

By Representative Crow

1                                   A bill to be entitled  
 2           An act relating to the Certified Capital  
 3           Company Act; amending s. 288.99, F.S.;  
 4           redefining the terms "early stage technology  
 5           business" and "qualified distribution";  
 6           defining the terms "Program One" and "Program  
 7           Two"; revising procedures and dates for  
 8           certification and decertification under Program  
 9           One and Program Two; revising the process for  
 10          earning premium tax credits; providing a  
 11          limitation on tax credits under Program Two;  
 12          authorizing the Department of Banking and  
 13          Finance to levy a fine; providing for  
 14          distributions under both programs; providing an  
 15          effective date.

16  
 17 Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Subsections (3) and (4), paragraph (a) of  
 20           subsection (5), paragraph (a) of subsection (6), paragraphs  
 21           (a), (c), (d), (e), (f), (g), and (h) of subsection (7),  
 22           paragraph (a) of subsection (8), paragraphs (a) and (b) of  
 23           subsection (9), and paragraph (f) of subsection (10) of  
 24           section 288.99, Florida Statutes, are amended to read:

25           288.99 Certified Capital Company Act.--

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

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

28           1. Any person directly or indirectly beneficially  
 29           owning, whether through rights, options, convertible  
 30           interests, or otherwise, controlling, or holding power to vote  
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1 10 percent or more of the outstanding voting securities or  
2 other ownership interests of the insurance company;  
3 2. Any person 10 percent or more of whose outstanding  
4 voting securities or other ownership interest is directly or  
5 indirectly beneficially owned, whether through rights,  
6 options, convertible interests, or otherwise, controlled, or  
7 held with power to vote by the insurance company;  
8 3. Any person directly or indirectly controlling,  
9 controlled by, or under common control with the insurance  
10 company;  
11 4. A partnership in which the insurance company is a  
12 general partner; or  
13 5. Any person who is a principal, director, employee,  
14 or agent of the insurance company or an immediate family  
15 member of the principal, director, employee, or agent.  
16 (b) "Certified capital" means an investment of cash by  
17 a certified investor in a certified capital company which  
18 fully funds the purchase price of either or both its equity  
19 interest in the certified capital company or a qualified debt  
20 instrument issued by the certified capital company.  
21 (c) "Certified capital company" means a corporation,  
22 partnership, or limited liability company which:  
23 1. Is certified by the department in accordance with  
24 this act.  
25 2. Receives investments of certified capital from two  
26 or more certified investors.  
27 3. Makes qualified investments as its primary  
28 activity.  
29 (d) "Certified investor" means any insurance company  
30 subject to premium tax liability pursuant to s. 624.509 that  
31 contributes certified capital.

1           (e) "Department" means the Department of Banking and  
2 Finance.

3           (f) "Director" means the director of the Office of  
4 Tourism, Trade, and Economic Development.

5           (g) "Early stage technology business" means a  
6 qualified business that is involved, at the time of the  
7 certified capital company's initial investment in such  
8 business, in activities related to developing initial product  
9 or service offerings, such as prototype development or the  
10 establishment of initial production or service processes. The  
11 term includes, but is not limited to, a qualified business  
12 that is less than 2 years old and has, together with its  
13 affiliates, less than \$3 million in annual revenues for the  
14 fiscal year immediately preceding the initial investment by  
15 the certified capital company on a consolidated basis, as  
16 determined in accordance with generally accepted accounting  
17 principles. The term also includes the Florida Black Business  
18 Investment Board, any entity majority owned by the Florida  
19 Black Business Investment Board, or any entity in which the  
20 Florida Black Business Investment Board holds a majority  
21 voting interest on the board of directors.

22           (h) "Office" means the Office of Tourism, Trade, and  
23 Economic Development.

24           (i) "Premium tax liability" means any liability  
25 incurred by an insurance company under the provisions of s.  
26 624.509.

