

HOUSE BILL 360

C8, Q3

(PRE-FILED)

11r1004
CF SB 246

By: **Delegate Lierman**

Requested: October 16, 2020

Introduced and read first time: January 13, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Angel Investor Tax Credit Program**

3 FOR the purpose of allowing a credit against the State income tax for a certain percentage
4 of an investment, not to exceed a certain amount, made in certain qualified
5 innovation businesses; requiring qualified innovation businesses to meet certain
6 certification requirements; requiring a qualified investor to meet certain
7 requirements in order to be eligible for the credit; requiring the qualified investor to
8 make a certain application, at least a certain number of days before making an
9 investment, to the Department of Commerce; requiring the Department to certify,
10 within a certain number of days of the application, the amount of the credit;
11 requiring, under certain circumstances, the Secretary to issue initial and final tax
12 credit certificates; requiring a qualified investor to make a certain investment and
13 provide certain proof within a certain period of time; authorizing, under certain
14 circumstances, the Department to rescind a tax credit; providing that the Secretary
15 may not certify eligibility for tax credits for investments in a single qualified
16 innovation business that in the aggregate exceed a certain percentage of the total
17 appropriations to a certain Reserve Fund for that fiscal year; providing for the
18 carryforward of the credit; establishing the Maryland Angel Investor Tax Credit
19 Reserve Fund as a special, nonlapsing fund; requiring the Department to administer
20 the Reserve Fund; requiring the State Treasurer to hold the Reserve Fund;
21 specifying the contents of the Reserve Fund; stating the intent of the General
22 Assembly that the Governor make an appropriation to the Reserve Fund each fiscal
23 year; requiring, each quarter, that the Department notify the Comptroller of a
24 certain amount and the Comptroller to transfer a certain amount from the Reserve
25 Fund to the General Fund of the State; providing for the recapture of the credit under
26 certain circumstances; authorizing the Department, after a certain notification and
27 opportunity for appeal, to revoke a credit; requiring a qualified innovation business
28 that receives an investment to report certain information each year to the
29 Department; requiring the Department to report certain information in a certain
30 manner on or before a certain date each year; requiring the Department, in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 consultation with the Comptroller, to adopt certain regulations; defining certain
 2 terms; providing for the application of this Act; providing for the termination of this
 3 Act; and generally relating to a State income tax credit for certain qualified business
 4 investments.

5 BY repealing and reenacting, with amendments,
 6 Article – Economic Development
 7 Section 2.5–109(a)(4)(xi) and (xii)
 8 Annotated Code of Maryland
 9 (2018 Replacement Volume and 2020 Supplement)

10 BY adding to
 11 Article – Economic Development
 12 Section 2.5–109(a)(4)(xiii)
 13 Annotated Code of Maryland
 14 (2018 Replacement Volume and 2020 Supplement)

15 BY adding to
 16 Article – Tax – General
 17 Section 10–751
 18 Annotated Code of Maryland
 19 (2016 Replacement Volume and 2020 Supplement)

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

22 **Article – Economic Development**

23 2.5–109.

24 (a) In this section, “economic development program” means:

25 (4) each of the tax credit programs administered by the Department,
 26 including:

27 (xi) the Small Business Relief Tax Credit; [and]

28 (xii) the Aerospace, Electronics, or Defense Contract Tax Credit; AND

29 **(XIII) THE ANGEL INVESTOR TAX CREDIT.**

30 **Article – Tax – General**

31 **10–751.**

32 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**

1 INDICATED.

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

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

6 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMERCE.

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

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

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

19 (6) "PASS-THROUGH ENTITY" MEANS A BUSINESS ENTITY THAT IS AN
20 S CORPORATION, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A TRUST
21 THAT HAS NO BUSINESS OPERATIONS AND IS FORMED FOR THE SOLE PURPOSE OF
22 MAKING INVESTMENTS.

23 (7) (I) "QUALIFIED INNOVATION BUSINESS" MEANS A COMPANY
24 THAT:

25 1. HAS MET THE CRITERIA SET FORTH IN SUBSECTION
26 (C) OF THIS SECTION; AND

27 2. IS IN ONE OF THE FOLLOWING INDUSTRIES:

28 A. ADVANCED MATERIALS AND MANUFACTURING
29 SYSTEMS;

30 B. AEROSPACE;

- 1 **C. AGRICULTURAL TECHNOLOGY;**
- 2 **D. CLEAN ENERGY AND NATURAL RESOURCES;**
- 3 **E. EDUCATION;**
- 4 **F. ELECTRONIC DEVICE TECHNOLOGY;**
- 5 **G. HEALTH AND MEDICAL TECHNOLOGY;**
- 6 **H. INFORMATION TECHNOLOGY;**
- 7 **I. NANOTECHNOLOGY; AND**
- 8 **J. TRANSPORTATION AND LOGISTICS.**

