

HOUSE BILL 328

Q3

3lr1622

By: **Delegates Feldman, Afzali, Aumann, Barkley, Barve, Boteler, Dumais,
George, Impallaria, A. Kelly, Lee, and Luedtke**

Introduced and read first time: January 24, 2013

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology**
3 **Company – Definition**

4 FOR the purpose of altering the definition of “qualified Maryland biotechnology
5 company” for purposes of the biotechnology investment tax credit to exclude a
6 company that has received investments from certain qualified investors;
7 repealing obsolete language; providing for the application of this Act; and
8 generally relating to credits against certain State taxes based on certain
9 investments in certain biotechnology companies.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–725(a)(1) and (6)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2012 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10–725(a)(7)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2012 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Tax – General**

23 10–725.

24 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (6) (i) “Qualified investor” means any individual or entity that
2 invests at least \$25,000 in a qualified Maryland biotechnology company and that is
3 required to file an income tax return in any jurisdiction.

4 (ii) “Qualified investor” does not include a qualified pension
5 plan, individual retirement account, or other qualified retirement plan under the
6 Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or
7 custodians under such plans, or similar tax-favored plans or entities under the laws of
8 other countries.

9 (7) [(i)] “Qualified Maryland biotechnology company” means a
10 biotechnology company that:

11 [1.] (I) has its headquarters and base of operations in
12 this State;

13 [2.] (II) has fewer than 50 full-time employees;

14 [3.] (III) [except as provided in subparagraph (ii) of this
15 paragraph, has been in active business no longer than 10 years] **HAS NOT RECEIVED**
16 **INVESTMENTS FROM QUALIFIED INVESTORS WHO HAVE COLLECTIVELY**
17 **RECEIVED MORE THAN \$5 MILLION OF TAX CREDITS UNDER THIS SECTION;**

18 [4.] (IV) does not have its securities publicly traded on
19 any exchange; and

20 [5.] (V) has been certified as a biotechnology company
21 by the Department.

22 [(ii)] “Qualified Maryland biotechnology company” includes:

23 1. a company that has been in active business for up to
24 12 years if the Department determines that the company requires additional time to
25 complete the process of regulatory approval; and

26 2. for fiscal years 2012 and 2013 only, a company that
27 has been in active business for up to 15 years.]

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 June 1, 2013, and shall be applicable to all initial tax credit certificates issued after
30 June 30, 2013.