27           (j) "Principal" means an executive officer of a  
28 corporation, partner of a partnership, manager of a limited  
29 liability company, or any other person with equivalent  
30 executive functions.

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1           (k) "Qualified business" means a business that meets  
2 the following conditions:  
3           1. The business is headquartered in this state and its  
4 principal business operations are located in this state.  
5           2. At the time a certified capital company makes an  
6 initial investment in a business, the business is a small  
7 business concern as defined in 13 C.F.R. s. 121.201, "Size  
8 Standards Used to Define Small Business Concerns" of the  
9 United States Small Business Administration which is involved  
10 in manufacturing, processing or assembling products,  
11 conducting research and development, or providing services.  
12           3. At the time a certified capital company makes an  
13 initial investment in a business, the business certifies in an  
14 affidavit that:  
15           a. The business is unable to obtain conventional  
16 financing, which means that the business has failed in an  
17 attempt to obtain funding for a loan from a bank or other  
18 commercial lender or that the business cannot reasonably be  
19 expected to qualify for such financing under the standards of  
20 commercial lending;  
21           b. The business plan for the business projects that  
22 the business is reasonably expected to achieve in excess of  
23 \$25 million in sales revenue within 5 years after the initial  
24 investment, or the business is located in a designated Front  
25 Porch community, enterprise zone, urban high crime area, rural  
26 job tax credit county, or nationally recognized historic  
27 district;  
28           c. The business will maintain its headquarters in this  
29 state for the next 10 years and any new manufacturing facility  
30 financed by a qualified investment will remain in this state  
31 for the next 10 years, or the business is located in a

1 designated Front Porch community, enterprise zone, urban high  
2 crime area, rural job tax credit county, or nationally  
3 recognized historic district; and

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

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13 A business predominantly engaged in retail sales, real estate  
14 development, insurance, banking, lending, oil and gas  
15 exploration, or engaged in professional services provided by  
16 accountants, lawyers, or physicians does not constitute a  
17 qualified business.

18           (1) "Qualified debt instrument" means a debt  
19 instrument, or a hybrid of a debt instrument, issued by a  
20 certified capital company, at par value or a premium, with an  
21 original maturity date of at least 5 years after the date of  
22 issuance, a repayment schedule which is no faster than a level  
23 principal amortization over a 5-year period, and interest,  
24 distribution, or payment features which are not related to the  
25 profitability of the certified capital company or the  
26 performance of the certified capital company's investment  
27 portfolio.

28           (m) "Qualified distribution" means any distribution or  
29 payment ~~by to equity holders of~~ a certified capital company  
30 for:

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1           1. Reasonable costs and expenses of forming,  
2     syndicating, managing, and operating the certified capital  
3     company, including an annual management fee in an amount that  
4     does not exceed 2.5 percent of the certified capital of the  
5     certified capital company, provided no such cost or expense is  
6     paid to a certified investor, plus reasonable and necessary  
7     fees in accordance with industry custom for professional  
8     services, including, but not limited to, legal and accounting  
9     services, related to the operation of the certified capital  
10    company.

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

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

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

29           (p) "Program Two" means the \$300 million in premium  
30    tax credits to be issued under this act after October 1, 2001,  
31    the allocation of such credits under this act, and the

1 regulation of certified capital companies and investments made  
2 by them hereunder.

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

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

8 (b) An applicant for certification as a certified  
9 capital company must file a verified application with the  
10 department on or before December 1, 1998, or August 1, 2001,  
11 in the case of applicants for Program Two, in a form which the  
12 department may prescribe by rule. The applicant shall submit  
13 a nonrefundable application fee of \$7,500 to the department.  
14 The applicant shall provide:

15 1. The name of the applicant and the address of its  
16 principal office and each office in this state.

17 2. The applicant's form and place of organization and  
18 the relevant organizational documents, bylaws, and amendments  
19 or restatements of such documents, bylaws, or amendments.

