

House Bill 718

By: Representatives Peake of the 137th, Lindsey of the 54th, Sheldon of the 105th, Stephens of the 164th, Williamson of the 111th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 Department of Economic Development, so as to create the Georgia Capital Acceleration
3 Authority; so as to provide for legislative findings; to provide for definitions; to provide for
4 a program administrator; to provide for the issuance of premium tax credits to insurance
5 companies or holding companies that purchase such credits to offset liability for state
6 insurance premium taxes; to provide for reports; to provide for related matters; to provide for
7 an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Chapter 7 of Title 50 of the Official Code of Georgia Annotated, relating to the Department
11 of Economic Development, is amended by adding a new article, to read as follows:

12 "ARTICLE 8

13 50-7-90.

14 The General Assembly declares that its purpose in enacting this legislation is to increase
15 the amount of private investment capital available in this state for Georgia based business
16 enterprises in the seed, early, or growth stages of business development and requiring
17 funding, as well as established Georgia based business enterprises developing new methods
18 or technologies, including the promotion of research and development purposes, thereby
19 increasing employment, creating additional wealth, and otherwise benefiting the economic
20 welfare of the people of this state. Accordingly, it is the intention of the General Assembly
21 that the Georgia Capital Acceleration Authority make investments in support of Georgia
22 based business enterprises in accordance with the investment policy authorized and
23 required under this article and focus its investment policy principally on venture capital
24 funds and private equity organizations investing in Georgia based business enterprises.

25 50-7-91.

26 As used in this article, the term:

27 (1) 'Affiliate' means:

28 (A) A person who, directly or indirectly, beneficially owns, controls, or holds power
29 to vote any outstanding voting securities or other voting ownership interests of a
30 venture firm or an insurance company; or

31 (B) A person whose outstanding voting securities or other voting ownership interests
32 are directly or indirectly beneficially owned, controlled, or held with power to vote by
33 a venture firm or an insurance company.

34 The term does not include an insurance company that becomes a purchaser in accordance
35 with an allocation of investment tax credits under this article solely by reason of the
36 allocation.

37 (2) 'Authority' means the Georgia Capital Acceleration Authority created under Code
38 Section 50-7-92.

39 (3) 'Contributed capital' means the amount of money contributed to the Georgia Capital
40 Acceleration Fund for the purchase of insurance premium tax credits.

41 (4) 'Department' means the Department of Economic Development.

42 (5) 'Designated capital' means the amount of money committed and invested by the
43 Georgia Capital Acceleration Fund into individual early stage venture capital funds or
44 growth stage venture capital funds.

45 (6) 'Early stage venture capital fund' means:

46 (A) A fund that has at least one principal employed to direct the investment of the
47 designated capital;

48 (B) A fund whose principals have at least five years of experience in the venture
49 capital, angel capital, or private equity sector by investing primarily in Georgia
50 domiciled companies or a fund whose managers have been based, as defined by having
51 a principal office, in the State of Georgia for at least five years prior to the effective
52 date of this article;

53 (C) At the discretion of the program administrator and the authority, one or more early
54 stage venture capital funds that are first-time Georgia based funds, so long as the fund
55 managers have at least five years of experience in venture capital or angel capital
56 investing in Georgia based business enterprises; and

57 (D) A fund of which the primary investment strategy must be the achievement of
58 transformational economic development outcomes through focused investments of
59 capital in seed or early stage businesses with high growth potential. The fund principals
60 must have demonstrated the ability to lead investment rounds, advise and mentor
61 entrepreneurs, and facilitate follow-on investments. A minimum of 10 percent of the

62 committed capital of the fund must be committed by the institutional investors, fund
63 principals, or other accredited investors.

64 (7) 'Growth stage venture capital fund' means:

65 (A) A fund having its principal office and a majority of its employees in Georgia that
66 has at least two principals employed to direct the investment of the designated capital:

67 (B) A fund whose principals have at least five years of experience in the venture
68 capital, angel capital, or private equity sector by investing primarily in Georgia
69 domiciled companies or a fund whose principals have been based, as defined by having
70 a principal office, in the State of Georgia for at least five years prior to the effective
71 date of this article; and

72 (C) A fund which has as its primary investment strategy the achievement of
73 transformational economic development outcomes through focused investments of
74 capital in growth stage businesses with high return potential. The fund principals must
75 have demonstrated the ability to lead investment rounds, advise and mentor
76 entrepreneurs, and facilitate follow-on investments. A minimum of 50 percent of the
77 committed capital of the fund must be committed by the institutional investors, fund
78 principals, or other accredited investors.

