

SENATE BILL 228

Q3

8lr0828

By: ~~Senator Guzzone~~ Senators Guzzone, Eckardt, Edwards, and Serafini

Introduced and read first time: January 19, 2018

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

CHAPTER _____

1 AN ACT concerning

2 ~~Cybersecurity Investment Incentive Tax Credit—Eligibility, Appropriation, and~~
3 ~~Sunset Extension Credits~~

4 FOR the purpose of altering the eligibility criteria for the cybersecurity investment
5 incentive tax credit to provide the credit to a certain qualified investor in a certain
6 qualified Maryland cybersecurity company rather than providing the credit to the
7 company; altering the definition of “company” to include an entity that becomes duly
8 organized and existing under certain laws and for a certain purpose within a certain
9 time period; altering the definition of “investment” to include certain types of debt;
10 altering the appropriation to a certain special fund the Governor is required to
11 include each fiscal year in the budget bill; providing for the recapture of the credit
12 under certain circumstances; authorizing certain buyers of certain technology to
13 claim a credit against the State income tax for certain costs incurred to purchase
14 certain technology or a certain service; providing that the credit may not exceed
15 certain amounts under certain circumstances; authorizing the Department of
16 Commerce, in consultation with the Maryland Technology Development
17 Corporation, to establish a certain panel to assist the Department with certain
18 determinations; authorizing certain qualified buyers to apply for the credit;
19 requiring a qualified buyer to attach a certain certificate to the qualified buyer’s
20 income tax return; requiring the Secretary of Commerce to approve each application
21 that qualifies for a credit; providing that for certain taxable years the total amount
22 of credit certificates issued may not exceed certain amounts; providing for the
23 revocation and recapture of a credit under certain circumstances; requiring the
24 Department to make a certain report by a certain date each year; requiring the
25 Department and the Comptroller jointly to adopt certain regulations; making

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 conforming changes; extending the termination date of ~~the a certain~~ credit; providing
2 for the application of this Act; and generally relating to ~~the cybersecurity investment~~
3 incentive tax ~~credit~~ credits.

4 BY repealing and reenacting, with amendments,
5 Article – Tax – General
6 Section 10–733
7 Annotated Code of Maryland
8 (2016 Replacement Volume and 2017 Supplement)

9 BY adding to
10 Article – Tax – General
11 Section 10–733.1
12 Annotated Code of Maryland
13 (2016 Replacement Volume and 2017 Supplement)

14 BY repealing and reenacting, with amendments,
15 Chapter 390 of the Acts of the General Assembly of 2013
16 Section 2

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

19 **Article – Tax – General**

20 10–733.

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

22 (2) (i) **1.** “Company” means any entity of any form duly organized
23 and existing under the laws of any jurisdiction for the purpose of conducting business for
24 profit.

25 **2.** “COMPANY” INCLUDES AN ENTITY THAT BECOMES
26 DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE
27 PURPOSE OF CONDUCTING BUSINESS FOR PROFIT WITHIN 4 MONTHS OF RECEIVING
28 A QUALIFIED INVESTMENT.

29 (ii) “Company” does not include a sole proprietorship.

30 (3) “Cybersecurity company” means a company organized for profit that is
31 engaged primarily in the development of innovative and proprietary cybersecurity
32 technology.

33 (4) “Cybersecurity technology” means products or goods intended to detect
34 or prevent activity intended to result in unauthorized access to, exfiltration of,

1 manipulation of, or impairment to the integrity, confidentiality, or availability of an
2 information system or information stored on or transiting an information system.

3 (5) “Department” means the Department of Commerce.

4 (6) (i) “Investment” means the contribution of money in cash or cash
5 equivalents expressed in United States dollars, at a risk of loss, to a qualified Maryland
6 cybersecurity company in exchange for stock, a partnership or membership interest, or any
7 other ownership interest in the equity of the qualified Maryland cybersecurity company,
8 title to which ownership interest shall vest in the qualified investor.

9 (ii) “Investment” does not include debt **UNLESS IT IS CONVERTIBLE**
10 **DEBT**.

11 (iii) For purposes of this section, an investment is at risk of loss when
12 repayment entirely depends on the success of the business operations of the qualified
13 company.

14 (7) “Panel” means the panel that the Department may establish under
15 subsection (e) of this section composed of experts in the area of cybersecurity technology.

