

LC03213

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2002**

**A N A C T**

**RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE ISLAND CERTIFIED CAPITAL COMPANIES ACT**

Introduced By: Senators DaPonte, Celona, and Garabedian

Date Introduced: May 23, 2002

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 7 of the General Laws entitled "Corporations, Associations, and  
2 Partnerships" is hereby amended by adding thereto the following chapter:

3 CHAPTER 17

4 RHODE ISLAND CERTIFIED CAPITAL COMPANIES ACT

5 **7-17-1. Short title.** – This chapter shall be known as “The Rhode Island Certified Capital  
6 Companies Act.”

7 **7-17-2. Legislative findings.** – Having found and declared: that there exists in our state a  
8 scarcity of venture capital available for investment in small businesses headquartered in the state;  
9 that the state has an opportunity to adopt a program to establish “certified capital companies”  
10 which will provide for investment in early stage and start-up enterprises in this state by allowing  
11 an insurance premium tax credit to those insurance companies doing business in Rhode Island  
12 which make qualified investments in such certified capital companies; that such qualified  
13 investments made in those certified capital companies have been shown to attract additional  
14 venture capital investments in such small businesses; that the investment through such certified  
15 capital companies has been proven to stimulate a substantial increase in venture capital  
16 investments in the state and to create jobs and expand the diversity of this state’s economic base;  
17 and that the state is competing for such investment at a disadvantage with those states which have  
18 instituted programs to support such certified capital companies.

1           **7-17-3. Definitions.** – The following words and terms, unless the context clearly  
2 indicates a different meaning, shall have the following meanings:

3           (1) “Affiliate of a certified capital company or insurance company” means:

4           (i) Any person who directly or indirectly owns, whether through rights, options,  
5 convertible interests or otherwise, controlling or holding power to vote fifteen percent (15%) or  
6 more of the outstanding voting securities or other voting ownership interests of the certified  
7 capital company or insurance company, as applicable;

8           (ii) Any person fifteen percent (15%) or more of whose outstanding voting securities or  
9 other voting ownership interests are directly or indirectly beneficially owned, whether through  
10 rights, options, convertible interests or otherwise, controlled or held with power to vote by the  
11 certified capital company or insurance company, as applicable;

12           (iii) Any person directly or indirectly controlling, controlled by, or under common control  
13 with the certified capital company or insurance company, as applicable;

14           (iv) A partnership or limited liability company in which the certified capital company or  
15 insurance company, as applicable, is a general partner, manager or managing member;

16           (v) Any person who is an officer, director, employee or agent of the certified capital  
17 company or insurance company, as applicable, or an immediate family member of such officer,  
18 director, employee or agent.

19           (2) “Allocation date” means the date on which the certified investors of a certified  
20 capital company are allocated certified capital by the authority pursuant to section 6 of this  
21 chapter.

22           (3) “Authority” means the Rhode Island Economic Development Corporation or its  
23 designee.

24           (4) “Certified capital” means an investment of cash by a certified investor in a certified  
25 capital company which fully funds the purchase price of an equity interest in the certified capital  
26 company or a qualified debt instrument issued by the certified capital company or any  
27 combination thereof.

28           (5) “Certified capital company” means a partnership, limited partnership, corporation,  
29 trust or limited liability company, whether organized on a profit or not for profit-basis, that has as  
30 its primary business activity the investment of cash in qualified businesses and that is certified by  
31 the authority as meeting the criteria set forth in this chapter.

32           (6) “Certified investor” means any insurance company that contributes certified capital  
33 pursuant to an allocation of tax credits under section 7-17-6 of this chapter.

34           (7) “Person” means any person or entity, including a corporation, general or limited

1 partnership, trust or limited liability company.

2 (8) “Qualified business” means a business that, at the time of a certified capital  
3 company’s first investment in that business, is headquartered and has its principal business  
4 operations located in the state, and is a small business concern as defined in 13 CFR 121.301(c)  
5 of the small business size regulations of the United States Small Business Administration. A  
6 business that is predominantly engaged in professional services provided by accountants, lawyers  
7 or physicians shall not constitute a qualified business.

8 (9) “Qualified debt instrument” means a debt instrument issued to a certified investor by  
9 a certified capital company, at par value or a premium, with an original maturity date of at least  
10 five (5) years from date of issuance and a repayment schedule that is no faster than a level  
11 principal amortization over five (5) years and that contains no interest, distribution or payment  
12 features that are related to the profitability of the certified capital company or the performance of  
13 the certified capital company’s investment portfolio until such time as the certified capital  
14 company is permitted to make distributions other than qualified distributions under section 8 of  
15 this chapter.

