

SENATE BILL 536

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C8

2002 Regular Session
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By: **Senator Hogan**

Introduced and read first time: February 1, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Certified Capital Company Investment Tax Credit**

3 FOR the purpose of allowing a credit against the insurance premium tax for
4 investments by certain persons in certain companies that make investments in
5 certain qualified technology or bioscience businesses in the State; providing for
6 administration of the credit by the Department of Business and Economic
7 Development; establishing certain requirements for initial certification and
8 continued certification of certified capital companies; providing for applications
9 to the Department for certification as a certified capital company; prohibiting
10 certain persons from engaging in certain activities relating to a certified capital
11 company; providing for determinations by the Department as to whether certain
12 investments by certified capital companies will meet certain requirements;
13 requiring certified capital companies to provide certain reports and certain
14 audited financial statements to the Department; requiring certain applicants to
15 pay certain nonrefundable application fees; requiring a certified capital
16 company to pay certain annual renewal fees; providing for annual reviews by
17 the Department of certified capital companies; providing for decertification of
18 certified capital companies under certain circumstances; authorizing the
19 Department to impose administrative penalties for certain violations; providing
20 for the recapture of certain tax credits under certain circumstances; providing
21 for the carry forward of certain unused tax credit; providing for the allocation of
22 credits among certified capital companies; limiting the total certified capital for
23 which premium tax credits may be allowed for all years; limiting the total
24 credits that may be allowed for all certified investors for any year; providing for
25 allocation of the maximum amount of credits under certain circumstances;
26 authorizing certain investments to be treated in a certain manner for certain
27 purposes under the insurance law; providing for certain treatment of certain tax
28 credits for insurance rate making purposes; providing for the transfer of certain
29 tax credits under certain circumstances; requiring the Department to prepare
30 and submit a certain report; requiring the Department to adopt certain
31 regulations; defining certain terms; and generally relating to an insurance
32 premium tax credit for investments in certain companies making investments in
33 qualified technology or bioscience businesses in the State.

34 BY adding to

1 Article 83A - Department of Business and Economic Development
2 Section 5-1701 through 5-1723 to be under the new subtitle "Subtitle 17.
3 Certified Capital Company Investment Tax Credit"
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2001 Supplement)

6 BY adding to
7 Article - Insurance
8 Section 6-121
9 Annotated Code of Maryland
10 (1997 Volume and 2001 Supplement)

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

13 **Article 83A - Department of Business and Economic Development**

14 **SUBTITLE 17. CERTIFIED CAPITAL COMPANY INVESTMENT TAX CREDIT.**

15 5-1701.

16 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

17 (B) "AFFILIATE" OF ANOTHER PERSON MEANS:

18 (1) A PERSON WHO IS AN AFFILIATE FOR PURPOSES OF § 7-101 OF THE
19 INSURANCE ARTICLE;

20 (2) A PERSON WHO DIRECTLY OR INDIRECTLY:

21 (I) BENEFICIALLY OWNS 10 PERCENT OR MORE OF THE
22 OUTSTANDING VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS OF THE
23 OTHER PERSON, WHETHER THROUGH RIGHTS, OPTIONS, CONVERTIBLE INTERESTS,
24 OR OTHERWISE; OR

25 (II) CONTROLS OR HOLDS POWER TO VOTE 10 PERCENT OR MORE
26 OF THE OUTSTANDING VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS OF
27 THE OTHER PERSON;

28 (3) A PERSON 10 PERCENT OR MORE OF THE OUTSTANDING VOTING
29 SECURITIES OR OTHER OWNERSHIP INTERESTS OF WHICH ARE DIRECTLY OR
30 INDIRECTLY:

31 (I) BENEFICIALLY OWNED BY THE OTHER PERSON, WHETHER
32 THROUGH RIGHTS, OPTIONS, CONVERTIBLE INTERESTS, OR OTHERWISE; OR

33 (II) CONTROLLED OR HELD WITH POWER TO VOTE BY THE OTHER
34 PERSON;

1 (4) A PARTNERSHIP IN WHICH THE OTHER PERSON IS A GENERAL
2 PARTNER; OR

3 (5) AN OFFICER, SECRETARY, EMPLOYEE, OR AGENT OF THE OTHER
4 PERSON, OR AN IMMEDIATE FAMILY MEMBER OF THE OFFICER, SECRETARY,
5 EMPLOYEE, OR AGENT.

