

**Conn. Gen. Stat. § 38a-88a**

Current through 2023 Regular Session and September Special Session

*LexisNexis® Connecticut Annotated Statutes > Title 38a Insurance (Chs. 697 — 706c) > Chapter 698 Insurers (Pts. I — VII) > Part II Financial Requirements (§§ 38a-69 — 38a-89)*

**Sec. 38a-88a. Insurance business investments through fund managers. Invest CT funds. Tax credits. Regulations.**

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(a) As used in this section:

- (1) “Facility” means an insurance business facility;
- (2) “Insurance business” means a business with a North American Industry Classification System code of 524113 to 524298, inclusive, that is engaged in the business of insuring risks or of providing services necessary to the business of insuring risks;
- (3) “New job” means a job that did not exist in the business of a subject insurance business in this state prior to the subject insurance business’s application to the commissioner for an eligibility certificate under this section for a new facility and that is filled by a new employee, but does not include a job created when an employee is shifted from an existing location of the subject insurance business in this state to a new facility;
- (4) “New employee” means a person who resides in Connecticut and is hired by a subject insurance business to fill a position for a new job or a person shifted from an existing location of the subject insurance business outside this state to a new facility in this state, provided (A) in no case shall the total number of new employees allowed for purposes of this credit exceed the total increase in the taxpayer’s employment in this state, which increase shall be the difference between (i) the number of employees employed by the subject insurance business in this state at the time of application for an eligibility certificate to the commissioner plus the number of new employees who would be eligible for inclusion under the credit allowed under this section without regard to this calculation, and (ii) the highest number of employees employed by the subject insurance business in this state in the year preceding the subject insurance business’s application for an eligibility certificate to the commissioner, and (B) a person shall be deemed to be a “new employee” only if such person’s duties in connection with the operation of the facility are on a regular, full-time, or equivalent thereof, and permanent basis;
- (5) “New facility” means a facility which (A) is acquired by, leased to, or constructed by, a subject insurance business on or after the date of the subject insurance business’s application to the commissioner for an eligibility certificate under this section, unless, upon application of the subject insurance business and upon good and sufficient cause shown, the commissioner waives the requirement that such activity take place after the application, and (B) was not in

service or use during the one-year period immediately prior to the date of the subject insurance business's application to said commissioner for an eligibility certificate under this section, unless upon application of the subject insurance business and upon good and sufficient cause shown, the commissioner consents to waiving the one-year period;

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

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

(8) "Income year" means (A) with respect to corporations subject to taxation under chapter 208, the income year as determined under said chapter, (B) with respect to insurance companies, hospital service corporations and medical service corporations subject to taxation under chapter 207, the income year as determined under said chapter, and (C) with respect to taxpayers subject to taxation under chapter 229, the taxable year determined under chapter 229;

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

(10) "Commissioner" means the Commissioner of Economic and Community Development.

(b)

(1) On or before July 1, 2000, the commissioner shall register managers of funds created for the purpose of investing in insurance businesses. Any manager registered under this subsection shall have its primary place of business in this state. Each applicant shall submit an application under oath to the commissioner to be registered and shall furnish evidence satisfactory to the commissioner of its financial responsibility, integrity, and professional competence to manage investments. Failure to maintain adequate fiduciary standards shall constitute cause for the

commissioner to revoke, after hearing, any registration granted under this section. The fund manager shall make a report on or before the first day of March in each year, under oath, to the Commissioner of Revenue Services specifying the name, address and Social Security number or employer identification number of each investor, the year during which each investment was made by each investor, the amount of each investment and a description of the fund's investment objectives and relative performance.

(2) There shall be allowed as a credit against the tax imposed under chapter 207, 208 or 229 or section 38a-743 an amount equal to the following percentage of the moneys of the taxpayer invested through a fund manager in an insurance business with respect to the following income years of the taxpayer: (A) With respect to the income year in which the investment in the subject insurance business was made and the two next succeeding income years, zero per cent; (B) with respect to the third full income year succeeding the year in which the investment in the subject insurance business was made and the three next succeeding income years, ten per cent; (C) with respect to the seventh full income year succeeding the year in which the investment in the subject insurance business was made and the two next succeeding income years, twenty per cent. The sum of all tax credit granted pursuant to the provisions of this subsection shall not exceed fifteen million dollars with respect to investments made by a fund or funds in any single insurance business, and with respect to all investments made by a fund shall not exceed the total amount originally invested in such fund. Any fund manager may apply to the Commissioner of Economic and Community Development for a credit that exceeds the limitations established by this subdivision. The commissioner shall evaluate the benefits of such application and make recommendations to the General Assembly if he determines that the proposal would be of economic benefit to the state.

