowed for the entire period of
199 eligibility shall be recaptured on the tax return required to be filed for
200 such year, (iv) the fourth of such years, then thirty per cent of the credit
201 allowed for the entire period of eligibility shall be recaptured on the tax
202 return required to be filed for such year, (v) the fifth of such years, then
203 twenty per cent of the credit allowed for the entire period of eligibility
204 shall be recaptured on the tax return required to be filed for such year,
205 and (vi) the sixth or subsequent of such years, then ten per cent of the
206 credit allowed for the entire period of eligibility shall be recaptured on
207 the tax return required to be filed for such year. Any credit recaptured
208 pursuant to this subdivision shall not be in excess of the credit that
209 would be allowed for the applicable investment. The Commissioner of
210 Revenue Services may recapture such credits from the taxpayer who has
211 claimed such credits. If the commissioner is unable to recapture all or
212 part of such credits from such taxpayer, the commissioner may seek to

213 recapture such credits from any taxpayer who has assigned such credits
214 to another taxpayer. If the commissioner is unable to recapture all or
215 part of such credits from any such taxpayer, the commissioner may
216 recapture such credits from the fund.

217 (C) The recapture provisions of this subdivision shall not apply and
218 tax credits may continue to be claimed under this subsection if, for the
219 entire period that the credit is applicable, such decrease in the
220 percentage of total work force employed in this state does not result in
221 an actual decrease in the number of persons employed by the subject
222 insurance business in this state on a regular, full-time, or equivalent
223 thereof, and permanent basis as compared to the number of new
224 employees on account of which the taxpayer claimed the credit allowed
225 by this subsection.

226 (c) (1) As used in this subsection:

227 (A) "Allocation date" means the date an invest CT fund receives an
228 investment of eligible capital equaling the amount of credits against the
229 tax imposed under chapter 207 and section 38a-743 allocated to
230 taxpayers who invest in such invest CT fund;

231 (B) "Cybersecurity business" means an eligible business primarily
232 engaged in providing information technology products, goods or
233 services intended to detect, prevent or respond to activity intended to
234 result in unauthorized access to, exfiltration of, manipulation of, or
235 impairment to the integrity, confidentiality or availability of an
236 information technology system or information stored on, or transiting,
237 an information technology system;

238 (C) "Eligible business" means a business that has its principal
239 business operations in Connecticut, has fewer than two hundred fifty
240 employees at the time of investment and not more than ten million
241 dollars in net income in the previous year;

242 (D) "Eligible capital" means an investment of cash by a taxpayer in an
243 invest CT fund that fully funds the purchase price of an equity interest

244 in the invest CT fund or an eligible debt instrument issued by an invest
245 CT fund, at par value or a premium, that (i) has an original maturity
246 date of at least five years after the date of issuance, (ii) has a repayment
247 schedule that is not faster than a level principal amortization over five
248 years, and (iii) has no interest, distribution or payment features tied to
249 the invest CT fund's profitability or the success of the investments;

250 (E) "Green technology business" means an eligible business with not
251 less than twenty-five per cent of its employment positions being
252 positions in which green technology is employed or developed and may
253 include the occupation codes identified as green jobs by the Department
254 of Economic and Community Development and the Labor Department
255 for such purposes;

256 (F) "Income year" means the income year as determined [in] under
257 chapter 207 for the taxpayer;

258 (G) "Invest CT fund" means a Connecticut partnership, corporation,
259 trust or limited liability company, whether organized on a profit or not-
260 for-profit basis, that (i) is managed by at least two principals or persons
261 that have at least four years of experience each in managing venture
262 capital or private equity funds, with at least fifty million dollars of such
263 funds from people unaffiliated with the manager, (ii) has received an
264 equity investment of capital other than eligible capital equal to no less
265 than five per cent of the total amount of the eligible capital to be invested
266 in such invest CT fund on or before June 30, 2015, and equal to not less
267 than ten per cent of the total amount of eligible capital to be invested in
268 such invest CT fund on or after September 1, 2015, and (iii) is not, or will
269 not be after the receipt of eligible capital, controlled by or under
270 common control with, one or more insurance companies. An investment
271 of eligible capital shall not result in insurance company control unless
272 such investment exceeds forty million dollars per taxpayer and results
273 in insurance companies having the right to vote more than fifty per cent
274 of the equity interests of the invest CT fund cash invested in such invest
275 CT fund, provided this provision shall not prohibit the interim control
276 of an invest CT fund by one or more insurance companies upon a breach