6 (C) "ALLOCATION DATE" MEANS THE DATE ON WHICH THE CERTIFIED
7 INVESTORS OF A CERTIFIED CAPITAL COMPANY ARE ALLOCATED CERTIFIED
8 CAPITAL BY THE DEPARTMENT UNDER THIS SUBTITLE.

9 (D) "CERTIFIED CAPITAL" MEANS AN INVESTMENT OF CASH BY A CERTIFIED
10 INVESTOR IN A CERTIFIED CAPITAL COMPANY THAT FULLY FUNDS THE PURCHASE
11 PRICE OF AN EQUITY INTEREST IN THE COMPANY OR A QUALIFIED DEBT
12 INSTRUMENT ISSUED BY THE CERTIFIED CAPITAL COMPANY.

13 (E) "CERTIFIED CAPITAL COMPANY" MEANS A PARTNERSHIP, CORPORATION,
14 OR TRUST OR LIMITED LIABILITY COMPANY, WHETHER ORGANIZED ON A PROFIT OR
15 NOT-FOR-PROFIT BASIS, THAT HAS AS ITS PRIMARY BUSINESS ACTIVITY THE
16 INVESTMENT OF CASH IN QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESSES
17 AND THAT IS CERTIFIED AS MEETING THE CRITERIA OF THIS SUBTITLE.

18 (F) "CERTIFIED INVESTOR" MEANS AN INSURER OR OTHER PERSON HAVING
19 INSURANCE PREMIUM TAX LIABILITY, THAT CONTRIBUTES CERTIFIED CAPITAL
20 PURSUANT TO AN ALLOCATION OF PREMIUM TAX CREDITS UNDER THIS SUBTITLE.

21 (G) "EARLY STAGE TECHNOLOGY BUSINESS" MEANS A QUALIFIED
22 TECHNOLOGY OR BIOSCIENCE BUSINESS THAT SATISFIES AT LEAST ONE OF THE
23 FOLLOWING CRITERIA:

24 (1) IS INVOLVED, AT THE TIME OF A CERTIFIED CAPITAL COMPANY'S
25 FIRST INVESTMENT, IN ACTIVITIES RELATED TO THE DEVELOPMENT OF INITIAL
26 TECHNOLOGY-RELATED PRODUCT OR SERVICE OFFERINGS, SUCH AS PROTOTYPE
27 DEVELOPMENT OR ESTABLISHMENT OF INITIAL PRODUCTION OR SERVICE
28 PROCESSES;

29 (2) WAS INITIALLY ORGANIZED LESS THAN 3 YEARS BEFORE THE DATE
30 OF THE CERTIFIED CAPITAL COMPANY'S FIRST INVESTMENT; OR

31 (3) DURING THE FISCAL YEAR IMMEDIATELY PRECEDING THE YEAR OF
32 THE CERTIFIED CAPITAL COMPANY'S FIRST INVESTMENT HAD, ON A CONSOLIDATED
33 BASIS WITH ITS AFFILIATES, GROSS REVENUES OF NOT MORE THAN \$4 MILLION AS
34 DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
35 PRINCIPLES.

36 (H) "INSURANCE PREMIUM TAX LIABILITY" MEANS:

37 (1) ANY LIABILITY INCURRED BY ANY PERSON UNDER TITLE 6,
38 SUBTITLE 1 OF THE INSURANCE ARTICLE; OR

1 (2) IF THE TAX LIABILITY IMPOSED UNDER TITLE 6, SUBTITLE 1 OF THE
2 INSURANCE ARTICLE ON JANUARY 1, 2002, IS ELIMINATED OR REDUCED, ANY TAX
3 LIABILITY IMPOSED ON AN INSURER OR OTHER PERSON THAT HAD INSURANCE
4 PREMIUM TAX LIABILITY UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE
5 ON THAT DATE.

6 (I) "PREMIUM TAX CREDIT ALLOCATION CLAIM" MEANS A CLAIM FOR
7 ALLOCATION OF PREMIUM TAX CREDITS.