79 (8) 'Insurance premium tax credit' means a credit against insurance premium tax liability
80 offered to a purchaser under Code Section 50-7-98.

81 (9) 'Insurance premium tax liability' means any liability incurred under Code Sections
82 33-3-26 and 33-8-4; provided, however, that any insurance premium tax liability incurred
83 under the provisions of Code Section 47-7-61, relating to fire, lightning, or extended
84 coverage, inland marine or allied lines, or windstorm coverage, shall not be offset by any
85 insurance premium tax credits issued under this article.

86 (10) 'Program administrator' means a state appointed investment advisory firm consisting
87 of experienced investment professionals that will actively pursue investment
88 opportunities for the State of Georgia. The investment advisory firm will evaluate and
89 select Georgia based venture capital funds, in conjunction with the Georgia Capital
90 Acceleration Authority, through a rigorous due diligence process.

91 (11) 'Purchaser' means:

92 (A) An insurance company that:

93 (i) Is authorized to do business in Georgia;

94 (ii) Has insurance premium tax liability; and

95 (iii) Pays contributed capital to purchase an allocation of premium tax credits under
96 this article; or

97 (B) A holding company that:

- 98 (i) Has at least one insurance company subsidiary authorized to do business in
99 Georgia; and
- 100 (ii) Pays contributed capital on behalf of one or more of these subsidiaries.
- 101 (12) 'Qualified distribution' means any distribution or payment by the Georgia Capital
102 Acceleration Fund in connection with any of the following:
- 103 (A) Costs and expenses of forming, syndicating, and organizing the Georgia Capital
104 Acceleration Fund, including fees paid for professional services, and the costs of
105 financing and insuring the obligations of the Georgia Capital Acceleration Fund,
106 provided such payments are not made to a participating investor;
- 107 (B) An annual management fee in accordance with a fund's partnership agreement and
108 consistent with the fund's other private investors, to offset the costs and expenses of
109 managing and operating the Georgia Capital Acceleration Fund; or
- 110 (C) Reasonable and necessary fees in accordance with industry custom for ongoing
111 professional services, including, but not limited to, legal and accounting services related
112 to the operation of the Georgia Capital Acceleration Fund, but not including any
113 lobbying or governmental relations.
- 114 (13) 'Qualified early stage' or 'seed' business means a business that, at the time of the
115 first investment in the business by a venture firm:
- 116 (A) Has its headquarters located in the State of Georgia;
- 117 (B) Has its principal business operations located in the State of Georgia and intends to
118 maintain its principal business operations in the state after receiving an investment from
119 the venture capital firm. In order to discourage the business from relocating outside
120 Georgia within three years from the date of an initial investment, the investment in the
121 business shall be subject to redemption by the venture capital firm within one year from
122 the time the business relocates its principal business operations outside the state, unless
123 the business maintains a significant presence in Georgia as determined by relative
124 number of employees or relative assets remaining in Georgia following the relocation;
- 125 (C) Has 20 or fewer employees;
- 126 (D) Has a current gross annual revenue run rate of less than \$1 million;
- 127 (E) Has not obtained during its existence more than \$2 million in aggregate cash
128 proceeds from the issuance of its equity or debt investments, not including commercial
129 loans from chartered banks or savings and loan institutions; and
- 130 (F) Does not engage substantially in:
- 131 (i) Retail sales;
- 132 (ii) Real estate development or construction;
- 133 (iii) Entertainment, amusement, recreation, or athletic or fitness activity for which an
134 admission is charged;

135 (iv) The business of insurance, banking, lending, financial, brokerage, or investment
 136 activities;

137 (v) Natural resource extraction, including but not limited to oil, gas, or biomass; or

138 (vi) The provision of professional services by accountants, attorneys, or physicians.

