

Chapter 76

(House Bill 328)

AN ACT concerning

Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition

FOR the purpose of altering the definition of “qualified Maryland biotechnology company” for purposes of the biotechnology investment tax credit to ~~exclude a company that has received investments from certain qualified investors; repealing obsolete language~~ include a company that has been in active business for a certain period of time from a certain date; providing for the application of this Act; and generally relating to credits against certain State taxes based on certain investments in certain biotechnology companies.

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

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

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

Article – Tax – General

10–725.

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

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

(ii) “Qualified investor” does not include a qualified pension plan, individual retirement account, or other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or

custodians under such plans, or similar tax-favored plans or entities under the laws of other countries.

(7) ~~¶(i)~~ “Qualified Maryland biotechnology company” means a biotechnology company that:

~~¶1.¶ (I)~~ has its headquarters and base of operations in this State;

~~¶2.¶ (II)~~ has fewer than 50 full-time employees;

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

~~¶4.¶ (IV)~~ does not have its securities publicly traded on any exchange; and

~~¶5.¶ (V)~~ has been certified as a biotechnology company by the Department.

~~¶(ii)~~ “Qualified Maryland biotechnology company” includes:

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

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

3. A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 10 YEARS FROM THE DATE THE COMPANY FIRST RECEIVED AN A QUALIFIED INVESTMENT BY A QUALIFIED INVESTOR WHO RECEIVED A CREDIT UNDER THIS SECTION.

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

Approved by the Governor, April 9, 2013.