HOUSE BILL 789

Q3, C8 5lr1745
CF SB 584

By: **Delegates Lierman, Buckel, Ebersole, Hayes, Hornberger, Metzgar, Platt, Shoemaker, and West**
Introduced and read first time: February 13, 2015
Assigned to: Ways and Means

A BILL ENTITLED

AN ACT concerning

Income Tax – Angel Investor Tax Credit Program

FOR the purpose of allowing a credit against the State income tax for a certain percentage of an investment, not to exceed a certain amount, made in certain qualified innovation businesses; requiring qualified innovation businesses to meet certain certification requirements; requiring a qualified investor to meet certain requirements in order to be eligible for the credit; requiring the qualified investor to make a certain application, at least a certain number of days before making an investment, to the Department of Business and Economic Development; requiring the Department to certify, within a certain number of days of the application, the amount of the credit; requiring, under certain circumstances, the Secretary to issue initial and final tax credit certificates; requiring a qualified investor to make a certain investment and provide certain proof within a certain period of time; authorizing, under certain circumstances, the Department to rescind a tax credit; providing that the Secretary may not certify eligibility for tax credits for investments in a single qualified innovation business that in the aggregate exceed a certain percentage of the total appropriations to a certain Reserve Fund for that fiscal year; requiring the Secretary to certify a certain percentage of tax credits for investments in certain qualified innovation businesses; making the credit nonrefundable; establishing the Maryland Angel Investor Tax Credit Reserve Fund as a special continuing, nonlapsing fund; requiring the Department to administer the Reserve Fund; requiring the State Treasurer to hold the Reserve Fund; specifying the contents of the Reserve Fund; requiring the Governor to make an appropriation to the Reserve Fund each fiscal year; requiring, each quarter, that the Department notify the Comptroller of a certain amount and the Comptroller to transfer a certain amount from the Reserve Fund to the General Fund; providing for the recapture of the credit under certain circumstances; authorizing the Department, after a certain notification and opportunity for appeal, to revoke a credit; requiring a qualified innovation business that receives an investment to report certain information each year to the Department; requiring the Department to report certain information in

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

a certain manner on or before a certain date each year; requiring the Department, in consultation with the Comptroller, to adopt certain regulations; defining certain terms; providing for the application of this Act; and generally relating to a State income tax credit for certain qualified business investments.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 2–123(a)
Annotated Code of Maryland
(2008 Volume and 2014 Supplement)

BY adding to
Article – Tax – General
Section 10–737
Annotated Code of Maryland
(2010 Replacement Volume and 2014 Supplement)

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

Article – Economic Development

2–123.

(a) In this section, "economic development program" means:

(1) each of the economic development and financial assistance programs established under Title 5 of this article; and

(2) each of the tax credit programs administered by the Department, including:

(i) the Film Production Activity Tax Credit;

(ii) the Job Creation Tax Credit;

(iii) the One Maryland Economic Development Tax Credit;

(iv) the Invest Maryland Program;

(v) the Biotechnology Investment Incentive Tax Credit; **[**and**]**

(vi) the Research and Development Tax Credit**; AND**

(VII) THE ANGEL INVESTOR TAX CREDIT.

Article – Tax – General

10–737.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "COMPANY" MEANS ANY ENTITY OF ANY FORM DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

(II) "COMPANY" DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

(4) (I) "INVESTMENT" MEANS THE CONTRIBUTION OF MONEY IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A RISK OF LOSS, TO A QUALIFIED INNOVATION BUSINESS IN EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, CONVERTIBLE DEBT, OR OTHER OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS, TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR.

(II) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS AT RISK OF LOSS WHEN THE REPAYMENT OF THE INVESTMENT DEPENDS ENTIRELY ON THE SUCCESS OF THE BUSINESS OPERATIONS OF THE QUALIFIED INNOVATION BUSINESS.

(5) "LEGALLY OWNED OR LICENSED" INCLUDES PATENTED, PATENT PENDING, SUBJECT OF TRADE SECRETS, OR COPYRIGHTED.

(6) "MINORITY–OWNED BUSINESS" MEANS A BUSINESS CERTIFIED UNDER § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(7) "PASS–THROUGH ENTITY" MEANS A BUSINESS ENTITY THAT IS A SUBCHAPTER S CORPORATION, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A TRUST THAT HAS NO BUSINESS OPERATIONS AND IS FORMED FOR THE SOLE PURPOSE OF MAKING INVESTMENTS.