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

19 (ii) “Qualified investor” does not include a qualified pension plan, an
20 individual retirement account, or any other qualified retirement plan under the Employee
21 Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under
22 such plans, or similar tax-favored plans or entities under the laws of other countries.

23 (9) “Qualified Maryland cybersecurity company” means a cybersecurity
24 company that has met the criteria set forth in subsection [(c)(2)] **(B)(2)** of this section [and
25 been determined under subsection (c)(3)(ii)2 of this section to qualify for the tax credit
26 under this section].

27 (10) “Secretary” means the Secretary of Commerce.

28 (b) (1) Subject to paragraph (2) of this subsection and subsections (d) and (f) of
29 this section, for the taxable year in which an investment in a qualified Maryland
30 cybersecurity company is made, a qualified [Maryland cybersecurity company] **INVESTOR**
31 may claim a credit against the State income tax in an amount equal to the amount of tax
32 credit stated in the final credit certificate approved by the Secretary for the investment as
33 provided under this section.

34 (2) [For purposes of] **TO BE ELIGIBLE FOR** the tax credit described in
35 paragraph (1) of this subsection, the qualified investor:

1 (i) may not, after making the proposed investment, own or control
 2 more than 25% of the equity interests in the qualified Maryland cybersecurity company in
 3 which the investment is made; and

4 (ii) **AT LEAST 30 DAYS PRIOR TO MAKING AN INVESTMENT IN A**
 5 **QUALIFIED MARYLAND CYBERSECURITY COMPANY FOR WHICH THE QUALIFIED**
 6 **INVESTOR WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER**
 7 **THIS SUBSECTION**, shall submit an application to the Department containing the
 8 following:

9 1. evidence that the investor is:

10 A. if a company, duly organized and in good standing in the
 11 jurisdiction under the laws under which it is organized;

12 B. current in the payment of all tax obligations to a state or
 13 any unit or subdivision of a state; and

14 C. not in default under the terms of any contract with,
 15 indebtedness to, or grant from a state or any unit or subdivision of a state; [and

16 2. any other information the Department may require.

17 (c) (1) At least 30 days prior to receiving an investment in a qualified
 18 Maryland cybersecurity company for which a qualified Maryland cybersecurity company
 19 would be eligible for an initial tax credit certificate, the qualified Maryland cybersecurity
 20 company shall submit an application to the Department.

21 (2) **2.** [The application shall] evidence that the qualified
 22 Maryland cybersecurity company has satisfied the following minimum requirements for
 23 consideration as a qualified Maryland cybersecurity company:

24 [(i)] **A.** has its headquarters and base of operations in this State;

25 [(ii)] **B.** has not participated in the tax credit program under this
 26 section for more than 1 prior fiscal year;

27 [(iii)] ~~C.~~ has been in active business no longer than 5 years;]

28 [(iv)] ~~D.~~ **C.** has an aggregate capitalization of at least \$100,000;

29 [(v)] ~~E.~~ **D.** owns or has properly licensed any proprietary
 30 technology;

31 [(vi)] ~~F.~~ **E.** has fewer than 50 full-time employees;

1 [(vii)] ~~G. F.~~ does not have its securities publicly traded on any
2 exchange;

3 [(viii)] ~~H. G.~~ is in good standing;

4 [(ix)] ~~I. H.~~ is current in the payment of all tax obligations to the State
5 or any unit or subdivision of the State;

6 [(x)] ~~J. I.~~ is not in default under the terms of any contract with,
7 indebtedness to, or grant from the State or any unit or subdivision of the State; and

8 [(xi)] ~~K. J.~~ meets any other reasonable requirements of the
9 Department evidencing that the company is a going concern primarily engaged in the
10 development of innovative and proprietary cybersecurity technology; AND

11 3. ANY OTHER INFORMATION THE DEPARTMENT MAY
12 REQUIRE.

13 [(3)] (C) (1) The Department shall:

14 (i) approve all applications that qualify for credits under this section
15 on a first-come, first-served basis; and

16 (ii) within 30 calendar days of receipt of an application:

17 1. certify the amount of any approved tax credits to a
18 qualified [Maryland cybersecurity company] INVESTOR; and

19 2. determine whether a cybersecurity company qualifies for
20 investments that are eligible for the tax credit under this section.

