

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

The Council for Ready Infrastructure offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Subsections (3) and (4), paragraph (a) of subsection (5), paragraph (a) of subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and (h) of subsection (7), paragraph (a) of subsection (8), paragraphs (a) and (b) of subsection (9), and paragraph (f) of subsection (10) of section 288.99, Florida Statutes, are amended and a new paragraph (i) of subsection (7) is added to read:

288.99 Certified Capital Company Act.--

(3) DEFINITIONS.--As used in this section, the term:

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the insurance company;

Amendment No. 01 (for drafter's use only)

1           2. Any person 10 percent or more of whose outstanding  
2 voting securities or other ownership interest is directly or  
3 indirectly beneficially owned, whether through rights,  
4 options, convertible interests, or otherwise, controlled, or  
5 held with power to vote by the insurance company;

6           3. Any person directly or indirectly controlling,  
7 controlled by, or under common control with the insurance  
8 company;

9           4. A partnership in which the insurance company is a  
10 general partner; or

11           5. Any person who is a principal, director, employee,  
12 or agent of the insurance company or an immediate family  
13 member of the principal, director, employee, or agent.

14           (b) "Certified capital" means an investment of cash by  
15 a certified investor in a certified capital company which  
16 fully funds the purchase price of either or both its equity  
17 interest in the certified capital company or a qualified debt  
18 instrument issued by the certified capital company.

19           (c) "Certified capital company" means a corporation,  
20 partnership, or limited liability company which:

21           1. Is certified by the department in accordance with  
22 this act.

23           2. Receives investments of certified capital from two  
24 or more unaffiliated certified investors.

25           3. Makes qualified investments as its primary  
26 activity.

27           (d) "Certified investor" means any insurance company  
28 subject to premium tax liability pursuant to s. 624.509 that  
29 contributes certified capital.

30           (e) "Department" means the Department of Banking and  
31 Finance.

Amendment No. 01 (for drafter's use only)

- 1           (f) "Director" means the director of the Office of  
2 Tourism, Trade, and Economic Development.
- 3           (g) "Early stage technology business" means a  
4 qualified business that is either:
- 5           1. Involved, at the time of the certified capital  
6 company's initial investment in such business, in activities  
7 related to developing initial product or service offerings,  
8 such as prototype development or the establishment of initial  
9 production or service processes; ~~The term includes a~~  
10 ~~qualified business that is~~
- 11           2. Less than 2 years old and has, together with its  
12 affiliates, less than \$3 million in annual revenues for the  
13 fiscal year immediately preceding the initial investment by  
14 the certified capital company on a consolidated basis, as  
15 determined in accordance with generally accepted accounting  
16 principles; ~~The term also includes~~
- 17           3. The Florida Black Business Investment Board; ~~or~~
- 18           4. Any entity that is majority-owned ~~majority-owned~~ by  
19 the Florida Black Business Investment Board; ~~or~~
- 20           5. Any entity in which the Florida Black Business  
21 Investment Board holds a majority voting interest on the board  
22 of directors.
- 23           (h) "Office" means the Office of Tourism, Trade, and  
24 Economic Development.
- 25           (i) "Premium tax liability" means any liability  
26 incurred by an insurance company under the provisions of s.  
27 624.509.
- 28           (j) "Principal" means an executive officer of a  
29 corporation, partner of a partnership, manager of a limited  
30 liability company, or any other person with equivalent  
31 executive functions.

Amendment No. 01 (for drafter's use only)

1 (k) "Qualified business" means a business that meets  
2 the following conditions as evidenced by documentation  
3 required by department rule:

4 1. The business is headquartered in this state and its  
5 principal business operations are located in this state. For  
6 the purpose of this act, the terms "headquartered" and  
7 "principal business operations" shall mean that at least 75  
8 percent of the employees are located in the state.

9 2. At the time a certified capital company makes an  
10 initial investment in a business, the business is a small  
11 business concern as defined in 13 C.F.R. s. 121.201, "Size  
12 Standards Used to Define Small Business Concerns" of the  
13 United States Small Business Administration which is involved  
14 in manufacturing, processing or assembling products,  
15 conducting research and development, or providing services.