139 A business classified as a qualified early stage business at the time of the first qualified
 140 investment in the business will remain classified as a qualified early stage business and
 141 may receive continuing qualified investments from venture capital firms participating in
 142 the Georgia Capital Acceleration Fund. Continuing investments will constitute qualified
 143 investments even though the business may not meet the definition of a qualified early
 144 stage business at the time of such continuing investments.

145 (14) 'Qualified growth stage business' means a business that, at the time of the first
 146 investment in the business by a venture firm:

147 (A) Has its headquarters located in the State of Georgia;

148 (B) Is either a corporation, limited liability company, or a general or limited
 149 partnership located in this state;

150 (C) Has its principal business operations located in the State of Georgia and intends to
 151 maintain its principal business operations in the state after receiving an investment from
 152 the venture capital firm. In order to discourage the business from relocating outside
 153 Georgia within three years from the date of initial investment, the investment in the
 154 business shall be subject to redemption by the venture capital firm within one year from
 155 the time the business relocates its principal business operations outside the state, unless
 156 the business maintains a significant presence in Georgia as determined by relative
 157 number of employees or relative assets remaining in Georgia;

158 (D) Has 100 or fewer employees;

159 (E) Has a current gross annual revenue run rate of greater than \$1 million; and

160 (F) Does not engage substantially in:

161 (i) Retail sales;

162 (ii) Real estate development or construction;

163 (iii) Entertainment, amusement, recreation, or athletic or fitness activity for which an
 164 admission is charged;

165 (iv) The business of insurance, banking, lending, financial, brokerage, or investment
 166 activities;

167 (v) Natural resource extraction, including but not limited to oil, gas, or biomass; or

168 (vi) The provision of professional services by accountants, attorneys, or physicians.

169 A business classified as a qualified growth stage business at the time of the first qualified
 170 investment in the business will remain classified as a qualified growth stage business and
 171 may receive continuing qualified investments from venture capital funds participating in

172 the Georgia Capital Acceleration Fund. Continuing investments will constitute qualified
173 investments even though the business may not meet the definition of a qualified growth
174 stage business at the time of such continuing investments.

175 (15) 'Qualified investment' means the investment of money by the Georgia Capital
176 Acceleration Fund in each early or growth stage venture capital fund selected by the
177 program administrator.

178 50-7-92.

179 (a) There is hereby created the Georgia Capital Acceleration Authority, which shall
180 exercise the powers and perform the duties prescribed by this article. The exercise by the
181 authority of its powers and duties is hereby declared to be an essential state governmental
182 function. The authority is subject to all laws generally applicable to state agencies and
183 public officials, to the extent those laws do not conflict with the provisions of this article.

184 (b) The authority shall consist of three members appointed by the Governor, one member
185 appointed by the Lieutenant Governor, and one member appointed by the Speaker of the
186 House of Representatives. Each appointed member shall be a resident of Georgia and shall
187 have experience in at least one of the following areas:

188 (1) Early stage, angel, or venture capital investing;

189 (2) Growth stage venture capital investing;

190 (3) Fund of funds management; or

191 (4) Entrepreneurship.

192 No member of the authority shall be affiliated in any way with any venture capital fund that
193 is selected to perform services for the authority.

194 (c) The commissioner of economic development, revenue commissioner, and Insurance
195 Commissioner or their designees shall serve as nonvoting members of the authority.

196 (d) Initial appointees to the authority shall serve staggered terms, with all of the initial
197 terms beginning on January 1, 2013. The terms of one member appointed by the Governor
198 and the members appointed by the Lieutenant Governor and the Speaker of the House of
199 Representatives shall expire on December 31, 2015. The terms of the other two initial
200 appointments by the Governor shall expire on December 31, 2017. Thereafter, terms of
201 office for all appointees shall be for four years, with each term ending on the same day of
202 the same month as did the term that it succeeds. A vacancy on the authority shall be filled
203 in the same manner as the original appointment, except that a person appointed to fill a
204 vacancy shall be appointed to the remainder of the unexpired term. Any appointed member
205 of the authority is eligible for reappointment.

206 (e) A member of the authority may be removed by the member's appointing official for
207 misfeasance, willful neglect of duty, or other cause, after notice and a public hearing,
208 unless the notice and hearing are waived in writing by the member.