9 **(II) “QUALIFIED INNOVATION BUSINESS” DOES NOT INCLUDE:**

- 10 **1. A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY**
11 **UNDER § 10–725 OF THIS SUBTITLE; OR**
- 12 **2. A QUALIFIED MARYLAND CYBERSECURITY COMPANY**
13 **UNDER § 10–733 OF THIS SUBTITLE.**

14 **(8) (I) “QUALIFIED INVESTOR” MEANS AN ACCREDITED INVESTOR**
15 **UNDER 17 C.F.R. § 230.501 THAT IS AN INDIVIDUAL, A MARRIED COUPLE THAT**
16 **FILES A JOINT TAX RETURN, OR A PASS–THROUGH ENTITY CERTIFIED BY THE**
17 **DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION.**

18 **(II) “QUALIFIED INVESTOR” DOES NOT INCLUDE:**

- 19 **1. A QUALIFIED PENSION PLAN, AN INDIVIDUAL**
20 **RETIREMENT ACCOUNT, OR ANY OTHER QUALIFIED RETIREMENT PLAN UNDER THE**
21 **EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR**
22 **FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX–FAVORED**
23 **PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES; OR**
- 24 **2. A CORPORATION SUBJECT TO THE INCOME TAX ON**
25 **CORPORATIONS.**

26 **(9) “RESERVE FUND” MEANS THE MARYLAND ANGEL INVESTOR TAX**
27 **CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.**

1 **(10) "SECRETARY" MEANS THE SECRETARY OF COMMERCE.**

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

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

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

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

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

21 **(I) IS IN GOOD STANDING AND AUTHORIZED TO CONDUCT**
22 **BUSINESS IN THE STATE BY INCLUDING A LETTER OF GOOD STANDING FROM THE**
23 **STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;**

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

27 **(III) DOES NOT HAVE ANNUAL REVENUE GREATER THAN**
28 **\$5,000,000;**

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

30 **(V) HAS NOT RECEIVED MORE THAN \$2,500,000 IN**
31 **INVESTMENTS;**

32 **(VI) HAS FEWER THAN 25 FULL-TIME EQUIVALENT EMPLOYEES;**

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

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

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

7 1. 75% OF THE QUALIFIED INNOVATION BUSINESS'S
8 FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED IN THE STATE; AND

9 2. 75% OF THE QUALIFIED INNOVATION BUSINESS'S
10 PAYROLL PAID TO EMPLOYEES IN THE STATE.

11 (II) THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES IS
12 CALCULATED BY DIVIDING THE TOTAL HOURS PAID IN A YEAR BY THE PRODUCT OF
13 40 TIMES THE NUMBER OF WEEKS OF PAYROLL INCURRED IN A YEAR.

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

18 (2) THE APPLICATION SHALL PROVIDE EVIDENCE THAT:

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

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

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

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

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

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

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

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

9 (4) THE DEPARTMENT SHALL:

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

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

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

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

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

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

32 3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED

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

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

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

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

16 1. THE DATE OF THE INVESTMENT;

17 2. THE AMOUNT INVESTED;

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

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

23 5. ANY SUPPORTING DOCUMENTATION THE
24 DEPARTMENT MAY REQUIRE.

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

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

32 2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED

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

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

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

10 (I) \$50,000; OR

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

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

17 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
18 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE QUALIFIED
19 INVESTOR MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX
20 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

21 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

22 (II) THE EXPIRATION OF THE 4TH TAXABLE YEAR AFTER THE
23 TAXABLE YEAR IN WHICH THE QUALIFIED INVESTOR FIRST CLAIMED THE TAX
24 CREDIT ALLOWED UNDER THIS SECTION.

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

28 (2) THE DEPARTMENT SHALL ADMINISTER THE RESERVE FUND.

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

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

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

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

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

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

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

17 **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**
18 **INVESTMENT.**

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

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

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

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

31 **(III) THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO**
32 **THE CREDIT NO LONGER MAINTAINS ITS HEADQUARTERS AND BASE OF OPERATIONS**

1 IN THE STATE.

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

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

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

11 2. 50%, IF THE EVENT REQUIRING RECAPTURE OF THE
12 CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR
13 FOR WHICH THE TAX CREDIT IS CLAIMED.

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

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

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

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

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

33 (I) ON OR BEFORE FEBRUARY 1 EACH YEAR FOLLOWING THE YEAR IN

1 WHICH A QUALIFIED INNOVATION BUSINESS RECEIVES AN INVESTMENT, THE
2 QUALIFIED INNOVATION BUSINESS SHALL SUBMIT TO THE DEPARTMENT A REPORT
3 THAT DETAILS THE TOTAL:

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

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

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

10 (J) (1) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC
11 DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL REPORT ON THE TAX CREDIT
12 CERTIFICATES ISSUED UNDER THIS SECTION.

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

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

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

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

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

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

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020, but
8 before January 1, 2024. It shall remain effective for a period of 3 years and, at the end of
9 June 30, 2024, this Act, with no further action required by the General Assembly, shall be
10 abrogated and of no further force and effect.