16 3. At the time a certified capital company makes an  
17 initial investment in a business, the business certifies in an  
18 affidavit that:

19 a. The business is unable to obtain conventional  
20 financing, which means that the business has failed in an  
21 attempt to obtain funding for a loan from a bank or other  
22 commercial lender or that the business cannot reasonably be  
23 expected to qualify for such financing under the standards of  
24 commercial lending;

25 b. The business plan for the business projects that  
26 the business is reasonably expected to achieve in excess of  
27 \$25 million in sales revenue within 5 years after the initial  
28 investment, or the business is located in a designated Front  
29 Porch community, enterprise zone, urban high crime area, rural  
30 job tax credit county, or nationally recognized historic  
31 district;

Amendment No. 01 (for drafter's use only)

1           c. The business will maintain its headquarters in this  
2 state for the next 10 years and any new manufacturing facility  
3 financed by a qualified investment will remain in this state  
4 for the next 10 years, or the business is located in a  
5 designated Front Porch community, enterprise zone, urban high  
6 crime area, rural job tax credit county, or nationally  
7 recognized historic district; and

8           d. The business has fewer than 200 employees and at  
9 least 75 percent of the employees are employed in this state.  
10 For purposes of this subsection, the term "~~qualified business~~"  
11 also includes the Florida Black Business Investment Board, any  
12 entity majority owned by the Florida Black Business Investment  
13 Board, or any entity in which the Florida Black Business  
14 Investment Board holds a majority voting interest on the board  
15 of directors.

16           4. The term does not include:

17           a. Any business predominantly engaged in retail sales,  
18 real estate development, insurance, banking, lending, or oil  
19 and gas exploration.

20           b. Any business predominantly engaged in professional  
21 services provided by accountants, lawyers, or physicians.

22           c. Any company that has no historical revenues and  
23 either has no specific business plan or purpose or has  
24 indicated that its business plan is solely to engage in a  
25 merger or acquisition with any unidentified company or other  
26 entity.

27           d. Any company that has a strategic plan to grow  
28 through the acquisition of firms with substantially similar  
29 business which would result in the planned net loss of  
30 Florida-based jobs over a 12-month period after the  
31 acquisition as determined by the department.

Amendment No. 01 (for drafter's use only)

1  
2 ~~A business predominantly engaged in retail sales, real estate~~  
3 ~~development, insurance, banking, lending, oil and gas~~  
4 ~~exploration, or engaged in professional services provided by~~  
5 ~~accountants, lawyers, or physicians does not constitute a~~  
6 ~~qualified business.~~

7 (1) "Qualified debt instrument" means a debt  
8 instrument, or a hybrid of a debt instrument, issued by a  
9 certified capital company, at par value or a premium, with an  
10 original maturity date of at least 5 years after the date of  
11 issuance, a repayment schedule which is no faster than a level  
12 principal amortization over a 5-year period, and interest,  
13 distribution, or payment features which are not related to the  
14 profitability of the certified capital company or the  
15 performance of the certified capital company's investment  
16 portfolio.

17 (m) "Qualified distribution" means any distribution or  
18 payment by ~~to equity holders~~ of a certified capital company  
19 for:

20 1. Reasonable costs and expenses, including  
21 professional fees, of forming and syndicating the certified  
22 capital company, if no such costs are paid to a certified  
23 investor and the total cash or cash equivalents available to  
24 the certified capital company at the time of receipt of  
25 certified capital from certified investors, after deducting  
26 the costs and expenses of forming and syndicating the  
27 certified capital company, including any payments made over  
28 time for obligations incurred at the time of receipt of  
29 certified capital excluding other future qualified  
30 distributions and payments made under s. 288.99(9)(a), are an  
31 amount equal to or greater than 50 percent of the total

Amendment No. 01 (for drafter's use only)

1 certified capital allocated to the certified capital company  
2 pursuant to s. 288.99(7);