209 (f) Members of the authority shall serve without compensation, The Governor shall
210 designate a member of the authority to serve as chairperson. A majority of the voting
211 members of the authority constitutes a quorum, and the affirmative vote of a majority of
212 the voting members present is necessary for any action taken by the authority. A vacancy
213 in the membership of the authority does not impair the right of a quorum to exercise all
214 rights and perform all duties of the authority.

215 (g) The authority shall have the power:

216 (1) To have a seal and alter the same at its pleasure;

217 (2) To acquire by purchase, lease, or otherwise, including acquisition of land from the
218 state government, and to hold, lease, and dispose of real and personal property of every
219 kind and character for its corporate purpose and to enter into any contracts, leases, or
220 other charges for the use of property or services of the authority and collect and use the
221 same as necessary to operate the authority; and to accomplish any of the purposes of this
222 article and make any purchases or sales necessary for such purposes;

223 (3) To acquire in its own name by purchase, on such terms and conditions and in such
224 manner as it may deem proper, real property, or rights or easements therein, or franchises
225 necessary or convenient for its corporate purpose, and to use the same so long as its
226 corporate existence shall continue, and to lease or make contracts with respect to the use
227 of such property, or dispose of the same in any manner it deems to be to the best
228 advantage of the authority;

229 (4) To appoint, select, and employ officers, agents, and employees, including real estate,
230 environmental, engineering, architectural, and construction experts, fiscal agents, and
231 attorneys, and to fix their respective compensations;

232 (5) To make contracts and leases and to execute all instruments necessary or convenient.
233 Any and all persons, firms, and corporations and any and all political subdivisions,
234 departments, institutions, or agencies of the state and federal government are authorized
235 to enter into contracts, leases, or agreements with the authority upon such terms and for
236 such purposes as they deem advisable; and, without limiting the generality of the
237 foregoing, authority is specifically granted to municipal corporations, counties, political
238 subdivisions, and to the authority relative to entering into contracts, lease agreements, or
239 other undertakings authorized between the authority and private corporations, both inside
240 and outside this state, and between the authority and public bodies, including counties
241 and cities outside this state and the federal government;

242 (6) To accept loans and grants of money or materials or property of any kind from the
 243 United States of America or any agency or instrumentality thereof upon such terms and
 244 conditions as the United States of America or such agency or instrumentality may
 245 require;

246 (7) To accept loans and grants of money or materials or property of any kind from the
 247 State of Georgia or any agency or instrumentality or political subdivision thereof upon
 248 such terms and conditions as the State of Georgia or such agency or instrumentality or
 249 political subdivision may require;

250 (8) To exercise any power usually possessed by private corporations performing similar
 251 functions, provided that no such power is in conflict with the Constitution or general laws
 252 of this state; and

253 (9) To do all things necessary or convenient to carry out the powers expressly given in
 254 this article.

255 (h) The department shall provide the authority with office space and such technical
 256 assistance as the authority requires and the authority shall be attached to the department for
 257 administrative purposes. The department shall also consult with the authority in connection
 258 with the administration of the Georgia Capital Acceleration Program created under this
 259 article.

260 50-7-93.

261 The authority's primary responsibilities include:

262 (1) Establishing an investment policy for the selection of a program administrator;

263 (2) Selecting a program administrator to administer the provisions of this article;

264 (3) Giving final approval to allocations of designated capital to the venture capital funds
 265 selected by the program administrator;

266 (4) Executing and overseeing the contract of the program administrator in order to assure
 267 compliance with this article; and

268 (5) Establishing a policy with respect to use of capital and profits returned to the state
 269 pursuant to the provisions of Code Section 50-7-102.

270 50-7-94.

271 (a) The program administrator will be selected by the authority through a transparent open
 272 bid process and will be responsible for administering the Georgia Capital Acceleration
 273 Fund and for making all venture capital fund selections in accordance with the investment
 274 policies developed by the authority or contained in this article.

275 (b) The program administrator will be responsible for selecting a group of Georgia based
276 venture capital funds in two categories, early or seed stage venture capital funds and
277 growth stage venture capital funds.

