

# HOUSE BILL No. 5215

September 22, 2005, Introduced by Reps. Hildenbrand, Huizenga, Marleau and Baxter and referred to the Committee on Commerce.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 37e (MCL 208.37e), as added by 2003 PA 297.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 37e. (1) For tax years that begin after December 31,  
2       2008, ~~and before January 1, 2020, a taxpayer that is an investor~~  
3       ~~may claim a credit against the tax imposed by this act equal to the~~  
4       ~~credit amount determined and certified under this section and the~~  
5       ~~Michigan early stage venture capital investment act of 2003~~ A  
6       TAXPAYER THAT HAS BEEN ISSUED A TAX VOUCHER CERTIFICATE UNDER  
7       SECTION 23 OF THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF  
8       2003, 2003 PA 296, MCL 125.2253, OR ANY TAXPAYER TO WHICH ALL OR A  
9       PORTION OF A TAX VOUCHER IS TRANSFERRED PURSUANT TO THE MICHIGAN  
10      EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL

1 125.2231 TO 125.2263, MAY USE THE TAX VOUCHER TO PAY A LIABILITY OF  
2 THE TAXPAYER DUE UNDER THIS ACT.

3 (2) The total amount of all tax ~~credits-certified~~ VOUCHER  
4 CERTIFICATES THAT SHALL BE APPROVED under this section and the  
5 Michigan early stage venture capital investment act of 2003, 2003  
6 PA 296, MCL 125.2231 TO 125.2263, for all taxpayers for all years  
7 shall not exceed ~~\$150,000,000.00~~ AN AMOUNT SUFFICIENT TO ALLOW  
8 THE MICHIGAN EARLY STAGE VENTURE INVESTMENT CORPORATION TO RAISE  
9 \$450,000,000.00 FOR THE PURPOSES AUTHORIZED UNDER THE MICHIGAN  
10 EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL  
11 125.2231 TO 125.2263. THE TOTAL AMOUNT OF ALL TAX VOUCHER  
12 CERTIFICATES ISSUED SHALL NOT EXCEED \$600,000,000.00 AND THE  
13 DEPARTMENT SHALL NOT APPROVE A TAX VOUCHER CERTIFICATE UNDER  
14 SECTION 23(2) OF THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF  
15 2003, 2003 PA 296, MCL 125.2253, AFTER DECEMBER 31, 2015. THE  
16 AMOUNT OF TAX VOUCHER CERTIFICATES APPROVED BY THE DEPARTMENT FOR  
17 USE IN ANY TAX YEAR SHALL NOT EXCEED 25% OF THE TOTAL AMOUNT OF ALL  
18 TAX VOUCHER CERTIFICATES APPROVED BY THE DEPARTMENT.

19 (3) Investors shall apply to the Michigan early stage venture  
20 ~~capital~~ investment corporation for ~~certification of allowable tax~~  
21 ~~credits~~ APPROVAL OF TAX VOUCHER CERTIFICATES AT THE TIME AND IN  
22 THE MANNER REQUIRED UNDER THE MICHIGAN EARLY STAGE VENTURE  
23 INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263.

24 (4) The Michigan early stage venture ~~capital~~ investment  
25 corporation shall determine which investors are eligible for tax  
26 ~~credits~~ VOUCHERS and the amount of the tax ~~credit~~ VOUCHERS  
27 allowed to each investor as provided in the Michigan early stage

1 venture ~~capital~~ investment act of 2003, 2003 PA 296, MCL 125.2231  
2 TO 125.2263.

3 (5) The TAX VOUCHER certificate, AND ANY COMPLETED TRANSFER  
4 FORM THAT WAS ISSUED PURSUANT TO THE MICHIGAN EARLY STAGE VENTURE  
5 INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263,  
6 shall be attached to the taxpayer's annual return under this act  
7 for the first tax year in which a tax credit or any portion of the  
8 tax credit allowed is claimed, which shall be the tax year  
9 indicated on the certificate. THE DEPARTMENT MAY PRESCRIBE AND  
10 IMPLEMENT ALTERNATIVE METHODS OF REPORTING AND RECORDING OWNERSHIP,  
11 TRANSFER, AND UTILIZATION OF TAX VOUCHER CERTIFICATES.

