

7985

2011-2012 Regular Sessions

I N A S S E M B L Y

May 25, 2011

Introduced by M. of A. SILVER, MORELLE, SCHIMMINGER, LUPARDO, SCARBOROUGH, MAGNARELLI, CASTRO, CAHILL, GUNTHER, GABRYSZAK, M. MILLER, SCHROEDER, WEPRIN, SIMOTAS, WEISENBERG, MILLMAN, GALEF, HOYT, ZEBROWSKI, JAFFEE, P. RIVERA -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CAMARA, GIBSON, MAGEE, MARKEY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to program six certified capital companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The opening paragraph of paragraph 7 of subdivision (a) of
2 section 11 of the tax law, as amended by section 19 of part A of chapter
3 63 of the laws of 2005, is amended to read as follows:
4 "Qualified business" - A QUALIFIED SEED FUND OR an independently owned
5 and operated business that meets all of the following conditions as of
6 the time of the first investment in the business:
7 S 2. Paragraph 10 of subdivision (a) of section 11 of the tax law, as
8 amended by section 19 of part A of chapter 63 of the laws of 2005, is
9 amended to read as follows:
10 (10) "Qualified investment" - the investment of cash by a certified
11 capital company in a qualified business for the purchase of any debt,
12 equity or hybrid security, of any nature and description whatever,
13 including a debt instrument or security which has the characteristics of
14 debt but which provides for conversion into equity or equity partic-
15 ipation instruments such as options or warrants, provided however, in
16 the case of certified capital programs three, four and five, that any
17 such debt instrument have a maturity of at least twenty-four months from
18 the date such debt is incurred; and further provided that a certified
19 capital company, after the investment and assuming full conversion and
20 exercise of any equity participation instruments, shall not own more
21 than fifty percent of the voting equity of the qualified business,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD10508-01-1

1 except in the case of a follow-on investment where a specific exemption
2 is granted by the department under subparagraph (D) of paragraph one of
3 subdivision (c) of this section OR AN INVESTMENT IN A QUALIFIED SEED
4 FUND BY A PROGRAM SIX CERTIFIED CAPITAL COMPANY. Furthermore, except in
5 the case of a follow-on investment, if a certified capital company owns
6 more than fifteen percent of the equity in a company or has a seat on
7 the board of directors of such company, then a certified capital company
8 cannot invest in such company unless the following conditions are met:
9 (i) at least one other investor who is not an affiliate of the certified
10 capital company participates in the same round of investment on the same
11 terms and conditions as the certified capital company; and (ii) the
12 certified capital company and its affiliates invest no more than fifty
13 percent of the total investment made in that round of investment.

14 S 3. Subdivision (a) of section 11 of the tax law is amended by adding
15 a new paragraph 17 to read as follows:

16 17. "QUALIFIED SEED FUND" - ANY FUND THAT HAS BEEN CERTIFIED BY THE
17 SUPERINTENDENT AS SUCH BY RULE OR REGULATION. THE SUPERINTENDENT MAY
18 CERTIFY PARTNERSHIPS, CORPORATIONS, TRUSTS OR LIMITED LIABILITY COMPA-
19 NIES, ORGANIZED ON A FOR-PROFIT BASIS, WHICH SUBMIT AN APPLICATION TO BE
20 DESIGNATED AS A QUALIFIED SEED FUND OPERATOR IF SUCH APPLICANT IS
21 LOCATED, HEADQUARTERED AND LICENSED OR REGISTERED TO CONDUCT BUSINESS IN
22 NEW YORK.