(3) The credit allowed by this subsection may be claimed only by a taxpayer who has invested in an insurance business through a fund (A) which has a total asset value of not less than thirty million dollars for the income year for which the initial credit is taken; (B) has not less than three investors who are not related persons with respect to each other or to any insurance business in which any investment is made other than through the fund at the date the investment is made; and (C) which invests only in insurance businesses that are not related persons with respect to each other.

(4) The credit allowed by this subsection may be claimed only with respect to a subject insurance business which (A) occupies the new facility for which an eligibility certificate has been issued by the commissioner and with respect to which the certification required under subdivision (6) of this subsection has been issued as its home office, and (B) employs not less than twenty-five per cent of its total work force in new jobs.

(5) The credit allowed by this subsection may be claimed only with respect to an income year for which a certification of continued eligibility required under subdivision (6) of this subsection has been issued. If, with respect to any year for which a tax credit is claimed, any subject insurance business ceases at any time to employ at least twenty-five per cent of its total work force in new jobs, then, except as provided in subdivision (6) of this subsection, the entitlement to the credit allowed by this subsection shall not be allowed for the taxable year in which such employment ceases, and there shall not be a pro rata application of the credit to such taxable year; provided, if the reason for such cessation is the dissolution, liquidation or

reorganization of such insurance business in a bankruptcy or delinquency proceeding, as defined in section 38a-905, the credit shall be allowed.

(6) The commissioner, upon application, shall issue an eligibility certificate for an insurance business occupying a new facility in this state and employing new employees, after it has been established, to his satisfaction, that subject insurance business has complied with the provisions of this subsection. If the commissioner determines that such requirements have been met as a result of transactions with a related person for other than bona fide business purposes, he shall deny such application. The commissioner shall require the subject insurance business to submit annually such information as may be necessary to determine whether the appropriate occupancy and employment requirements have been met at all times during an income year. If the commissioner determines that such requirements have been so met, he shall issue a certification of continued eligibility to that effect to the subject insurance business on or before the first day of the third month following the close of the subject insurance business's income year.

(7) The commissioner shall, upon request, provide a copy of the eligibility certificate and the certification required under subdivision (6) of this subsection to the Commissioner of Revenue Services.

(8)

(A) If (i) the number of new employees on account of which a taxpayer claimed the credit allowed by this subsection decreases to less than twenty-five per cent of its total work force for more than sixty days during any of the taxable years for which a credit is claimed, (ii) those employees are not replaced by other employees who have not been shifted from an existing location of the subject insurance business in this state, and (iii) the subject insurance business has relocated operations conducted in the new facility to a location outside this state, the taxpayer shall be required to recapture a percentage, as determined under the provisions of subparagraph (B) of this subdivision, of the credit allowed under this subsection on its tax return and no subsequent credit shall be allowed. If the credit claimed by the taxpayer under this subsection is attributable to investments made in more than one insurance business, the credit recaptured and disallowed under this subdivision shall be that portion of the credit attributable to the investment in the insurance business as described in subparagraphs (A)(i) to (A)(iii), inclusive, of this subdivision.

(B) If the taxpayer is required under the provisions of subparagraph (A) of this subdivision to recapture a portion of the credit during (i) the first year such credit was claimed, then ninety per cent of the credit allowed shall be recaptured on the tax return required to be filed for such year, (ii) the second of such years, then sixty-five per cent of the credit allowed for the entire period of eligibility shall be recaptured on the tax return required to be filed for such year, (iii) the third of such years, then fifty per cent of the credit allowed for the entire period of eligibility shall be recaptured on the tax return required to be filed for such year, (iv) the fourth of such years, then thirty per cent of the credit allowed for the entire period of eligibility shall be recaptured on the tax return required to be filed for such year, (v) the fifth of such years, then twenty per cent of the credit allowed for the entire period of eligibility shall be recaptured on the tax return required to be filed for such year, and (vi) the sixth or subsequent of such years, then ten per cent of the credit allowed for the entire period of eligibility shall be recaptured on the tax return required to be filed for such

year. Any credit recaptured pursuant to this subdivision shall not be in excess of the credit that would be allowed for the applicable investment. The Commissioner of Revenue Services may recapture such credits from the taxpayer who has claimed such credits. If the commissioner is unable to recapture all or part of such credits from such taxpayer, the commissioner may seek to recapture such credits from any taxpayer who has assigned such credits to another taxpayer. If the commissioner is unable to recapture all or part of such credits from any such taxpayer, the commissioner may recapture such credits from the fund.