277 of any payment obligation of the invest CT fund or contractual or other
278 agreement by the invest CT fund that is designed to ensure compliance
279 with this section; and

280 (H) "Principal business operations" means at least eighty per cent of
281 the business organization's employees reside in the state or eighty per
282 cent of the business payroll is paid to individuals living in this state.

283 (2) A taxpayer that makes an investment of eligible capital shall, in
284 the year of investment, earn a vested credit against the premium tax
285 imposed pursuant to chapter 207 and section 38a-743. Such credit shall
286 be available as follows:

287 (A) With respect to investments of eligible capital made on or before
288 June 30, 2015, (i) commencing with the tax return due for the first to
289 third, inclusive, tax years, zero per cent; (ii) commencing with the tax
290 return due for the fourth to seventh, inclusive, tax years, not more than
291 ten per cent; and (iii) commencing with the tax return due for the eighth
292 to tenth, inclusive, tax years, not more than twenty per cent; and (B) with
293 respect to investments of eligible capital made on or after September 1,
294 2015, (i) commencing with the tax return due for the first to fifth,
295 inclusive, tax years, zero per cent; and (ii) commencing with the tax
296 return due for the sixth to tenth, inclusive, tax years, not more than
297 twenty per cent. The maximum amount of eligible capital for which
298 credits may be allowed under this subsection shall not result in more
299 than forty million dollars of tax credits being used in any one year
300 exclusive of any carried forward credits and no fund shall apply for
301 more than the total amount of credits available under this section.

302 (3) (A) (i) On or before July 1, 2010, the Commissioner of Economic
303 and Community Development shall begin to accept applications for
304 certification as an invest CT fund and for allocations of tax credits under
305 this subsection with allocation dates of June 30, 2015, or earlier.

306 (ii) On and after September 1, 2015, the commissioner shall accept
307 applications for certification as an invest CT fund and for allocations of
308 tax credits under this subsection with allocation dates of September 1,

309 2015, or later.

310 (B) Applications shall include:

311 [(A)] (i) The amount of eligible capital the applicant will raise;

312 [(B) a] (ii) A nonrefundable application fee of seven thousand five
313 hundred dollars;

314 [(C) evidence] (iii) Evidence of satisfaction of the requirements of the
315 definition of "invest CT fund" pursuant to subparagraph (G) of
316 subdivision (1) of this subsection;

317 [(D) an] (iv) An affidavit by each taxpayer committing an investment
318 of eligible capital;

319 [(E) a] (v) A business plan detailing [(i)] (I) the approximate
320 percentage of eligible capital the applicant will invest in eligible
321 businesses by the third, fifth, seventh and ninth anniversaries of its
322 allocation date, [(ii)] (II) the industry segments listed by the North
323 American Industrial Classification System code and percentage of
324 eligible capital in which the applicant will invest, [(iii)] (III) the number
325 of jobs that will be created or retained as a result of the applicant's
326 investments once all eligible capital has been invested, [(iv)] (IV) the
327 percentage of eligible capital to be invested in eligible businesses
328 primarily engaged in conducting research and development or
329 manufacturing, processing or assembling technology-based products,
330 and [(v)] (V) a revenue impact assessment demonstrating that the
331 applicant's business plan has a revenue neutral or positive impact on the
332 state;

333 [(F) a] (vi) A commitment to invest at least twenty-five per cent of its
334 eligible capital in green technology businesses;