8 (J) "QUALIFIED DEBT INSTRUMENT" MEANS A DEBT INSTRUMENT ISSUED BY
9 A CERTIFIED CAPITAL COMPANY, AT PAR VALUE OR A PREMIUM, THAT:

10 (1) HAS AN ORIGINAL MATURITY DATE OF AT LEAST 5 YEARS AFTER THE
11 DATE OF ISSUANCE;

12 (2) HAS A REPAYMENT SCHEDULE THAT IS NOT FASTER THAN A LEVEL
13 PRINCIPAL AMORTIZATION OVER 5 YEARS; AND

14 (3) HAS NO INTEREST, DISTRIBUTION, OR PAYMENT FEATURES THAT
15 ARE RELATED TO THE PROFITABILITY OF THE CERTIFIED CAPITAL COMPANY OR THE
16 PERFORMANCE OF THE CERTIFIED CAPITAL COMPANY'S INVESTMENT PORTFOLIO.

17 (K) (1) "QUALIFIED DISTRIBUTION" MEANS ANY DISTRIBUTION OR
18 PAYMENT FROM CERTIFIED CAPITAL BY A CERTIFIED CAPITAL COMPANY IN
19 CONNECTION WITH ANY OF THE FOLLOWING:

20 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
21 REASONABLE COST AND EXPENSES OF FORMING, SYNDICATING, MANAGING, AND
22 OPERATING THE COMPANY, PROVIDED THAT THE DISTRIBUTION OR PAYMENT IS NOT
23 MADE DIRECTLY OR INDIRECTLY TO A CERTIFIED INVESTOR, INCLUDING:

24 1. REASONABLE AND NECESSARY FEES PAID FOR
25 PROFESSIONAL SERVICES, INCLUDING LEGAL AND ACCOUNTING SERVICES,
26 RELATED TO THE FORMATION AND OPERATION OF THE COMPANY; AND

27 2. AN ANNUAL MANAGEMENT FEE IN AN AMOUNT THAT
28 DOES NOT EXCEED 3 PERCENT OF THE CERTIFIED CAPITAL OF THE COMPANY; AND

29 (II) ANY PROJECTED INCREASE IN FEDERAL OR STATE TAXES,
30 INCLUDING PENALTIES AND INTEREST RELATED TO STATE AND FEDERAL INCOME
31 TAXES, OF THE EQUITY OWNERS OF THE COMPANY RESULTING FROM THE EARNINGS
32 OR OTHER TAX LIABILITY OF THE COMPANY TO THE EXTENT THAT THE INCREASE IS
33 RELATED TO THE OWNERSHIP, MANAGEMENT, OR OPERATION OF THE COMPANY.

34 (2) "QUALIFIED DISTRIBUTION" DOES NOT INCLUDE:

35 (I) ANY AMOUNT PAID AS A MANAGEMENT FEE TO A CERTIFIED
36 INVESTOR OR AN AFFILIATE OF A CERTIFIED INVESTOR; OR

1 (II) ANY COSTS AND EXPENSES DESCRIBED UNDER PARAGRAPH
2 (1)(I) OF THIS SUBSECTION THAT EXCEED IN THE AGGREGATE FOR ANY YEAR 5
3 PERCENT OF THE CERTIFIED CAPITAL OF THE COMPANY.

4 (L) "QUALIFIED INVESTMENT" MEANS THE INVESTMENT OF CASH BY A
5 CERTIFIED CAPITAL COMPANY IN A QUALIFIED TECHNOLOGY OR BIOSCIENCE
6 BUSINESS FOR THE PURCHASE OF ANY DEBT, DEBT PARTICIPATION, EQUITY, OR
7 HYBRID SECURITY OF ANY NATURE OR DESCRIPTION, INCLUDING A DEBT
8 INSTRUMENT OR SECURITY THAT HAS THE CHARACTERISTICS OF DEBT BUT THAT
9 PROVIDES FOR CONVERSION INTO EQUITY OR EQUITY PARTICIPATION
10 INSTRUMENTS SUCH AS OPTIONS OR WARRANTS.

11 (M) "QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS" MEANS A
12 BUSINESS THAT, AT THE TIME OF A CERTIFIED CAPITAL COMPANY'S FIRST
13 INVESTMENT IN THE BUSINESS:

14 (1) (I) 1. IS HEADQUARTERED IN THIS STATE AND INTENDS TO
15 REMAIN IN THIS STATE AFTER RECEIPT OF THE INVESTMENT BY THE CERTIFIED
16 CAPITAL COMPANY, OR IS HEADQUARTERED IN ANOTHER STATE AND INTENDS TO
17 RELOCATE ITS HEADQUARTERS TO THIS STATE AFTER RECEIPT OF THE INVESTMENT
18 BY THE CERTIFIED CAPITAL COMPANY; AND