23 S 4. Paragraph 9 of subdivision (b) of section 11 of the tax law, as
24 amended by section 19 of part A of chapter 63 of the laws of 2005, is
25 amended to read as follows:

26 (9) The superintendent shall start accepting applications to become a
27 certified capital company in certified capital company program two by
28 November first, nineteen hundred ninety-nine, and shall start accepting
29 applications to become a certified capital company in certified capital
30 company program three by August first, two thousand, and shall begin
31 accepting applications to become a certified capital company in certi-
32 fied capital company program four by the later of August first, two
33 thousand four or not more than sixty days after the effective date of
34 section one of part D of chapter fifty-nine of the laws of two thousand
35 four and shall begin accepting applications to become a certified capi-
36 tal company in certified capital company program five by the later of
37 July first, two thousand five or not more than sixty days after the
38 effective date of the chapter of the laws of two thousand five which
39 amended this paragraph, AND SHALL BEGIN ACCEPTING APPLICATIONS TO BECOME
40 A CERTIFIED CAPITAL COMPANY PROGRAM SIX BY JULY FIRST, TWO THOUSAND
41 ELEVEN OR NOT MORE THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAP-
42 TER OF THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS PARAGRAPH.

43 S 5. Subparagraph (A) of paragraph 1 of subdivision (c) of section 11
44 of the tax law, as amended by section 19 of part A of chapter 63 of the
45 laws of 2005, is amended to read as follows:

46 (A) Within two years after the starting date of a specific certified
47 capital company program of a certified capital company, at least twen-
48 ty-five percent of its certified capital allocable to such certified
49 capital company program must be placed in qualified investments AND IN
50 THE CASE OF PROGRAM SIX, AT LEAST TEN PERCENT OF ITS CERTIFIED CAPITAL
51 MUST HAVE BEEN PLACED IN QUALIFIED SEED FUNDS. ALL QUALIFIED INVESTMENTS
52 MADE IN QUALIFIED SEED FUNDS UNDER PROGRAM SIX SHALL COUNT TOWARDS THE
53 TWENTY-FIVE PERCENT INVESTMENT REQUIREMENT OF THIS SUBPARAGRAPH.

54 S 6. Subparagraph (C) of paragraph 1 of subdivision (c) of section 11
55 of the tax law, as amended by section 19 of part A of chapter 63 of the
56 laws of 2005, is amended to read as follows:

1 (C) Within four years after the starting date of a specific certified
2 capital company program of a certified capital company, at least fifty
3 percent of its certified capital allocable to such certified capital
4 company program must be placed in qualified investments, at least fifty
5 percent of which must have been placed in early stage businesses, except
6 that in the case of program four and any subsequent program, at least
7 twenty-five percent of which must have been placed in early stage busi-
8 nesses and an additional twenty-five percent of which must have been
9 placed in start-up businesses, and except that in the case of qualified
10 investments made in qualified businesses located in empire zones estab-
11 lished pursuant to article eighteen-B of the general municipal law under
12 the provisions of certified capital company program three, program four
13 and program five from allocations of certified capital made specifically
14 for such targeted investments in such zones, the requirement for quali-
15 fied investments in early stage and start-up businesses shall not apply.
16 AN INVESTMENT IN A QUALIFIED SEED FUND SHALL COUNT TOWARDS THE REQUIRE-
17 MENT UNDER PROGRAM SIX FOR QUALIFIED INVESTMENTS IN EARLY STAGE BUSI-
18 NESSES.

19 S 7. Subparagraph (D) of paragraph 1 of subdivision (c) of section 11
20 of the tax law, as amended by section 19 of part A of chapter 63 of the
21 laws of 2005, is amended to read as follows:

22 (D) A certified capital company, at least fifteen working days prior
23 to making a proposed investment in a specific business, shall certify in
24 writing to the superintendent that (i) the business in which it proposes
25 to invest meets the definition of a qualified business as set forth in
26 subdivision (a) of this section or, in the case of a follow-on invest-
27 ment, that such business continues to meet the requirements set forth in
28 subparagraphs (A) and (C) of paragraph seven of subdivision (a) of this
29 section and, in either case, an explanation of its determination that
30 the business meets such requirements, [and] (ii) with respect to certi-
31 fied capital company program three, program four and program five,
32 whether or not such business is located in an empire zone established
33 pursuant to article eighteen-B of the general municipal law or in an
34 underserved area outside an empire zone AND (III) WITH RESPECT TO CERTI-
35 FIED CAPITAL COMPANY PROGRAM SIX, WHETHER OR NOT SUCH INVESTMENT IS IN A
36 QUALIFIED SEED FUND. The certification to the superintendent shall
37 include a sworn statement from the business in which the certified capi-
38 tal company proposes to invest, which statement shall evidence the
39 intention of the business to maintain its headquarters in New York and
40 conduct its primary business operations in the state of New York after
41 its receipt of the investment by the certified capital company. If the
42 superintendent determines that the business does not meet the definition
43 of a qualified business, or, in the case of a follow-on investment, that
44 such business does not meet the requirements set forth in subparagraphs
45 (A) and (C) of paragraph seven of subdivision (a) of this section, then
46 it shall, within the fifteen working day period prior to the making of
47 the proposed investment, notify the certified capital company of its
48 determination and provide an explanation thereof, provided, however,
49 that the department may, upon written request of a certified capital
50 company and at the discretion of the department, grant, in writing, an
51 exemption to the percentage limitations of paragraph ten of subdivision
52 (a) of this section.

53 S 8. Subparagraph (F) of paragraph 1 of subdivision (c) of section 11
54 of the tax law, as amended by section 19 of part A of chapter 63 of the
55 laws of 2005, is amended to read as follows:

1 (F) If within ten years after the starting date of certified capital
2 company program four [or], program five OR PROGRAM SIX, and within
3 twelve years after the starting date of certified capital company
4 programs one, two, and three, one hundred percent of the certified capi-
5 tal allocable to a certified capital company participating in [such]
6 program ONE, TWO, THREE, FOUR OR FIVE has not been placed in qualified
7 investments AND, WITH RESPECT TO PROGRAM SIX, ONE HUNDRED PERCENT OF THE
8 CERTIFIED CAPITAL HAS NOT BEEN PLACED IN QUALIFIED INVESTMENTS WITH TEN
9 PERCENT OF SUCH AMOUNT BEING PLACED IN QUALIFIED SEED FUNDS, the specif-
10 ic certified capital company shall no longer be permitted to receive
11 management fees; provided that such restriction shall not apply (i) with
12 respect to certified capital company programs one, two, and three, to
13 any certified capital company that has not, prior to October thirty-
14 first, two thousand four, received, as opposed to accrued, any manage-
15 ment fees, or (ii) with respect to any certified capital company
16 program, to a certified capital company in which at least fifty percent
17 of the voting stock, capital, membership interests, or other beneficial
18 ownership interests, as the case may be, are owned by an entity that is
19 managed, directly or indirectly, by a non-profit corporation.

20 S 9. Subparagraph (A) of paragraph 6 of subdivision (c) of section 11
21 of the tax law, as amended by section 19 of part A of chapter 63 of the
22 laws of 2005, is amended to read as follows:

23 (A) As soon as practicable after the receipt of certified capital or
24 an irrevocable funding commitment subject only to the receipt of an
25 allocation pursuant to subdivision (h) of this section, (i) the name of
26 each certified investor from which the certified capital was received,
27 including such certified investor's insurance tax identification number;
28 (ii) the amount of each certified investor's investment of certified
29 capital; and (iii) the date on which the certified capital was received.
30 Provided, however, that requests for allocation of tax credits with
31 respect to certified capital company program two by certified capital
32 companies on behalf of their certified investors which are received by
33 the superintendent on or before March first, two thousand shall be
34 treated as having been received on March first, two thousand for tax
35 credits to be utilized in two thousand one, and if satisfactory, shall
36 be given equal priority for allocation, and provided, however, that
37 requests for allocation of tax credits with respect to certified capital
38 company program three by certified capital companies on behalf of their
39 certified investors which are received by the superintendent on or
40 before December first, two thousand shall be treated as having been
41 received on December first, two thousand for tax credits to be utilized
42 in two thousand two, and if satisfactory, shall be given equal priority
43 for allocation, and provided, however, that requests for allocation of
44 tax credits with respect to certified capital company program four by
45 certified capital companies on behalf of their certified investors which
46 are received by the superintendent on or before December first, two
47 thousand four shall be treated as having been received on December
48 first, two thousand four for tax credits to be utilized in two thousand
49 six, and if satisfactory, shall be given equal priority for allocation,
50 and provided, however, that requests for allocation of tax credits with
51 respect to certified capital company program five by certified capital
52 companies on behalf of their certified investors which are received by
53 the superintendent on or before the later of (i) November first, two
54 thousand five and (ii) the one hundred twentieth day after the date on
55 which the superintendent began accepting applications for certification
56 in connection with certified capital company program five pursuant to

1 paragraph nine of subdivision (b) of this section shall be treated as
2 having been received on such later date for tax credits to be utilized
3 in two thousand seven, and if satisfactory, shall be given equal priori-
4 ty for allocation, AND PROVIDED, HOWEVER, THAT REQUESTS FOR ALLOCATION
5 OF TAX CREDITS WITH RESPECT TO CERTIFIED CAPITAL COMPANY PROGRAM SIX BY
6 CERTIFIED CAPITAL COMPANIES ON BEHALF OF THEIR CERTIFIED INVESTORS WHICH
7 ARE RECEIVED BY THE SUPERINTENDENT ON OR BEFORE THE LATER OF (I) NOVEM-
8 BER FIRST, TWO THOUSAND ELEVEN AND (II) THE ONE HUNDRED TWENTIETH DAY
9 AFTER THE DATE ON WHICH THE SUPERINTENDENT BEGAN ACCEPTING APPLICATIONS
10 FOR CERTIFICATION IN CONNECTION WITH CERTIFIED CAPITAL PROGRAM SIX
11 PURSUANT TO PARAGRAPH NINE OF SUBDIVISION (B) OF THIS SECTION SHALL BE
12 TREATED AS HAVING BEEN RECEIVED ON SUCH LATER DATE FOR TAX CREDITS TO BE
13 UTILIZED IN TWO THOUSAND FIFTEEN, AND IF SATISFACTORY, SHALL BE GIVEN
14 EQUAL PRIORITY FOR ALLOCATION.

15 S 10. Subparagraph (B) of paragraph 6 of subdivision (c) of section 11
16 of the tax law, as amended by section 19 of part A of chapter 63 of the
17 laws of 2005, is amended to read as follows:

18 (B) On an annual basis, on or before January thirty-first of each
19 year, (i) the amount of the certified capital company's certified capi-
20 tal at the end of the immediately preceding year; (ii) whether or not
21 the certified capital company has invested more than fifteen percent of
22 its total certified capital in any one business; (iii) all qualified
23 investments that the certified capital company made during the previous
24 calendar year, including the number of employees of each qualified busi-
25 ness in which it has made investments at the time of such investment and
26 as of December first of the preceding calendar year. For any qualified
27 business where the certified capital company no longer has an invest-
28 ment, the certified capital company shall provide employment figures for
29 such company as of the last day before the investment was terminated.
30 Such report shall provide a separate accounting by each certified capi-
31 tal company program; [and] (iv) all qualified investments made in empire
32 zones and underserved areas outside such empire zones as required under
33 certified capital company program three, certified capital company
34 program four and certified capital company program five; AND (V) WITH
35 RESPECT TO CERTIFIED CAPITAL COMPANY PROGRAM SIX, ALL QUALIFIED INVEST-
36 MENTS MADE IN UNDERSERVED AREAS, ALL QUALIFIED INVESTMENTS MADE IN QUAL-
37 IFIED SEED FUNDS, INCLUDING THE NUMBER OF EMPLOYEES OF EACH BUSINESS IN
38 WHICH A QUALIFIED SEED FUND HAS MADE INVESTMENTS AT THE TIME OF SUCH
39 INVESTMENT AND AS OF DECEMBER FIRST OF THE PRECEDING CALENDAR YEAR. FOR
40 ANY BUSINESS WHERE THE QUALIFIED SEED FUND NO LONGER HAS AN INVESTMENT,
41 THE CERTIFIED CAPITAL COMPANY SHALL PROVIDE EMPLOYMENT FIGURES FOR SUCH
42 COMPANY AS OF THE LAST DAY BEFORE THE INVESTMENT WAS TERMINATED.

