



General Assembly

February Session, 2024

Raised Bill No. 5300

LCO No. 2264



Referred to Committee on COMMERCE

Introduced by:
(CE)

AN ACT CONCERNING THE INVEST CT FUND PROGRAM.

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

1 Section 1. Subsection (c) of section 38a-88a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2024*):

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

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

9 (B) "Cybersecurity business" means an eligible business primarily
10 engaged in providing information technology products, goods or
11 services intended to detect, prevent or respond to activity intended to
12 result in unauthorized access to, exfiltration of, manipulation of, or
13 impairment to the integrity, confidentiality or availability of an
14 information technology system or information stored on, or transiting,
15 an information technology system;

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

20 (D) "Eligible capital" means an investment of cash by a taxpayer in an
21 invest CT fund that fully funds the purchase price of an equity interest
22 in the invest CT fund or an eligible debt instrument issued by an invest
23 CT fund, at par value or a premium, that (i) has an original maturity
24 date of at least five years after the date of issuance, (ii) has a repayment
25 schedule that is not faster than a level principal amortization over five
26 years, and (iii) has no interest, distribution or payment features tied to
27 the invest CT fund's profitability or the success of the investments;

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

34 (F) "Income year" means the income year as determined in chapter
35 207 for the taxpayer;

36 (G) "Invest CT fund" means a Connecticut partnership, corporation,
37 trust or limited liability company, whether organized on a profit or not-
38 for-profit basis, that (i) is managed by at least two principals or persons
39 that have at least four years of experience each in managing venture
40 capital or private equity funds, with at least fifty million dollars of such
41 funds from people unaffiliated with the manager, (ii) has received an
42 equity investment of capital other than eligible capital equal to no less
43 than five per cent of the total amount of the eligible capital to be invested
44 in such invest CT fund on or before June 30, 2015, and equal to not less
45 than ten per cent of the total amount of eligible capital to be invested in
46 such invest CT fund on or after September 1, 2015, and (iii) is not, or will
47 not be after the receipt of eligible capital, controlled by or under

48 common control with, one or more insurance companies. An investment
49 of eligible capital shall not result in insurance company control unless
50 such investment exceeds forty million dollars per taxpayer and results
51 in insurance companies having the right to vote more than fifty per cent
52 of the equity interests of the invest CT fund cash invested in such invest
53 CT fund, provided this provision shall not prohibit the interim control
54 of an invest CT fund by one or more insurance companies upon a breach
55 of any payment obligation of the invest CT fund or contractual or other
56 agreement by the invest CT fund that is designed to ensure compliance
57 with this section; and

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

61 (2) A taxpayer that makes an investment of eligible capital shall, in
62 the year of investment, earn a vested credit against the premium tax
63 imposed pursuant to chapter 207 and section 38a-743. Such credit shall
64 be available as follows: (A) With respect to investments of eligible
65 capital made on or before June 30, 2015, (i) commencing with the tax
66 return due for the first to third, inclusive, tax years, zero per cent; (ii)
67 commencing with the tax return due for the fourth to seventh, inclusive,
68 tax years, not more than ten per cent; and (iii) commencing with the tax
69 return due for the eighth to tenth, inclusive, tax years, not more than
70 twenty per cent; and (B) with respect to investments of eligible capital
71 made on or after September 1, 2015, (i) commencing with the tax return
72 due for the first to fifth, inclusive, tax years, zero per cent; and (ii)
73 commencing with the tax return due for the sixth to tenth, inclusive, tax
74 years, not more than twenty per cent. The maximum amount of eligible
75 capital for which credits may be allowed under this subsection shall not
76 result in more than forty million dollars of tax credits being used in any
77 one year exclusive of any carried forward credits and no fund shall
78 apply for more than the total amount of credits available under this
79 section.