278 (c) The early stage venture capital funds shall invest primarily in early or seed stage
279 businesses and shall be selected using a transparent open bid process pursuant to guidelines
280 developed by the authority. The program administrator shall ensure that a diverse
281 cross-section of industry sectors is represented by the selected funds, including technology,
282 health care, life sciences, agribusiness, logistics, energy, and advanced manufacturing.

283 (d) The growth stage venture capital funds shall be selected using a transparent open bid
284 process pursuant to guidelines developed by the authority. The program administrator shall
285 ensure that a diverse cross-section of industry sectors is represented by the selected funds,
286 including technology, health care, life sciences, agribusiness, logistics, energy, and
287 advanced manufacturing.

288 (e) In the selection of the early stage venture capital funds and the growth stage venture
289 capital funds the program administrator shall consider the following factors:

290 (1) The management structure of the fund, including:

291 (A) The investment experience of the principals;

292 (B) The applicant's reputation in the venture firm industry and the applicant's ability
293 to attract coinvestment capital and syndicate investments in qualified businesses in
294 Georgia;

295 (C) The knowledge, experience, and capabilities of the applicant in subject areas
296 relevant to venture stage businesses in Georgia; and

297 (D) The tenure and turnover history of principals and senior investment professionals
298 of the fund;

299 (2) The fund's investment strategy, including:

300 (A) The applicant's record of performance in investing in early and growth stage
301 businesses;

302 (B) The applicant's history of attracting coinvestment capital and syndicate
303 investments;

304 (C) The soundness of the applicant's investment strategy and the compatibility of that
305 strategy with business opportunities in Georgia; and

306 (D) The applicant's history of job creation through investment;

307 (3) The fund's commitment to making investments, that to the fullest extent possible:

308 (A) Create employment opportunities in Georgia;

309 (B) Lead to the growth of the Georgia economy and qualified businesses in Georgia;

310 (C) Complement the research and development projects of Georgia academic
311 institutions; and

312 (D) Foster the development of technologies and industries that present opportunities
 313 for the growth of qualified businesses in Georgia; and
 314 (4) The fund's commitment to Georgia, including:
 315 (A) The applicant's presence in Georgia through permanent local offices or affiliation
 316 with local investment firms;
 317 (B) The local presence of senior investment professionals;
 318 (C) The applicant's history of investing in early and growth stage businesses in
 319 Georgia;
 320 (D) The applicant's ability to identify investment opportunities through working
 321 relationships with Georgia research and development institutions and Georgia based
 322 businesses; and
 323 (E) The applicant's commitment to investing an amount that matches or exceeds the
 324 amount of the applicant's designated capital received under this article, in Georgia
 325 based qualified early stage businesses and qualified growth stage businesses.
 326 (f) A venture capital fund shall file an application with the authority in the form required
 327 by the program administrator. The authority shall begin accepting applications on or
 328 before September 1, 2012.

329 50-7-95.

330 (a) The Georgia Capital Acceleration Fund will be capitalized through state insurance
 331 premium tax credits. The State of Georgia will sell tax credits to purchasers, pursuant to
 332 the provisions of this article, and the tax credits shall be used to offset the purchasers' state
 333 insurance premium tax liability.
 334 (b) The capital raised through the auction of insurance premium tax credits will be
 335 periodically distributed to the venture capital funds selected by the program administrator
 336 pursuant to Code Section 50-7-94.
 337 (c) Each year the purchasers shall be issued a tax credit certificate by the authority.
 338 (d) Purchasers will be able to claim their tax credits pursuant to the provisions of Code
 339 Section 50-7-98.

340 50-7-96.

341 (a) The State of Georgia will sell a maximum of \$200 million in insurance premium tax
 342 credits over a three-year period through an auction process administered by the program
 343 administrator pursuant to guidelines developed by the authority. The \$200 million in
 344 insurance premium tax credits will be auctioned in the first year of the Georgia Capital
 345 Acceleration Program, and the purchasers will be obligated to pay the purchase amount to

346 the authority for deposit in the Georgia Capital Acceleration Fund in three equal amounts
 347 over the three-year period.

348 (b) The program administrator shall obtain the services of an independent third party to
 349 conduct the bidding process to secure purchasers for the capital acceleration program.