(8) (I) "QUALIFIED INNOVATION BUSINESS" MEANS A COMPANY THAT HAS MET THE CRITERIA SET FORTH IN SUBSECTION (C) OF THIS SECTION.

(II) "QUALIFIED INNOVATION BUSINESS" DOES NOT INCLUDE:

1. A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER § 10–725 OF THIS TITLE; OR

2. A QUALIFIED MARYLAND CYBERSECURITY COMPANY UNDER § 10–733 OF THIS TITLE.

(9) (I) "QUALIFIED INVESTOR" MEANS AN INDIVIDUAL, A MARRIED COUPLE THAT FILES A JOINT TAX RETURN, OR A PASS–THROUGH ENTITY CERTIFIED BY THE DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION.

(II) "QUALIFIED INVESTOR" DOES NOT INCLUDE:

1. A QUALIFIED PENSION PLAN, AN INDIVIDUAL RETIREMENT ACCOUNT, OR ANY 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; OR

2. A CORPORATION SUBJECT TO THE CORPORATION INCOME TAX.

(10) "RESERVE FUND" MEANS THE MARYLAND ANGEL INVESTOR TAX CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.

(11) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT.

(12) "VETERAN–OWNED BUSINESS" MEANS A BUSINESS THAT IS CERTIFIED AS A VETERAN–OWNED BUSINESS BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND THE LIMITATIONS UNDER THIS SECTION, FOR THE TAXABLE YEAR IN WHICH AN INVESTMENT IN A QUALIFIED INNOVATION BUSINESS IS MADE, A QUALIFIED INVESTOR MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE AMOUNT OF THE TAX CREDIT STATED IN THE FINAL CREDIT CERTIFICATE APPROVED BY THE SECRETARY.

(2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT, AFTER MAKING THE PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 20% OF THE EQUITY INTERESTS IN THE QUALIFIED INNOVATION BUSINESS IN WHICH THE INVESTMENT IS TO BE MADE.

(C) (1) TO BE ELIGIBLE FOR THE TAX CREDIT UNDER SUBSECTION (B) OF THIS SECTION, THE INVESTMENT MUST BE IN A QUALIFIED INNOVATION BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT UNDER THIS SUBSECTION.

(2) BEFORE RECEIVING AN INVESTMENT FROM A QUALIFIED INVESTOR, A QUALIFIED INNOVATION BUSINESS SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

(3) THE APPLICATION REQUIRED UNDER THIS SUBSECTION SHALL PROVIDE EVIDENCE THAT THE QUALIFIED INNOVATION BUSINESS:

(I) IS IN GOOD STANDING AND AUTHORIZED TO CONDUCT BUSINESS IN THE STATE AND INCLUDE A LETTER OF GOOD STANDING FROM THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(II) HAS DEVELOPED OR IS IN THE PROCESS OF DEVELOPING A TECHNOLOGY, PRODUCT, OR SERVICE THAT IS UNIQUE AND LEGALLY OWNED OR LICENSED BY THE QUALIFIED INNOVATION BUSINESS;

(III) DOES NOT HAVE ANNUAL REVENUE GREATER THAN $5,000,000;

(IV) HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 5 YEARS;

(V) HAS NOT RECEIVED MORE THAN $3,000,000 IN INVESTMENTS;

(VI) HAS FEWER THAN 35 FULL–TIME EQUIVALENT EMPLOYEES;

(VII) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THIS STATE; AND

(VIII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY EXCHANGE.

(4) (I) DURING THE YEAR IN WHICH AN INVESTMENT IS MADE, A QUALIFIED INNOVATION BUSINESS SHALL HAVE AT LEAST:

1. 51% OF THE QUALIFIED INNOVATION BUSINESS'S FULL–TIME EQUIVALENT EMPLOYEES EMPLOYED IN THE STATE; AND

2. 51% OF THE QUALIFIED INNOVATION BUSINESS'S PAYROLL PAID TO EMPLOYEES IN THE STATE.

(II) THE NUMBER OF FULL–TIME EQUIVALENT EMPLOYEES IS CALCULATED BY DIVIDING THE TOTAL HOURS PAID IN A YEAR BY THE PRODUCT OF 40 TIMES THE NUMBER OF WEEKS OF PAYROLL INCURRED IN A YEAR.