3 2. Reasonable costs of managing~~7~~ and operating the  
4 certified capital company, not exceeding 5 percent of the  
5 certified capital in any 1 year, including an annual  
6 management fee in an amount that does not exceed 2.5 percent  
7 of the certified capital of the certified capital company;~~7~~  
8 ~~plus~~

9 3. Reasonable and necessary fees in accordance with  
10 industry custom for professional services, including, but not  
11 limited to, legal and accounting services, related to the  
12 operation of the certified capital company; or~~7~~

13 ~~4.2.~~ Any projected increase in federal or state taxes,  
14 including penalties and interest related to state and federal  
15 income taxes, of the equity owners of a certified capital  
16 company resulting from the earnings or other tax liability of  
17 the certified capital company to the extent that the increase  
18 is related to the ownership, management, or operation of a  
19 certified capital company.

20 (n)1. "Qualified investment" means the investment of  
21 cash by a certified capital company in a qualified business  
22 for the purchase of any debt, equity, or hybrid security ~~of~~  
23 ~~any nature and description whatsoever,~~ including a debt  
24 instrument or security that ~~which~~ has the characteristics of  
25 debt but which provides for conversion into equity or equity  
26 participation instruments such as options or warrants.

27 2. The term does not include:

28 a. Any investment made after the effective date of  
29 this act the contractual terms of which require the repayment  
30 of any portion of the principal in instances, other than  
31 default as determined by department rule, within 12 months

Amendment No. 01 (for drafter's use only)

1 following the initial investment by the certified capital  
2 company unless such investment has a repayment schedule no  
3 faster than a level principal amortization of at least 2  
4 years;

5 b. Any "follow-on" or "add-on" investment except for  
6 the amount by which the new investment is in addition to the  
7 amount of the certified capital company's initial investment  
8 returned to it other than in the form of interest, dividends,  
9 or other types of profit participation or distributions; or

10 c. Any investment in a qualified business or affiliate  
11 of a qualified business that exceeds 15 percent of certified  
12 capital.

13 (o) "Program One" means the \$150 million in premium  
14 tax credits issued under this act in 1999, the allocation of  
15 such credits under this act, and the regulation of certified  
16 capital companies and investments made by them hereunder.

17 (p) "Program Two" means the \$250 million in premium  
18 tax credits to be issued under this act on April 1, 2002, the  
19 allocation of such credits under this act, and the regulation  
20 of certified capital companies and investments made by them  
21 hereunder.

22 (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
23 DECERTIFICATION.--

24 (a) To operate as a certified capital company, a  
25 corporation, partnership, or limited liability company must be  
26 certified by the department pursuant to this act.

27 (b) An applicant for certification as a certified  
28 capital company must file a verified application with the  
29 department on or before December 1, 1998, or November 1, 2001,  
30 in the case of applicants for Program Two, in a form which the  
31 department may prescribe by rule. The applicant shall submit



Amendment No. 01 (for drafter's use only)

- 1 a nonrefundable application fee of \$7,500 to the department.  
2 The applicant shall provide:
- 3 1. The name of the applicant and the address of its  
4 principal office and each office in this state.
  - 5 2. The applicant's form and place of organization and  
6 the relevant organizational documents, bylaws, and amendments  
7 or restatements of such documents, bylaws, or amendments.
  - 8 3. Evidence from the Department of State that the  
9 applicant is registered with the Department of State as  
10 required by law, maintains an active status with the  
11 Department of State, and has not been dissolved or had its  
12 registration revoked, canceled, or withdrawn.
  - 13 4. The applicant's proposed method of doing business.
  - 14 5. The applicant's financial condition and history,  
15 including an audit report on the financial statements prepared  
16 in accordance with generally accepted accounting principles  
17 showing net worth capital of not less than \$500,000 within 90  
18 days prior to ~~after~~ the date the application is submitted to  
19 the department. If the date of the application is more than 90  
20 days after preparation of the applicant's fiscal year-end  
21 financial statements, the applicant may file financial  
22 statements reviewed by an independent certified public  
23 accountant for the period subsequent to the audit report,  
24 together with the audited financial statement for the most  
25 recent fiscal year. If the applicant has been in business  
26 less than 12 months, and has not prepared an audited financial  
27 statement, the applicant may file a financial statement  
28 reviewed by an independent certified public accountant.
  - 29 6. Copies of any offering materials used or proposed  
30 to be used by the applicant in soliciting investments of  
31 certified capital from certified investors.