(C) The recapture provisions of this subdivision shall not apply and tax credits may continue to be claimed under this subsection if, for the entire period that the credit is applicable, such decrease in the percentage of total work force employed in this state does not result in an actual decrease in the number of persons employed by the subject insurance business in this state on a regular, full-time, or equivalent thereof, and permanent basis as compared to the number of new employees on account of which the taxpayer claimed the credit allowed by this subsection.

(c)

(1) As used in this subsection:

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

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

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

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

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

(F) “Income year” means the income year as determined in chapter 207 for the taxpayer;

**(G)** “Invest CT fund” means a Connecticut partnership, corporation, trust or limited liability company, whether organized on a profit or not-for-profit basis, that (i) is managed by at least two principals or persons that have at least four years of experience each in managing venture capital or private equity funds, with at least fifty million dollars of such funds from people unaffiliated with the manager, (ii) has received an equity investment of capital other than eligible capital equal to no less than five per cent of the total amount of the eligible capital to be invested in such invest CT fund on or before June 30, 2015, and equal to not less than ten per cent of the total amount of eligible capital to be invested in such invest CT fund on or after September 1, 2015, and (iii) is not, or will not be after the receipt of eligible capital, controlled by or under common control with, one or more insurance companies. An investment of eligible capital shall not result in insurance company control unless such investment exceeds forty million dollars per taxpayer and results in insurance companies having the right to vote more than fifty per cent of the equity interests of the invest CT fund cash invested in such invest CT fund, provided this provision shall not prohibit the interim control of an invest CT fund by one or more insurance companies upon a breach of any payment obligation of the invest CT fund or contractual or other agreement by the invest CT fund that is designed to ensure compliance with this section; and

**(H)** “Principal business operations” means at least eighty per cent of the business organization’s employees reside in the state or eighty per cent of the business payroll is paid to individuals living in this state.

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

**(3)** On or before July 1, 2010, the Commissioner of Economic and Community Development shall begin to accept applications for certification as an invest CT fund and for allocations of tax credits under this subsection with allocation dates of June 30, 2015, or earlier. On and after September 1, 2015, the commissioner shall accept applications for certification as an invest CT fund and for allocations of tax credits under this subsection with allocation dates of September 1, 2015, or later. Applications shall include: (A) The amount of eligible capital the applicant will raise; (B) a nonrefundable application fee of seven thousand five hundred dollars; (C) evidence of satisfaction of the requirements of the definition of “invest CT fund” pursuant to subparagraph (G) of subdivision (1) of this subsection; (D) an affidavit by each taxpayer

committing an investment of eligible capital; (E) a business plan detailing (i) the approximate percentage of eligible capital the applicant will invest in eligible businesses by the third, fifth, seventh and ninth anniversaries of its allocation date, (ii) the industry segments listed by the North American Industrial Classification System code and percentage of eligible capital in which the applicant will invest, (iii) the number of jobs that will be created or retained as a result of the applicant's investments once all eligible capital has been invested, (iv) the percentage of eligible capital to be invested in eligible businesses primarily engaged in conducting research and development or manufacturing, processing or assembling technology-based products, and (v) a revenue impact assessment demonstrating that the applicant's business plan has a revenue neutral or positive impact on the state; (F) a commitment to invest at least twenty-five per cent of its eligible capital in green technology businesses; (G) with respect to applications submitted on or before June 30, 2015, a commitment to invest, by the third anniversary of its allocation date, three per cent of its eligible capital in preseed investments, and with respect to applications submitted on or after September 1, 2015, a commitment to invest, by the fourth anniversary of the allocation date, seven per cent of its eligible capital in preseed investments, in consultation with Connecticut Innovations, Incorporated, pursuant to the corporation's program for preseed financing established pursuant to section 32-41x; and (H) with respect to applications submitted on or after September 1, 2015, a commitment to invest at least three per cent of its eligible capital in cybersecurity businesses and at least twenty-five per cent of its eligible capital in eligible businesses located in municipalities with a population greater than eighty thousand. The commissioner may require the applicant to obtain a revenue impact assessment conducted by an independent third party.