350 (c) Using the procedures adopted by the independent third party, each potential purchaser
 351 shall make a timely and irrevocable offer, subject only to the authority's issuance to the
 352 purchaser of tax credit certificates, to make specified contributions of designated capital
 353 to the authority on the dates specified in Code Section 50-7-98.

354 (d) The offer shall include:

355 (1) The requested amount of tax credits, which may not be less than \$5 million;

356 (2) The potential purchaser's specified contribution for each tax credit dollar requested,
 357 which may not be less than the greater of:

358 (A) Eighty-five percent of the requested dollar amount of tax credits; or

359 (B) The percentage of the requested dollar amount of tax credits that the program
 360 administrator, on the recommendation of the independent third party, determines to be
 361 consistent with market conditions as of the offer date; and

362 (3) Any other information the independent third party requires.

363 (e)(1) The deadline for submission of applications for tax credits is February 1, 2013.

364 (2) Each potential purchaser shall receive a written notice from the program
 365 administrator not later than May 1, 2013, indicating whether or not it has been approved
 366 as a purchaser and, if so, the amount of tax credits allocated.

367 50-7-97.

368 (a) As soon as practicable after the authority receives each installment of contributed
 369 capital, the authority and each selected venture capital fund that has been allocated
 370 designated capital shall enter into a contract under which the allocated amount of
 371 designated capital will be committed by the authority to the selected venture capital funds
 372 for investment pursuant to this article.

373 (b) The authority shall allocate designated capital as follows:

374 (1) Early stage venture capital funds: Thirty percent of the contributed capital in the
 375 Georgia Capital Acceleration Fund shall be allocated among the early stage venture
 376 capital funds, in accordance with the following eligibility and requirements:

377 (A) Each early stage venture capital fund shall be eligible for a minimum \$10 million
 378 allocation of designated capital and a maximum \$15 million allocation to be contributed
 379 to the funds over a three-year period coinciding with the sale of the tax credits or in
 380 accordance with the fund's partnership agreement and concurrent with the contributions
 381 of the fund's other investors;

382 (B) Each early stage venture capital fund shall be required to obtain other independent
 383 investors. A minimum of 10 percent of the committed capital of the early stage venture
 384 capital fund must be committed by independent institutional investors, fund principals,
 385 or other accredited investors; and

386 (C) Each early stage venture capital fund shall be required to commit, via a side letter
 387 or otherwise, to invest in Georgia based qualified early stage businesses and qualified
 388 growth stage businesses, an amount that matches or exceeds the amount of the fund's
 389 designated capital received under this article;

390 (2) Growth stage venture capital funds: Seventy percent of the total contributed capital
 391 in the Georgia Capital Acceleration Fund shall be allocated among the growth stage
 392 venture capital funds, in accordance with the following eligibility and requirements:

393 (A) Each growth stage venture capital fund shall be eligible for a minimum \$10 million
 394 allocation of designated capital over a three-year period coinciding with the sale of the
 395 tax credits or in accordance with the fund's partnership agreement and concurrent with
 396 the contributions of the fund's other investors;

397 (B) Each growth stage venture capital fund shall be required to obtain other
 398 independent investors. A minimum of 50 percent of the committed capital of the growth
 399 stage venture capital fund must be committed by independent institutional investors,
 400 fund principals, or other accredited investors; and

401 (C) Each growth stage venture capital fund shall be required to commit, via a side letter
 402 or otherwise, to invest in Georgia based qualified early stage businesses and qualified
 403 growth stage businesses, an amount that matches or exceeds the amount of the fund's
 404 designated capital received under this article; and

405 (3) Program administrator: Up to \$25 million of the contributed capital shall be held in
 406 reserve by the program administrator for coinvestment in funds as provided pursuant to
 407 guidelines developed by the authority.

408 50-7-98.

409 (a) Contributed capital committed by a purchaser shall be paid to the authority in three
 410 equal yearly installments due on June 1 of 2013, 2014, and 2015.

411 (b) On receipt of each installment of allotted capital, the authority shall issue to each
 412 purchaser a tax credit certificate representing a fully vested credit against state insurance
 413 premium tax liability equal to one-third of the total insurance premium tax credits allocated
 414 to the purchaser.