Amendment No. 01 (for drafter's use only)

1           (c) On December 31, 1998, or December 31, 2001, in the  
2 case of applicants for Program Two,the department shall grant  
3 or deny certification as a certified capital company. If the  
4 department denies certification within the time period  
5 specified, the department shall inform the applicant of the  
6 grounds for the denial. If the department has not granted or  
7 denied certification within the time specified, the  
8 application shall be deemed approved. The department shall  
9 approve the application if the department finds that:

10           1. The applicant satisfies the requirements of  
11 paragraph (b).

12           2. No evidence exists that the applicant has committed  
13 any act specified in paragraph (d).

14           3. At least two of the principals have a minimum of 5  
15 years of experience making venture capital investments out of  
16 private equity funds, with not less than \$20 million being  
17 provided by third-party investors for investment in the early  
18 stage of operating businesses. At least one full-time manager  
19 or principal of the certified capital company who has such  
20 experience must be primarily located in an office of the  
21 certified capital company which is based in this state.

22           4. The applicant's proposed method of doing business  
23 and raising certified capital as described in its offering  
24 materials and other materials submitted to the department  
25 conforms with the requirements of this act.

26           (d) The department may deny certification or decertify  
27 a certified capital company if the grounds for decertification  
28 are not removed or corrected within 90 days after the notice  
29 of such grounds is received by the certified capital company.  
30 The department may deny certification or decertify a certified  
31 capital company if the certified capital company fails to

Amendment No. 01 (for drafter's use only)

1 maintain a net worth of at least \$500,000, or if the  
2 department determines that the applicant, or any principal or  
3 director of the certified capital company, has:  
4       1. Violated any provision of this section;  
5       2. Made a material misrepresentation or false  
6 statement or concealed any essential or material fact from any  
7 person during the application process or with respect to  
8 information and reports required of certified capital  
9 companies under this section;  
10       3. Been convicted of, or entered a plea of guilty or  
11 nolo contendere to, a crime against the laws of this state or  
12 any other state or of the United States or any other country  
13 or government, including a fraudulent act in connection with  
14 the operation of a certified capital company, or in connection  
15 with the performance of fiduciary duties in another capacity;  
16       4. Been adjudicated liable in a civil action on  
17 grounds of fraud, embezzlement, misrepresentation, or deceit;  
18 or  
19       5.a. Been the subject of any decision, finding,  
20 injunction, suspension, prohibition, revocation, denial,  
21 judgment, or administrative order by any court of competent  
22 jurisdiction, administrative law judge, or any state or  
23 federal agency, national securities, commodities, or option  
24 exchange, or national securities, commodities, or option  
25 association, involving a material violation of any federal or  
26 state securities or commodities law or any rule or regulation  
27 adopted under such law, or any rule or regulation of any  
28 national securities, commodities, or options exchange, or  
29 national securities, commodities, or options association; or  
30       b. Been the subject of any injunction or adverse  
31 administrative order by a state or federal agency regulating

Amendment No. 01 (for drafter's use only)

1 banking, insurance, finance or small loan companies, real  
2 estate, mortgage brokers, or other related or similar  
3 industries.

4 ~~(e) The certified capital company shall file a copy of~~  
5 ~~its certification with the office by January 31, 1999.~~

6 (e)(f) Any offering material involving the sale of  
7 securities of the certified capital company shall include the  
8 following statement: "By authorizing the formation of a  
9 certified capital company, the State of Florida does not  
10 endorse the quality of management or the potential for  
11 earnings of such company and is not liable for damages or  
12 losses to a certified investor in the company. Use of the  
13 word 'certified' in an offering does not constitute a  
14 recommendation or endorsement of the investment by the State  
15 of Florida. Investments in a certified capital company prior  
16 to the time such company is certified are not eligible for  
17 premium tax credits. If applicable provisions of law are  
18 violated, the state may require forfeiture of unused premium  
19 tax credits and repayment of used premium tax credits by the  
20 certified investor."