20 3. Evidence from the Department of State that the  
21 applicant is registered with the Department of State as  
22 required by law, maintains an active status with the  
23 Department of State, and has not been dissolved or had its  
24 registration revoked, canceled, or withdrawn.

25 4. The applicant's proposed method of doing business.

26 5. The applicant's financial condition and history,  
27 including an audit report on the financial statements prepared  
28 in accordance with generally accepted accounting principles  
29 showing net worth ~~capital~~ of not less than \$500,000 within 90  
30 days after the date the application is submitted to the  
31 department. If the date of the application is more than 90

1 days after preparation of the applicant's fiscal year-end  
2 financial statements, the applicant may file financial  
3 statements reviewed by an independent certified public  
4 accountant for the period subsequent to the audit report,  
5 together with the audited financial statement for the most  
6 recent fiscal year. If the applicant has been in business  
7 less than 12 months, and has not prepared an audited financial  
8 statement, the applicant may file a financial statement  
9 reviewed by an independent certified public accountant.

10 6. Copies of any offering materials used or proposed  
11 to be used by the applicant in soliciting investments of  
12 certified capital from certified investors.

13 (c) On December 31, 1998, or August 31, 2001, in the  
14 case of applicants for Program Two, the department shall grant  
15 or deny certification as a certified capital company. If the  
16 department denies certification within the time period  
17 specified, the department shall inform the applicant of the  
18 grounds for the denial. If the department has not granted or  
19 denied certification within the time specified, the  
20 application shall be deemed approved. The department shall  
21 approve the application if the department finds that:

22 1. The applicant satisfies the requirements of  
23 paragraph (b).

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

26 3. At least two of the principals have a minimum of 5  
27 years of experience making venture capital investments out of  
28 private equity funds, with not less than \$20 million being  
29 provided by third-party investors for investment in the early  
30 stage of operating businesses. At least one full-time manager  
31 or principal of the certified capital company who has such



1 experience must be primarily located in an office of the  
2 certified capital company which is based in this state.

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

7 (d) The department may deny certification or decertify  
8 a certified capital company if the grounds for decertification  
9 are not removed or corrected within 90 days after the notice  
10 of such grounds is received by the certified capital company.  
11 The department may deny certification or decertify a certified  
12 capital company if the certified capital company fails to  
13 maintain a net worth of at least \$500,000, or if the  
14 department determines that the applicant, or any principal or  
15 director of the certified capital company, has:

16 1. Violated any provision of this section;  
17 2. Made a material misrepresentation or false  
18 statement or concealed any essential or material fact from any  
19 person during the application process or with respect to  
20 information and reports required of certified capital  
21 companies under this section;

22 3. Been convicted of, or entered a plea of guilty or  
23 nolo contendere to, a crime against the laws of this state or  
24 any other state or of the United States or any other country  
25 or government, including a fraudulent act in connection with  
26 the operation of a certified capital company, or in connection  
27 with the performance of fiduciary duties in another capacity;

28 4. Been adjudicated liable in a civil action on  
29 grounds of fraud, embezzlement, misrepresentation, or deceit;  
30 or

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1           5.a. Been the subject of any decision, finding,  
2 injunction, suspension, prohibition, revocation, denial,  
3 judgment, or administrative order by any court of competent  
4 jurisdiction, administrative law judge, or any state or  
5 federal agency, national securities, commodities, or option  
6 exchange, or national securities, commodities, or option  
7 association, involving a material violation of any federal or  
8 state securities or commodities law or any rule or regulation  
9 adopted under such law, or any rule or regulation of any  
10 national securities, commodities, or options exchange, or  
11 national securities, commodities, or options association; or

12           b. Been the subject of any injunction or adverse  
13 administrative order by a state or federal agency regulating  
14 banking, insurance, finance or small loan companies, real  
15 estate, mortgage brokers, or other related or similar  
16 industries.