12 (6) A ~~credit under this section~~ TAX VOUCHER shall be  
13 ~~claimed~~ USED TO PAY A LIABILITY OF THE TAXPAYER DUE UNDER THIS ACT  
14 only in a tax year that begins after December 31, 2008. ~~and before~~  
15 ~~January 1, 2020. The credit allowed for that tax year shall not~~  
16 ~~exceed the difference between the amount actually repaid and the~~  
17 ~~amount set as the repayment due in the agreement entered into by~~  
18 ~~the taxpayer and the Michigan early stage venture capital~~  
19 ~~investment corporation pursuant to section 17 of the Michigan early~~  
20 ~~stage venture capital investment act of 2003.~~ THE AMOUNT OF THE  
21 TAX VOUCHER THAT MAY BE USED TO PAY A LIABILITY OF THE TAXPAYER DUE  
22 UNDER THIS ACT IN ANY TAX YEAR SHALL NOT EXCEED THE LESSER OF THE  
23 FOLLOWING:

24 (A) THE AMOUNT OF THE TAX VOUCHER STATED ON THE TAX VOUCHER  
25 CERTIFICATE HELD BY THE TAXPAYER.

26 (B) THE AMOUNT AUTHORIZED TO BE USED IN THE TAX YEAR UNDER THE  
27 TERMS OF THE TAX VOUCHER CERTIFICATE.

1           (C) THE TAXPAYER'S LIABILITY DUE UNDER THIS ACT FOR THE TAX  
2 YEAR FOR WHICH THE TAX VOUCHER IS TO BE APPLIED.

3       ~~—— (7) The total amount of all credits authorized for any 1~~  
4 ~~calendar year under this section pursuant to the agreements entered~~  
5 ~~into by the taxpayer and the Michigan early stage venture capital~~  
6 ~~investment corporation pursuant to section 17 of the Michigan early~~  
7 ~~stage venture capital investment act of 2003 shall not exceed~~  
8 ~~\$30,000,000.00.~~

9       ~~—— (8) If the taxpayer's credit allowed under this section for a~~  
10 ~~tax year exceeds the taxpayer's tax liability for the tax year,~~  
11 ~~that portion of the credit that exceeds the tax liability for the~~  
12 ~~tax year shall be refunded.~~

13       ~~—— (9) The fund manager shall invest and budget in such a manner~~  
14 ~~that no credits are claimed under this section in any tax year~~  
15 ~~before tax years that begin after December 31, 2008.~~

16       ~~—— (10) For tax years that begin after December 31, 2009, if a~~  
17 ~~credit under this section is not allowed against the taxpayer's tax~~  
18 ~~liability under this act or against any successor tax to the tax~~  
19 ~~imposed by this act, a taxpayer to whom a certificate has been~~  
20 ~~issued under the Michigan early stage venture capital investment~~  
21 ~~act of 2003 may claim a credit as allowed under section 270 of the~~  
22 ~~income tax act of 1967, 1967 PA 281, MCL 206.270, or transfer that~~  
23 ~~certificate and the credit allowed pursuant to that certificate to~~  
24 ~~a person who may claim the tax credit as allowed under section 270~~  
25 ~~of the income tax act of 1967, 1967 PA 281, MCL 206.270. The credit~~  
26 ~~amount under this subsection shall be equal to the remaining credit~~  
27 ~~allowable and may be claimed only for tax years that begin after~~

~~December 31, 2009 and before January 1, 2020.~~

(7) THE DEPARTMENT SHALL ADMINISTER TRANSFERS OF TAX VOUCHER CERTIFICATES OR THE TRANSFER OF THE RIGHT TO BE ISSUED AND RECEIVE A TAX VOUCHER CERTIFICATE AS PROVIDED IN THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263, AND MAY TAKE ANY ACTION NECESSARY TO ENFORCE AND EFFECTUATE THE PERMISSIBLE ISSUANCE AND USE OF TAX VOUCHER CERTIFICATES IN A MANNER AUTHORIZED UNDER THIS SECTION AND THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263.