21 (f)(g) No insurance company or any affiliate of an  
22 insurance company shall, directly or indirectly, own (whether  
23 through rights, options, convertible interests, or otherwise)  
24 10 percent or more of the equity interests of or manage or  
25 control the direction of investments of a certified capital  
26 company or have, through ownership or any agreement or  
27 understanding, the right to participate in 10 percent or more  
28 of the profits of a certified capital company. This  
29 prohibition does not preclude a certified investor, insurance  
30 company, or any other party from exercising its legal rights  
31 and remedies, which may include interim management of a

Amendment No. 01 (for drafter's use only)

1 certified capital company, if a certified capital company is  
2 in default of its obligations under law or its contractual  
3 obligations to such certified investor, insurance company, or  
4 other party.

5 ~~(g)(h)~~ On or before December 31 of each year, each  
6 certified capital company shall pay to the department an  
7 annual, nonrefundable renewal certification fee of \$5,000. If  
8 a certified capital company fails to pay its renewal fee by  
9 the specified deadline, it must pay a late fee of \$5,000 in  
10 addition to the renewal fee on or by January 31 of each year  
11 in order to continue its certification in the program. On or  
12 before April 30 of each year, each certified capital company  
13 shall file audited financial statements with the department.  
14 No renewal fees shall be required within 6 months after the  
15 date of initial certification.

16 ~~(h)(i)~~ The department shall administer and provide for  
17 the enforcement of certification requirements for certified  
18 capital companies as provided in this act. The department may  
19 adopt any rules necessary to carry out its duties,  
20 obligations, and powers related to certification, renewal of  
21 certification, or decertification of certified capital  
22 companies and may perform any other acts necessary for the  
23 proper administration and enforcement of such duties,  
24 obligations, and powers.

25 ~~(i)(j)~~ Decertification of a certified capital company  
26 under this subsection does not affect the ability of certified  
27 investors in such certified capital company from claiming  
28 future premium tax credits earned as a result of an investment  
29 in the certified capital company during the period in which it  
30 was duly certified.

31 (5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.--

Amendment No. 01 (for drafter's use only)

1 (a) To remain certified, a certified capital company  
2 must make qualified investments according to the following  
3 schedule:

4 1. At least 20 percent of its certified capital must  
5 be invested in qualified investments by December 31, 2000, or  
6 in the case of certified capital raised under Program Two, by  
7 December 31, 2003.

8 2. At least 30 percent of its certified capital must  
9 be invested in qualified investments by December 31, 2001, or  
10 in the case of certified capital raised under Program Two, by  
11 December 31, 2004.

12 3. At least 40 percent of its certified capital must  
13 be invested in qualified investments by December 31, 2002, or  
14 in the case of certified capital raised under Program Two, by  
15 December 31, 2005.

16 4. At least 50 percent of its certified capital must  
17 be invested in qualified investments by December 31, 2003, or  
18 in the case of certified capital raised under Program Two, by  
19 December 31, 2006. At least 50 percent of such qualified  
20 investments must be invested in early stage technology  
21 businesses.

22 (6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.--

23 (a) Any certified investor who makes an investment of  
24 certified capital shall earn a vested credit against premium  
25 tax liability equal to 100 percent of the certified capital  
26 invested by the certified investor. Certified investors shall  
27 be entitled to use no more than 10 percentage points of the  
28 vested premium tax credit earned under a particular program,  
29 including any carryforward credits from such program under  
30 this act, per year beginning with premium tax filings for  
31 calendar year 2000 for credits earned under Program One and

Amendment No. 01 (for drafter's use only)

1 calendar year 2003 for credits earned under Program Two. Any  
2 premium tax credits not used by certified investors in any  
3 single year may be carried forward and applied against the  
4 premium tax liabilities of such investors for subsequent  
5 calendar years. ~~The carryforward credit may be applied~~  
6 ~~against subsequent premium tax filings through calendar year~~  
7 ~~2017.~~

8 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
9 PROCESS.--

10 (a) The total amount of tax credits which may be  
11 allocated by the office shall not exceed \$150 million with  
12 respect to Program One and \$250 million with respect to  
13 Program Two. The total amount of tax credits which may be used  
14 by certified investors under this act shall not exceed \$15  
15 million annually with respect to credits earned under Program  
16 One and \$25 million annually with respect to credits earned  
17 under Program Two.