21 [(4)] (2) (i) After the date on which the Department issues an initial
22 tax credit certificate under this section, a qualified investor shall have 30 calendar days to
23 make an investment in a qualified Maryland cybersecurity company under this section.

24 (ii) Within 10 calendar days after the date on which a qualified
25 investor makes the investment, the qualified [Maryland cybersecurity company]
26 INVESTOR shall provide to the Department notice and proof of the making of the
27 investment, including:

28 1. the date of the investment;

29 2. the amount invested;

1 3. proof of the receipt of the invested funds by the qualified
2 Maryland cybersecurity company;

3 4. a complete description of the nature of the ownership
4 interest in the equity of the qualified Maryland cybersecurity company acquired in
5 consideration of the investment; and

6 5. any reasonable supporting documentation the
7 Department may require.

8 (iii) If a qualified [Maryland cybersecurity company] **INVESTOR** does
9 not provide the notice and proof of the making of the investment required in subparagraph
10 (ii) of this paragraph within 40 calendar days after the date on which the Department
11 issues an initial tax credit certificate under this section:

12 1. the Department shall rescind the initial tax credit
13 certificate; and

14 2. the credit amount allocated to the rescinded certificate
15 shall revert to the Maryland Cybersecurity Investment Tax Credit Reserve Fund and shall
16 be available in the applicable fiscal year for allocation by the Department to other initial
17 tax credit certificates in accordance with the provisions of this section.

18 (d) (1) The tax credit allowed in an initial tax credit certificate issued under
19 this section is:

20 (i) except as provided in item (ii) of this paragraph, 33% of the
21 investment in a qualified Maryland cybersecurity company, not to exceed \$250,000; or

22 (ii) if a qualified Maryland cybersecurity company is located in
23 Allegany County, Dorchester County, Garrett County, or Somerset County, 50% of the
24 investment in the qualified Maryland cybersecurity company, not to exceed \$500,000.

25 (2) During any fiscal year, the Secretary may not certify eligibility for tax
26 credits for investments in a single qualified Maryland cybersecurity company that in the
27 aggregate exceed 15% of the total appropriations to the Maryland Cybersecurity
28 Investment Tax Credit Reserve Fund for that fiscal year.

29 (3) If the credit allowed under this section in any taxable year exceeds the
30 State income tax for that taxable year, an individual or a corporation may claim a refund
31 in the amount of the excess.

32 (e) (1) The Department may establish a panel composed of experts in the area
33 of cybersecurity technology.

34 (2) The Department may establish the panel under service contracts with
35 independent reviewers.

1 (3) The panel shall assist the Department in its determination as to
2 whether a company is a qualified Maryland cybersecurity company.

3 (4) A member of the panel is not eligible to receive any benefit, direct or
4 indirect, from the tax credit under this section.

5 (5) (i) Except as provided in subparagraph (ii) of this paragraph,
6 Division II of the State Finance and Procurement Article does not apply to a service that
7 the Department obtains under this section.

8 (ii) The Department is subject to Title 12, Subtitle 4 of the State
9 Finance and Procurement Article for services the Department obtains under this section.

10 (f) (1) In this subsection, “Reserve Fund” means the Maryland Cybersecurity
11 Investment Tax Credit Reserve Fund established under paragraph (2) of this subsection.

12 (i) There is a Maryland Cybersecurity Investment Tax Credit
13 Reserve Fund which is a special continuing, nonlapsing fund that is not subject to § 7–302
14 of the State Finance and Procurement Article.

15 (ii) The money in the Reserve Fund shall be invested and reinvested
16 by the Treasurer, and interest and earnings shall be credited to the General Fund.

17 (iii) The money in the Reserve Fund may be used by the Department
18 to pay the costs of administering the tax credit program under this section.

19 (3) (i) Subject to the provisions of this subsection, the Secretary shall
20 issue an initial tax credit certificate to a qualified [Maryland cybersecurity company]
21 **INVESTOR** for each approved investment in a qualified Maryland cybersecurity company
22 eligible for a tax credit.

23 (ii) An initial tax credit certificate issued under this subsection shall
24 state the maximum amount of tax credit for which the qualified [Maryland cybersecurity
25 company] **INVESTOR** is eligible.

26 (iii) 1. Except as otherwise provided in this subparagraph, for
27 any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts
28 in the aggregate totaling more than the amount appropriated to the Reserve Fund for that
29 fiscal year in the State budget as approved by the General Assembly, as reduced by the
30 amount needed to pay the costs of administering the tax credit program under this section.