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

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

(6) To continue to be certified, an invest CT fund shall (A) be in compliance with the investment parameters set forth in its business plan, provided an invest CT fund may apply to the commissioner to amend its business plan based on unavoidable or reasonably unanticipated changes to various conditions, including, but not limited to, the general economic climate of the state or particular sectors of the economy, technological advances and high employment and revenue growth opportunities, with approval for such changes not to be unreasonably

withheld by the commissioner; (B) be in compliance with the revenue impact assessment provided in the application demonstrating that the fund's business plan continues to have a revenue neutral or positive impact on the state; (C) have invested one hundred per cent of its eligible capital in eligible businesses by the tenth anniversary of its allocation date, with a minimum of twenty-five per cent of eligible capital invested in green technology businesses; (D) for allocation dates of June 30, 2015, or earlier: (i) Have invested sixty per cent of its eligible capital in eligible businesses by the fourth anniversary of such allocation date, and (ii) have invested a minimum of three per cent of such eligible capital in preseed investments, as described in subdivision (3) of this subsection, by the third anniversary of such allocation date; and (E) for allocation dates of September 1, 2015, or later: (i) Have invested sixty per cent of its eligible capital in eligible businesses by the sixth anniversary of such allocation date, (ii) have invested a minimum of seven per cent of its eligible capital in preseed investments, as described in subdivision (3) of this subsection, by the fourth anniversary of such allocation date, (iii) have invested a minimum of three per cent of its eligible capital in cybersecurity businesses, and (iv) have invested a minimum of twenty-five per cent of its eligible capital in eligible businesses located in municipalities with a population greater than eighty thousand. An invest CT fund shall only invest eligible capital in eligible businesses, bank deposits, certificates of deposit or other fixed income securities and may not invest more than fifteen per cent of its eligible capital in any one eligible business without prior approval of the commissioner.

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

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



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

**(9)** To make a distribution or payment, an invest CT fund certified by the commissioner on or after September 1, 2015, must have invested one hundred per cent of its eligible capital in eligible businesses, with a minimum of twenty-five per cent of eligible capital invested in green technology businesses, a minimum of seven per cent of eligible capital invested in preseed investments, as described in subdivision (3) of this subsection, a minimum of three per cent of eligible capital invested in cybersecurity businesses, and a minimum of twenty-five per cent of eligible capital invested in businesses located in municipalities with a population greater than eighty thousand, with principal business operations in this state at the time of such determination, except: (A) Distributions related to the payment of any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of the invest CT fund resulting from the earnings or other tax liability of the invest CT fund to the extent that the increase is related to the ownership, management or operation of the invest CT fund; (B) payments of interest and principal on the debt of the invest CT fund, provided after such payment, the invest CT fund still has cash and other marketable securities in an amount that, when added to the cumulative investments it has made in eligible recipients, equals not less than sixty per cent of the eligible capital invested in such reinvestment fund; or (C) payments related to the reasonable costs and expenses of forming, syndicating, managing and operating the fund, provided the distribution or payment is not made directly or indirectly to an insurance company that has invested eligible capital in the invest CT fund, including: (i) Reasonable and necessary fees paid for professional services, including legal and accounting services, related to the formation and operation of the invest CT fund; and (ii) an annual management fee in an amount that does not exceed two and one-half per cent of the eligible capital of the invest CT fund. The state shall receive a share of any distribution, except as set forth in subparagraphs (A), (B) and (C) of this subdivision and distributions made to return any equity capital invested in the invest CT fund that is not eligible capital, in the following percentages: (I) Ten per cent when less than eighty per cent but more than sixty per cent of the jobs set forth in the invest CT fund's business plan are created or retained, and (II) twenty per cent when sixty per cent or less of the jobs set forth in the invest CT fund's business plan are created or retained.

**(10)** The commissioner shall review each annual report to ensure compliance with subdivisions (6), (7), (8) and (9) of this subsection. A material variation from subdivision (6),

(7), (8) or (9) of this subsection is grounds for decertification of the invest CT fund. If the commissioner determines that an invest CT fund is not in compliance with subdivision (6), (7), (8) or (9) of this subsection or the investment parameters of its business plan, the commissioner shall notify the officers of the invest CT fund, in writing, that the invest CT fund may be subject to decertification after the one hundred twentieth day after the date of mailing the notice, unless the deficiencies are waived by the commissioner or are corrected and the invest CT fund returns to compliance with subdivisions (6), (7), (8) and (9) of this subsection.