43 S 11. Paragraph 5 of subdivision (d) of section 11 of the tax law, as
44 amended by section 19 of part A of chapter 63 of the laws of 2005, is
45 amended to read as follows:

46 (5) A certified capital company that receives certified capital
47 investments under program four and [any subsequent] program FIVE shall
48 pay to the department for deposit in the general fund an amount equal to
49 thirty percent of the net profits on qualified investments. A CERTIFIED
50 CAPITAL COMPANY THAT RECEIVES CERTIFIED CAPITAL INVESTMENTS UNDER
51 PROGRAM SIX SHALL PAY TO THE DEPARTMENT FOR DEPOSIT IN THE GENERAL FUND
52 AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE NET PROFITS ON QUALIFIED
53 INVESTMENTS. A certified capital company shall make all payments
54 required under this paragraph concurrently with and pro rata to distrib-
55 utions of profits and gains to its equity owners; however, nothing

1 contained in this paragraph shall be construed to affect qualified
2 distributions.

3 S 12. The opening paragraph of paragraph 6 of subdivision (d) of
4 section 11 of the tax law, as amended by section 19 of part A of chapter
5 63 of the laws of 2005, is amended to read as follows:

6 The amount of any payment required under paragraph five of this subdivi-
7 sion FROM A CERTIFIED CAPITAL COMPANY THAT RECEIVES CERTIFIED CAPITAL
8 INVESTMENTS UNDER PROGRAM FOUR OR FIVE shall be reduced to fifteen
9 percent of such net profits on qualified investments if, at the time of
10 such net profits distribution, such certified capital company irrevoca-
11 bly commits to both:

12 S 13. Paragraph 5 of subdivision (e) of section 11 of the tax law, as
13 amended by section 19 of part A of chapter 63 of the laws of 2005, is
14 amended to read as follows:

15 (5) Once a certified capital company has invested an amount cumula-
16 tively equal to one hundred percent of its certified capital with
17 respect to a particular certified capital company program in qualified
18 investments and has met all other requirements under this subdivision,
19 INCLUDING THE REQUIREMENT THAT A PROGRAM SIX CERTIFIED CAPITAL COMPANY
20 INVEST TEN PERCENT OF ITS CERTIFIED CAPITAL IN QUALIFIED SEED FUNDS, the
21 certified capital company shall no longer be subject to regulation by
22 the superintendent and shall no longer be subject to the requirements of
23 subdivision (c) of this section with respect to such program. Upon
24 receiving documented certification by a certified capital company that
25 it has invested, WITH RESPECT TO PROGRAMS ONE, TWO, THREE, FOUR AND
26 FIVE, an amount equal to one hundred percent of its certified capital
27 AND, WITH RESPECT TO PROGRAM SIX, AN AMOUNT EQUAL TO ONE HUNDRED PERCENT
28 OF ITS CERTIFIED CAPITAL WITH TEN PERCENT OF SUCH CERTIFIED CAPITAL
29 INVESTED IN QUALIFIED SEED FUNDS, the department shall have sixty days
30 to notify such certified capital company that it has or has not met such
31 requirement with a reason for such determination if it has not, in the
32 judgment of the department, met such requirement. If the department does
33 not provide such notification within sixty days, the certified capital
34 company shall then be deemed to have met such requirement.