16 (10) “Qualified distribution” means any distribution or payment by a certified capital  
17 company in connection with any of the following:

18 (i) Reasonable costs and expenses of forming, organizing and syndicating the certified  
19 capital company, including the costs of financing and insuring the obligations of the certified  
20 capital company;

21 (ii) Reasonable costs and expenses of managing and operating the certified capital  
22 company, including, but not limited to, reasonable and necessary fees paid for professional  
23 services related to the formation and operation of the certified capital company and an annual  
24 management fee in an amount that does not exceed two and one-half percent (2.5%) of the  
25 certified capital of the certified capital company; and

26 (iii) Any projected increase in federal or state taxes, including penalties and interest  
27 related to state and federal income taxes, of the equity owners of a certified capital company  
28 resulting from the earnings of other tax liability of the certified capital company without regards  
29 to any revenue or expenses from other operation of affiliates of the certified capital company, to  
30 the extent that the increase is related to the ownership, management or operation of a certified  
31 capital company or issuance, repayment or redemption of the qualified debt instruments of the  
32 certified capital company.

33 (11) “Qualified investment” means the investment of cash by a certified capital company  
34 in a qualified business, the Samuel Slater Technology Fund, a Slater Center, or a Slater Center

1 Business for the purchase of any debt, debt participation, equity or hybrid security of any nature  
2 and description whatsoever issued by that qualified business, including a debt instrument or  
3 security which has the characteristics of debt but which provides for conversion into equity or  
4 equity participation instruments such as options or warrants.

5 (12) “Samuel Slater Technology Fund” means the “Technology Commercialization  
6 Fund” supported by annual state appropriation and administered by the Rhode Island Economic  
7 Policy Council.

8 (13) “Slater Center” means one of the 501(c)(3) nonprofit organizations funded by the  
9 Samuel Slater Technology Fund to commercialize technology in a specific field or fields.

10 (14) “Slater Center Business” means any qualified business that is acknowledged by a  
11 Slater Center or the Samuel Slater Technology Fund as a Slater Center Business.

12 (15) “State premium tax liability” means any liability incurred by an insurance company  
13 under the provisions of sections 44-17-1 et seq. or, if any tax imposed by sections 44-17-1 et seq.  
14 is repealed or reduced by the state, any other tax imposed on an insurance company by the state.

15 (16) “Tax credit” means the credit against state premium tax liability which is earned by  
16 a certified investor in connection with an investment of certified capital in a certified capital  
17 company pursuant to this chapter.

18 (17) “Tax credit allocation claim” means a claim for allocation of tax credits prepared  
19 and executed by an insurance company on a form provided by the authority and filed by a  
20 certified capital company with the authority. The form shall include an affidavit of the insurance  
21 company pursuant to which an insurance company shall become legally bound and irrevocably  
22 committed to make an investment of certified capital in a certified capital company in the amount  
23 allocated, even if such amount is less than the amount of the claim, subject only to the receipt of  
24 an allocation pursuant to section 6 of this chapter.

25 **7-17-4. Regulations and requirements for certified capital company.** – (a) The  
26 authority shall promulgate rules and regulations for making an application to become a certified  
27 capital company. The applicant shall pay a nonrefundable application fee of seven thousand five  
28 hundred dollars (\$7,500) at the time of filing the application with the authority.

29 (b) A certified capital company’s equity capitalization at the time of seeking certification  
30 shall be a minimum of five hundred thousand dollars (\$500,000) and shall be in the form of  
31 unencumbered cash, marketable securities or other liquid assets. The certified capital company  
32 must maintain such equity capitalization until such time as it receives an allocation of certified  
33 capital pursuant to section 6 of this chapter.

34 (c) The authority shall review the organizational documents of each applicant for

1 certification and the business history of the applicant and shall determine that the applicant's  
2 cash, marketable securities and other liquid assets are at least five hundred thousand dollars  
3 (\$500,000). As part of its application, each applicant shall submit to the authority its balance  
4 sheet, audited with an unqualified opinion of an independent certified public accountant, of a date  
5 no more than thirty-five (35) days prior to the date of the application.

