

1 Section 1. Paragraph (o) of subsection (3), paragraph
2 (b) of subsection (4), paragraph (f) of subsection (7), and
3 subsections (15), (16), and (17) of section 288.99, Florida
4 Statutes, are amended to read:

5 288.99 Certified Capital Company Act.--

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

7 (o) "Program Two" means the \$150 million in premium
8 tax credits to be issued under subsection (16)~~(17)~~, the
9 allocation of such credits under this section, and the
10 regulation of certified capital companies and investments made
11 by them hereunder.

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

14 (b) An applicant for certification as a certified
15 capital company must file a verified application with the
16 Department of Banking and Finance on or before December 1,
17 1998, a date determined in rules adopted pursuant to
18 subsection (16)~~(17)~~ in the case of applicants for Program
19 Two, in a form which the commission may prescribe by rule. The
20 applicant shall submit a nonrefundable application fee of
21 \$7,500 to the office. The applicant shall provide:

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

24 2. The applicant's form and place of organization and
25 the relevant organizational documents, bylaws, and amendments
26 or restatements of such documents, bylaws, or amendments.

27 3. Evidence from the Department of State that the
28 applicant is registered with the Department of State as
29 required by law, maintains an active status with the
30 Department of State, and has not been dissolved or had its
31 registration revoked, canceled, or withdrawn.

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

2 5. The applicant's financial condition and history,
3 including an audit report on the financial statements prepared
4 in accordance with generally accepted accounting principles.
5 The applicant must have, at the time of application for
6 certification, an equity capitalization of at least \$500,000
7 in the form of cash or cash equivalents. The applicant must
8 maintain this equity capitalization until the applicant
9 receives an allocation of certified capital pursuant to this
10 act. If the date of the application is more than 90 days after
11 preparation of the applicant's fiscal year-end financial
12 statements, the applicant may file financial statements
13 reviewed by an independent certified public accountant for the
14 period subsequent to the audit report, together with the
15 audited financial statement for the most recent fiscal year.
16 If the applicant has been in business less than 12 months, and
17 has not prepared an audited financial statement, the applicant
18 may file a financial statement reviewed by an independent
19 certified public accountant.

20 6. Copies of any offering materials used or proposed
21 to be used by the applicant in soliciting investments of
22 certified capital from certified investors.

23 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION
24 PROCESS.--

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

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$$A/B = X / > \$150,000,000$$

where the letter "A" represents the total amount of certified capital certified investors have agreed to invest in any one certified capital company under Program Two, the letter "B" represents the aggregate amount of certified capital that all certified investors have agreed to invest in all certified capital companies under Program Two, the letter "X" is the numerator and represents the total amount of premium tax credits and certified capital that may be allocated to a certified capital company on a date determined by rule adopted by the commission pursuant to subsection (16) ~~(17)~~, and \$150 million is the denominator and represents the total amount of premium tax credits and certified capital that may be allocated to all certified investors under Program Two. Any such premium tax credits are not first available for utilization until annual filings are made in 2001 for calendar year 2000 in the case of Program One, and the tax credits may be used at a rate not to exceed 10 percent annually per program.

(15)(a) CONFIDENTIALITY OF INVESTIGATION AND REVIEW INFORMATION.--Except as otherwise provided by this section, any information relating to an investigation or office review of a certified capital company, ~~including any consumer complaint,~~ is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or review is complete or ceases to be active. Such information shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution after the investigation or review is

1 complete or ceases to be active if the information is
2 submitted to any law enforcement or administrative agency for
3 further investigation, and shall remain confidential and
4 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
5 I of the State Constitution until that agency's investigation
6 is complete or ceases to be active. For purposes of this
7 subsection, an investigation or review shall be considered
8 "active" so long as the office, a law enforcement agency, or
9 an administrative agency is proceeding with reasonable
10 dispatch and has a reasonable good faith belief that the
11 investigation may lead to the filing of an administrative,
12 civil, or criminal proceeding. This section shall not be
13 construed to prohibit disclosure of information which is
14 required by law to be filed with the office and which, but for
15 the investigation, would otherwise be subject to s. 119.07(1).

16 (b) Except as necessary to enforce the provisions of
17 this chapter, ~~a consumer complaint or~~ information relating to
18 an investigation or review shall remain confidential and
19 exempt from s. 119.07(1) after an investigation or review is
20 complete or ceases to be active to the extent disclosure
21 would:

22 1. Reveal a trade secret as defined in s. 688.002 or
23 s. 812.081.

24 2. Jeopardize the integrity of another active
25 investigation or review.

26 3. Disclose the identity of a confidential source or
27 investigative techniques or procedures.