(8) IF THE AMOUNT OF A TAX VOUCHER CERTIFICATE HELD BY A TAXPAYER EXCEEDS THE AMOUNT THE TAXPAYER MAY USE UNDER SUBSECTION (6)(B) OR (C) IN A TAX YEAR, THE EXCESS MAY BE USED BY THE TAXPAYER TO PAY, SUBJECT TO THE LIMITATIONS OF SUBSECTION (6), ANY FUTURE LIABILITY OF THE TAXPAYER UNDER THIS ACT OR, IF AND TO THE EXTENT OF THE AMOUNT TRANSFERRED, ANY FUTURE LIABILITY UNDER THIS ACT OF ANY OTHER TAXPAYER TO WHICH THE TAX VOUCHER CERTIFICATE IS TRANSFERRED PURSUANT TO THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2231 TO 125.2263, AND THIS ACT.

(9) UPON THE REQUEST OF A TAXPAYER, THE DEPARTMENT SHALL ISSUE SEPARATE REPLACEMENT TAX VOUCHER CERTIFICATES, OR REPLACEMENT APPROVAL LETTERS, EVIDENCING THE RIGHT OF THE HOLDER TO BE ISSUED AND RECEIVE A TAX VOUCHER CERTIFICATE IN AN AGGREGATE AMOUNT EQUAL TO THE AMOUNT OF A TAX VOUCHER CERTIFICATE OR AN APPROVAL LETTER PRESENTED BY A TAXPAYER. REPLACEMENT TAX VOUCHER CERTIFICATES MAY BE USED, AND REPLACEMENT APPROVAL LETTERS MAY BE ISSUED, TO EVIDENCE THE RIGHT TO BE ISSUED AND RECEIVE A TAX VOUCHER

1 CERTIFICATE THAT WILL BE USED FOR 1 OR MORE OF THE FOLLOWING  
2 PURPOSES:

3 (A) TO PAY ANY LIABILITY OF THE TAXPAYER UNDER THIS ACT TO THE  
4 EXTENT PERMITTED IN ANY TAX YEAR BY SUBSECTION (6).

5 (B) TO PAY ANY LIABILITY OF THE TAXPAYER UNDER AND TO THE  
6 EXTENT ALLOWED UNDER SECTION 270 OF THE INCOME TAX ACT OF 1967,  
7 1967 PA 281, MCL 206.270.

8 (C) TO BE TRANSFERRED TO A TAXPAYER WHO MAY USE THE  
9 REPLACEMENT TAX VOUCHER CERTIFICATE TO PAY ANY LIABILITY UNDER THIS  
10 ACT TO THE EXTENT ALLOWED UNDER SUBSECTION (6).

11 (D) TO BE TRANSFERRED TO A PERSON WHO MAY USE THE TAX VOUCHER  
12 CERTIFICATE TO PAY ANY LIABILITY UNDER AND TO THE EXTENT ALLOWED  
13 UNDER SECTION 270 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL  
14 206.270.

15 (10) ~~—(11)—~~ As used in this section:

16 (a) "Board", "fund manager", and "investor" mean those terms  
17 as defined in the Michigan early stage venture capital investment  
18 act of 2003, 2003 PA 296, MCL 125.2231 TO 125.2263.

19 (b) "Certificate" means the certificate issued under section  
20 23 of the Michigan early stage venture capital investment act of  
21 2003, 2003 PA 296, MCL 125.2253.

22 Enacting section 1. This amendatory act does not take effect  
23 unless Senate Bill No.\_\_\_\_ or House Bill No. 5216(request no.  
24 04151'05) of the 93rd Legislature is enacted into law.