31 2. If the aggregate credit amounts under initial tax credit
32 certificates issued in a fiscal year total less than the amount appropriated to the Reserve
33 Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be
34 issued under initial tax credit certificates for the next fiscal year.

1 3. For any fiscal year, if funds are transferred from the
2 Reserve Fund under the authority of any provision of law other than under paragraph (4)
3 of this subsection, the maximum credit amounts in the aggregate for which the Secretary
4 may issue initial tax credit certificates shall be reduced by the amount transferred.

5 (iv) 1. Except as provided in subsubparagraph 2 of this
6 subparagraph, for each fiscal year, the Governor shall include in the budget bill an
7 appropriation of at least ~~[\$2,000,000] \$5,000,000~~ \$3,000,000 to the Reserve Fund.

8 2. In fiscal year 2016, the Governor shall include in the
9 budget bill an appropriation of at least \$1,500,000 to the Reserve Fund.

10 (v) Notwithstanding the provisions of § 7-213 of the State Finance
11 and Procurement Article, the Governor may not reduce an appropriation to the Reserve
12 Fund in the State budget as approved by the General Assembly.

13 (vi) Based on the actual amount of an investment made by a qualified
14 investor, the Secretary shall issue a final tax credit certificate to the qualified ~~[Maryland~~
15 ~~cybersecurity company]~~ **INVESTOR**.

16 (4) (i) Except as otherwise provided in this paragraph, money
17 appropriated to the Reserve Fund shall remain in the Reserve Fund.

18 (ii) 1. Within 15 days after the end of each calendar quarter, the
19 Department shall notify the Comptroller as to each final credit certificate issued during the
20 quarter:

21 A. the maximum credit amount stated in the initial tax credit
22 certificate for the investment in the qualified Maryland cybersecurity company; and

23 B. the final certified credit amount for the investment in the
24 qualified Maryland cybersecurity company.

25 2. On notification that an investment has been certified, the
26 Comptroller shall transfer an amount equal to the credit amount stated in the initial tax
27 credit certificate for the investment from the Reserve Fund to the General Fund.

28 (iii) 1. Periodically, but not more frequently than quarterly, the
29 Department may submit invoices for costs that have been incurred or are anticipated to be
30 incurred in administering the tax credit program under this section.

31 2. The Comptroller shall transfer money from the Reserve
32 Fund to the Department to pay for costs that have been incurred or are anticipated to be
33 incurred in administering the tax credit program under this section.

1 (g) (1) The credit claimed under this section shall be recaptured as provided
2 in paragraph [(2)] (3) of this subsection if within 2 years from the close of the taxable year
3 for which the credit is claimed:

4 (i) the qualified investor sells, transfers, or otherwise disposes of the
5 ownership interest in the qualified Maryland cybersecurity company that gave rise to the
6 credit; or

7 (ii) the qualified Maryland cybersecurity company that [received]
8 **GAVE RISE TO** the credit:

9 1. ceases operating as an active business with its
10 headquarters and base of operations in the State; or

11 2. pays out as dividends or otherwise distributes the equity
12 investment.

13 (2) **THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE**
14 **RECAPTURED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION IF, WITHIN 4**
15 **MONTHS OF RECEIVING A QUALIFIED INVESTMENT, A QUALIFIED MARYLAND**
16 **CYBERSECURITY COMPANY IS NOT DULY ORGANIZED AND EXISTING UNDER THE**
17 **LAWS OF ANY JURISDICTION FOR THE PURPOSES OF CONDUCTING BUSINESS FOR**
18 **PROFIT.**

19 (3) The amount required to be recaptured under this subsection is the
20 product of multiplying:

21 (i) the total amount of the credit claimed or, in the case of an event
22 described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the
23 ownership interest disposed of; and

24 (ii) 1. 100%, if the event requiring recapture of the credit occurs
25 during the taxable year for which the tax credit is claimed;

26 2. 67%, if the event requiring recapture of the credit occurs
27 during the first year after the close of the taxable year for which the tax credit is claimed;
28 or

29 3. 33%, if the event requiring recapture of the credit occurs
30 more than 1 year but not more than 2 years after the close of the taxable year for which the
31 tax credit is claimed.

