SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2252

SPONSOR: Senator Latvala

SUBJECT: Certified Capital Companies

DATE: March 22, 1999 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Joseph	Maclure	CM	Favorable
2.			FR	
3.				
4.				
5.				

I. Summary:

This bill expands the definition of the term "transferee" for purposes of allocating unused premium tax credits under the Certified Capital Company Act (CAPCOs). The revised definition enables such credits to be utilized by a subsidiary of the certified investor or by an entity 10 percent or more of whose outstanding voting shares are owned by the certified investor.

This bill amends section 288.99, Florida Statutes, 1998 Supplement.

II. Present Situation:

The Certified Capital Company Act, s. 288.99, F.S., was adopted in 1998 to establish a mechanism to provide financing, via certified capital companies, for qualified small businesses. Insurance companies are provided a premium tax credit to invest in certified capital companies which, in turn, will make investments in qualified small businesses.

Under the 1998 legislation, a corporation, partnership, or limited liability company could file for certification as a certified capital company (CAPCO) on or before December 1, 1998. CAPCOs certified by the Department of Banking and Finance may receive contributions of capital from insurers (and other investors), and the insurers receive a credit against state premium taxes for each dollar contributed to a certified capital company, at the rate of 10 percent a year for 10 years, beginning with premium tax filings for the year 2000. The total amount of tax credits may not exceed $15 million annually, subject to an aggregate cap of $150 million. To be certified, a CAPCO must have net capital of at least $500,000 and at least two of its principals must demonstrate 5 years experience in making venture capital investments.

To remain certified, CAPCOs are required to meet investment benchmarks. At least 50 percent of CAPCO funds must be invested in "qualified businesses" by December 31, 2003, defined as small businesses (determined by rules of the U.S. Small Business Administration) headquartered in Florida and with their principal business operations in Florida. A qualified business must certify

that it is unable to obtain conventional financing and that it has fewer than 200 employees, at least 75 percent of whom are employed in Florida. At least 50 percent of the CAPCO's investments in qualified businesses must be in "early stage technology businesses" involved in activities related to developing initial product or service offerings. A qualified business does not include a business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians.

Before a CAPCO may make any distribution to its equity holders, other than a "qualified distribution," the CAPCO must have invested 100 percent of its certified capital in qualified capital investments. A "qualified distribution" of up to 2.5 percent of the CAPCO's capital may be made to equity holders for the costs and expenses of forming, managin, and operating the company, plus reasonable and necessary fees for professional services, such as legal and accounting services. Payments of principal and interest to debt holders may be made without restriction.

A CAPCO is required to pay to the Department of Revenue 10 percent of the portion of distributions to all certified investors (insurers) and equity holders that exceeds the sum of the CAPCO's original certified capital (which includes both equity and debt investments) and any additional capital contributions to the CAPCO.

The Office of Tourism, Trade, and Economic Development is responsible for allocating premium tax credits to insurers who apply and submit specified documentation. A CAPCO must annually file a report with the office and the Department of Banking and Finance detailing the investments the CAPCO has received from insurers and the investments it has made in qualified businesses, including the number of jobs created or retained and the average wages of such jobs. The Department of Banking and Finance must conduct an annual review of each CAPCO to determine if it is abiding by the requirements of certification and the Department of Revenue may audit and examine the records of CAPCOs and insurer investors.

Currently s. 288.99(11), F.S., allows a certified investor's unused premium tax credit to transfer to any other corporate owner of the insurance company regardless of the owner being a new owner, parent company, or subsidiary owner. Current law does not allow a subsidiary of the certified investor to receive a transfer of the premium tax credit for its own use.

III. Effect of Proposed Changes:

This bill amends s. 288.99(11), F.S., by expanding the definition of the term "transferee" to allow a subsidiary of the certified investor to use tax credits authorized under the Certified Capital Company Act. The bill also allows such credits to be transferred to an entity 10 percent or more of whose outstanding voting securities are owned by the certified investor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill allows a subsidiary of a certified investor to claim premium tax credits.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.