28 (c) Nothing in this section shall be construed to
29 prohibit the office from providing information to any law
30 enforcement or administrative agency. Any law enforcement or
31 administrative agency receiving confidential information in

1 connection with its official duties shall maintain the
2 confidentiality of the information so long as it would
3 otherwise be confidential.

4 ~~(d) In the event office personnel are or have been~~
5 ~~involved in an investigation or review of such nature as to~~
6 ~~endanger their lives or physical safety or that of their~~
7 ~~families, the home addresses, telephone numbers, places of~~
8 ~~employment, and photographs of such personnel, together with~~
9 ~~the home addresses, telephone numbers, photographs, and places~~
10 ~~of employment of spouses and children of such personnel and~~
11 ~~the names and locations of schools and day care facilities~~
12 ~~attended by the children of such personnel are confidential~~
13 ~~and exempt from s. 119.07(1).~~

14 ~~(e) All information obtained by the office from any~~
15 ~~person which is only made available to the office on a~~
16 ~~confidential or similarly restricted basis shall be~~
17 ~~confidential and exempt from s. 119.07(1). This exemption~~
18 ~~shall not be construed to prohibit disclosure of information~~
19 ~~which is specifically required by law to be filed with the~~
20 ~~office or which is otherwise subject to s. 119.07(1).~~

21 (d)(f) If information subject to this subsection is
22 offered in evidence in any administrative, civil, or criminal
23 proceeding, the presiding officer may, in his or her
24 discretion, prevent the disclosure of information which would
25 be confidential pursuant to paragraph (b).

26 (e)(g) A privilege against civil liability is granted
27 to a person with regard to information or evidence furnished
28 to the office, unless such person acts in bad faith or with
29 malice in providing such information or evidence.

30 ~~(h) This subsection is subject to the Open Government~~
31 ~~Sunset Review Act of 1995 in accordance with s. 119.15, and~~

1 ~~shall stand repealed on October 2, 2005, unless reviewed and~~
2 ~~saved from repeal through reenactment by the Legislature.~~

3 ~~(16) CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS. The~~
4 ~~social security number of any customer of a certified capital~~
5 ~~company, complainant, or person associated with a certified~~
6 ~~capital company or qualified business, is exempt from s.~~
7 ~~119.07(1). This subsection is subject to the Open Government~~
8 ~~Sunset Review Act of 1995 in accordance with s. 119.15, and~~
9 ~~shall stand repealed on October 2, 2005, unless reviewed and~~
10 ~~saved from repeal through reenactment by the Legislature.~~

11 (16)~~(17)~~ Notwithstanding the limitations set forth in
12 paragraph (7)(a), in the first fiscal year in which the total
13 insurance premium tax collections as determined by the Revenue
14 Estimating Conference exceed collections for fiscal year
15 2000-2001 by more than the total amount of tax credits issued
16 pursuant to this section which were used by certified
17 investors in that year, the Office of Tourism, Trade, and
18 Economic Development may allocate to certified investors in
19 accordance with paragraph (7)(a) tax credits for Program Two.
20 The commission shall establish, by rule, a date and procedures
21 by which certified capital companies must file applications
22 for allocations of such additional premium tax credits, which
23 date shall be no later than 180 days from the date of
24 determination by the Revenue Estimating Conference. With
25 respect to new certified capital invested and premium tax
26 credits earned pursuant to this subsection, the schedule
27 specified in subparagraphs (5)(a)1.-4. is satisfied by
28 investments by December 31 of the 2nd, 3rd, 4th, and 5th
29 calendar year, respectively, after the date established by the
30 commission for applications of additional premium tax credits.
31 The commission shall adopt rules by which an entity not

1 already certified as a certified capital company may apply for
2 certification as a certified capital company for participation
3 in this additional allocation. The insurance premium tax
4 credit authorized by Program Two may not be used by certified
5 investors until the annual return due March 1, 2004, and may
6 be used on all subsequent returns and estimated payments;
7 however, notwithstanding the provisions of s. 624.5092(2)(b),
8 the installments of taxes due and payable on April 15, 2004,
9 and June 15, 2004, shall be based on the net tax due in 2003
10 not taking into account credits granted pursuant to this
11 section for Program Two.

12 Section 2. This act shall take effect upon becoming a
13 law.

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15 SENATE SUMMARY

16 Revises certain exemptions from the public-records law
17 provided for specified information relating to an
18 investigation or review of a certified capital company by
19 the Office of Financial Regulation of the Financial
20 Services Commission. Removes the repeal of certain
21 exemptions scheduled on October 2, 2005, under the Open
22 Government Sunset Review Act. (See bill for details.)
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