

# HOUSE BILL No. 5416

December 4, 1997, Introduced by Reps. Jansen, Perricone, Goschka, Mans, Gernaat, Jelinek, Horton, Scranton, Rocca, Jellema, Sikkema, Kukuk, Dalman, McBryde, Hammerstrom, Cropsey, Geiger, Richner, Crissman, Birkholz, McNutt, Green, McManus, DeVuyst, Alley, Cassis, Voorhees and Raczkowski and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 39c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 39C. (1) SUBJECT TO SUBSECTIONS (2) TO (6), A TAXPAYER  
2 MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO  
3 125% OF THE CONTRIBUTED CAPITAL INVESTED BY THE TAXPAYER IN A  
4 CERTIFIED CAPITAL COMPANY.  
5           (2) FOR PURPOSES OF THIS SECTION, THE TOTAL MAXIMUM AMOUNT  
6 OF QUALIFIED INVESTMENT ALLOWED FOR ALL CERTIFIED CAPITAL COM-  
7 PANIES IS \$100,000,000.00.  
8           (3) THE MICHIGAN JOBS COMMISSION SHALL ACCEPT APPLICATION  
9 FROM CERTIFIED CAPITAL COMPANIES TO ENGAGE IN QUALIFIED  
10 INVESTMENT. THE MICHIGAN JOBS COMMISSION SHALL CERTIFY A

1 CERTIFIED CAPITAL COMPANY IF, BASED ON THE COMPANY'S APPLICATION,  
2 THE COMPANY MEETS THE CRITERIA IN THIS SECTION.

3 (4) THE MICHIGAN JOBS COMMISSION SHALL ALLOCATE THE INVEST-  
4 MENT AMOUNT AVAILABLE UNDER SUBSECTION (2). APPLICATIONS FROM  
5 CERTIFIED CAPITAL COMPANIES THAT MEET ALL OF THE CRITERIA IN THIS  
6 SECTION SHALL BE CERTIFIED IN THE ORDER IN WHICH APPLICATIONS ARE  
7 RECEIVED BY THE MICHIGAN JOBS COMMISSION AND IN THE AMOUNT  
8 REQUESTED IF, BY ALLOCATING THE REQUESTED AMOUNT, THE MAXIMUM  
9 AMOUNT UNDER SUBSECTION (2) IS NOT EXCEEDED. IF 2 OR MORE APPLI-  
10 CATIONS ARE RECEIVED ON THE SAME DAY, THEY ARE CONSIDERED TO HAVE  
11 BEEN RECEIVED SIMULTANEOUSLY. IF THE TOTAL MAXIMUM AMOUNT UNDER  
12 SUBSECTION (2) WILL BE EXCEEDED BY CERTIFYING APPLICATIONS THAT  
13 ARE RECEIVED SIMULTANEOUSLY, THE AMOUNT REQUESTED SHALL BE ALLO-  
14 CATED ON A PRO RATA BASIS BETWEEN THOSE APPLICANTS. A CERTIFIED  
15 CAPITAL COMPANY THAT IS CERTIFIED BY THE MICHIGAN JOBS COMMISSION  
16 MAY SOLICIT INVESTORS FOR THE 18-MONTH PERIOD THAT BEGINS ON THE  
17 DATE OF CERTIFICATION. A CERTIFIED CAPITAL COMPANY SHALL FORFEIT  
18 ANY PORTION OF ITS ALLOCATION UNDER THIS SUBSECTION THAT IS NOT  
19 FUNDED WITHIN 18 MONTHS AFTER ALLOCATION BY THE MICHIGAN JOBS  
20 COMMISSION.

21 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AMOUNT  
22 OF CONTRIBUTED CAPITAL THAT CAN BE USED AS QUALIFIED INVESTMENT  
23 BY A TAXPAYER TO CALCULATE A CREDIT UNDER THIS SECTION SHALL BE  
24 DETERMINED BY THE AMOUNT INVESTED IN A CERTIFIED CAPITAL COMPANY  
25 LIMITED TO THE INVESTMENT LIMIT FOR THAT CERTIFIED CAPITAL COM-  
26 PANY AS CERTIFIED BY THE MICHIGAN JOBS COMMISSION.

1 (6) A TAXPAYER SHALL NOT CLAIM MORE THAN 12.5% OF THE AMOUNT  
2 DETERMINED UNDER SUBSECTION (5), EXCLUSIVE OF ANY CARRYFORWARD  
3 ALLOWED UNDER SUBSECTION (11), IN ANY 1 TAX YEAR.