35 S 14. Subdivision (h) of section 11 of the tax law is amended by
36 adding a new paragraph 6 to read as follows:

37 (6) CERTIFIED CAPITAL COMPANY PROGRAM SIX. THE AGGREGATE AMOUNT OF
38 CERTIFIED CAPITAL FOR WHICH TAXPAYERS MAY BE ALLOCATED AND ALLOWED TAX
39 CREDITS PURSUANT TO THIS PARAGRAPH AND SUBDIVISION (K) OF SECTION
40 FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER MAY NOT EXCEED ONE HUNDRED FIFTY
41 MILLION DOLLARS FOR CALENDAR YEAR TWO THOUSAND FIFTEEN, WHICH CERTIFIED
42 CAPITAL MAY BE INVESTED IN CERTIFIED CAPITAL COMPANIES BEGINNING IN
43 CALENDAR YEAR TWO THOUSAND ELEVEN.

44 DURING ANY CALENDAR YEAR IN WHICH THE LIMITATION DESCRIBED IN THIS
45 PARAGRAPH WILL LIMIT THE AMOUNT OF CERTIFIED CAPITAL, CERTIFIED CAPITAL
46 WILL BE ALLOCATED IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING OF
47 INFORMATION DESCRIBED IN SUBPARAGRAPH (A) OF PARAGRAPH SIX OF SUBDIVI-
48 SION (C) OF THIS SECTION. THE SUPERINTENDENT SHALL ADVISE ANY CERTIFIED
49 CAPITAL COMPANY IN WRITING, WITHIN FIFTEEN DAYS AFTER RECEIVING SUCH
50 FILING, WHETHER THE LIMITATIONS OF THIS PARAGRAPH THEN IN EFFECT WILL BE
51 APPLICABLE WITH RESPECT TO THE INVESTMENTS AND CREDITS DESCRIBED IN SUCH
52 FILING WITH THE SUPERINTENDENT.

53 CERTIFIED CAPITAL MAY BE RAISED BY EACH CERTIFIED CAPITAL COMPANY WITH
54 RESPECT TO CERTIFIED CAPITAL COMPANY PROGRAM SIX AT ANY TIME SUBSEQUENT
55 TO ITS CERTIFICATION DATE, AND CREDITS SHALL BE ALLOCATED TO AND IRREVO-
56 CABLY VESTED BY THE STATE IN CERTIFIED INVESTORS AT THE TIME OF EACH