6 (d) The authority shall verify that at least two (2) principals of the certified capital  
7 company or at least two (2) persons employed or engaged to manage the funds of the certified  
8 capital company each have not less than four (4) years of experience in the venture capital  
9 industry.

10 (e) The certified capital company shall certify that within sixty (60) days of the  
11 investment of certified capital in the certified capital company, at least one (1) of the managing  
12 principals or persons employed or engaged to manage the funds of the certified capital company  
13 shall be primarily located in an office of the certified capital company which is based in the state.

14 (f) Any offering material involving the sale of securities of the certified capital company  
15 shall include the following statement:

16 "By authorizing the formation of a certified capital company, the State of Rhode Island  
17 does not necessarily endorse the quality of management or the potential for earnings of such  
18 company and is not liable for damages or losses to a certified investor in the company. Use of the  
19 word 'certified' in an offering does not constitute a recommendation or endorsement of the  
20 investment by the authority or the state. In the event applicable provisions of this law are violated,  
21 the state may require forfeiture of unused tax credits and repayment of used tax credits."

22 (g) Within thirty (30) days of application, the authority shall issue the certification or  
23 shall refuse the certification and communicate in detail to the applicant the grounds for the  
24 refusal, including criteria for the removal of those grounds. If an applicant submits an amended  
25 application within fifteen (15) days of receipt of refusal by the authority, the authority shall have  
26 fifteen (15) days from the receipt of such amended application by which to communicate its  
27 approval or refusal of such amended application to the applicant. The authority shall review and  
28 approve or reject applications in the order submitted, and in the event more than one (1)  
29 application is received by the authority on any date, all such applications shall be reviewed and  
30 approved simultaneously, except in the case of incomplete applications or applications for which  
31 additional information is requested by the authority and is not supplied by the applicant within the  
32 allowable time limits established by the authority.

33 (h) No insurance company or any affiliate of an insurance company shall directly or  
34 indirectly own, whether through rights, options, convertible interests or otherwise, fifteen percent

1 (15%) or more of the voting equity interests of a certified capital company or manage a certified  
2 capital company or control the direction of investments for a certified capital company. This  
3 provision shall not preclude a certified investor, insurance company or any other party from:

4 (i) exercising its legal rights and remedies, which may include interim management of a  
5 certified capital company, in the event that a certified capital company is in default of its statutory  
6 obligations or its contractual obligations to a certified investor, insurance company or other  
7 person; or

8 (ii) establishing controls to insure that the certified capital company satisfies the  
9 requirements of section 7 of this chapter.

10 (i) A certified capital company may obtain a guaranty, indemnity, bond, insurance policy  
11 or other payment undertaking for the benefit of its certified investors from any entity; provided  
12 that, in no case shall more than one (1) certified investor of the certified capital company or  
13 affiliates of such certified investor be entitled to provide such guaranty, indemnity, bond,  
14 insurance policy or other payment undertaking in favor of the certified investors of the certified  
15 capital company and its affiliates in the state.

16 (j) Nothing in this subsection shall limit an insurance company's ownership of nonvoting  
17 equity interests in a certified capital company.

18 **7-17-5. Premium tax credits.** – (a) Any certified investor who makes an investment of  
19 certified capital pursuant to an allocation of tax credits under section 6 of this chapter shall, in the  
20 year of investment, earn a vested credit against state premium tax liability equal to one hundred  
21 percent (100%) of the certified investor's investment of certified capital. A certified investor shall  
22 be entitled to take up to ten percent (10%) of the vested tax credit to reduce the certified  
23 investor's state premium tax liability for any taxable year of the certified investor beginning with  
24 the annual payment for the tax year ending December 31, 2005, plus an amount of unused tax  
25 credits which are carried forward pursuant to subsection (b) of this section beginning with the  
26 estimated payments for the tax year ending December 31, 2005.

27 (b) The tax credit that may be applied against state premium tax liability in any one (1)  
28 year may not exceed the state premium tax liability of the certified investor for such taxable year.  
29 All unused tax credits against state premium tax liability may be carried forward indefinitely and  
30 used in any subsequent year until the tax credits are utilized in full.

31 (c) A certified investor claiming a tax credit against state premium tax liability earned  
32 through an investment in a certified capital company shall not be required to pay any additional  
33 retaliatory tax levied pursuant to section 27-2-17 (or such part of section 44-17-1 as relates to  
34 minimum taxes imposed on foreign or alien companies) as a result of claiming that tax credit.