4 (7) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAX YEAR  
5 SHALL NOT EXCEED 25% OF THE TAXPAYER'S TAX LIABILITY FOR THE TAX  
6 YEAR.

7 (8) THE MICHIGAN JOBS COMMISSION SHALL REVOKE THE CERTIFICA-  
8 TION OF A CAPITAL COMPANY THAT DOES NOT MEET THE INVESTMENT  
9 SCHEDULE CRITERIA UNDER SUBSECTION (9) OR ANY OTHER CRITERIA OR  
10 CONDITION REQUIRED UNDER THIS SECTION. IF CERTIFICATION IS  
11 REVOKED, THE MICHIGAN JOBS COMMISSION SHALL SPECIFY IN WRITING TO  
12 THE COMPANY THE BASIS FOR THE REVOCATION. IF CERTIFICATION IS  
13 REVOKED UNDER THIS SECTION, THE CREDITS OF A TAXPAYER THAT ARE  
14 BASED ON THAT CERTIFICATION ARE REVOKED AND THE TAXPAYER SHALL  
15 NOT CLAIM ANY CREDITS AFTER THE CREDIT CLAIMED IN THE TAX YEAR OF  
16 THE REVOCATION. THE MICHIGAN JOBS COMMISSION SHALL NOTIFY A CER-  
17 TIFIED CAPITAL COMPANY IN WRITING OF ANY NONCOMPLIANCE WITH THIS  
18 SECTION. IF THE COMPANY FAILS TO RECTIFY THE NONCOMPLIANCE  
19 BEFORE THE EXPIRATION OF 120 DAYS, THE MICHIGAN JOBS COMMISSION  
20 SHALL REVOKE THE COMPANY'S CERTIFICATION.

21 (9) EXCEPT AS PROVIDED IN SUBSECTION (10), EACH CERTIFIED  
22 CAPITAL COMPANY THAT RECEIVES AN ALLOCATED AMOUNT UNDER THIS SEC-  
23 TION SHALL DO ALL OF THE FOLLOWING TO MAINTAIN CERTIFICATION:

24 (A) ADHERE TO THE FOLLOWING INVESTMENT SCHEDULE:

25 (i) CUMULATIVE INVESTMENT OF CERTIFIED CAPITAL BY THE END OF  
26 THE THIRD YEAR AFTER ALLOCATION, 25%.

1           (ii) CUMULATIVE INVESTMENT OF CERTIFIED CAPITAL BY THE END  
2 OF THE FOURTH YEAR AFTER ALLOCATION, 40%.

3           (iii) CUMULATIVE INVESTMENT OF CERTIFIED CAPITAL BY THE END  
4 OF THE FIFTH YEAR AFTER ALLOCATION, 50%.

5           (B) UNTIL THE CERTIFIED CAPITAL COMPANY REACHES THE 50%  
6 INVESTMENT LEVEL REQUIRED UNDER SUBDIVISION (A), ANNUALLY SUBMIT  
7 A REPORT TO THE MICHIGAN JOBS COMMISSION THAT INCLUDES A FINAN-  
8 CIAL AND PERFORMANCE REPORT THAT INCLUDES INFORMATION ON NET CON-  
9 TRIBUTED CAPITAL, INVESTMENT COMPLIANCE, AND A LIST OF ALL  
10 INVESTORS. THE MICHIGAN JOBS COMMISSION MAY AUDIT ANY DATA USED  
11 TO SUPPORT THE REPORT.

12           (10) WHEN A CERTIFIED CAPITAL COMPANY REACHES THE 50%  
13 INVESTMENT LEVEL REQUIRED UNDER SUBSECTION (9), THE COMPANY IS  
14 NOT SUBJECT TO REVOCATION UNDER SUBSECTION (8) OR THE REPORTING  
15 REQUIREMENTS UNDER SUBSECTION (9) AFTER THE DATE ON WHICH THE 50%  
16 INVESTMENT LEVEL IS ACHIEVED.

17           (11) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX  
18 YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED BY THIS  
19 SECTION EXCEED THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR,  
20 THAT PORTION THAT EXCEEDS THE TAX LIABILITY FOR THE TAX YEAR  
21 SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET TAX  
22 LIABILITY IN SUBSEQUENT TAX YEARS UNTIL USED UP.