415 (c) The tax credit certificate shall state:

416 (1) The total amount of insurance premium tax credits that the purchaser may claim;

417 (2) The amount of capital that the purchaser has contributed in return for the issuance of
 418 the tax credit certificate;

419 (3) The dates on which the insurance premium tax credits will be available for use by the
 420 purchaser;

421 (4) Any penalties or other remedies for noncompliance;

422 (5) The procedures to be used for transferring the insurance premium tax credits; and

423 (6) Any other requirements the authority, in consultation with the Department of
 424 Revenue, considers necessary.

425 (d)(1) A tax credit certificate may not be issued to any purchaser that fails to make a
 426 contribution of capital within the time the authority specifies.

427 (2) A purchaser that fails to make a contribution of capital within the time the authority
 428 specifies shall be subject to a penalty equal to 10 percent of the amount of contributed
 429 capital that remains unpaid, payable to the authority within 30 days after demand by the
 430 authority.

431 (3) The authority, after consultation with the program administrator, may offer to
 432 reallocate the defaulted contributed capital amount among the other purchasers, so that
 433 the result after reallocation is the same as if the initial allocation had been performed
 434 without considering the insurance premium tax credit allocation to the defaulting
 435 purchaser.

436 (4) If the reallocation of contributed capital results in the contribution by another
 437 purchaser or purchasers of the amount of capital not contributed by the defaulting
 438 purchaser, then the authority, in consultation with the program administrator, may waive
 439 the penalty provided under this subsection.

440 (5)(A) A purchaser that fails to make a contribution of capital within the time specified
 441 may avoid the imposition of the penalty by transferring the allocation of insurance
 442 premium tax credits to a new or existing purchaser within 30 days after the due date of
 443 the defaulted installment.

444 (B) Any transferee of an allocation of insurance premium tax credits of a defaulting
 445 purchaser under this paragraph shall agree to make the required contribution of capital
 446 within 30 days after the date of the transfer.

447 50-7-99.

448 (a)(1) Subject to the restriction in paragraph (2) of this subsection, a purchaser may claim
 449 the insurance premium tax credits on an insurance premium tax return filed after
 450 December 31, 2013, for a taxable year that begins on or after January 1, 2014.

451 (2) In each calendar year from 2014 through 2016, a purchaser may claim up to one-third
 452 of the insurance premium tax credits allocated to that purchaser.

- 453 (b)(1) The credits to be applied against insurance premium tax liability in any one year
 454 may not exceed the insurance premium tax liability of the purchaser for that taxable year.
 455 (2) Any unused credits against insurance premium tax liability may be:
 456 (A) Carried forward indefinitely until the insurance premium tax credits are used; and
 457 (B) Used by the purchaser without restriction during any calendar year after 2016.
 458 (3) On 30 days' advance notice to the authority, insurance premium tax credits allocated
 459 to a purchaser under this article may be transferred without further restriction to any other
 460 entity that:
 461 (A) Meets the definition of a purchaser; and
 462 (B) Agrees to assume all of the transferor's obligations under this article.
 463 (c) A purchaser claiming a credit against insurance premium tax liability earned through
 464 an investment under this article is not required to pay any additional tax as a result of
 465 claiming the credit.
 466 (d) A purchaser is not required to reduce the amount of premium tax included by the
 467 purchaser in connection with rate making for any insurance contract written in Georgia
 468 because of a reduction in the purchaser's insurance premium tax derived from the credit
 469 granted under this article.

470 50-7-100.

471 A purchaser or an affiliate may not directly or indirectly:

- 472 (1) Manage a venture capital fund that receives any designated capital under this article;
 473 (2) Beneficially own, through rights, options, convertible interests, or otherwise, greater
 474 than 15 percent of the voting securities or other voting ownership interest of a venture
 475 capital fund that receives any allotted capital under this article; or
 476 (3) Control the direction of investments for a venture capital fund that receives any
 477 designated capital under this article.

478 50-7-101.