32 [(3)] (4) The qualified [Maryland cybersecurity company] **INVESTOR**
33 that claimed the credit shall pay the amount to be recaptured as determined under
34 paragraph [(2)] (3) of this subsection as taxes payable to the State for the taxable year in
35 which the event requiring recapture of the credit occurs.

1 (h) (1) The Department may revoke its initial or final certification of an
2 approved credit under this section if any representation made in connection with the
3 application for the certification is determined by the Department to have been false.

4 (2) The revocation may be in full or in part as the Department may
5 determine and, subject to paragraph (3) of this subsection, shall be communicated to the
6 qualified investor, the qualified Maryland cybersecurity company, and the Comptroller.

7 (3) The qualified [Maryland cybersecurity company] **INVESTOR** shall have
8 an opportunity to appeal any revocation to the Department prior to notification of the
9 Comptroller.

10 (4) The Comptroller may make an assessment against the qualified
11 [Maryland cybersecurity company] **INVESTOR** to recapture any amount of tax credit that
12 the qualified [Maryland cybersecurity company] **INVESTOR** has already claimed.

13 (i) (1) In accordance with § 2.5–109 of the Economic Development Article, the
14 Department shall submit a report on the initial tax credit certificates awarded under this
15 section for the calendar year.

16 (2) The report required under paragraph (1) of this subsection shall include
17 for each initial tax credit certificate awarded:

18 (i) the name of the qualified investor and the amount of credit
19 awarded or allocated to each qualified [Maryland cybersecurity company] **INVESTOR**;

20 (ii) the name and address of the qualified Maryland cybersecurity
21 company that received **THE INVESTMENT GIVING RISE TO** the credit under this section
22 and the county where the qualified Maryland cybersecurity company is located; and

23 (iii) the dates of receipt and approval by the Department of all
24 applications for initial tax credit certificates.

25 (3) The report required under paragraph (1) of this subsection shall
26 summarize for the categories of qualified investors [and qualified Maryland cybersecurity
27 companies]:

28 (i) the total number of applicants for initial tax credit certificates
29 under this section in each calendar year;

30 (ii) the number of applications for which initial tax credit certificates
31 were issued in each calendar year; and

32 (iii) the total initial tax credit certificates authorized under this
33 section for all calendar years under this section.

1 (j) The Department and the Comptroller jointly shall adopt regulations to carry
2 out the provisions of this section and to specify criteria and procedures for application for,
3 approval of, and monitoring continuing eligibility for the tax credit under this section.

4 10-733.1.

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

7 (2) “CYBERSECURITY BUSINESS” MEANS AN ENTITY ORGANIZED FOR
8 PROFIT THAT IS ENGAGED PRIMARILY IN THE DEVELOPMENT OF INNOVATIVE AND
9 PROPRIETARY CYBERSECURITY TECHNOLOGY OR THE PROVISION OF
10 CYBERSECURITY SERVICE.

11 (3) “CYBERSECURITY SERVICE” MEANS AN ACTIVITY THAT IS
12 ASSOCIATED WITH A CATEGORY OR SUBCATEGORY IDENTIFIED UNDER THE
13 FRAMEWORK CORE ESTABLISHED BY THE NATIONAL INSTITUTE OF STANDARDS
14 AND TECHNOLOGY’S CYBERSECURITY FRAMEWORK.

15 (4) “CYBERSECURITY TECHNOLOGY” MEANS PRODUCTS OR GOODS
16 INTENDED TO DETECT OR PREVENT ACTIVITY INTENDED TO RESULT IN
17 UNAUTHORIZED ACCESS TO, EXFILTRATION OF, MANIPULATION OF, OR IMPAIRMENT
18 TO THE INTEGRITY, CONFIDENTIALITY, OR AVAILABILITY OF AN INFORMATION
19 SYSTEM OR INFORMATION STORED ON OR TRANSITING AN INFORMATION SYSTEM.

20 (5) “DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.

21 (6) “PANEL” MEANS THE PANEL THAT THE DEPARTMENT MAY
22 ESTABLISH UNDER SUBSECTION (C) OF THIS SECTION COMPOSED OF EXPERTS IN
23 THE AREAS OF CYBERSECURITY TECHNOLOGY AND CYBERSECURITY SERVICE.

24 (7) “QUALIFIED BUYER” MEANS ANY ENTITY THAT HAS FEWER THAN
25 50 EMPLOYEES IN THE STATE AND THAT IS REQUIRED TO FILE AN INCOME TAX
26 RETURN IN THE STATE.