23           (12) THE CREDIT ALLOWED UNDER THIS SECTION MAY BE SOLD OR  
24 TRANSFERRED IN ACCORDANCE WITH REGULATIONS THAT THE MICHIGAN JOBS  
25 COMMISSION SHALL ADOPT. A SALE OR TRANSFER OF A CREDIT DOES NOT  
26 AFFECT ANY OTHER PROVISION OF THIS SECTION. IF THE CREDIT  
27 ALLOWED UNDER THIS SECTION IS SOLD OR TRANSFERRED, THE PURCHASER

1 IS SUBJECT TO THE LIMITS AND BENEFITS UNDER THIS SECTION IN THE  
2 SAME MANNER AS THE SELLER OR TRANSFEROR.

3 (13) AS USED IN THIS SECTION:

4 (A) "CERTIFIED CAPITAL COMPANY" OR "COMPANY" MEANS AN ENTITY  
5 THAT MEETS ALL OF THE FOLLOWING CRITERIA AND INCLUDES ALL AFFILI-  
6 ATES OF THE ENTITY:

7 (i) IS A PARTNERSHIP, CORPORATION, S CORPORATION, LIMITED  
8 LIABILITY COMPANY, OR OTHER ENTITY WHETHER ORGANIZED FOR PROFIT  
9 OR NOT FOR PROFIT, THAT IS LOCATED, HEADQUARTERED, AND REGISTERED  
10 TO CONDUCT BUSINESS IN THIS STATE AND HAS AS ITS PRIMARY BUSINESS  
11 ACTIVITY THE INVESTMENT OF CASH IN QUALIFIED MICHIGAN  
12 BUSINESSES.

13 (ii) IS CERTIFIED BY THE MICHIGAN JOBS COMMISSION AS A CER-  
14 TIFIED CAPITAL COMPANY.

15 (iii) HAS A MINIMUM OF \$100,000.00 IN EQUITY CAPITAL.

16 (B) "CONTRIBUTED CAPITAL" MEANS THE AMOUNT CONTRIBUTED BY A  
17 TAXPAYER TO A CERTIFIED CAPITAL COMPANY TO MEET THE ALLOCATED  
18 AMOUNT AS PROVIDED UNDER SUBSECTION (4) ON WHICH A CREDIT UNDER  
19 THIS SECTION IS BASED. CONTRIBUTED CAPITAL IS THE NET AMOUNT OF  
20 PREMIUM OR DISCOUNT AND A MINIMUM CAPITAL CONTRIBUTION AMOUNT OF  
21 \$100,000.00 PER TAXPAYER IS REQUIRED.

22 (C) "QUALIFIED INVESTMENT" MEANS INVESTMENT IN A QUALIFIED  
23 MICHIGAN BUSINESS AND INCLUDES ALL OF THE FOLLOWING:

24 (i) COMMON OR PREFERRED EQUITY, WARRANTS, DEBT CONVERTIBLE  
25 INTO EQUITY OR EQUITY EQUIVALENTS, AND DEBT WITH EQUITY INCEN-  
26 TIVES INCLUDING, BUT NOT LIMITED TO, OPTIONS OR WARRANTS

1           (ii) SHORT-TERM INVESTMENTS INCLUDING, BUT NOT LIMITED TO,  
2 DEBT INSTRUMENTS ISSUED FOR A PERIOD OF LESS THAN 12 MONTHS.

3           (D) "QUALIFIED MICHIGAN BUSINESS" MEANS A BUSINESS THAT  
4 MEETS ALL OF THE FOLLOWING CRITERIA:

5           (i) IS LOCATED IN THIS STATE OR CONDUCTS A MAJORITY OF ITS  
6 BUSINESS IN THIS STATE AND IS IN NEED OF VENTURE CAPITAL.

7           (ii) IS INVOLVED IN INTERSTATE OR INTRASTATE COMMERCE OR IN  
8 RESEARCH AND DEVELOPMENT.

9           (iii) IS NOT A REAL ESTATE COMPANY, INSURANCE COMPANY, OIL  
10 AND GAS EXPLORATION OPERATION, FINANCIAL INSTITUTION, OR A PRO-  
11 FESSIONAL SERVICES CORPORATION OF ACCOUNTANTS, ATTORNEYS, OR  
12 PHYSICIANS.

13           (iv) HAS 500 OR FEWER FULL-TIME EQUIVALENT EMPLOYEES AT THE  
14 TIME THE QUALIFIED INVESTMENT IS MADE.

15           (v) HAS NET WORTH OF \$20,000,000.00 OR LESS IN THE YEAR  
16 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE INVESTMENT IS MADE.

17           (vi) HAS ANNUAL EARNINGS AS ANNUALIZED OVER THE 2 YEARS  
18 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE INVESTMENT IS MADE  
19 \$5,000,000.00 OR LESS.