1 SUCH INVESTMENT AS PROVIDED IN THIS PARAGRAPH, ALTHOUGH SUCH CREDITS
2 SHALL NOT BE FIRST ALLOWED OR INCURRED FOR STATE TAX PURPOSES, UNTIL, AT
3 THE EARLIEST, TAX YEARS BEGINNING IN TWO THOUSAND FIFTEEN. IN ORDER TO
4 SATISFY THE REQUIREMENTS OF PARAGRAPH FIVE OF SUBDIVISION (E) OF THIS
5 SECTION, A CERTIFIED CAPITAL COMPANY MUST HAVE MADE, ON A CUMULATIVE
6 BASIS, (A) AN AMOUNT OF QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES
7 LOCATED IN UNDERSERVED AREAS EQUAL TO AT LEAST TWO-THIRDS OF THE CERTI-
8 FIED CAPITAL RAISED BY SUCH CERTIFIED CAPITAL COMPANY WITH RESPECT TO
9 CERTIFIED CAPITAL COMPANY PROGRAM SIX, (B) QUALIFIED INVESTMENTS IN
10 QUALIFIED SEED FUNDS IN AN AMOUNT EQUAL TO AT LEAST TEN PERCENT OF THE
11 CERTIFIED CAPITAL RAISED BY SUCH CERTIFIED CAPITAL COMPANY WITH RESPECT
12 TO CERTIFIED CAPITAL COMPANY PROGRAM SIX AND (C) QUALIFIED INVESTMENTS
13 IN QUALIFIED BUSINESSES THAT ARE INVOLVED IN COMMERCE FOR THE PRIMARY
14 PURPOSE OF DEVELOPING AND MANUFACTURING PRODUCTS AND SYSTEMS COVERED BY
15 THE ACTIVITIES SET FORTH IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION
16 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW AND HAVE A RATIO
17 OF RESEARCH AND DEVELOPMENT EXPENDITURES TO NET SALES WHICH EQUALS OR
18 EXCEEDS SIX PERCENT DURING THE FISCAL YEAR IMMEDIATELY PRECEDING THE
19 QUALIFIED INVESTMENT IN AN AMOUNT EQUAL TO AT LEAST THIRTY-THREE PERCENT
20 OF THE CERTIFIED CAPITAL RAISED BY SUCH CERTIFIED CAPITAL COMPANY WITH
21 RESPECT TO PROGRAM SIX; PROVIDED, HOWEVER, THAT ALL QUALIFIED INVEST-
22 MENTS IN QUALIFIED SEED FUNDS SHALL COUNT TOWARD THE AMOUNT REQUIRED BY
23 SUBPARAGRAPH (C) OF THIS PARAGRAPH.

24 S 15. Subdivision (i) of section 11 of the tax law, as amended by
25 section 19 of part A of chapter 63 of the laws of 2005, is amended to
26 read as follows:

27 (i) Maximum certified capital. The maximum amount of certified capital
28 per certified capital company program invested in one or more certified
29 capital companies allowed in any one year to any one certified investor
30 shall not exceed ten million dollars for certified capital company
31 programs one and three, [and] eight million dollars for certified capi-
32 tal company programs two, four and five, AND FIFTEEN MILLION DOLLARS
33 FROM CERTIFIED CAPITAL COMPANY PROGRAM SIX for such year, provided,
34 however, that if the aggregate amount of certified capital for such
35 year, as set forth in subdivision (h) of this section, has not been
36 reached sixty days prior to the end of the year to which such aggregate
37 amount applies, the provisions of this subdivision shall cease to apply
38 for the remainder of such year. In addition, the aggregate amount of tax
39 credits allowed in any taxable year to any affiliated group of taxpayers
40 in relation to certified capital may not exceed such maximum amount,
41 whether or not such taxpayers file a combined return pursuant to subdivi-
42 sion (f) of section fifteen hundred fifteen of this chapter. For
43 purposes of the preceding sentence, the term "affiliated group" shall
44 have the same meaning as described in section 1504 of the internal
45 revenue code, except that the references to "at least eighty percent" in
46 such section 1504 shall be read as "more than fifty percent".

47 S 16. Subdivision (j) of section 11 of the tax law, as amended by
48 section 19 of part A of chapter 63 of the laws of 2005, is amended to
49 read as follows:

50 (j) Reports. The superintendent shall report to the governor, the
51 temporary president of the senate, and the speaker of the assembly, on
52 or before June first of each year beginning in the year two thousand,
53 the number of certified capital companies holding certified capital; the
54 amount of certified capital invested in each certified capital company;
55 the cumulative amount that each certified capital company has invested
56 as of January first of the year two thousand and the cumulative total