18 (c) Each certified capital company must apply to the  
19 office for an allocation of premium tax credits for potential  
20 certified investors by March 15, 1999, or by March 15, 2002,  
21 in the case of credits allocable under Program Two, on a form  
22 developed by the office with the cooperation of the Department  
23 of Revenue. The form shall be accompanied by an affidavit  
24 from each potential certified investor confirming that the  
25 potential certified investor has agreed to make an investment  
26 of certified capital in a certified capital company up to a  
27 specified amount, subject only to the receipt of a premium tax  
28 credit allocation pursuant to this subsection. No allocation  
29 shall be made to the potential investors of a certified  
30 capital company under Program Two unless such certified  
31 capital company has filed premium tax allocation claims ~~that~~

Amendment No. 01 (for drafter's use only)

1 ~~would result in an allocation to the potential investors in~~  
2 ~~such certified capital company of not less than \$15 million in~~  
3 ~~the aggregate.~~

4 (d) On or before April 1, 1999, or April 1, 2002, in  
5 the case of Program Two,the office shall inform each  
6 certified capital company of its share of total premium tax  
7 credits available for allocation to each of its potential  
8 investors.

9 (e) If a certified capital company does not receive  
10 certified capital equaling the amount of premium tax credits  
11 allocated to a potential certified investor for which the  
12 investor filed a premium tax allocation claim within 10  
13 business days after the investor received a notice of  
14 allocation, the certified capital company shall notify the  
15 office by overnight common carrier delivery service of the  
16 company's failure to receive the capital. That portion of the  
17 premium tax credits allocated to the certified capital company  
18 shall be forfeited. The department may levy a fine of not more  
19 than \$50,000 on any certified investor that does not invest  
20 the full amount of certified capital allocated by the  
21 department to such investor in accordance with the affidavit  
22 filed on its behalf. If the office must make a pro rata  
23 allocation under paragraph (f), the office shall reallocate  
24 such available credits among the other certified capital  
25 companies on the same pro rata basis as the initial  
26 allocation.

27 (f) If the total amount of capital committed by all  
28 certified investors to certified capital companies in premium  
29 tax allocation claims under Program Two exceeds the aggregate  
30 cap on the amount of credits that may be awarded under Program  
31 Two, the premium tax credits that may be allowed to any one



Amendment No. 01 (for drafter's use only)

1 certified investor under Program Two shall be allocated using  
2 the following ratio:

3  
4 
$$\frac{A}{B} = \frac{X}{\$250,000,000}$$

5 
$$\frac{A}{B} = \frac{X}{\$150,000,000}$$

6  
7 where the letter "A" represents the total amount of certified  
8 capital certified investors have agreed to invest in any one  
9 certified capital company under Program Two, the letter "B"  
10 represents the aggregate amount of certified capital that all  
11 certified investors have agreed to invest in all certified  
12 capital companies under Program Two, the letter "X" is the  
13 numerator and represents the total amount of premium tax  
14 credits and certified capital that may be allocated to a  
15 certified capital company on April 1, 2002 ~~in calendar year~~  
16 ~~1999~~, and ~~\$250~~~~\$150~~ million is the denominator and represents  
17 the total amount of premium tax credits and certified capital  
18 that may be allocated to all certified investors in calendar  
19 year 2002 ~~1999~~. Any such premium tax credits are not first  
20 available for utilization until annual filings are made in  
21 2001 for calendar year 2000 in the case of Program One, and  
22 until annual filings are made in 2004 for calendar year 2003  
23 in the case of Program Two, and the tax credits may be used at  
24 a rate not to exceed 10 percent annually per program.