(D) (1) AT LEAST 30 DAYS BEFORE MAKING AN INVESTMENT IN A QUALIFIED INNOVATION BUSINESS FOR WHICH A QUALIFIED INVESTOR WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, THE QUALIFIED INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

(2) THE APPLICATION SHALL PROVIDE EVIDENCE THAT:

(I) THE QUALIFIED INVESTOR HAS INDIVIDUAL INCOME TAX LIABILITY IN THE STATE; AND

(II) 1. THE QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT OF AT LEAST $10,000; OR

2. IF THE QUALIFIED INVESTOR IS A PASS–THROUGH ENTITY OR A MARRIED COUPLE FILING A JOINT RETURN, THE QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT OF AT LEAST $20,000.

(3) WITH REGARD TO A QUALIFIED INNOVATION BUSINESS IN WHICH A QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT, THE QUALIFIED INVESTOR MAY NOT:

(I) BE A PERSON ELECTED OR APPOINTED BY THE GOVERNING BODY OF THE QUALIFIED INNOVATION BUSINESS TO MANAGE THE BUSINESS;

(II) BE A PERSON HAVING AUTHORITY TO ACT ON BEHALF OF THE QUALIFIED INNOVATION BUSINESS;

(III) HAVE MORE THAN 20% OF THE VOTING SECURITIES OF THE QUALIFIED INNOVATION BUSINESS, HELD INDIVIDUALLY OR IN COMBINATION WITH FAMILY MEMBERS; OR

(IV) BE A FAMILY MEMBER OF A QUALIFIED INVESTOR THAT IS PROHIBITED FROM BEING A QUALIFIED INVESTOR UNDER ITEMS (I), (II), OR (III) OF THIS PARAGRAPH.

(4) THE DEPARTMENT SHALL:

(I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR CREDITS UNDER THIS SECTION ON A FIRST–COME, FIRST–SERVED BASIS; AND

(II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION, CERTIFY, AS PROVIDED IN THIS SECTION, THE AMOUNT OF ANY APPROVED TAX CREDITS TO A QUALIFIED INVESTOR.

(5) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH APPROVED INVESTMENT IN A QUALIFIED INNOVATION BUSINESS ELIGIBLE FOR A TAX CREDIT.

(II) AN INITIAL TAX CREDIT CERTIFICATE SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE QUALIFIED INVESTOR IS ELIGIBLE.

(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER THAN UNDER SUBSECTION (F)(5) OF THIS SECTION, THE MAXIMUM CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

(6) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR SHALL HAVE 60 CALENDAR DAYS TO MAKE AN INVESTMENT IN A QUALIFIED INNOVATION BUSINESS UNDER THIS SECTION.

(II) THE DEPARTMENT MAY GRANT AN EXTENSION OF NOT MORE THAN 30 CALENDAR DAYS OF THE TIME PERIOD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON WHICH A QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED INVESTOR SHALL PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT, INCLUDING:

1. THE DATE OF THE INVESTMENT;

2. THE AMOUNT INVESTED;

3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY THE QUALIFIED INNOVATION BUSINESS;

4. A COMPLETE DESCRIPTION OF THE NATURE OF THE OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND

5. ANY SUPPORTING DOCUMENTATION THE DEPARTMENT MAY REQUIRE.

(IV) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH WITHIN 100 CALENDAR DAYS AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION:

1. THE DEPARTMENT SHALL RESCIND THE INITIAL TAX CREDIT CERTIFICATE; AND

2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED CERTIFICATE SHALL REVERT TO THE RESERVE FUND AND SHALL BE AVAILABLE IN THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER INITIAL TAX CREDIT CERTIFICATES.

(7) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY A QUALIFIED INVESTOR, THE SECRETARY SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE TO THE QUALIFIED INVESTOR.

(E) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS SECTION IS 50% OF THE INVESTMENT IN A QUALIFIED INNOVATION BUSINESS, NOT TO EXCEED:

(I) $50,000; OR

(II) $100,000 FOR A QUALIFIED INVESTOR THAT IS A MARRIED COUPLE THAT FILES A JOINT RETURN OR A PASS–THROUGH ENTITY.

(2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED INNOVATION BUSINESS THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL APPROPRIATIONS TO THE RESERVE FUND FOR THAT FISCAL YEAR.

(3) DURING EACH FISCAL YEAR, THE SECRETARY SHALL CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN QUALIFIED INNOVATION BUSINESSES THAT ARE WOMEN–, MINORITY–, OR VETERAN–OWNED BUSINESSES EQUAL TO AT LEAST 10% OF THE TOTAL APPROPRIATION TO THE RESERVE FUND FOR THAT FISCAL YEAR.

