

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 281

Introduced by Pirsch, 4.

Read first time January 16, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-6306, Revised Statutes Cumulative Supplement, 2012; to
3 change the amount of tax credits allowed under the Angel
4 Investment Tax Credit Act; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6306, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-6306 (1) For taxable years beginning or deemed to
4 begin on or after January 1, 2011, under the Internal Revenue Code of
5 1986, as amended, a qualified investor or qualified fund is eligible
6 for a refundable tax credit equal to thirty-five percent of its
7 qualified investment in a qualified small business, except that if
8 the qualified small business is located in a distressed area the
9 qualified investor or qualified fund is eligible for a refundable tax
10 credit equal to forty percent of its qualified investment in the
11 qualified small business. The director shall not allocate more than
12 ~~three~~five million dollars in tax credits to all qualified investors
13 or qualified funds in a calendar year. If the director does not
14 allocate the entire ~~three~~five million dollars of tax credits in a
15 calendar year, the tax credits that are not allocated shall not carry
16 forward to subsequent years. The director shall not allocate any
17 amount for tax credits for calendar years after 2017.

18 (2) The director shall not allocate more than a total
19 maximum amount in tax credits for a calendar year to a qualified
20 investor for the investor's cumulative qualified investments as an
21 individual qualified investor and as an investor in a qualified fund
22 as provided in this subsection. For married couples filing joint
23 returns the maximum is three hundred fifty thousand dollars, and for
24 all other filers the maximum is three hundred thousand dollars. The
25 director shall not allocate more than a total of one million dollars

1 in tax credits for qualified investments in any one qualified small
2 business.

3 (3) The director shall not allocate a tax credit to a
4 qualified investor either as an individual qualified investor or as
5 an investor in a qualified fund if the investor receives more than
6 forty-nine percent of the investor's gross annual income from the
7 qualified small business in which the qualified investment is
8 proposed. A family member of an individual disqualified by this
9 subsection is not eligible for a tax credit under this section. For a
10 married couple filing a joint return, the limitations in this
11 subsection apply collectively to the investor and spouse. For
12 purposes of determining the ownership interest of an investor under
13 this subsection, the rules under section 267(c) and (e) of the
14 Internal Revenue Code of 1986, as amended, apply.

15 (4) Tax credits shall be allocated to qualified investors
16 or qualified funds in the order that the tax credit applications are
17 filed with the director. Once tax credits have been approved and
18 allocated by the director, the qualified investors and qualified
19 funds shall implement the qualified investment specified within
20 ninety days. If the qualified investment is not made within ninety
21 days, the tax credit allocation is canceled and available for
22 reallocation. A qualified investor or qualified fund that fails to
23 invest as specified in the application within ninety days after
24 allocation of the tax credits shall notify the director of the
25 failure to invest within five business days after the expiration of

1 the ninety-day investment period.

2 (5) All tax credit applications filed with the director
3 on the same day shall be treated as having been filed
4 contemporaneously. If two or more qualified investors or qualified
5 funds file tax credit applications on the same day and the aggregate
6 amount of tax credit allocation requests exceeds the aggregate limit
7 of tax credits under this section or the lesser amount of tax credits
8 that remain unallocated on that day, then the tax credits shall be
9 allocated among the qualified investors or qualified funds who filed
10 on that day on a pro rata basis with respect to the amounts
11 requested. The pro rata allocation for any one qualified investor or
12 qualified fund shall be the product obtained by multiplying a
13 fraction, the numerator of which is the amount of the tax credit
14 allocation request filed on behalf of a qualified investor or
15 qualified fund and the denominator of which is the total of all tax
16 credit allocation requests filed on behalf of all applicants on that
17 day, by the amount of tax credits that remain unallocated on that day
18 for the taxable year.

19 (6) A qualified investor or qualified fund, or a
20 qualified small business acting on behalf of the investor or fund,
21 shall notify the director when an investment for which tax credits
22 were allocated has been made and the date the investment was made. A
23 qualified fund shall also provide the director with a statement
24 indicating the amount invested by each investor in the qualified fund
25 based on each investor's share of the assets of the qualified fund at

1 the time of the qualified investment. After receiving notification
2 that the qualified investment was made, the director shall issue tax
3 credit certificates for the taxable year in which the qualified
4 investment was made to the qualified investor or, for a qualified
5 investment made by a qualified fund, to each qualified investor who
6 is an investor in the fund. The certificate shall state that the tax
7 credit is subject to revocation if the qualified investor or
8 qualified fund does not hold the investment in the qualified small
9 business for at least three years, consisting of the calendar year in
10 which the investment was made and the two following calendar years.
11 The three-year holding period does not apply if:

12 (a) The qualified investment by the qualified investor or
13 qualified fund becomes worthless before the end of the three-year
14 period;

15 (b) Eighty percent or more of the assets of the qualified
16 small business are sold before the end of the three-year period;

17 (c) The qualified small business is sold or merges with
18 another business before the end of the three-year period; or

19 (d) The qualified small business's common stock begins
20 trading on a public exchange before the end of the three-year period.

21 (7) The director shall notify the Tax Commissioner that
22 tax credit certificates have been issued, including the amount of tax
23 credits and all other pertinent tax information.

24 Sec. 2. Original section 77-6306, Revised Statutes
25 Cumulative Supplement, 2012, is repealed.