335 [(G) with] (vii) With respect to applications submitted on or before
336 June 30, 2015, a commitment to invest, by the third anniversary of its
337 allocation date, three per cent of its eligible capital in preseed
338 investments, and with respect to applications submitted on or after

339 September 1, 2015, a commitment to invest, by the fourth anniversary of
340 the allocation date, seven per cent of its eligible capital in preseed
341 investments, in consultation with Connecticut Innovations,
342 Incorporated, pursuant to the corporation's program for preseed
343 financing established pursuant to section 32-41x; [and]

344 [(H) with] (viii) With respect to applications submitted on or after
345 September 1, 2015, and before September 1, 2020, a commitment to
346 invest at least three per cent of its eligible capital in cybersecurity
347 businesses and at least twenty-five per cent of its eligible capital in
348 eligible businesses located in municipalities with a population greater
349 than eighty thousand. The commissioner may require the applicant to
350 obtain a revenue impact assessment conducted by an independent third
351 party; and

352 (ix) With respect to applications submitted on or after September 1,
353 2020, a commitment to invest at least twenty-five per cent of its eligible
354 capital in eligible businesses located in municipalities with a population
355 greater than eighty thousand.

356 (4) Applications for tax credits pursuant to this subsection shall be
357 accepted and approved on a first-come, first-served basis with all
358 applications received on the same date deemed to be received
359 simultaneously and approvals being made on a pro rata basis if such
360 applications exceed the amount of remaining credits.

361 (5) The commissioner shall issue an allocation of credits subject to
362 confirmation by the fund on a form prescribed by the commissioner that
363 an investment of eligible capital was received within five business days.
364 If an invest CT fund does not receive an investment of eligible capital
365 equaling the amount of credits against the tax imposed under chapter
366 207 and section 38a-743 allocated to a taxpayer, for which it filed an
367 affidavit with its application prior to the fifth business day after receipt
368 of certification, the invest CT fund shall notify the commissioner by
369 overnight common carrier delivery service and that portion of eligible
370 capital allocated to the insurance company shall be forfeited. Such invest

371 CT fund and forfeiting taxpayer shall each be assessed a twenty-five-
372 thousand-dollar administrative penalty. The commissioner shall
373 reallocate the forfeited eligible capital among all other remaining
374 taxpayers that invested eligible capital.

375 (6) (A) To continue to be certified, an invest CT fund shall:

376 ~~[(A) be]~~ (i) Be in compliance with the investment parameters set forth
377 in its business plan, provided an invest CT fund may apply to the
378 commissioner to amend its business plan based on unavoidable or
379 reasonably unanticipated changes to various conditions, including, but
380 not limited to, the general economic climate of the state or particular
381 sectors of the economy, technological advances and high employment
382 and revenue growth opportunities, with approval for such changes not
383 to be unreasonably withheld by the commissioner;

384 ~~[(B) be]~~ (ii) Be in compliance with the revenue impact assessment
385 provided in the application demonstrating that the fund's business plan
386 continues to have a revenue neutral or positive impact on the state;

387 ~~[(C) have]~~ (iii) Have invested one hundred per cent of its eligible
388 capital in eligible businesses by the tenth anniversary of its allocation
389 date, with a minimum of twenty-five per cent of eligible capital invested
390 in green technology businesses;

391 ~~[(D) for]~~ (iv) For allocation dates of June 30, 2015, or earlier: ~~[(i)]~~ (I)
392 Have invested sixty per cent of its eligible capital in eligible businesses
393 by the fourth anniversary of such allocation date, and ~~[(ii)]~~ (II) have
394 invested a minimum of three per cent of such eligible capital in preseed
395 investments, as described in subdivision (3) of this subsection, by the
396 third anniversary of such allocation date; ~~[and]~~

397 ~~[(E) for]~~ (v) For allocation dates of September 1, 2015, or later and
398 before September 1, 2020: ~~[(i)]~~ (I) Have invested sixty per cent of its
399 eligible capital in eligible businesses by the sixth anniversary of such
400 allocation date, ~~[(ii)]~~ (II) have invested a minimum of seven per cent of
401 its eligible capital in preseed investments, as described in subdivision