1 each year thereafter; the cumulative amount that the investments of each
2 certified capital company have leveraged in terms of capital invested by
3 other sources of capital in qualified businesses at the same time or
4 subsequent to investments made by a certified capital company in such
5 businesses; the total amount of tax credits granted under this section
6 each year that credits have been awarded under this section and subdivi-
7 sion (k) of section fifteen hundred eleven of this chapter; the perform-
8 ance of each certified capital company with regard to the requirements
9 for recertification set forth in subdivision (c) of this section; the
10 classification of companies in which each certified capital company has
11 invested according to industrial sector and size of company; the total
12 gross number of jobs created by investments made by each certified capi-
13 tal company using certified capital and the number of jobs retained; the
14 location of companies in which each certified capital company has
15 invested in a manner to indicate if the requirements for qualified
16 investments in qualified businesses located in empire zones established
17 pursuant to article eighteen-B of the general municipal law set forth
18 for programs three, four and five and in underserved areas outside such
19 empire zones have been met; the total gross number of jobs created in
20 empire zones established pursuant to article eighteen-B of the general
21 municipal law and in underserved areas outside such empire zones made by
22 each certified capital company using certified capital in certified
23 capital company programs three, four and five, reported by geographic
24 location of each empire zone and underserved area and the number of jobs
25 retained; and those certified capital companies that have been decerti-
26 fied, or have had their certifications revoked, including the reasons
27 for decertification or revocation; THE LOCATION OF COMPANIES IN WHICH
28 EACH CERTIFIED CAPITAL COMPANY HAS INVESTED IN A MANNER TO INDICATE IF
29 THE REQUIREMENTS FOR QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES
30 LOCATED IN UNDERSERVED AREAS AS SET FORTH IN PROGRAM SIX; THE TOTAL
31 GROSS NUMBER OF JOBS CREATED IN UNDERSERVED AREAS USING CERTIFIED CAPI-
32 TAL IN CERTIFIED CAPITAL COMPANY PROGRAM SIX AND THE NUMBER OF JOBS
33 RETAINED; THE AMOUNT OF QUALIFIED INVESTMENTS MADE INTO QUALIFIED SEED
34 FUNDS FOR PROGRAM SIX CERTIFIED CAPITAL COMPANIES; THE CLASSIFICATION OF
35 COMPANIES IN WHICH EACH QUALIFIED SEED FUND HAS INVESTED ACCORDING TO
36 INDUSTRIAL SECTOR AND SIZE OF COMPANY; THE TOTAL GROSS NUMBER OF JOBS
37 CREATED BY INVESTMENTS MADE BY EACH QUALIFIED SEED FUND USING THE NUMBER
38 OF JOBS RETAINED.

39 S 17. Paragraph 2 of subdivision (k) of section 1511 of the tax law,
40 as amended by section 2 of part S of chapter 407 of the laws of 1999, is
41 amended to read as follows:

42 (2) Ten percent of such credit shall be allowed in the taxable year to
43 which such investment is allocated pursuant to PARAGRAPHS ONE THROUGH
44 FIVE OF subdivision (h) of section eleven of this chapter and in each of
45 the nine following taxable years. TWENTY-FIVE PERCENT OF SUCH CREDIT
46 SHALL BE ALLOWED IN THE TAXABLE YEAR TO WHICH SUCH INVESTMENT IS ALLO-
47 CATED PURSUANT TO PARAGRAPH SIX OF SUBDIVISION (H) OF SECTION ELEVEN OF
48 THIS CHAPTER AND IN EACH OF THE THREE FOLLOWING TAXABLE YEARS. In addi-
49 tion, in any taxable year subsequent to the taxable year for which
50 [such] ANY investment is so allocated UNDER SUBDIVISION (H), any amount
51 carried forward under paragraphs three and four of this subdivision may
52 be carried forward indefinitely until such credits are utilized.

53 S 18. Paragraph (b) of subdivision 3 of section 33 of the tax law, as
54 added by section 1 of part Y of chapter 57 of the laws of 2010, is
55 amended to read as follows:

1 (b) This section shall also apply to the credits allowed by the
2 following sections:
3 Section 186-a(9) power for jobs credit
4 Section 606(g-1) solar energy system equipment credit
5 Section 606(pp) historic homeownership rehabilitation credit
6 [Section 1511(k) credit for certain investments in certified capital
7 companies]
8 S 19. This act shall take effect immediately.