25 (g) The maximum amount of certified capital for which  
26 premium tax allocation claims may be filed on behalf of any  
27 certified investor and its affiliates by one or more certified  
28 capital companies may not exceed \$15 million with respect to  
29 Program One and \$25 million with respect to Program Two.

30 (h) To the extent that less than ~~\$250~~~~\$150~~ million in  
31 certified capital is raised in connection with the procedure

Amendment No. 01 (for drafter's use only)

1 set forth in paragraphs (c)-(g), the department may adopt  
2 rules to allow a subsequent allocation of the remaining  
3 premium tax credits authorized under this section.

4 (i) The Office shall issue a certification letter for  
5 each certified investor, showing the amount invested in the  
6 certified capital company under each program. The applicable  
7 certified capital company shall attest to the validity of the  
8 certification letter.

9 (8) ANNUAL TAX CREDIT; CLAIM PROCESS.--

10 (a) On an annual basis, on or before January ~~December~~  
11 31, each certified capital company shall file with the  
12 department and the office, in consultation with the  
13 department, on a form prescribed by the office, for each  
14 calendar year:

15 1. The total dollar amount the certified capital  
16 company received from certified investors, the identity of the  
17 certified investors, and the amount received from each  
18 certified investor during the immediately preceding calendar  
19 year.

20 2. The total dollar amount the certified capital  
21 company invested and the amount invested in qualified  
22 businesses, together with the identity and location of those  
23 businesses and the amount invested in each qualified business  
24 during the immediately preceding calendar year.

25 3. For informational purposes only, the total number  
26 of permanent, full-time jobs either created or retained by the  
27 qualified business during the immediately preceding calendar  
28 year, the average wage of the jobs created or retained, the  
29 industry sectors in which the qualified businesses operate,  
30 and any additional capital invested in qualified businesses  
31 from sources other than certified capital companies.

Amendment No. 01 (for drafter's use only)

1           (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE  
2 PARTICIPATION.--  
3           (a) A certified capital company may make qualified  
4 distributions at any time. In order to make a distribution to  
5 its equity holders, other than a qualified distribution out of  
6 funds related to a particular program, a certified capital  
7 company must have invested an amount cumulatively equal to 100  
8 percent of its certified capital raised under such program in  
9 qualified investments. Payments to debt holders of a certified  
10 capital company, however, may be made without restriction with  
11 respect to repayments of principal and interest on  
12 indebtedness owed to them by a certified capital company,  
13 including indebtedness of the certified capital company on  
14 which certified investors earned premium tax credits. A debt  
15 holder that is also a certified investor or equity holder of a  
16 certified capital company may receive payments with respect to  
17 such debt without restrictions.  
18           (b) Cumulative distributions from a certified capital  
19 company out of funds related to a particular program to its  
20 certified investors and equity holders under such program,  
21 other than qualified distributions, in excess of the certified  
22 capital company's original certified capital raised under such  
23 program and any additional capital contributions to the  
24 certified capital company with respect to such program may be  
25 audited by a nationally recognized certified public accounting  
26 firm acceptable to the department, at the expense of the  
27 certified capital company, if the department directs such  
28 audit be conducted. The audit shall determine whether  
29 aggregate cumulative distributions from the funds related to a  
30 particular program made by the certified capital company to  
31 all certified investors and equity holders under such program,

Amendment No. 01 (for drafter's use only)

1 other than qualified distributions, have equaled the sum of  
2 the certified capital company's original certified capital  
3 raised under such program and any additional capital  
4 contributions to the certified capital company with respect to  
5 such program. If at the time of any such distribution made by  
6 the certified capital company, such distribution taken  
7 together with all other such distributions from the funds  
8 related to such program made by the certified capital company,  
9 other than qualified distributions, exceeds in the aggregate  
10 the sum of the certified capital company's original certified  
11 capital raised under such program and any additional capital  
12 contributions to the certified capital company with respect to  
13 such program, as determined by the audit, the certified  
14 capital company shall pay to the Department of Revenue 10  
15 percent of the portion of such distribution in excess of such  
16 amount. Payments to the Department of Revenue by a certified  
17 capital company pursuant to this paragraph shall not exceed  
18 the aggregate amount of tax credits used by all certified  
19 investors in such certified capital company for such program.