402 (3) of this subsection, by the fourth anniversary of such allocation date,
403 [(iii)] (III) have invested a minimum of three per cent of its eligible
404 capital in cybersecurity businesses, and [(iv)] (IV) have invested a
405 minimum of twenty-five per cent of its eligible capital in eligible
406 businesses located in municipalities with a population greater than
407 eighty thousand; and

408 (vi) For allocation dates of September 1, 2020, or later: (I) Have
409 invested sixty per cent of its eligible capital in eligible businesses by the
410 sixth anniversary of such allocation date, (II) have invested a minimum
411 of seven per cent of its eligible capital in preseed investments, as
412 described in subdivision (3) of this subsection, by the fourth anniversary
413 of such allocation date, and (III) have invested a minimum of twenty-
414 five per cent of its eligible capital in eligible businesses located in
415 municipalities with a population greater than eighty thousand.

416 (B) An invest CT fund shall only invest eligible capital in eligible
417 businesses, bank deposits, certificates of deposit or other fixed income
418 securities and may not invest more than fifteen per cent of its eligible
419 capital in any one eligible business without prior approval of the
420 commissioner. The commissioner may approve a request to consider a
421 business as eligible that does not meet eligibility requirements in order
422 to achieve significant job creation or other substantial economic impact
423 to the state, as both are determined by the commissioner.

424 (7) Not later than January thirty-first annually, each invest CT fund
425 shall report to the commissioner: (A) The amount of eligible capital
426 remaining at the end of the preceding year; (B) each investment in an
427 eligible business during the preceding year and, with respect to each
428 eligible business, its location and North American Industrial
429 Classification System code; (C) the percentage of eligible capital
430 invested in green technology businesses, preseed investments,
431 cybersecurity businesses and eligible businesses located in
432 municipalities with a population greater than eighty thousand; and (D)
433 distributions made by the invest CT fund in the preceding year. In the
434 annual report due in the third, fifth, seventh and ninth years after its

435 allocation date, each invest CT fund shall also report to the
436 commissioner its compliance with the investment parameters set forth
437 in its business plan and the revenue impact assessment provided in the
438 application demonstrating that the fund's business plan continues to
439 have a revenue neutral or positive impact on the state. Each invest CT
440 fund shall provide to the commissioner annual audited financial
441 statements.

442 (8) ~~(A)~~ To make a distribution or payment, an invest CT fund certified
443 by the commissioner on or before June 30, 2015, must have invested one
444 hundred per cent of its eligible capital in eligible businesses, with a
445 minimum of twenty-five per cent of eligible capital invested in green
446 technology businesses and a minimum of three per cent of eligible
447 capital invested in preseed investment, as described in subdivision (3)
448 of this subsection, with principal business operations in this state at the
449 time of such determination, except:

450 [(A)] ~~(i)~~ Distributions related to the payment of any projected increase
451 in federal or state taxes, including penalties and interest related to state
452 and federal income taxes, of the equity owners of the invest CT fund
453 resulting from the earnings or other tax liability of the invest CT fund to
454 the extent that the increase is related to the ownership, management or
455 operation of the invest CT fund;

456 [(B) payments] ~~(ii)~~ Payments of interest and principal on the debt of
457 the invest CT fund, provided after such payment, the invest CT fund
458 still has cash and other marketable securities in an amount that, when
459 added to the cumulative investments it has made in eligible recipients,
460 equals not less than sixty per cent of the eligible capital invested in such
461 reinvestment fund; or

462 [(C) payments] ~~(iii)~~ Payments related to the reasonable costs and
463 expenses of forming, syndicating, managing and operating the fund,
464 provided the distribution or payment is not made directly or indirectly
465 to an insurance company that has invested eligible capital in the invest
466 CT fund, including: [(i)] ~~(I)~~ Reasonable and necessary fees paid for

467 professional services, including legal and accounting services, related to
468 the formation and operation of the invest CT fund, [;] and [(ii)] (II) an
469 annual management fee in an amount that does not exceed two and one-
470 half per cent of the eligible capital of the invest CT fund.