1           (d) A certified investor is not required to reduce the amount of tax pursuant to the state  
2 premium tax liability included by the certified investor in connection with ratemaking for any  
3 insurance contract written in this state because of a reduction in the certified investor's tax  
4 liability based on the tax credit allowed under this chapter.

5           (e) If the taxes paid by a certified investor with respect to its state premium tax liability  
6 constitute a credit against any other tax which is imposed by this state, the certified investor's  
7 credit against such other tax shall not be reduced by virtue of the reduction in the certified  
8 investor's tax liability based on the tax credit allowed under this chapter.

9           **7-17-6. Certified investor tax credit claims.** – (a) The aggregate amount of certified  
10 capital for which tax credits shall be allowed for all certified investors under this chapter shall not  
11 exceed the amount which would entitle all certified investors in certified capital companies to  
12 take aggregate tax credits of ten million dollars (\$10,000,000) per year for ten (10) years. No  
13 certified capital company, on an aggregate basis with its affiliates, may file tax credit allocation  
14 claims in excess of the maximum amount of certified capital for which tax credits may be allowed  
15 as provided in this subsection.

16           (b) Certified capital for which tax credits are allowed will be allocated to certified  
17 investors in certified capital companies in the order that tax credit allocation claims are received  
18 by the authority by such certified capital companies on behalf of their certified investors. All  
19 filings made on the same day shall be treated as having been made contemporaneously.

20           (c) In the event that two (2) or more certified capital companies file tax credit allocation  
21 claims with the authority on behalf of their respective certified investors on the same day, and the  
22 amount of such tax credit allocation claims exceeds in the aggregate the limit of available tax  
23 credits under the provisions of subsection (a) of this section, capital for which tax credits are  
24 allowed shall be allocated among the certified investors who filed on that day on a pro rata basis  
25 with respect to the amounts claimed. The pro rata allocation for any one (1) certified capital  
26 company shall be the product of a fraction, the numerator of which is the amount of the tax credit  
27 allocation claim filed on behalf of the certified investors of such certified capital company and the  
28 denominator of which is the total of all tax credit allocation claims filed on behalf of all certified  
29 investors on such day, multiplied by the aggregate limitation as provided in subsection (a) of this  
30 section or such lesser amount of tax credits that remains unallocated on such day.

31           (d) Within ten (10) business days after the authority receives a tax credit allocation claim  
32 filed by a certified capital company on behalf of one (1) or more of its certified investors, the  
33 authority shall notify the certified capital company of the amount of tax credits allocated to each  
34 of the certified investors in such certified capital company.

1 (e) In the event a certified capital company does not receive investments of certified  
2 capital equaling the amount of tax credits allocated to a certified investor for which it filed a tax  
3 credit allocation claim within ten (10) business days of its receipt of notice of allocation, that  
4 portion of the tax credits allocated to such certified investor in the certified capital company in  
5 excess of the amount of certified capital invested in the certified capital company by such  
6 certified investor will be forfeited, and the authority will reallocate that certified capital among  
7 the other certified capital companies on a pro rata basis with respect to the tax credit allocation  
8 claims filed on behalf of the certified investors of each such certified capital company.

9 (f) The maximum amount of tax credit allocation claims that may be filed on behalf of  
10 any one (1) certified investor, on an aggregate basis with its affiliates, in one (1) or more certified  
11 capital companies, shall not exceed the greater of:

12 (1) ten million dollars (\$10,000,000); or

13 (2) fifteen percent (15%) of the aggregate limitation as provided in subsection (a) of this  
14 section.

15 **7-17-7. Qualified investment requirement.** -- (a) To continue to be certified, a  
16 certified capital company must make qualified investments according to the following schedule:

17 (1) Within the period ending three (3) years after its allocation date, a certified capital  
18 company must have made qualified investments cumulatively equal to thirty percent (30%) of its  
19 certified capital. Ten percent (10%) of the qualified investments required to be made under this  
20 subsection must have been made in either, or any combination of, the Samuel Slater Technology  
21 Fund, a Slater Center or Slater Centers, or a Slater Center Business or Slater Center Businesses.

22 (2) Within the period ending five (5) years after its allocation date, a certified capital  
23 company must have made qualified investments cumulatively equal to fifty percent (50%) of its  
24 certified capital. Ten percent (10%) of the qualified investments required to be made under this  
25 subsection must have been made in either, or any combination of, the Samuel Slater Technology  
26 Fund, a Slater Center or Slater Centers, or a Slater Center Business or Slater Center Businesses.