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

19           (e)(f) Any offering material involving the sale of  
20 securities of the certified capital company shall include the  
21 following statement: "By authorizing the formation of a  
22 certified capital company, the State of Florida does not  
23 endorse the quality of management or the potential for  
24 earnings of such company and is not liable for damages or  
25 losses to a certified investor in the company. Use of the  
26 word 'certified' in an offering does not constitute a  
27 recommendation or endorsement of the investment by the State  
28 of Florida. Investments in a certified capital company prior  
29 to the time such company is certified are not eligible for  
30 premium tax credits. If applicable provisions of law are  
31 violated, the state may require forfeiture of unused premium

1 tax credits and repayment of used premium tax credits by the  
2 certified investor."

3 ~~(f)(g)~~ No insurance company or any affiliate of an  
4 insurance company shall, directly or indirectly, own (whether  
5 through rights, options, convertible interests, or otherwise)  
6 10 percent or more of the equity interests of or manage or  
7 control the direction of investments of a certified capital  
8 company or have, through ownership or any agreement or  
9 understanding, the right to participate in 10 percent or more  
10 of the profits of a certified capital company. This  
11 prohibition does not preclude a certified investor, insurance  
12 company, or any other party from exercising its legal rights  
13 and remedies, which may include interim management of a  
14 certified capital company, if a certified capital company is  
15 in default of its obligations under law or its contractual  
16 obligations to such certified investor, insurance company, or  
17 other party.

18 ~~(g)(h)~~ On or before December 31 of each year, each  
19 certified capital company shall pay to the department an  
20 annual, nonrefundable renewal certification fee of \$5,000. No  
21 renewal fees shall be required within 6 months after the date  
22 of initial certification.

23 ~~(h)(i)~~ The department shall administer and provide for  
24 the enforcement of certification requirements for certified  
25 capital companies as provided in this act. The department may  
26 adopt any rules necessary to carry out its duties,  
27 obligations, and powers related to certification, renewal of  
28 certification, or decertification of certified capital  
29 companies and may perform any other acts necessary for the  
30 proper administration and enforcement of such duties,  
31 obligations, and powers.

1           ~~(i)~~~~(j)~~ Decertification of a certified capital company  
2 under this subsection does not affect the ability of certified  
3 investors in such certified capital company from claiming  
4 future premium tax credits earned as a result of an investment  
5 in the certified capital company during the period in which it  
6 was duly certified.

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

8           (a) To remain certified, a certified capital company  
9 must make qualified investments according to the following  
10 schedule:

11           1. At least 20 percent of its certified capital must  
12 be invested in qualified investments by December 31, 2000, or  
13 in the case of certified capital raised under Program Two, by  
14 December 31, 2003.

15           2. At least 30 percent of its certified capital must  
16 be invested in qualified investments by December 31, 2001, or  
17 in the case of certified capital raised under Program Two, by  
18 December 31, 2004.

19           3. At least 40 percent of its certified capital must  
20 be invested in qualified investments by December 31, 2002, or  
21 in the case of certified capital raised under Program Two, by  
22 December 31, 2005.

23           4. At least 50 percent of its certified capital must  
24 be invested in qualified investments by December 31, 2003, or  
25 in the case of certified capital raised under Program Two, by  
26 December 31, 2006. At least 50 percent of such qualified  
27 investments must be invested in early stage technology  
28 businesses.

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

30           (a) Any certified investor who makes an investment of  
31 certified capital shall earn a vested credit against premium

1 tax liability equal to 100 percent of the certified capital  
2 invested by the certified investor. Certified investors shall  
3 be entitled to use no more than 10 percentage points of the  
4 vested premium tax credit earned under a particular program,  
5 including any carryforward credits from such program under  
6 this act, per year beginning with premium tax filings for  
7 calendar year 2000 for credits earned under Program One and  
8 calendar year 2002 for credits earned under Program Two. Any  
9 premium tax credits not used by certified investors in any  
10 single year may be carried forward and applied against the  
11 premium tax liabilities of such investors for subsequent  
12 calendar years. ~~The carryforward credit may be applied~~  
13 ~~against subsequent premium tax filings through calendar year~~  
14 ~~2017.~~

15 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
16 PROCESS.--

17 (a) The total amount of tax credits which may be  
18 allocated by the office shall not exceed \$150 million with  
19 respect to Program One and \$300 million with respect to  
20 Program Two. The total amount of tax credits which may be used  
21 by certified investors under this act shall not exceed \$15  
22 million annually with respect to credits earned under Program  
23 One and \$30 million annually with respect to credits earned  
24 under Program Two.