27 (8) “QUALIFIED SELLER” MEANS A CYBERSECURITY BUSINESS THAT:

28 (I) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE
29 STATE;

30 (II) 1. HAS LESS THAN \$5,000,000 IN ANNUAL REVENUE;
31 2. IS A MINORITY-OWNED, WOMAN-OWNED,
32 VETERAN-OWNED, OR SERVICE-DISABLED-VETERAN-OWNED BUSINESS; OR

1 **3. IS LOCATED IN A HISTORICALLY UNDERUTILIZED**
2 **BUSINESS ZONE DESIGNATED BY THE UNITED STATES SMALL BUSINESS**
3 **ADMINISTRATION;**

4 **(III) 1. OWNS OR HAS PROPERLY LICENSED ANY**
5 **PROPRIETARY CYBERSECURITY TECHNOLOGY; OR**

6 **2. PROVIDES A CYBERSECURITY SERVICE;**

7 **(IV) IS IN GOOD STANDING;**

8 **(V) IS CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO**
9 **THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND**

10 **(VI) IS NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT**
11 **WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR**
12 **SUBDIVISION OF THE STATE.**

13 **(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A**
14 **QUALIFIED BUYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**
15 **AMOUNT EQUAL TO 50% OF THE COST INCURRED DURING THE TAXABLE YEAR TO**
16 **PURCHASE CYBERSECURITY TECHNOLOGY OR A CYBERSECURITY SERVICE FROM**
17 **ONE OR MORE QUALIFIED SELLERS.**

18 **(2) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS**
19 **SECTION MAY NOT EXCEED \$50,000 FOR EACH QUALIFIED BUYER.**

20 **(3) FOR ANY TAXABLE YEAR, THE AGGREGATE CREDITS CLAIMED FOR**
21 **CYBERSECURITY TECHNOLOGY OR CYBERSECURITY SERVICE PURCHASED FROM A**
22 **SINGLE QUALIFIED SELLER MAY NOT EXCEED \$200,000.**

23 **(C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND**
24 **TECHNOLOGY DEVELOPMENT CORPORATION, MAY ESTABLISH A PANEL COMPOSED**
25 **OF EXPERTS IN THE AREAS OF CYBERSECURITY TECHNOLOGY AND CYBERSECURITY**
26 **SERVICE.**

27 **(2) THE DEPARTMENT MAY ESTABLISH THE PANEL UNDER SERVICE**
28 **CONTRACTS WITH INDEPENDENT REVIEWERS.**

29 **(3) THE PANEL SHALL ASSIST THE DEPARTMENT IN ITS**
30 **DETERMINATION AS TO WHETHER A COMPANY IS A QUALIFIED SELLER.**

1 **(4) A MEMBER OF THE PANEL IS NOT ELIGIBLE TO RECEIVE ANY**
2 **BENEFIT, DIRECT OR INDIRECT, FROM THE TAX CREDIT UNDER THIS SECTION.**

3 **(5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
4 **PARAGRAPH, DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE**
5 **DOES NOT APPLY TO A SERVICE THAT THE DEPARTMENT OBTAINS UNDER THIS**
6 **SECTION.**

7 **(II) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF**
8 **THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES THE**
9 **DEPARTMENT OBTAINS UNDER THIS SECTION.**

10 **(D) (1) (I) A QUALIFIED BUYER ELIGIBLE FOR THE CREDIT UNDER**
11 **THIS SECTION MAY APPLY TO THE DEPARTMENT FOR A CREDIT CERTIFICATE THAT**
12 **STATES THE AMOUNT OF THE CREDIT THE QUALIFIED BUYER MAY CLAIM UNDER**
13 **SUBSECTION (B) OF THIS SECTION.**

14 **(II) A QUALIFIED BUYER SHALL ATTACH THE CREDIT**
15 **CERTIFICATE TO THE INCOME TAX RETURN ON WHICH THE QUALIFIED BUYER**
16 **CLAIMS THE CREDIT UNDER SUBSECTION (B) OF THIS SECTION.**

17 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
18 **SECRETARY OF COMMERCE SHALL APPROVE EACH APPLICATION UNDER**
19 **PARAGRAPH (1) OF THIS SUBSECTION THAT QUALIFIES FOR A CREDIT CERTIFICATE.**