27 (b) The aggregate cumulative amount of all qualified investments made by the certified  
28 capital company from its allocation date will be considered in the calculation of the percentage  
29 requirements under this chapter. Any funds received from a qualified investment may be  
30 invested in another qualified investment and shall count toward any requirement in this chapter  
31 with respect to investments of certified capital.

32 (c) Any business which is classified as a qualified business at the time of the first  
33 investment in said business by a certified capital company shall remain classified as a qualified  
34 business and may receive follow-on investments from any certified capital company so long as



1 the qualified business continues to be headquartered and have its principal business operation  
2 located in the state, and such follow-on investments shall be qualified investments even though  
3 such business may not meet the definition of a qualified business at the time of such follow-on  
4 investments.

5 (d) No qualified investment may be made if the aggregate investment by the certified  
6 capital company in the qualified business following such investment would exceed fifteen percent  
7 (15%) of the total certified capital of the certified capital company at the time of investment.

8 (e) At its option, a certified capital company, prior to making a proposed investment in a  
9 specific business, may request from the authority a written opinion that the investment which it  
10 proposes to make should be considered a qualified investment. Upon receiving such a request,  
11 the authority shall have ten (10) business days to determine whether or not the proposed  
12 investment meets the definition of a qualified investment and notify the certified capital company  
13 of its determination and an explanation thereof. If the authority fails to notify the certified  
14 capital company with respect to the proposed investment within the ten (10) business day period,  
15 the proposed investment shall be deemed to be a qualified investment. If the authority determines  
16 that the proposed investment does not meet all of the criteria set forth in this section, the authority  
17 may nevertheless consider the business a qualified investment and approve the investment if the  
18 authority determines that the proposed investment will further state economic development.

19 (f) All certified capital not currently invested in qualified investments by the certified  
20 capital company must be invested in one (1) or more of the following:

21 (1) cash deposited with a federally-insured financial institution;

22 (2) certificates of deposit in a federally-insured financial institution;

23 (3) investment securities that are obligations of the United States, its agencies or  
24 instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United  
25 States;

26 (4) debt instruments rated at least "AA" or its equivalent by a nationally recognized rating  
27 organization, or issued by, or guaranteed with respect to payment by, an entity whose unsecured  
28 indebtedness is rated at least "AA" or its equivalent by a nationally recognized credit rating  
29 organization, and which is not subordinated to other unsecured indebtedness of the issuer or the  
30 guarantor, if any, as the case may be;

31 (5) Obligations of this state, or any municipality in this state, or any political subdivision  
32 thereof and rated at least "AA" or its equivalent by a nationally recognized credit rating  
33 organization, and which is not subordinated to other unsecured indebtedness of the issuer or the  
34 guarantor, if any, as the case may be;

1           (6) Commercial paper rated at least "A1" or "P1" or its equivalent by a nationally  
2 recognized credit ratings organization, with a maturity of not more than three hundred sixty-five  
3 (365) days; or

4           (7) Any other investments approved in advance and in writing by the authority.

5           (g) Each certified capital company shall report and/or provide, as appropriate, to the  
6 authority, with copies to the chairman of the house finance committee and the chairman of the  
7 senate finance committee:

8           (1) As soon as practicable after the receipt of certified capital,:

9           (i) the name of each certified investor from which the certified capital was received,  
10 including such certified investor's insurance premium tax identification number;

11           (ii) the amount of each certified investor's investment of certified capital and tax credits;

12 and

13           (iii) the date on which the certified capital was received.

14           (2) On an annual basis, on or before January 31:

15           (i) the amount of the certified capital company's certified capital at the end of the  
16 immediately preceding year;

17           (ii) whether or not the certified capital company has invested more than fifteen percent  
18 (15%) of its total certified capital in any one (1) qualified business; and

19           (iii) a description of all qualified investments that the certified capital company made  
20 during the previous calendar year.

21           (3) Each annual audited financial statements, which shall include the opinion of an  
22 independent certified public accountant regarding those financial statements, within ninety (90)  
23 days of the close of the fiscal year. The audit or other review by the independent certified public  
24 accountant shall address the methods of operation and conduct of the business of the certified  
25 capital company to determine if the certified capital company is complying with the statutes and  
26 program rules and that the funds received by the certified capital company have been invested as  
27 required within the time limits provided by section 5(a) of this chapter.