19 2. HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN
20 THIS STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THIS STATE
21 AFTER RECEIPT OF THE INVESTMENT BY THE CERTIFIED CAPITAL COMPANY, OR HAS
22 ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN ANOTHER STATE, AND INTENDS
23 TO RELOCATE BUSINESS OPERATIONS TO THIS STATE WITHIN 90 DAYS AFTER
24 RECEIPT OF INVESTMENT BY THE CERTIFIED CAPITAL COMPANY; OR

25 (II) IS A SUBSIDIARY OF A COMPANY HEADQUARTERED OUTSIDE
26 THE UNITED STATES;

27 (2) HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY TO:

28 (I) SUPPORT BUSINESS OPERATIONS IN THIS STATE; OR

29 (II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND
30 SUPPORT BUSINESS OPERATIONS IN THIS STATE;

31 (3) HAS NOT MORE THAN 100 EMPLOYEES AND:

32 (I) EMPLOYS AT LEAST 80 PERCENT OF ITS EMPLOYEES IN THIS
33 STATE; OR

34 (II) PAYS 80 PERCENT OF ITS PAYROLL TO EMPLOYEES IN THIS
35 STATE;

36 (4) IS PRIMARILY ENGAGED IN:

1 (I) MANUFACTURING, PROCESSING, OR ASSEMBLING
2 TECHNOLOGY OR BIOSCIENCE PRODUCTS;

3 (II) CONDUCTING TECHNOLOGICAL OR BIOSCIENCE RESEARCH
4 AND DEVELOPMENT; OR

5 (III) PROVIDING TECHNOLOGY OR BIOSCIENCE RELATED SERVICES;
6 AND

7 (5) IS NOT PRIMARILY ENGAGED IN:

8 (I) RETAIL SALES;

9 (II) REAL ESTATE DEVELOPMENT;

10 (III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

11 (IV) THE PROVISION OF PROFESSIONAL SERVICES PROVIDED BY
12 ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

13 5-1702.

14 THE DEPARTMENT SHALL ADMINISTER THIS SUBTITLE AND MAY ADOPT
15 REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.

16 5-1703.

17 (A) THE SECRETARY SHALL ESTABLISH THE APPLICATION PROCEDURES FOR
18 CERTIFIED CAPITAL COMPANIES.

19 (B) (1) AN APPLICANT MUST FILE AN APPLICATION IN THE FORM
20 PRESCRIBED BY THE DEPARTMENT ACCOMPANIED BY A NONREFUNDABLE
21 APPLICATION FEE OF \$7,500.

22 (2) THE APPLICATION MUST INCLUDE AN AUDITED BALANCE SHEET OF
23 THE APPLICANT, WITH AN UNQUALIFIED OPINION FROM AN INDEPENDENT
24 CERTIFIED PUBLIC ACCOUNTANT, AS OF A DATE NOT MORE THAN 35 DAYS BEFORE
25 THE DATE OF THE APPLICATION.

26 (C) TO QUALIFY AS A CERTIFIED CAPITAL COMPANY:

27 (1) THE APPLICANT MUST HAVE, AT THE TIME OF APPLICATION FOR
28 CERTIFICATION, AN EQUITY CAPITALIZATION OF AT LEAST \$500,000 IN THE FORM OF
29 CASH OR CASH EQUIVALENTS;

30 (2) AT LEAST TWO PRINCIPALS OR PERSONS EMPLOYED TO DIRECT THE
31 INVESTMENT OF THE CERTIFIED CAPITAL OF THE APPLICANT MUST HAVE AT LEAST
32 6 YEARS OF EXPERIENCE DEVELOPING TECHNOLOGY STANDARDS, INTELLECTUAL
33 PROPERTY, OR PRODUCTS;

1 (3) THE APPLICANT MUST SATISFY ANY ADDITIONAL REQUIREMENT
2 IMPOSED BY THE DEPARTMENT;

3 (4) THE APPLICANT MUST HAVE INCORPORATED WITHIN THE STATE AT
4 LEAST 60 DAYS BEFORE APPLICATION; AND

5 (5) THE APPLICANT MUST HAVE ESTABLISHED AN OFFICE WITHIN THE
6 STATE OR DO SO WITHIN 60 DAYS OF QUALIFICATION.