471 (B) The state shall receive a share of any distribution, except as set
472 forth in [subparagraphs (A), (B) and (C)] subparagraph (A)(i), (A)(ii)
473 and (A)(iii) of this subdivision and distributions made to return any
474 equity capital invested in the invest CT fund that is not eligible capital,
475 in the following percentages: [(I)] (i) Ten per cent when less than eighty
476 per cent but more than sixty per cent of the jobs set forth in the invest
477 CT fund's business plan are created or retained, and [(II)] (ii) twenty per
478 cent when sixty per cent or less of the jobs set forth in the invest CT
479 fund's business plan are created or retained.

480 (9) (A) To make a distribution or payment, an invest CT fund certified
481 by the commissioner on or after September 1, 2015, and before
482 September 1, 2020, must have invested one hundred per cent of its
483 eligible capital in eligible businesses, with a minimum of twenty-five
484 per cent of eligible capital invested in green technology businesses, a
485 minimum of seven per cent of eligible capital invested in preseed
486 investments, as described in subdivision (3) of this subsection, a
487 minimum of three per cent of eligible capital invested in cybersecurity
488 businesses, and a minimum of twenty-five per cent of eligible capital
489 invested in businesses located in municipalities with a population
490 greater than eighty thousand, with principal business operations in this
491 state at the time of such determination, except:

492 [(A)] (i) Distributions related to the payment of any projected increase
493 in federal or state taxes, including penalties and interest related to state
494 and federal income taxes, of the equity owners of the invest CT fund
495 resulting from the earnings or other tax liability of the invest CT fund to
496 the extent that the increase is related to the ownership, management or
497 operation of the invest CT fund;

498 [(B) payments] (ii) Payments of interest and principal on the debt of

499 the invest CT fund, provided after such payment, the invest CT fund
 500 still has cash and other marketable securities in an amount that, when
 501 added to the cumulative investments it has made in eligible recipients,
 502 equals not less than sixty per cent of the eligible capital invested in such
 503 reinvestment fund; or

504 [(C) payments] (iii) Payments related to the reasonable costs and
 505 expenses of forming, syndicating, managing and operating the fund,
 506 provided the distribution or payment is not made directly or indirectly
 507 to an insurance company that has invested eligible capital in the invest
 508 CT fund, including: [(i)] (I) Reasonable and necessary fees paid for
 509 professional services, including legal and accounting services, related to
 510 the formation and operation of the invest CT fund, [;] and [(ii)] (II) an
 511 annual management fee in an amount that does not exceed two and one-
 512 half per cent of the eligible capital of the invest CT fund.

513 (B) The state shall receive a share of any distribution, except as set
 514 forth in [subparagraphs (A), (B) and (C)] subparagraph (A)(i), (A)(ii)
 515 and (A)(iii) of this subdivision and distributions made to return any
 516 equity capital invested in the invest CT fund that is not eligible capital,
 517 in the following percentages: [(I)] (i) Ten per cent when less than eighty
 518 per cent but more than sixty per cent of the jobs set forth in the invest
 519 CT fund's business plan are created or retained, and [(II)] (ii) twenty per
 520 cent when sixty per cent or less of the jobs set forth in the invest CT
 521 fund's business plan are created or retained.

522 (10) (A) To make a distribution or payment, an invest CT fund
 523 certified by the commissioner on or after September 1, 2020, must have
 524 invested one hundred per cent of its eligible capital in eligible
 525 businesses, with a minimum of twenty-five per cent of eligible capital
 526 invested in green technology businesses, a minimum of seven per cent
 527 of eligible capital invested in preseed investments, as described in
 528 subdivision (3) of this subsection and a minimum of twenty-five per cent
 529 of eligible capital invested in businesses located in municipalities with
 530 a population greater than eighty thousand, with principal business
 531 operations in this state at the time of such determination, except:

532 (i) Distributions related to the payment of any projected increase in
533 federal or state taxes, including penalties and interest related to state
534 and federal income taxes, of the equity owners of the invest CT fund
535 resulting from the earnings or other tax liability of the invest CT fund to
536 the extent that the increase is related to the ownership, management or
537 operation of the invest CT fund;

538 (ii) Payments of interest and principal on the debt of the invest CT
539 fund, provided after such payment, the invest CT fund still has cash and
540 other marketable securities in an amount that, when added to the
541 cumulative investments it has made in eligible recipients, equals not less
542 than sixty per cent of the eligible capital invested in such reinvestment
543 fund; or

544 (iii) Payments related to the reasonable costs and expenses of
545 forming, syndicating, managing and operating the fund, provided the
546 distribution or payment is not made directly or indirectly to an
547 insurance company that has invested eligible capital in the invest CT
548 fund, including: (I) Reasonable and necessary fees paid for professional
549 services, including legal and accounting services, related to the
550 formation and operation of the invest CT fund, and (II) an annual
551 management fee in an amount that does not exceed two and one-half
552 per cent of the eligible capital of the invest CT fund.

553 (B) The state shall receive a share of any distribution, except as set
554 forth in subparagraph (A)(i), (A)(ii) and (A)(iii) of this subdivision and
555 distributions made to return any equity capital invested in the invest CT
556 fund that is not eligible capital, in the following percentages: (i) Ten per
557 cent when less than eighty per cent but more than sixty per cent of the
558 jobs set forth in the invest CT fund's business plan are created or
559 retained, and (ii) twenty per cent when sixty per cent or less of the jobs
560 set forth in the invest CT fund's business plan are created or retained.

561 [(10)] (11) The commissioner shall review each annual report to
562 ensure compliance with subdivisions (6), (7), (8), [and] (9) and (10) of
563 this subsection. A material variation from subdivision (6), (7), (8), [or]

564 (9) or (10) of this subsection is grounds for decertification of the invest
565 CT fund. If the commissioner determines that an invest CT fund is not
566 in compliance with subdivision (6), (7), (8), ~~[or] (9) or (10)~~ of this
567 subsection or the investment parameters of its business plan, the
568 commissioner shall notify the officers of the invest CT fund, in writing,
569 that the invest CT fund may be subject to decertification after the one
570 hundred twentieth day after the date of mailing the notice, unless the
571 deficiencies are waived by the commissioner or are corrected and the
572 invest CT fund returns to compliance with subdivisions (6), (7), (8),
573 ~~[and] (9) and (10)~~ of this subsection.

574 ~~[(11)] (12)~~ Decertification of an invest CT fund shall cause the
575 forfeiture of future credits against the tax imposed by chapter 207 and
576 section 38a-743 to be claimed with respect to an invest CT fund when
577 (A) such decertification occurs on or before the fourth anniversary of an
578 allocation date of June 30, 2015, or earlier, or on or before the sixth
579 anniversary of an allocation date of September 1, 2015, or later, and (B)
580 such fund has invested less than sixty per cent of its eligible capital in
581 eligible businesses by said anniversary. The commissioner shall send
582 written notice to the last-known address of each taxpayer whose credit
583 against the tax imposed by chapter 207 is subject to recapture or
584 forfeiture.

585 (d) ~~(1)~~ The tax ~~[credit]~~ credits allowed by this section shall only be
586 available for investments ~~[(1)] (A)~~ in funds that are not open to
587 additional investments or investors beyond the amount subscribed at
588 the formation of the fund, or ~~[(2)] (B)~~ under subsection (c) of this section,
589 in invest CT funds that are not open to additional investments or
590 investors after submission of the invest CT fund's application to the
591 commissioner pursuant to subsection (c) of this section.

592 ~~(2)~~ On and after June 30, 2010, no eligibility certificate shall be
593 provided under subdivision (6) of subsection (b) of this section for
594 investments made in an insurance business.