28           (4) On or before January 31 of each year, each certified capital company shall pay an  
29 annual, non-refundable certification fee of five thousand dollars (\$5,000) to the authority;  
30 provided, that no such fee shall be required within six (6) months of the initial certification date  
31 of a certified capital company.

32           (5) On a semi-annual basis, on or before January 31 and July 31 in each year, a listing of  
33 each of the qualified businesses and each of the Slater Center businesses receiving a qualified  
34 investment and a portfolio performance report relating to such entities.

1           (6) On an annual basis, on or before September 15 in each year, the audited financial  
2 statements for each of the Economic Policy Council, Samuel Slater Technology Fund, the Slater  
3 Center on both a consolidated and consolidating basis, and all of such reports to be prepared in  
4 conformity with generally accepted accounting principles or government auditing standards as  
5 appropriate.

6           (7) On an annual basis, on or before February 15 in each year, the unaudited financial  
7 statements for each of the Economic Policy Council, Samuel Slater Technology Fund, the Slater  
8 Center on both a consolidated and consolidating basis, and all of such reports to be prepared in  
9 conformity with generally accepted accounting principles or government auditing standards as  
10 appropriate.

11           **7-17-8. Qualified distributions.** -- (a) A certified capital company may make qualified  
12 distributions at any time. In order to make a distribution other than a qualified distribution, a  
13 certified capital company must have made qualified investments in an amount cumulatively equal  
14 to at least one hundred percent (100%) of its certified capital of which not less than five percent  
15 (5%) shall have been made in either, or any combination of, the Samuel Slater Technology Fund,  
16 a Slater Center or Slater Centers, or a Slater Center Business or Slater Center Businesses. A  
17 certified capital company may, however, make payments of principal and interest on its  
18 indebtedness without any restriction whatsoever, including payments of indebtedness of the  
19 certified capital company on which certified investors earned tax credits.

20           (b) Distributions from a certified capital company to its certified investors and equity  
21 holders, other than qualified distributions, in excess of the certified capital company's original  
22 certified capital and any additional capital contributions to the certified capital company, may be  
23 audited by a nationally recognized certified public accounting firm acceptable to the authority, at  
24 the expense of the certified capital company, if the authority directs such audit be conducted. The  
25 audit shall determine whether aggregate cumulative distributions from the certified capital  
26 company to all certified investors and equity holders, other than qualified distributions, have  
27 resulted in an annual internal rate of return exceeding fifteen percent (15%) on the sum of the  
28 certified capital company's original certified capital and any additional capital contributions to the  
29 certified capital company. If any distribution results in such annual internal rate of return  
30 exceeding fifteen percent (15%), then the certified capital company shall pay to the Samuel Slater  
31 Technology Fund ten percent (10%) of such excess.

32           **7-17-9. Recertification and decertification of certified capital company.** -- (a) The  
33 authority shall conduct an annual review of each certified capital company to determine if the  
34 certified capital company is abiding by the requirements of certification, to advise the certified

1 capital company as to the eligibility status of its qualified investments, and to ensure that no  
2 investment has been made in violation of this chapter. Each certified capital company shall pay  
3 the cost of the annual review, according to a reasonable fee schedule adopted by the authority.

4 (b) If a certified capital company certifies to the authority its good faith belief that it has  
5 complied with the provisions of section 7-17-7(a)(2) of this chapter, within sixty (60) days of  
6 receipt of such certification by the authority, the authority shall conduct a review of the qualifie d  
7 investments of the certified capital company and shall certify in writing to the certified capital  
8 company whether or not the certified capital company had complied with the provisions of  
9 section 7-17-7(a)(2) of this chapter. The certified capital company shall pay the costs of the  
10 review according to a reasonable fee schedule adopted by the authority.

11 (c) Any material violation of section 7-17-7 of this chapter shall be grounds for  
12 decertification of the certified capital company. If the authority determines that a certified capital  
13 company is not in compliance with the requirements of section 7-17-7 of this chapter, it shall, by  
14 written notice, inform the officers of the certified capital company that the certified capital  
15 company may be subject to decertification in one hundred twenty (120) days from the date of  
16 mailing of the notice, unless the deficiencies are corrected and the certified capital company is  
17 again in compliance with all requirements for certification.