7 (D) THE SECRETARY SHALL REVIEW THE APPLICATION, ORGANIZATIONAL
8 DOCUMENTS, AND BUSINESS HISTORY OF EACH APPLICANT AND SHALL ENSURE
9 THAT THE APPLICANT SATISFIES THE REQUIREMENTS OF THE SUBTITLE.

10 (E) NOT LATER THAN THE 30TH DAY AFTER THE DATE AN APPLICATION IS
11 FILED, THE SECRETARY SHALL:

12 (1) ISSUE THE CERTIFICATION; OR

13 (2) REFUSE TO ISSUE THE CERTIFICATION AND COMMUNICATE IN
14 DETAIL TO THE APPLICANT THE GROUNDS FOR THE REFUSAL, INCLUDING
15 SUGGESTIONS FOR THE REMOVAL OF THOSE GROUNDS.

16 5-1704.

17 (A) AN INSURER, GROUP OF INSURERS, OR OTHER PERSONS WHO MAY HAVE
18 STATE INSURANCE PREMIUM TAX LIABILITY OR THE AFFILIATES OF THE INSURERS
19 OR OTHER PERSONS MAY NOT, DIRECTLY OR INDIRECTLY:

20 (1) MANAGE A CERTIFIED CAPITAL COMPANY;

21 (2) BENEFICIALLY OWN, WHETHER THROUGH RIGHTS, OPTIONS,
22 CONVERTIBLE INTERESTS, OR OTHERWISE, MORE THAN 10 PERCENT OF THE
23 OUTSTANDING VOTING SECURITIES OF A CERTIFIED CAPITAL COMPANY; OR

24 (3) CONTROL THE DIRECTION OF INVESTMENTS FOR A CERTIFIED
25 CAPITAL COMPANY.

26 (B) NOT MORE THAN ONE AFFILIATE OF THE CERTIFIED INVESTORS IN ANY
27 CERTIFIED CAPITAL COMPANY MAY PROVIDE A GUARANTY, INDEMNITY, BOND,
28 INSURANCE POLICY, OR OTHER PAYMENT UNDERTAKING IN FAVOR OF ALL OF THE
29 CERTIFIED INVESTORS OF THE CERTIFIED CAPITAL COMPANY AND ITS AFFILIATES.

30 (C) SUBSECTION (A) OF THIS SECTION APPLIES WITHOUT REGARD TO
31 WHETHER THE INSURER OR OTHER PERSON OR THE AFFILIATE OF THE INSURER OR
32 OTHER PERSON IS LICENSED BY OR TRANSACTS BUSINESS IN THIS STATE.

33 (D) THIS SECTION DOES NOT PRECLUDE A CERTIFIED INVESTOR, AN INSURER,
34 OR ANY OTHER PARTY FROM EXERCISING ITS LEGAL RIGHTS AND REMEDIES,
35 INCLUDING INTERIM MANAGEMENT OF A CERTIFIED CAPITAL COMPANY, IF
36 AUTHORIZED BY LAW, WITH RESPECT TO A CERTIFIED CAPITAL COMPANY THAT IS IN

1 DEFAULT OF ITS STATUTORY OR CONTRACTUAL OBLIGATIONS TO THE CERTIFIED
2 INVESTOR, INSURER, OR OTHER PARTY.

3 5-1705.

4 ANY OFFERING MATERIAL INVOLVING THE SALE OF SECURITIES OF THE
5 CERTIFIED CAPITAL COMPANY MUST INCLUDE THE FOLLOWING STATEMENT:

6 "BY AUTHORIZING THE FORMATION OF A CERTIFIED CAPITAL COMPANY, THE
7 STATE OF MARYLAND DOES NOT ENDORSE THE QUALITY OF MANAGEMENT OR THE
8 POTENTIAL FOR EARNINGS OF THE COMPANY AND IS NOT LIABLE FOR DAMAGES OR
9 LOSSES TO A CERTIFIED INVESTOR IN THE COMPANY. USE OF THE WORD
10 "CERTIFIED" IN AN OFFERING DOES NOT CONSTITUTE A RECOMMENDATION OR
11 ENDORSEMENT OF THE INVESTMENT BY THE MARYLAND DEPARTMENT OF
12 BUSINESS AND ECONOMIC DEVELOPMENT. IF APPLICABLE PROVISIONS OF LAW ARE
13 VIOLATED, THE STATE OF MARYLAND MAY REQUIRE FORFEITURE OF UNUSED
14 INSURANCE PREMIUM TAX CREDITS AND REPAYMENT OF USED INSURANCE
15 PREMIUM TAX CREDITS."

