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Amendment

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Offered by:

REP. HARKINS, 120th Dist.

REP. D'AMELIO, 71st Dist.

REP. OREFICE, 37th Dist.

To: Subst. House Bill No. 5647

File No. 536

Cal. No. 374

**"AN ACT CONCERNING THE URBAN AND INDUSTRIAL SITE
REINVESTMENT PROGRAM."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 38a-88a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) As used in this section:

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

7 (2) "Insurance business" means a business engaged in the business
8 of insuring risks; [or of providing services necessary to the business of
9 insuring risks;]

10 (3) "New job" means a job that did not exist in the business of a
11 subject insurance business in this state prior to the subject insurance

12 business's application to the commissioner for an eligibility certificate
13 under this section for a new facility and that is filled by a new
14 employee, but does not include a job created when an employee is
15 shifted from an existing location of the subject insurance business in
16 this state to a new facility;

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

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

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

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

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

80 services corporations subject to taxation under chapter 207, the income
81 year as determined under said chapter, and (C) with respect to
82 taxpayers subject to taxation under chapter 229, the taxable year
83 determined under said chapter;

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

86 (10) "Commissioner" means the Commissioner of Economic and
87 Community Development; and

88 (11) "Investment" means an equity investment by a fund manager in
89 an insurance business.

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

108 (c) There shall be allowed as a credit against the tax imposed under
109 chapter 207, 208 or 229 or section 38a-743 an amount equal to [the
110 following percentage of the moneys of the taxpayer invested through a
111 fund manager in an insurance business with respect to the following

112 income years of the taxpayer: (1) With respect to the income year in
113 which the investment in the subject insurance business was made and
114 the two next succeeding income years, zero per cent; (2) with respect to
115 the third full income year succeeding the year in which the investment
116 in the subject insurance business was made and the three next
117 succeeding income years, ten per cent; (3) with respect to the seventh
118 full income year succeeding the year in which the investment in the
119 subject insurance business was made and the two next succeeding
120 income years, twenty per cent] twenty-five per cent of the moneys of
121 the taxpayer invested through a fund manager in an insurance
122 business for each of the four income years next succeeding the
123 investment. The sum of all tax credit granted pursuant to the
124 provisions of this section shall not exceed [~~fifteen~~] ten million dollars
125 with respect to all equity investments made by a fund or funds in any
126 single insurance business, and with respect to all equity investments
127 made by a fund shall not exceed the total amount originally invested
128 in such fund. Any fund manager may apply to the Commissioner of
129 Economic and Community Development for a credit that exceeds the
130 limitations established by this subsection. The commissioner shall
131 evaluate the benefits of such application and make recommendations
132 to the General Assembly if he determines that the proposal would be
133 of economic benefit to the state.

134 (d) The credit allowed by this section may be claimed only by a
135 taxpayer who has invested in an insurance business through a fund (1)
136 which has a total asset value of not less than thirty million dollars for
137 the income year for which the initial credit is taken; (2) has not less
138 than three investors who are not related persons with respect to each
139 other or to any insurance business in which any investment is made
140 other than through the fund at the date the investment is made and (3)
141 which invests only in insurance businesses that are not related persons
142 with respect to each other.

143 (e) The credit allowed by this section may be claimed only with
144 respect to a subject insurance business which (1) occupies the new
145 facility for which an eligibility certificate has been issued by the

146 commissioner and with respect to which the certification required
147 under subsection (g) of this section has been issued as its home office,
148 and (2) employs not less than twenty-five per cent of its total work
149 force in new jobs.

150 (f) The credit allowed by this section may be claimed only with
151 respect to an income year for which a certification of continued
152 eligibility required under subsection (g) of this section has been issued.
153 If, with respect to any year for which a tax credit is claimed, any
154 subject insurance business ceases at any time to employ at least
155 twenty-five per cent of its total work force in new jobs, then, except as
156 provided in subsection (g) of this section, the entitlement to the credit
157 allowed by this section shall not be allowed for the taxable year in
158 which such employment ceases, and there shall not be a pro rata
159 application of the credit to such taxable year; provided, if the reason
160 for such cessation is the dissolution, liquidation or reorganization of
161 such insurance business in a bankruptcy or delinquency proceeding, as
162 defined in section 38a-905, as amended, the credit shall only be
163 allowed until such proceeding has concluded.

164 (g) The commissioner, upon application, [~~shall~~] may issue an
165 eligibility certificate for an insurance business occupying a new facility
166 in this state and employing new employees, after it has been
167 established, to his satisfaction, that subject insurance business has
168 complied with the provisions of this section. If the commissioner
169 determines that such requirements have been met as a result of
170 transactions with a related person for other than bona fide business
171 purposes, he shall deny such application. The commissioner shall
172 require the subject insurance business to submit annually such
173 information as may be necessary to determine whether the appropriate
174 occupancy and employment requirements have been met at all times
175 during an income year, which may include, but not be limited to,
176 evidence of equity investment. If the commissioner determines that
177 such requirements have been so met, he shall issue a certification of
178 continued eligibility to that effect to the subject insurance business on
179 or before the first day of the third month following the close of the

180 subject insurance business's income year.

181 (h) Each taxpayer claiming the credit allowed under this section
182 shall submit to the Commissioner of Revenue Services a copy of the
183 eligibility certificate and the certification required under subsection (g)
184 of this section with its tax return for each taxable year for which a
185 credit is claimed.