(4) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED INVESTOR FOR THAT TAXABLE YEAR, THE QUALIFIED INVESTOR MAY NOT CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(F) (1) THERE IS A MARYLAND ANGEL INVESTOR TAX CREDIT RESERVE FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE DEPARTMENT SHALL ADMINISTER THE RESERVE FUND.

(3) (I) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.

(II) THE RESERVE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.

(III) FOR EACH FISCAL YEAR, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR INCLUDE IN THE BUDGET BILL AN APPROPRIATION OF AT LEAST $5,000,000 TO THE RESERVE FUND.

(4) NOTWITHSTANDING THE PROVISIONS OF § 7–213 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

(5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL CREDIT CERTIFICATE ISSUED DURING THE QUARTER:

A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT; AND

B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE INVESTMENT.

2. ON NOTIFICATION THAT AN INVESTMENT HAS BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.

(G) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF WITHIN 2 YEARS FROM THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED:

(I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT;

(II) THE QUALIFIED INVESTOR IS EMPLOYED BY THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT; OR

(III) THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT CEASES OPERATING AS AN ACTIVE BUSINESS WITH ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE STATE.

(2) THE AMOUNT REQUIRED TO BE RECAPTURED UNDER THIS SUBSECTION IS THE PRODUCT OF MULTIPLYING:

(I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED OF; AND

(II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS DURING THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED;

2. 67%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED; OR

3. 33%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS MORE THAN 1 YEAR BUT NOT MORE THAN 2 YEARS AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED.

(3) THE QUALIFIED INVESTOR THAT CLAIMED THE CREDIT SHALL PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS.

(H) (1) THE DEPARTMENT MAY REVOKE ITS INITIAL OR FINAL CERTIFICATION OF AN APPROVED CREDIT UNDER THIS SECTION IF ANY REPRESENTATION IN CONNECTION WITH THE APPLICATION FOR THE CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE WHEN MADE.

(2) THE REVOCATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE IN FULL OR IN PART AS THE DEPARTMENT MAY DETERMINE AND, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE COMMUNICATED TO THE QUALIFIED INVESTOR AND THE COMPTROLLER.

(3) BEFORE NOTIFICATION TO THE COMPTROLLER, THE QUALIFIED INVESTOR SHALL HAVE AN OPPORTUNITY TO APPEAL ANY REVOCATION TO THE DEPARTMENT.

(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE QUALIFIED INVESTOR TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE QUALIFIED INVESTOR HAS ALREADY CLAIMED.

(I) ON OR BEFORE FEBRUARY 1 OF EACH YEAR FOLLOWING THE YEAR IN WHICH A QUALIFIED INNOVATION BUSINESS RECEIVES AN INVESTMENT, THE QUALIFIED INNOVATION BUSINESS SHALL SUBMIT TO THE DEPARTMENT A REPORT THAT DETAILS THE TOTAL:

(1) NUMBER AND AMOUNT OF INVESTMENTS RECEIVED DURING THE PRIOR YEAR;

(2) NUMBER OF DIRECT JOBS CREATED OR SUPPORTED BY INVESTMENTS MADE DURING THE PRIOR YEAR; AND

(3) AMOUNT OF ADDITIONAL INVESTMENTS LEVERAGED BY INVESTMENTS MADE DURING THE PRIOR YEAR.

(J) (1) IN ACCORDANCE WITH § 2–123 OF THE ECONOMIC DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL REPORT ON THE TAX CREDIT CERTIFICATES ISSUED UNDER THIS SECTION.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE ISSUED:

(I) THE NAME OF THE QUALIFIED INVESTOR AND THE AMOUNT OF CREDIT ISSUED OR ALLOCATED TO EACH INVESTOR;

(II) THE NAME AND ADDRESS OF THE QUALIFIED INNOVATION BUSINESS THAT RECEIVED THE INVESTMENT GIVING RISE TO THE CREDIT UNDER THIS SECTION AND THE COUNTY WHERE THE QUALIFIED INNOVATION BUSINESS IS LOCATED; AND

(III) THE DATES OF RECEIPT AND APPROVAL BY THE DEPARTMENT OF ALL APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.

(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED INVESTORS:

(I) THE TOTAL NUMBER OF APPLICANTS FOR INITIAL TAX CREDIT CERTIFICATES UNDER THIS SECTION IN EACH CALENDAR YEAR;

(II) THE NUMBER OF APPLICATIONS FOR WHICH INITIAL TAX CREDIT CERTIFICATES WERE ISSUED IN EACH CALENDAR YEAR; AND

(III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS SECTION.

(K) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015, and shall be applicable to all taxable years beginning after December 31, 2014.