- 479 (a) Not later than December 31 of each year, each venture capital fund shall report to the
 480 authority:
 481 (1) The amount of designated capital remaining uninvested at the end of the preceding
 482 calendar year;
 483 (2) All qualified investments made during the preceding calendar year, including the
 484 number of employees of each business at the time the qualified investment was made and
 485 as of December 31 of that year;

486 (3) For any qualified investment in which the venture capital fund no longer has a
 487 position as of the end of the calendar year, the number of employees of the business as
 488 of the date the investment was terminated; and

489 (4) Any other information the authority requires to ascertain the impact of this article on
 490 the economy of Georgia.

491 (b) Not later than 180 days after the end of its fiscal year, each venture capital fund shall
 492 provide to the authority an audited financial statement that includes the opinion of an
 493 independent certified public accountant.

494 (c) Not later than 60 days after the sale or other disposition of a qualified investment, the
 495 selling venture capital fund shall provide to the authority a report on the amount of the
 496 interest sold or disposed of and the consideration received for the sale or disposition.

497 50-7-102.

498 Designated capital resulting from the qualified investments made under this article shall
 499 be retained and used to make additional qualified investments in venture capital funds
 500 selected by the program administrator; provided, however, that the Georgia Capital
 501 Acceleration Fund shall receive any and all returns representing the principal portion of
 502 designated capital and shall receive 80 percent of investment returns in excess of
 503 designated capital from each respective venture capital fund with the remaining 20 percent
 504 of investment returns in excess of designated capital retained by each respective venture
 505 capital fund in accordance with the fund's partnership agreement.

506 50-7-103.

507 (a)(1) On or before January 1, 2014, and January 1 of each subsequent year, the program
 508 administrator, through the authority, shall submit a report on the implementation of this
 509 article to the Governor, the Lieutenant Governor, the Speaker of the House of
 510 Representatives, and the chairpersons of the Senate Finance Committee and the House
 511 Ways and Means Committee.

512 (2) The department shall also publish the report on the department's website in a publicly
 513 available format.

514 (3) The report published on the website shall not include any proprietary or confidential
 515 information.

516 (b) The report shall include:

517 (1) With respect to each purchaser of insurance premium tax credits:

518 (A) The name of the purchaser of the insurance premium tax credits;

519 (B) The amount of insurance premium tax credits allocated to the purchaser;

- 520 (C) The amount of designated capital the purchaser contributed for the issuance of the
 521 tax credit certificate; and
- 522 (D) The amount of any insurance premium tax credits that have been transferred under
 523 Code Section 50-7-99;
- 524 (2) With respect to each venture capital fund or private equity organization that has
 525 received an allocation of designated capital:
- 526 (A) The name and address of the venture capital fund or private equity organization;
 527 (B) The names of the individuals making qualified investments under this article;
 528 (C) The amount of designated capital received during the previous year;
 529 (D) The cumulative amount of designated capital received;
 530 (E) The amount of designated capital remaining uninvested at the end of the preceding
 531 calendar year;
- 532 (F) The names and locations of qualified businesses receiving designated capital and
 533 the amount of each qualified investment;
- 534 (G) The annual performance of each qualified investment, including the investment's
 535 fair market value as calculated according to generally accepted accounting principles;
 536 and
- 537 (H) The amount of any qualified distribution or nonqualified distribution taken during
 538 the prior year, including any management fee;
- 539 (3) With respect to the Georgia Capital Acceleration Fund:
- 540 (A) The amount of designated capital received during the previous year;
 541 (B) The cumulative amount of designated capital received;
 542 (C) The amount of designated capital remaining uninvested at the end of the preceding
 543 calendar year;
- 544 (D) The names and locations of qualified businesses receiving designated capital and
 545 the amount of each qualified investment; and
- 546 (E) The annual performance of each qualified investment, including the investment's
 547 fair market value as calculated according to generally accepted accounting principles;
 548 and
- 549 (4) With respect to the qualified businesses in which venture capital funds have invested:
- 550 (A) The classification of the qualified businesses according to the industrial sector and
 551 the size of the business;
- 552 (B) The total number of jobs created in Georgia by the investment and the average
 553 wages paid for the jobs; and
- 554 (C) The total number of jobs retained in Georgia as a result of the investment and the
 555 average wages paid for the jobs."

556

SECTION 2.

557 This Act shall become effective upon its approval by the Governor or upon its becoming law
558 without such approval.

559

SECTION 3.

560 All laws and parts of laws in conflict with this Act are repealed.