80 (3) (A) On or before July 1, 2010, the Commissioner of Economic and

81 Community Development shall begin to accept applications for
82 certification as an invest CT fund and for allocations of tax credits under
83 this subsection with allocation dates of June 30, 2015, or earlier. On and
84 after September 1, 2015, the commissioner shall accept applications for
85 certification as an invest CT fund and for allocations of tax credits under
86 this subsection with allocation dates of September 1, 2015, or later.
87 Applications shall include: [(A)] (i) The amount of eligible capital the
88 applicant will raise; [(B)] (ii) a nonrefundable application fee of seven
89 thousand five hundred dollars; [(C)] (iii) evidence of satisfaction of the
90 requirements of the definition of "invest CT fund" pursuant to
91 subparagraph (G) of subdivision (1) of this subsection; [(D)] (iv) an
92 affidavit by each taxpayer committing an investment of eligible capital;
93 [(E)] (v) a business plan detailing [(i)] (I) the approximate percentage of
94 eligible capital the applicant will invest in eligible businesses by the
95 third, fifth, seventh and ninth anniversaries of its allocation date, [(ii)]
96 (II) the industry segments listed by the North American Industrial
97 Classification System code and percentage of eligible capital in which
98 the applicant will invest, [(iii)] (III) the number of jobs that will be
99 created or retained as a result of the applicant's investments once all
100 eligible capital has been invested, [(iv)] (IV) the percentage of eligible
101 capital to be invested in eligible businesses primarily engaged in
102 conducting research and development or manufacturing, processing or
103 assembling technology-based products, and [(v)] (V) a revenue impact
104 assessment demonstrating that the applicant's business plan has a
105 revenue neutral or positive impact on the state; [(F)] (vi) a commitment
106 to invest at least twenty-five per cent of its eligible capital in green
107 technology businesses; [(G)] (vii) with respect to applications submitted
108 on or before June 30, 2015, a commitment to invest, by the third
109 anniversary of its allocation date, three per cent of its eligible capital in
110 preseed investments, and with respect to applications submitted on or
111 after September 1, 2015, a commitment to invest, by the fourth
112 anniversary of the allocation date, seven per cent of its eligible capital in
113 preseed investments, in consultation with Connecticut Innovations,
114 Incorporated, pursuant to the corporation's program for preseed
115 financing established pursuant to section 32-41x; and [(H)] (viii) with

116 respect to applications submitted on or after September 1, 2015, a
117 commitment to invest at least three per cent of its eligible capital in
118 cybersecurity businesses and at least twenty-five per cent of its eligible
119 capital in eligible businesses located in municipalities with a population
120 greater than eighty thousand. The commissioner may require the
121 applicant to obtain a revenue impact assessment conducted by an
122 independent third party.

123 (B) An applicant may submit to the commissioner a request, in such
124 form and manner prescribed by the commissioner, to consider as an
125 eligible business a business that does not have its principal business
126 operations in Connecticut. The commissioner may approve such a
127 request if the commissioner determines that such an approval would
128 significantly advance the objectives of the invest CT fund program,
129 provided such business complies with all other requirements under
130 subparagraph (A) of this subdivision.

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

136 (5) The commissioner shall issue an allocation of credits subject to
137 confirmation by the fund on a form prescribed by the commissioner that
138 an investment of eligible capital was received within five business days.
139 If an invest CT fund does not receive an investment of eligible capital
140 equaling the amount of credits against the tax imposed under chapter
141 207 and section 38a-743 allocated to a taxpayer, for which it filed an
142 affidavit with its application prior to the fifth business day after receipt
143 of certification, the invest CT fund shall notify the commissioner by
144 overnight common carrier delivery service and that portion of eligible
145 capital allocated to the insurance company shall be forfeited. Such invest
146 CT fund and forfeiting taxpayer shall each be assessed a twenty-five-
147 thousand-dollar administrative penalty. The commissioner shall
148 reallocate the forfeited eligible capital among all other remaining

149 taxpayers that invested eligible capital.