186 (i) (1) If (A) the number of new employees on account of which a
187 taxpayer claimed the credit allowed by this section decreases to less
188 than twenty-five per cent of its total work force for more than sixty
189 days during any of the taxable years for which a credit is claimed, (B)
190 those employees are not replaced by other employees who have not
191 been shifted from an existing location of the subject insurance business
192 in this state, and (C) the subject insurance business has relocated
193 operations conducted in the new facility to a location outside this state,
194 the taxpayer shall be required to recapture a percentage, as determined
195 under the provisions of subdivision (2) of this subsection, of the credit
196 allowed under this section on its tax return and no subsequent credit
197 shall be allowed. If the credit claimed by the taxpayer under this
198 section is attributable to investments made in more than one insurance
199 business, the credit recaptured and disallowed under this subsection
200 shall be that portion of the credit attributable to the investment in the
201 insurance business as described in subparagraphs (A) to (C), inclusive,
202 of subdivision (1) of this subsection. (2) If the taxpayer is required
203 under the provisions of subdivision (1) of this subsection to recapture a
204 portion of the credit during (A) the first year such credit was claimed,
205 then ninety per cent of the credit allowed shall be recaptured on the
206 tax return required to be filed for such year, (B) the second of such
207 years, then sixty-five per cent of the credit allowed for the entire period
208 of eligibility shall be recaptured on the tax return required to be filed
209 for such year, (C) the third of such years, then fifty per cent of the
210 credit allowed for the entire period of eligibility shall be recaptured on
211 the tax return required to be filed for such year, (D) the fourth of such
212 years, then thirty per cent of the credit allowed for the entire period of
213 eligibility shall be recaptured on the tax return required to be filed for

214 such year, (E) the fifth of such years, then twenty per cent of the credit
215 allowed for the entire period of eligibility shall be recaptured on the
216 tax return required to be filed for such year, and (F) the sixth or
217 subsequent of such years, then ten per cent of the credit allowed for
218 the entire period of eligibility shall be recaptured on the tax return
219 required to be filed for such year. Any credit recaptured pursuant to
220 this subsection shall not be in excess of the credit that would be
221 allowed for the applicable investment. The Commissioner of Revenue
222 Services may recapture such credits from the taxpayer who has
223 claimed such credits. If the commissioner is unable to recapture all or
224 part of such credits from such taxpayer, the commissioner may seek to
225 recapture such credits from any taxpayer who has assigned such
226 credits to another taxpayer. If the commissioner is unable to recapture
227 all or part of such credits from any such taxpayer, the commissioner
228 may recapture such credits from the fund. (3) The recapture provisions
229 of this subsection shall not apply and tax credits may continue to be
230 claimed under this section if, for the entire period that the credit is
231 applicable, such decrease in the percentage of total work force
232 employed in this state does not result in an actual decrease in the
233 number of persons employed by the subject insurance business in this
234 state on a regular, full-time, or equivalent thereof, and permanent basis
235 as compared to the number of new employees on account of which the
236 taxpayer claimed the credit allowed by this section.

237 (j) The tax credit allowed by this section shall only be available for
238 investments in funds that are not open to additional investments or
239 investors beyond the amount subscribed at the formation of the fund.
240 No credits shall be allowed under this section for investments in any
241 fund created on or after July 1, 2000. No credit shall be allowed under
242 this section for investments made in an insurance business through
243 such fund after December 31, 2015.

244 (k) (1) The Commissioner of Revenue Services may treat one or
245 more corporations that are properly included in a combined
246 corporation business tax return under section 12-223 as one taxpayer in
247 determining whether the appropriate requirements under this section

248 are met. Where corporations are treated as one taxpayer for purposes
249 of this subsection, then the credit shall be allowed only against the
250 amount of the combined tax for all corporations properly included in a
251 combined return that, under the provisions of subdivision (2) of this
252 subsection, is attributable to the corporations treated as one taxpayer.
253 (2) The amount of the combined tax for all corporations properly
254 included in a combined corporation business tax return that is
255 attributable to the corporations that are treated as one taxpayer under
256 the provisions of this subsection shall be in the same ratio to such
257 combined tax that the net income apportioned to this state of each
258 corporation treated as one taxpayer bears to the net income
259 apportioned to this state, in the aggregate, of all corporations included
260 in such combined return. Solely for the purpose of computing such
261 ratio, any net loss apportioned to this state by a corporation treated as
262 one taxpayer or by a corporation included in such combined return
263 shall be disregarded.

264 (l) Any taxpayer allowed a credit under this section may assign such
265 credit to another person, provided such person may claim such credit
266 only with respect to a calendar year for which the assigning taxpayer
267 would have been eligible to claim such credit. The fund manager shall
268 include in the report filed with the Commissioner of Revenue Services
269 in accordance with subsection (b) of this section information requested
270 by the commissioner regarding such assignments including the current
271 holders of credits as of the end of the preceding calendar year.

272 (m) No taxpayer shall be eligible for a credit under this section and
273 either section 12-217e or section 12-217m for the same investment. No
274 two taxpayers shall be eligible for any tax credit with respect to the
275 same investment, employee or facility.

276 (n) Any tax credit not used in the income year for which it was
277 allowed may be carried forward for the five immediately succeeding
278 income years until the full credit has been allowed.

279 (o) The commissioner, with the approval of the Commissioner of

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

283 (p) The sum of all tax credits granted annually pursuant to the
284 provisions of this section shall not exceed fifty million dollars. The sum
285 of all tax credits granted by the Commissioner of Revenue Services
286 pursuant to the provisions of this section over the life of the program
287 shall not exceed two hundred fifty million dollars."