25 (c) Each certified capital company must apply to the  
26 office for an allocation of premium tax credits for potential  
27 certified investors by March 15, 1999, or by October 1, 2001,  
28 in the case of credits allocable under Program Two, on a form  
29 developed by the office with the cooperation of the Department  
30 of Revenue. The form shall be accompanied by an affidavit  
31 from each potential certified investor confirming that the

1 potential certified investor has agreed to make an investment  
2 of certified capital in a certified capital company up to a  
3 specified amount, subject only to the receipt of a premium tax  
4 credit allocation pursuant to this subsection. No allocation  
5 shall be made to the potential investors of a certified  
6 capital company under Program Two unless such certified  
7 capital company has filed premium tax allocation claims ~~that~~  
8 ~~would result in an allocation to the potential investors in~~  
9 ~~such certified capital company~~ of not less than ~~\$30~~\$15  
10 million in the aggregate.

11 (d) On or before April 1, 1999, or October 15, 2001,  
12 in the case of Program Two,the office shall inform each  
13 certified capital company of its share of total premium tax  
14 credits available for allocation to each of its potential  
15 investors.

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

1 companies on the same pro rata basis as the initial  
2 allocation.

3 (f) If the total amount of capital committed by all  
4 certified investors to certified capital companies in premium  
5 tax allocation claims under Program Two exceeds the aggregate  
6 cap on the amount of credits that may be awarded under Program  
7 Two, the premium tax credits that may be allowed to any one  
8 certified investor under Program Two shall be allocated using  
9 the following ratio:

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11 
$$\frac{A}{B} = \frac{X}{\$300,000,000}$$

12 
$$\frac{A}{B} = \frac{X}{\$150,000,000}$$

13

14 where the letter "A" represents the total amount of certified  
15 capital certified investors have agreed to invest in any one  
16 certified capital company under Program Two, the letter "B"  
17 represents the aggregate amount of certified capital that all  
18 certified investors have agreed to invest in all certified  
19 capital companies under Program Two, the letter "X" is the  
20 numerator and represents the total amount of premium tax  
21 credits and certified capital that may be allocated to a  
22 certified capital company after October 1, 2001 ~~in calendar~~  
23 ~~year 1999~~, and ~~\$300~~\$150 million is the denominator and  
24 represents the total amount of premium tax credits and  
25 certified capital that may be allocated to all certified  
26 investors in calendar year 2001 ~~1999~~. Any such premium tax  
27 credits are not first available for utilization until annual  
28 filings are made in 2001 for calendar year 2000 in the case of  
29 Program One, and until annual filings are made in 2003 for  
30 calendar year 2002 in the case of Program Two, and the tax  
31

1 credits may be used at a rate not to exceed 10 percent  
2 annually per program.

3 (g) The maximum amount of certified capital for which  
4 premium tax allocation claims may be filed on behalf of any  
5 certified investor and its affiliates by one or more certified  
6 capital companies may not exceed \$15 million with respect to  
7 Program One and \$30 million with respect to Program Two.

8 (h) To the extent that less than ~~\$300~~\$150 million in  
9 certified capital is raised in connection with the procedure  
10 set forth in paragraphs (c)-(g), the department may adopt  
11 rules to allow a subsequent allocation of the remaining  
12 premium tax credits authorized under this section.