150 (6) To continue to be certified, an invest CT fund shall (A) be in
151 compliance with the investment parameters set forth in its business
152 plan, provided an invest CT fund may apply to the commissioner to
153 amend its business plan based on unavoidable or reasonably
154 unanticipated changes to various conditions, including, but not limited
155 to, the general economic climate of the state or particular sectors of the
156 economy, technological advances and high employment and revenue
157 growth opportunities, with approval for such changes not to be
158 unreasonably withheld by the commissioner; (B) be in compliance with
159 the revenue impact assessment provided in the application
160 demonstrating that the fund's business plan continues to have a revenue
161 neutral or positive impact on the state; (C) have invested one hundred
162 per cent of its eligible capital in eligible businesses by the tenth
163 anniversary of its allocation date, with a minimum of twenty-five per
164 cent of eligible capital invested in green technology businesses; (D) for
165 allocation dates of June 30, 2015, or earlier: (i) Have invested sixty per
166 cent of its eligible capital in eligible businesses by the fourth anniversary
167 of such allocation date, and (ii) have invested a minimum of three per
168 cent of such eligible capital in preseed investments, as described in
169 subparagraph (A) of subdivision (3) of this subsection, by the third
170 anniversary of such allocation date; and (E) for allocation dates of
171 September 1, 2015, or later: (i) Have invested sixty per cent of its eligible
172 capital in eligible businesses by the sixth anniversary of such allocation
173 date, (ii) have invested a minimum of seven per cent of its eligible capital
174 in preseed investments, as described in subparagraph (A) of subdivision
175 (3) of this subsection, by the fourth anniversary of such allocation date,
176 (iii) have invested a minimum of three per cent of its eligible capital in
177 cybersecurity businesses, and (iv) have invested a minimum of twenty-
178 five per cent of its eligible capital in eligible businesses located in
179 municipalities with a population greater than eighty thousand. An
180 invest CT fund shall only invest eligible capital in eligible businesses,
181 bank deposits, certificates of deposit or other fixed income securities and
182 may not invest more than fifteen per cent of its eligible capital in any

183 one eligible business without prior approval of the commissioner.

184 (7) Not later than January thirty-first annually, each invest CT fund
185 shall report to the commissioner: (A) The amount of eligible capital
186 remaining at the end of the preceding year; (B) each investment in an
187 eligible business during the preceding year and, with respect to each
188 eligible business, its location and North American Industrial
189 Classification System code; (C) the percentage of eligible capital
190 invested in green technology businesses, preseed investments,
191 cybersecurity businesses and eligible businesses located in
192 municipalities with a population greater than eighty thousand; and (D)
193 distributions made by the invest CT fund in the preceding year. In the
194 annual report due in the third, fifth, seventh and ninth years after its
195 allocation date, each invest CT fund shall also report to the
196 commissioner its compliance with the investment parameters set forth
197 in its business plan and the revenue impact assessment provided in the
198 application demonstrating that the fund's business plan continues to
199 have a revenue neutral or positive impact on the state. Each invest CT
200 fund shall provide to the commissioner annual audited financial
201 statements.

202 (8) To make a distribution or payment, an invest CT fund certified by
203 the commissioner on or before June 30, 2015, must have invested one
204 hundred per cent of its eligible capital in eligible businesses, with a
205 minimum of twenty-five per cent of eligible capital invested in green
206 technology businesses and a minimum of three per cent of eligible
207 capital invested in preseed investment, as described in subparagraph
208 (A) of subdivision (3) of this subsection, with principal business
209 operations in this state at the time of such determination except: (A)
210 Distributions related to the payment of any projected increase in federal
211 or state taxes, including penalties and interest related to state and
212 federal income taxes, of the equity owners of the invest CT fund
213 resulting from the earnings or other tax liability of the invest CT fund to
214 the extent that the increase is related to the ownership, management or
215 operation of the invest CT fund; (B) payments of interest and principal
216 on the debt of the invest CT fund, provided after such payment, the

217 invest CT fund still has cash and other marketable securities in an
218 amount that, when added to the cumulative investments it has made in
219 eligible recipients, equals not less than sixty per cent of the eligible
220 capital invested in such reinvestment fund; or (C) payments related to
221 the reasonable costs and expenses of forming, syndicating, managing
222 and operating the fund, provided the distribution or payment is not
223 made directly or indirectly to an insurance company that has invested
224 eligible capital in the invest CT fund, including: (i) Reasonable and
225 necessary fees paid for professional services, including legal and
226 accounting services, related to the formation and operation of the invest
227 CT fund; and (ii) an annual management fee in an amount that does not
228 exceed two and one-half per cent of the eligible capital of the invest CT
229 fund. The state shall receive a share of any distribution, except as set
230 forth in subparagraphs (A), (B) and (C) of this subdivision and
231 distributions made to return any equity capital invested in the invest CT
232 fund that is not eligible capital, in the following percentages: (I) Ten per
233 cent when less than eighty per cent but more than sixty per cent of the
234 jobs set forth in the invest CT fund's business plan are created or
235 retained, and (II) twenty per cent when sixty per cent or less of the jobs
236 set forth in the invest CT fund's business plan are created or retained.