18 (d) At the end of the one hundred twenty (120) day grace period, if the certified capital  
19 company is still not in compliance with section 7-17-7 of this chapter, the authority may send a  
20 notice of decertification to the certified capital company, the chairman of the house finance  
21 committee and the chairman of the senate finance committee and to all other appropriate state  
22 agencies.

23 (e) Decertification of a certified capital company may cause the recapture of tax credits  
24 previously claimed and the forfeiture of future tax credits to be claimed by certified investors  
25 with respect to such certified capital company, as follows:

26 (1) Decertification of a certified capital company within three (3) years of its allocation  
27 date shall cause the recapture of all tax credits previously claimed and the forfeiture of all future  
28 tax credits to be claimed by certified investors with respect to such certified capital company,  
29 except as set forth in subsection (e)(4) of this section;

30 (2) When a certified capital company meets all requirements for continued certification  
31 under section 7-17-7(a)(1) of this chapter and subsequently fails to meet the requirements for  
32 continued certification under the provisions of section 7-17-7(a)(2) of this chapter, those tax  
33 credits which have been or shall be taken by certified investors within the first three (3) years in  
34 which the tax credits provided for by this chapter may be taken shall not be subject to recapture or

1 forfeiture; however, all tax credits that have been or shall be taken by certified investors after the  
2 third (3<sup>rd</sup>) year in which tax credits may be taken shall be subject to recapture or forfeiture.

3 (3) Once a certified capital company has met all requirements for continued certification  
4 under section 7-17-7(a)(1) and (2) of this chapter, and is subsequently decertified, those tax  
5 credits which have been or will be taken by certified investors within the first five (5) years in  
6 which the tax credits under this chapter may be taken will not be subject to recapture or forfeiture.  
7 Those tax credits to be taken subsequent to the fifth (5<sup>th</sup>) year in which the tax credits may be  
8 taken shall be subject to forfeiture only if the certified capital company is decertified on or before  
9 the fifth (5<sup>th</sup>) anniversary of its allocation date.

10 (4) Once a certified capital company has invested an amount cumulatively equal to one  
11 hundred percent (100%) of its certified capital in qualified investments, all tax credits claimed or  
12 to be claimed by its certified investors shall no longer be subject to recapture or forfeiture.

13 (f) Once a certified capital company has invested an amount cumulatively equal to one  
14 hundred percent (100%) of its certified capital in qualified investments, the certified capital  
15 company shall no longer be subject to regulation by the authority.

16 (g) The authority shall send written notice to the address of each certified investor whose  
17 tax credit has been subject to recapture or forfeiture, using the address last shown on the last  
18 premium tax filing.

19 (h) The authority shall have the authority to waive any recapture or forfeiture of tax  
20 credits if, after considering all facts and circumstances, it determines that such waiver will have  
21 the effect of furthering state economic development.

22 **7-17-10. Transferability of tax credits.** -- The tax credit earned pursuant to this chapter  
23 may be transferred or sold to any other person with state premium tax liability. The authority  
24 shall promulgate regulations to facilitate the transfer or sale of the tax credits. Any such transfer  
25 of sale shall not affect the time schedule for taking the tax credit as provided in this chapter. Any  
26 tax credits recaptured pursuant to section 7-17-9 of this chapter shall be the liability of the  
27 taxpayer which actually claimed the tax credits.

28 **7-17-11. Rules and regulations.** -- The authority shall make and promulgate rules and  
29 regulations necessary to carry out the provisions of this chapter within one hundred twenty (120)  
30 days of the effective date of this chapter. Such rules and regulations shall provide that the  
31 authority shall begin accepting applications for certification as a certified capital company not  
32 later than thirty (30) days after the issuance of the authority's promulgated rules and regulations.  
33 In addition, such rules and regulations shall further provide a date on which the authority will first  
34 accept tax credit allocation claims on behalf of certified investors, which shall be no earlier than

1 one hundred twenty (120) days after the date on which the authority will first accept applications  
2 for certification. All such rules and regulations shall be promulgated in conformity with the  
3 Rhode Island Administrative Procedures Act, chapter 35 of title 42.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE  
ISLAND CERTIFIED CAPITAL COMPANIES ACT

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1           This act would create the Rhode Island Certified Capital Companies Act by increasing  
2 the amount of venture capital for certain small businesses operating in the state by allowing a  
3 premium tax liability credit to an insurance company making a qualified investment through a  
4 certified capital company in such qualified businesses.

5           This act would take effect upon passage.

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