SPONSOR: Rep. Bush & Sen. Brown & Sen. Mantzavinos
Reps. Bolden, Berry, D. Short; Sens. Hoffner, Poore, Walsh, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 211

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE INNOVATING DELAWARE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 87A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VIII-A. Innovating Delaware Act

§ 8775A. Short title.

This Act is known and may be cited as the "Innovating Delaware Act."

§ 8776A. Definitions.

As used in this subchapter:

(1) "Accelerator" means a company that, for a fixed term, funds, educates, mentors, trains, or provides other support services, including low-cost facilities, to early-stage technology companies, who are recruited to a location in Delaware, for the purpose of accelerating the early-stage technology company's development and growth.

(2) "Innovate Delaware" means the program described in §§ 8777A through 8780A of this title.

(3) "Innovating Delaware Tax Credit" of "IDTC" means the tax credit provided for in § 8780A of this title.

(4) "Innovative industry" includes advanced manufacturing, aerospace, agriculture, bioscience, biotechnology, electronics, energy and natural resources, engineering, life sciences, information technology industries, or any other industry as determined by Innovate Delaware.

(5) "Minority" means a person who is a member of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State's population.

(6) "Person" means as defined in § 302 of Title 1 of the Delaware Code.

(7) "Technology company" means a company that earns or reasonably expects to earn at least 75% of the company's revenue from any of the fields of education, healthcare, energy, agriculture, infrastructure, software, robotics, nutrition, aerospace, automotive, financial services, science, technology, or mathematics.

§ 8777A. Projects available for tax credit.

(a) A person may apply to Innovate Delaware for the IDTC to undertake any of the following projects:

(1) The creation, operation, or support of an accelerator for technology companies, provided that the application is accompanied by an economic impact report.

(2) The creation, operation, or support of programs designed to provide funding, workforce development, or other resources for an innovative company that meets either of the following criteria:

a. The company is a for-profit business that is headquartered in Delaware, predominantly conducts an activity in an innovative industry, has fewer than 15 employees at the time the funding agreement is executed, and has average gross revenues of less than 1 million dollars in the company for at least 3 years prior to the execution of the funding agreement.

b. The company is a for-profit business that is headquartered in Delaware, predominantly conducts an activity in an innovative industry, has fewer than 75 employees at the time the funding agreement is executed, and is at least 51 percent owned and controlled by one of more persons who is a woman, minority, veteran, service-disabled veteran, or person with a disability.

§ 8778A. Application.

(a) The application provided in § 8777A must include all of the following:

(1) Proof that the person has in full force and effect a conflict of interest policy consistent with that found in the instructions to Form 1023 issued by the Internal Revenue Service.

(2) A notarized affirmation that the submission of the application did not violate the conflict of interest policy consistent with that found in the instructions to Form 1023 issued by the Internal Revenue Service.

(3) A sufficiently detailed plan that shows the project meets the criteria in § 8777A.

§ 8779A. Application and approval.

(a) If the application is approved, Innovate Delaware will specify the amount of money that the person may receive to complete the project detailed in the application. Innovate Delaware will notify the Division of Revenue of such amount.

(b) Following approval by Innovate Delaware, Innovate Delaware and the person will enter into a funding agreement that must do all of the following:

(1) Require the person to use the funding received only for the purposes approved by Innovate Delaware.

(2) Require the person to make annual reports to Innovate Delaware on the disposition of the funds, and include an economic impact report.

(3) Require that the person notify Innovate Delaware upon completion of the project.

§ 8780A. Innovating Delaware Tax Credit.

(a) A taxpayer is allowed an Innovating Delaware Tax Credit that may be applied against any of the following:

(1) To offset income taxes or an estimated tax payment of income taxes.

(2) To offset the state franchise tax.

(3) Any other tax as allowable by the Division of Revenue or the Secretary of State.

(b) The Innovating Delaware Tax Credit may not cause a taxpayer's tax liability to be reduced by more than 50%. Any unused credit may be carried forward for no more than 5 years.

(c) The cumulative amount of funding approved pursuant to this section may not exceed 10 million dollars in a calendar year for calendar years beginning January 1, 2026.

(d) The Secretary of State and Division of Revenue will provide administrative assistance to manage the Innovating Delaware Tax Credit program.

(e) The Department of Finance must adopt rules to administer this subchapter, including a process to receive, review, and approve or deny applications.

SYNOPSIS

This Act creates a tax credit for which accelerators may apply to incentivize the creation of industry and innovative businesses in Delaware. This tax credit may not reduce the recipient's tax burden by more than 50% and the program will be administered by the Division of Revenue.