237 (9) To make a distribution or payment, an invest CT fund certified by
238 the commissioner on or after September 1, 2015, must have invested one
239 hundred per cent of its eligible capital in eligible businesses, with a
240 minimum of twenty-five per cent of eligible capital invested in green
241 technology businesses, a minimum of seven per cent of eligible capital
242 invested in preseed investments, as described in subparagraph (A) of
243 subdivision (3) of this subsection, a minimum of three per cent of eligible
244 capital invested in cybersecurity businesses, and a minimum of twenty-
245 five per cent of eligible capital invested in businesses located in
246 municipalities with a population greater than eighty thousand, with
247 principal business operations in this state at the time of such
248 determination, except: (A) Distributions related to the payment of any
249 projected increase in federal or state taxes, including penalties and
250 interest related to state and federal income taxes, of the equity owners

251 of the invest CT fund resulting from the earnings or other tax liability of
252 the invest CT fund to the extent that the increase is related to the
253 ownership, management or operation of the invest CT fund; (B)
254 payments of interest and principal on the debt of the invest CT fund,
255 provided after such payment, the invest CT fund still has cash and other
256 marketable securities in an amount that, when added to the cumulative
257 investments it has made in eligible recipients, equals not less than sixty
258 per cent of the eligible capital invested in such reinvestment fund; or (C)
259 payments related to the reasonable costs and expenses of forming,
260 syndicating, managing and operating the fund, provided the
261 distribution or payment is not made directly or indirectly to an
262 insurance company that has invested eligible capital in the invest CT
263 fund, including: (i) Reasonable and necessary fees paid for professional
264 services, including legal and accounting services, related to the
265 formation and operation of the invest CT fund; and (ii) an annual
266 management fee in an amount that does not exceed two and one-half
267 per cent of the eligible capital of the invest CT fund. The state shall
268 receive a share of any distribution, except as set forth in subparagraphs
269 (A), (B) and (C) of this subdivision and distributions made to return any
270 equity capital invested in the invest CT fund that is not eligible capital,
271 in the following percentages: (I) Ten per cent when less than eighty per
272 cent but more than sixty per cent of the jobs set forth in the invest CT
273 fund's business plan are created or retained, and (II) twenty per cent
274 when sixty per cent or less of the jobs set forth in the invest CT fund's
275 business plan are created or retained.

276 (10) The commissioner shall review each annual report to ensure
277 compliance with subdivisions (6), (7), (8) and (9) of this subsection. A
278 material variation from subdivision (6), (7), (8) or (9) of this subsection
279 is grounds for decertification of the invest CT fund. If the commissioner
280 determines that an invest CT fund is not in compliance with subdivision
281 (6), (7), (8) or (9) of this subsection or the investment parameters of its
282 business plan, the commissioner shall notify the officers of the invest CT
283 fund, in writing, that the invest CT fund may be subject to
284 decertification after the one hundred twentieth day after the date of

285 mailing the notice, unless the deficiencies are waived by the
286 commissioner or are corrected and the invest CT fund returns to
287 compliance with subdivisions (6), (7), (8) and (9) of this subsection.

288 (11) Decertification of an invest CT fund shall cause the forfeiture of
289 future credits against the tax imposed by chapter 207 and section 38a-
290 743 to be claimed with respect to an invest CT fund when (A) such
291 decertification occurs on or before the fourth anniversary of an
292 allocation date of June 30, 2015, or earlier, or on or before the sixth
293 anniversary of an allocation date of September 1, 2015, or later, and (B)
294 such fund has invested less than sixty per cent of its eligible capital in
295 eligible businesses by said anniversary. The commissioner shall send
296 written notice to the last-known address of each taxpayer whose credit
297 against the tax imposed by chapter 207 is subject to recapture or
298 forfeiture.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	38a-88a(c)

Statement of Purpose:

To authorize the Commissioner of Economic and Community Development to consider certain businesses that do not have their principal business operations in Connecticut to be eligible businesses under the invest CT fund 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.]