595 ~~(3)~~ On or after July 1, 2011, no credit shall be allowed under

596 subdivision (2) or (6) of subsection (b) of this section for an investment
597 of less than one million dollars for which the commissioner has issued
598 an eligibility certificate. A fund manager who has received an eligibility
599 certificate but is not yet eligible to receive a certificate of continued
600 eligibility shall provide documentation satisfactory to the commissioner
601 not later than June 30, 2011, of its investment of one million dollars or
602 more. Such documentation shall include, but is not limited to, cancelled
603 checks, wire transfers, investment agreements or other documentation
604 as the commissioner may request. On and after July 1, 2011, the
605 commissioner shall revoke the certificate of eligibility for any insurance
606 business for which its fund manager failed to provide sufficient
607 documentation of [said] such investment of not less than one million
608 dollars.

609 (4) Any credit allowed under subsection (b) or subsection (g) of this
610 section that has not been claimed prior to January 1, 2010, may be carried
611 forward pursuant to subsection (i) of this section.

612 (e) The maximum amount of credit allowed under subsection (c) of
613 this section shall be [three] five hundred fifty million dollars in
614 aggregate and forty million dollars per year.

615 (f) (1) The Commissioner of Revenue Services may treat one or more
616 corporations that are properly included in a combined unitary tax return
617 under section 12-222 as one taxpayer in determining whether the
618 appropriate requirements under this section are met. Where
619 corporations are treated as one taxpayer for purposes of this subsection,
620 then the credit shall be allowed only against the amount of the combined
621 unitary tax for all corporations properly included in a combined unitary
622 tax return that, under the provisions of subdivision (2) of this
623 subsection, is attributable to the corporations treated as one taxpayer.

624 (2) The amount of the combined unitary tax for all corporations
625 properly included in a combined unitary tax return that is attributable
626 to the corporations that are treated as one taxpayer under the provisions
627 of this subsection shall be in the same ratio to such combined unitary tax

628 that the net income apportioned to this state of each corporation treated
629 as one taxpayer bears to the net income apportioned to this state, in the
630 aggregate, of all corporations included in such combined unitary tax
631 return. Solely for the purpose of computing such ratio, any net loss
632 apportioned to this state by a corporation treated as one taxpayer or by
633 a corporation included in such combined unitary tax return shall be
634 disregarded.

635 (g) (1) Any taxpayer allowed a credit under subsection (b) of this
636 section may assign such credit to another person, provided such person
637 may claim such credit only with respect to a calendar year for which the
638 assigning taxpayer would have been eligible to claim such credit. The
639 fund manager shall include in the report filed with the Commissioner
640 of Revenue Services in accordance with subdivision (1) of subsection (b)
641 of this section information requested by the commissioner regarding
642 such assignments including the current holders of credits as of the end
643 of the preceding calendar year.

644 (2) Any taxpayer allowed a credit under subsection (c) of this section
645 may sell, assign or otherwise transfer such credit, in whole or in part, to
646 one or more taxpayers, provided no such transferee may claim such
647 credit for an income year other than the transferee's income year in
648 which such transferee bought, was assigned or was otherwise
649 transferred such credit.

650 (h) No taxpayer shall be eligible for a credit under this section and
651 [either] section 12-217e [or section 12-217m] for the same investment. No
652 two taxpayers shall be eligible for any tax credit with respect to the same
653 investment, employee or facility.

654 (i) Any tax credit that is not sold, assigned or otherwise transferred
655 pursuant to subdivision (2) of subsection (g) of this section and is not
656 used in the income year for which it was allowed may be carried
657 forward for the five immediately succeeding income years until the full
658 credit has been claimed.

659 (j) The commissioner, with the approval of the Commissioner of

660 Revenue Services and the Secretary of the Office of Policy and
661 Management, may adopt regulations in accordance with chapter 54 to
662 carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>July 1, 2020</i>	38a-88a
-----------	---------------------	---------

Statement of Purpose:

To specify investment requirements for invest CT funds to be eligible for certification by the Commissioner of Economic and Community Development and increase the aggregate amount of tax credits allowed under the program.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]