16 5-1706.

17 (A) TO CONTINUE TO BE CERTIFIED, A CERTIFIED CAPITAL COMPANY SHALL
18 MAKE QUALIFIED INVESTMENTS ACCORDING TO THE FOLLOWING SCHEDULE:

19 (1) BEFORE THE SECOND ANNIVERSARY OF ITS ALLOCATION DATE, A
20 COMPANY MUST HAVE MADE QUALIFIED INVESTMENTS IN AN AMOUNT
21 CUMULATIVELY EQUAL TO AT LEAST 35 PERCENT OF ITS CERTIFIED CAPITAL;

22 (2) BEFORE THE FOURTH ANNIVERSARY OF ITS ALLOCATION DATE, A
23 COMPANY MUST HAVE MADE QUALIFIED INVESTMENTS IN AN AMOUNT
24 CUMULATIVELY EQUAL TO AT LEAST 50 PERCENT OF ITS CERTIFIED CAPITAL,
25 SUBJECT TO SUBSECTION (B) OF THIS SECTION; AND

26 (3) AT LEAST 50 PERCENT OF THE AMOUNT OF THE INVESTMENTS
27 REQUIRED UNDER ITEM (2) OF THIS SUBSECTION MUST BE PLACED IN EARLY STAGE
28 TECHNOLOGY BUSINESSES.

29 (B) (1) (I) THE AGGREGATE CUMULATIVE AMOUNT OF ALL QUALIFIED
30 INVESTMENTS MADE BY THE CERTIFIED CAPITAL COMPANY AFTER ITS ALLOCATION
31 DATE SHALL BE CONSIDERED IN THE COMPUTATION OF THE PERCENTAGE
32 REQUIREMENTS UNDER THIS SUBTITLE.

33 (II) FOR PURPOSES OF SATISFYING THE PERCENTAGE
34 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION AND OF § 5-1710 OF THIS
35 SUBTITLE, A CERTIFIED CAPITAL COMPANY THAT HAS RAISED CERTIFIED CAPITAL
36 PURSUANT TO AN ALLOCATION UNDER § 5-1719 OF THIS SUBTITLE SHALL BE
37 CONSIDERED TO HAVE INVESTED TWO DOLLARS FOR EVERY DOLLAR ACTUALLY
38 INVESTED IN A QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS THAT HAS ITS
39 PLACE OF BUSINESS AND ITS EMPLOYEES IN A JURISDICTION THAT QUALIFIED FOR

1 THE ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDITS UNDER ARTICLE 83A, §
2 5-1501 OF THE CODE.

3 (2) ANY PROCEEDS RECEIVED FROM A QUALIFIED INVESTMENT MAY BE
4 INVESTED IN ANOTHER QUALIFIED INVESTMENT AND COUNT TOWARD ANY
5 REQUIREMENT IN THIS SUBTITLE WITH RESPECT TO INVESTMENTS OF CERTIFIED
6 CAPITAL.

7 (C) (1) A BUSINESS THAT IS CLASSIFIED AS A QUALIFIED TECHNOLOGY OR
8 BIOSCIENCE BUSINESS AT THE TIME OF THE FIRST INVESTMENT IN THE BUSINESS
9 BY A CERTIFIED CAPITAL COMPANY REMAINS CLASSIFIED AS A QUALIFIED
10 TECHNOLOGY OR BIOSCIENCE BUSINESS AND MAY RECEIVE FOLLOW-ON
11 INVESTMENTS FROM ANY CERTIFIED CAPITAL COMPANY.

12 (2) EXCEPT AS PROVIDED BY THIS SUBSECTION, A FOLLOW-ON
13 INVESTMENT MADE UNDER THIS SUBSECTION IS A QUALIFIED INVESTMENT EVEN
14 THOUGH THE BUSINESS MAY NOT MEET THE DEFINITION OF A QUALIFIED
15 TECHNOLOGY OR BIOSCIENCE BUSINESS AT THE TIME OF THE FOLLOW-ON
16 INVESTMENT.

17 (3) A FOLLOW-ON INVESTMENT DOES NOT QUALIFY AS A QUALIFIED
18 INVESTMENT IF, AT THE TIME OF THE FOLLOW-ON INVESTMENT, THE QUALIFIED
19 TECHNOLOGY OR BIOSCIENCE BUSINESS NO LONGER HAS ITS PRINCIPAL BUSINESS
20 OPERATIONS IN THIS STATE.

