

HOUSE BILL No. 2405

By Committee on Taxation

3-11

1 AN ACT concerning economic development; relating to the angel
2 investment tax credit; amending K.S.A. 2014 Supp. 74-8133 and
3 repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 74-8133 is hereby amended to read as
7 follows: 74-8133. (a) A credit against the tax imposed by article 32 of
8 chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, on
9 the Kansas taxable income of an angel investor and against the tax
10 imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for
11 a cash investment in the qualified securities of a qualified Kansas business.
12 The credit shall be in a total amount equal to 50% of such investors' cash
13 investment in any qualified Kansas business, subject to the limitations set
14 forth in subsection (b). This tax credit may be used in its entirety in the
15 taxable year in which the cash investment is made except that no tax credit
16 shall be allowed in a year prior to January 1, 2005. If the amount by which
17 that portion of the credit allowed by this section exceeds the investors'
18 liability in any one taxable year, beginning in the year 2005, the remaining
19 portion of the credit may be carried forward until the total amount of the
20 credit is used. If the investor is a permitted entity investor, the credit
21 provided by this section shall be claimed by the owners of the permitted
22 entity investor in proportion to their ownership share of the permitted
23 entity investor.

24 (b) The secretary of revenue shall not allow tax credits of more than
25 \$50,000 for a single Kansas business or a total of \$250,000 in tax credits
26 for a single year per investor who is a natural person or owner of a
27 permitted entity investor. No tax credits authorized by this act shall be
28 allowed for any cash investments in qualified securities for any year after
29 the year ~~2016~~ 2021. The total amount of tax credits which may be allowed
30 under this section shall not exceed \$4,000,000 during the tax year 2007
31 and \$6,000,000 for tax year 2008 and each tax year thereafter, except that
32 for tax year 2011, the total amount of tax credits which may be allowed
33 under this section shall not exceed \$5,000,000. The balance of unissued
34 tax credits may be carried over for issuance in future years until ~~2016~~
35 2021.

36 (c) A cash investment in a qualified security shall be deemed to have

1 been made on the date of acquisition of the qualified security, as such date
2 is determined in accordance with the provisions of the internal revenue
3 code.

4 (d) No investor shall claim a credit under this section for cash
5 investments in Kansas venture capital, inc. No Kansas venture capital
6 company shall qualify for the tax credit for an investment in a fund created
7 by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated,
8 *and amendments thereto*.

9 (e) Any investor who has not owed any Kansas income tax under the
10 provisions of article 32, chapter 79 of the Kansas Statutes Annotated, *and*
11 *amendments thereto*, for the immediate past three taxable years, who does
12 not reasonably believe that it will owe any such tax for the current taxable
13 year and who makes a cash investment in a qualified security of a qualified
14 Kansas business shall be deemed to acquire an interest in the nature of a
15 transferable credit limited to an amount equal to 50% of this cash
16 investment. This interest may be transferred to any natural person of net
17 worth, as defined in 17 C.F.R. § 230.501(a) as in effect on the effective
18 date of this act whether or not such person is then an investor and be
19 claimed by the transferee as a credit against the transferee's Kansas income
20 tax liability beginning in the year provided in subsection (a). No person
21 shall be entitled to a refund for the interest created under this section. Only
22 the full credit for any one investment may be transferred and this interest
23 may only be transferred one time. A credit acquired by transfer shall be
24 subject to the limitations prescribed in this section. Documentation of any
25 credit acquired by transfer shall be provided by the investor in the manner
26 required by the director of taxation.

27 (f) The reasonable costs of the administration of this act, the review
28 of applications for certification as qualified Kansas businesses and the
29 issuance of tax credits authorized by this act shall be reimbursed through
30 fees paid by the qualified Kansas businesses and the investors or the
31 transferees of investors, according to a reasonable fee schedule adopted by
32 the secretary by rules and regulations in accordance with the rules and
33 regulations filing act.

34 Sec. 2. K.S.A. 2014 Supp. 74-8133 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.