20 **(3) (I) THE TOTAL AMOUNT OF THE CREDIT CERTIFICATES**
21 **APPROVED BY THE SECRETARY OF COMMERCE UNDER THIS SUBSECTION MAY NOT**
22 **EXCEED:**

23 **1. FOR TAXABLE YEAR 2018, \$2,000,000;**

24 **2. FOR TAXABLE YEAR 2019, \$4,000,000;**

25 **3. FOR TAXABLE YEAR 2020, \$6,000,000;**

26 **4. FOR TAXABLE YEAR 2021, \$8,000,000; AND**

27 **5. FOR TAXABLE YEAR 2022 AND EACH TAXABLE YEAR**
28 **THEREAFTER, \$10,000,000.**

29 **(II) FOR EACH TAXABLE YEAR, THE SECRETARY OF COMMERCE**
30 **SHALL AWARD 25% OF THE AMOUNT OF TAX CREDITS AUTHORIZED UNDER**
31 **SUBPARAGRAPH (I) OF THIS PARAGRAPH TO QUALIFIED BUYERS THAT PURCHASE**
32 **CYBERSECURITY SERVICES.**

1 **(E) (1) THE DEPARTMENT MAY REVOKE ITS CERTIFICATION OF A CREDIT**
2 **UNDER THIS SECTION IF ANY REPRESENTATION MADE IN CONNECTION WITH THE**
3 **APPLICATION FOR THE CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO**
4 **HAVE BEEN FALSE.**

5 **(2) THE REVOCATION MAY BE IN FULL OR IN PART AS THE**
6 **DEPARTMENT MAY DETERMINE AND, SUBJECT TO PARAGRAPH (3) OF THIS**
7 **SUBSECTION, SHALL BE COMMUNICATED TO THE QUALIFIED BUYER AND THE**
8 **COMPTROLLER.**

9 **(3) THE QUALIFIED BUYER SHALL HAVE AN OPPORTUNITY TO APPEAL**
10 **ANY REVOCATION TO THE DEPARTMENT BEFORE NOTIFICATION OF THE**
11 **COMPTROLLER.**

12 **(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE**
13 **QUALIFIED BUYER TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE**
14 **QUALIFIED BUYER HAS ALREADY CLAIMED.**

15 **(F) (1) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC**
16 **DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE**
17 **CREDIT CERTIFICATES AWARDED UNDER THIS SECTION FOR THE CALENDAR YEAR.**

18 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
19 **SUBSECTION SHALL INCLUDE FOR EACH CREDIT CERTIFICATE AWARDED:**

20 **(I) THE NAMES OF THE QUALIFIED BUYER AND THE QUALIFIED**
21 **SELLER AND THE AMOUNT OF THE CREDIT CERTIFICATE APPROVED FOR EACH**
22 **QUALIFIED BUYER;**

23 **(II) THE NAME AND ADDRESS OF THE QUALIFIED BUYER THAT**
24 **RECEIVED THE CREDIT UNDER THIS SECTION AND THE COUNTY WHERE THE**
25 **QUALIFIED BUYER IS LOCATED; AND**

26 **(III) THE DATES OF RECEIPT AND APPROVAL BY THE**
27 **DEPARTMENT OF ALL APPLICATIONS FOR CREDIT CERTIFICATES.**

28 **(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION SHALL SUMMARIZE FOR THE CATEGORIES OF QUALIFIED BUYERS:**

30 **(I) THE TOTAL NUMBER OF APPLICANTS FOR CREDIT**
31 **CERTIFICATES UNDER THIS SECTION IN EACH CALENDAR YEAR;**

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

3 (III) THE TOTAL AMOUNT OF CREDIT CERTIFICATES
4 AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS
5 SECTION.

6 (G) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT
7 REGULATIONS TO CARRY OUT THIS SECTION AND TO SPECIFY CRITERIA AND
8 PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING
9 CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

10 **Chapter 390 of the Acts of 2013**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2013, but
13 before January 1, [2019] **2023**. This Act shall remain effective for a period of [6] **10** years
14 and, at the end of June 30, [2019] **2023**, with no further action required by the General
15 Assembly, this Act shall be abrogated and of no further force and effect.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
17 1, 2018, and shall be applicable to all initial tax credit certificates issued after June 30,
18 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.