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

14 (a) On an annual basis, on or before January ~~December~~  
15 31, each certified capital company shall file with the  
16 department and the office, in consultation with the  
17 department, on a form prescribed by the office, for each  
18 calendar year:

19 1. The total dollar amount the certified capital  
20 company received from certified investors, the identity of the  
21 certified investors, and the amount received from each  
22 certified investor during the immediately preceding calendar  
23 year.

24 2. The total dollar amount the certified capital  
25 company invested and the amount invested in qualified  
26 businesses, together with the identity and location of those  
27 businesses and the amount invested in each qualified business  
28 during the immediately preceding calendar year.

29 3. For informational purposes only, the total number  
30 of permanent, full-time jobs either created or retained by the  
31 qualified business during the immediately preceding calendar



1 year, the average wage of the jobs created or retained, the  
2 industry sectors in which the qualified businesses operate,  
3 and any additional capital invested in qualified businesses  
4 from sources other than certified capital companies.

5 (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE  
6 PARTICIPATION.--

7 (a) A certified capital company may make qualified  
8 distributions at any time. In order to make a distribution to  
9 its equity holders, other than a qualified distribution out of  
10 funds related to a particular program, a certified capital  
11 company must have invested an amount cumulatively equal to 100  
12 percent of its certified capital raised under such program in  
13 qualified investments. Payments to debt holders of a certified  
14 capital company, however, may be made without restriction with  
15 respect to repayments of principal and interest on  
16 indebtedness owed to them by a certified capital company,  
17 including indebtedness of the certified capital company on  
18 which certified investors earned premium tax credits. A debt  
19 holder that is also a certified investor or equity holder of a  
20 certified capital company may receive payments with respect to  
21 such debt without restrictions.

22 (b) Cumulative distributions from a certified capital  
23 company out of funds related to a particular program to its  
24 certified investors and equity holders under such program,  
25 other than qualified distributions, in excess of the certified  
26 capital company's original certified capital raised under such  
27 program and any additional capital contributions to the  
28 certified capital company with respect to such program may be  
29 audited by a nationally recognized certified public accounting  
30 firm acceptable to the department, at the expense of the  
31 certified capital company, if the department directs such

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

24 (10) DECERTIFICATION.--

25 (f) Decertification of a certified capital company for  
26 failure to meet all requirements for continued certification  
27 under paragraph (5)(a) with respect to the certified capital  
28 raised under a particular program may cause the recapture of  
29 premium tax credits previously claimed by such company under  
30 such program and the forfeiture of future premium tax credits  
31

1 to be claimed by certified investors under such program with  
2 respect to such certified capital company, as follows:

3 1. Decertification of a certified capital company  
4 within 3 years after its certification date with respect to a  
5 particular program shall cause the recapture of all premium  
6 tax credits earned under such program and previously claimed  
7 by such company and the forfeiture of all future premium tax  
8 credits earned under such program which are to be claimed by  
9 certified investors with respect to such company.

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

26 3. When a certified capital company meets all  
27 requirements for continued certification under subparagraphs  
28 (5)(a)1. and 2. with respect to a particular program and  
29 subsequently fails to meet the requirements for continued  
30 certification under the subparagraph (5)(a)3. with respect to  
31 such program, those premium tax credits earned under such

1 program which have been or will be taken by certified  
2 investors within 4 years after the certification date of the  
3 certified capital company with respect to such program shall  
4 not be subject to recapture or forfeiture; however, all  
5 premium tax credits earned under such program that have been  
6 or will be taken by certified investors after the fourth  
7 anniversary of the certification date of the certified capital  
8 company with respect to such program shall be subject to  
9 recapture and forfeiture.

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

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

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

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SENATE SUMMARY

Revises procedures and dates for certification and decertification of certified capital companies under defined Program One and Program Two of the Certified Capital Company Act. Revises the process for earning premium tax credits and provides a limitation on credits under Program Two. Authorizes the Department of Banking and Finance to levy a fine on certified investors under specified circumstances.