20 (10) DECERTIFICATION.--

21 (f) Decertification of a certified capital company for  
22 failure to meet all requirements for continued certification  
23 under paragraph (5)(a) with respect to the certified capital  
24 raised under a particular program may cause the recapture of  
25 premium tax credits previously claimed by such company under  
26 such program and the forfeiture of future premium tax credits  
27 to be claimed by certified investors under such program with  
28 respect to such certified capital company, as follows:

29 1. Decertification of a certified capital company  
30 within 3 years after its certification date with respect to a  
31 particular program shall cause the recapture of all premium

Amendment No. 01 (for drafter's use only)

1 tax credits earned under such program and previously claimed  
2 by such company and the forfeiture of all future premium tax  
3 credits earned under such program which are to be claimed by  
4 certified investors with respect to such company.

5         2. When a certified capital company meets all  
6 requirements for continued certification under subparagraph  
7 (5)(a)1. with respect to certified capital raised under a  
8 particular program and subsequently fails to meet the  
9 requirements for continued certification under the provisions  
10 of subparagraph (5)(a)2. with respect to certified capital  
11 raised under such program, those premium tax credits earned  
12 under such program which have been or will be taken by  
13 certified investors within 3 years after the certification  
14 date of the certified capital company with respect to such  
15 program shall not be subject to recapture or forfeiture;  
16 however, all premium tax credits earned under such program  
17 that have been or will be taken by certified investors after  
18 the third anniversary of the certification date of the  
19 certified capital company for such program shall be subject to  
20 recapture or forfeiture.

21         3. When a certified capital company meets all  
22 requirements for continued certification under subparagraphs  
23 (5)(a)1. and 2. with respect to a particular program and  
24 subsequently fails to meet the requirements for continued  
25 certification under the subparagraph (5)(a)3. with respect to  
26 such program, those premium tax credits earned under such  
27 program which have been or will be taken by certified  
28 investors within 4 years after the certification date of the  
29 certified capital company with respect to such program shall  
30 not be subject to recapture or forfeiture; however, all  
31 premium tax credits earned under such program that have been

Amendment No. 01 (for drafter's use only)

1 or will be taken by certified investors after the fourth  
2 anniversary of the certification date of the certified capital  
3 company with respect to such program shall be subject to  
4 recapture and forfeiture.

5 4. If a certified capital company has met all  
6 requirements for continued certification under paragraph  
7 (5)(a) with respect to certified capital raised under a  
8 particular program, but such company is subsequently  
9 decertified, those premium tax credits earned under such  
10 program which have been or will be taken by certified  
11 investors within 5 years after the certification date of such  
12 company with respect to such program shall not be subject to  
13 recapture or forfeiture. Those premium tax credits earned  
14 under such program and to be taken subsequent to the 5th year  
15 of certification with respect to such program shall be subject  
16 to forfeiture only if the certified capital company is  
17 decertified within 5 years after its certification date with  
18 respect to such program.

19 5. If a certified capital company has invested an  
20 amount cumulatively equal to 100 percent of its certified  
21 capital raised under a particular program in qualified  
22 investments, all premium tax credits claimed or to be claimed  
23 by its certified investors under such program shall not be  
24 subject to recapture or forfeiture.

25 Section 2. This act shall take effect July 1, 2001.

26  
27

28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 1, lines 3-12,  
31 remove from the title of the bill:

Amendment No. 01 (for drafter's use only)

1 and insert in lieu thereof:  
2           Company Act; amending s. 288.99, F.S.;  
3           redefining the terms "early stage technology  
4           business" and "qualified distribution";  
5           defining the terms "Program One" and "Program  
6           Two"; revising procedures and dates for  
7           certification and decertification under Program  
8           One and Program Two; revising the process for  
9           earning premium tax credits; providing a  
10          limitation on tax credits under Program Two;  
11          authorizing the Department of Banking and  
12          Finance to levy a fine; providing for  
13          distributions under both programs;

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31