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

**(d)**

**(1)** The tax credits allowed by this section shall only be available for investments (A) in funds that are not open to additional investments or investors beyond the amount subscribed at the formation of the fund, or (B) under subsection (c) of this section, in invest CT funds that are not open to additional investments or investors after submission of the invest CT fund's application to the commissioner pursuant to subsection (c) of this section.

**(2)** On and after June 30, 2010, no eligibility certificate shall be provided under subdivision (6) of subsection (b) of this section for investments made in an insurance business.

**(3)** On and after July 1, 2011, no credit shall be allowed under subdivision (2) or (6) of subsection (b) of this section for an investment of less than one million dollars for which the commissioner has issued an eligibility certificate. A fund manager who has received an eligibility certificate but is not yet eligible to receive a certificate of continued eligibility shall provide documentation satisfactory to the commissioner not later than June 30, 2011, of its investment of one million dollars or more. Such documentation shall include, but is not limited to, cancelled checks, wire transfers, investment agreements or other documentation as the commissioner may request. On and after July 1, 2011, the commissioner shall revoke the certificate of eligibility for any insurance business for which its fund manager failed to provide sufficient documentation of said investment of not less than one million dollars.

**(4)** Any credit allowed under subsection (b) or subsection (g) of this section that has not been claimed prior to January 1, 2010, may be carried forward pursuant to subsection (i) of this section.

**(e)** The maximum amount of credit allowed under subsection (c) of this section shall be five hundred fifty million dollars in the aggregate and forty million dollars per year.

**(f)**

**(1)** The Commissioner of Revenue Services may treat one or more corporations that are properly included in a combined unitary tax return under section 12-222 as one taxpayer in determining whether the appropriate requirements under this section are met. Where

corporations are treated as one taxpayer for purposes of this subsection, then the credit shall be allowed only against the amount of the combined unitary tax for all corporations properly included in a combined unitary tax return that, under the provisions of subdivision (2) of this subsection, is attributable to the corporations treated as one taxpayer.

(2) The amount of the combined unitary tax for all corporations properly included in a combined unitary tax return that is attributable to the corporations that are treated as one taxpayer under the provisions of this subsection shall be in the same ratio to such combined unitary tax that the net income apportioned to this state of each corporation treated as one taxpayer bears to the net income apportioned to this state, in the aggregate, of all corporations included in such combined unitary tax return. Solely for the purpose of computing such ratio, any net loss apportioned to this state by a corporation treated as one taxpayer or by a corporation included in such combined unitary tax return shall be disregarded.

**(g)**

(1) Any taxpayer allowed a credit under subsection (b) of this section may assign such credit to another person, provided such person may claim such credit only with respect to a calendar year for which the assigning taxpayer would have been eligible to claim such credit. The fund manager shall include in the report filed with the Commissioner of Revenue Services in accordance with subdivision (1) of subsection (b) of this section information requested by the commissioner regarding such assignments including the current holders of credits as of the end of the preceding calendar year.

(2) Any taxpayer allowed a credit under subsection (c) of this section may sell, assign or otherwise transfer such credit, in whole or in part, to one or more taxpayers, provided no such transferee may claim such credit for an income year other than the transferee's income year in which such transferee bought, was assigned or was otherwise transferred such credit.

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

(i) Any tax credit that is not sold, assigned or otherwise transferred pursuant to subdivision (2) of subsection (g) of this section and is not used in the income year for which it was allowed may be carried forward for the five immediately succeeding income years until the full credit has been claimed.

(j) The commissioner, with the approval of the Commissioner of Revenue Services and the Secretary of the Office of Policy and Management, may adopt regulations in accordance with chapter 54 to carry out the purposes of this section.

## History

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P.A. 94-214, S. 1, 4; P.A. 95-79, S. 139, 189; 95-303, S. 2, 3; P.A. 97-292, S. 1, 4; P.A. 98-214, S. 31; P.A. 00-170, S. 30, 31, 42; P.A. 01-139, S. 3; June Sp. Sess. P.A. 01-6, S. 39, 72, 80, 85; P.A. 02-24, S. 1; P.A. 06-159, S. 21; P.A. 08-82, S. 1; P.A. 10-75, S. 14; P.A. 11-104, S. 6, 7; 11-140, S. 2; P.A. 15-244, § 163, effective June 30, 2015; P.A. 15-244, § 171, effective July 1, 2015; Sp. Sess. P.A. 15-5, § 153, effective January 1, 2016; P.A. 16-146, § 9, effective June 9, 2016; P.A. 17-244, § 2, effective July 1,

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