21 (D) A QUALIFIED INVESTMENT MAY NOT BE MADE AT A COST TO A CERTIFIED
22 CAPITAL COMPANY GREATER THAN 20 PERCENT OF THE TOTAL CERTIFIED CAPITAL
23 OF THE COMPANY.

24 (E) AS A CONDITION OF THE INVESTMENT, THE QUALIFIED TECHNOLOGY OR
25 BIOSCIENCE BUSINESS SHALL AGREE THAT AS LONG AS THE CERTIFIED CAPITAL
26 COMPANY CONTINUES TO HOLD THE INVESTMENT, OR AS LONG AS THIS SUBTITLE IS
27 IN EFFECT, THE QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS WILL NOT
28 RELOCATE ITS HEADQUARTERS OUT OF THIS STATE AND WILL MAINTAIN AT LEAST
29 75 PERCENT OF ITS EMPLOYEES IN THIS STATE.

30 (F) A CERTIFIED CAPITAL COMPANY SHALL INVEST ANY CERTIFIED CAPITAL
31 NOT INVESTED IN QUALIFIED INVESTMENTS ONLY IN THE FOLLOWING:

32 (1) CASH DEPOSITED WITH A FEDERALLY INSURED FINANCIAL
33 INSTITUTION;

34 (2) CERTIFICATES OF DEPOSIT IN A FEDERALLY INSURED FINANCIAL
35 INSTITUTION;

36 (3) INVESTMENT SECURITIES THAT ARE OBLIGATIONS OF THE UNITED
37 STATES OR ITS AGENCIES OR INSTRUMENTALITIES OR OBLIGATIONS THAT ARE
38 GUARANTEED FULLY AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES;

1 (4) DEBT INSTRUMENTS RATED AT LEAST "A" OR ITS EQUIVALENT BY A
2 NATIONALLY RECOGNIZED CREDIT RATING ORGANIZATION, OR ISSUED BY, OR
3 GUARANTEED WITH RESPECT TO PAYMENT BY, AN ENTITY WHOSE UNSECURED
4 INDEBTEDNESS IS RATED AT LEAST "A" OR ITS EQUIVALENT BY A NATIONALLY
5 RECOGNIZED CREDIT RATING ORGANIZATION, AND WHICH INDEBTEDNESS IS NOT
6 SUBORDINATED TO OTHER UNSECURED INDEBTEDNESS OF THE ISSUER OR THE
7 GUARANTOR;

8 (5) OBLIGATIONS OF THIS STATE OR ANY MUNICIPALITY OR POLITICAL
9 SUBDIVISION OF THIS STATE; OR

10 (6) ANY OTHER INVESTMENTS APPROVED IN ADVANCE AND IN WRITING
11 BY THE DEPARTMENT.

12 5-1707.

13 (A) A CERTIFIED CAPITAL COMPANY MAY, BEFORE MAKING AN INVESTMENT
14 IN A BUSINESS, REQUEST FROM THE DEPARTMENT A WRITTEN OPINION AS TO
15 WHETHER THE BUSINESS IN WHICH IT PROPOSES TO INVEST IS A QUALIFIED
16 TECHNOLOGY OR BIOSCIENCE BUSINESS OR AN EARLY STAGE TECHNOLOGY
17 BUSINESS, AS APPROPRIATE.

18 (B) THE DEPARTMENT SHALL, NOT LATER THAN THE 15TH BUSINESS DAY
19 AFTER THE DATE OF THE RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS
20 SECTION, DETERMINE WHETHER THE BUSINESS MEETS THE DEFINITION OF A
21 QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS OR AN EARLY STAGE
22 TECHNOLOGY BUSINESS, AS APPLICABLE, AND NOTIFY THE CERTIFIED CAPITAL
23 COMPANY OF THE DETERMINATION AND AN EXPLANATION OF ITS DETERMINATION
24 OR NOTIFY THE CERTIFIED CAPITAL COMPANY THAT AN ADDITIONAL 15 DAYS WILL
25 BE NEEDED TO REVIEW AND MAKE THE DETERMINATION.

26 (C) IF THE DEPARTMENT FAILS TO NOTIFY THE CERTIFIED CAPITAL
27 COMPANY WITH RESPECT TO THE PROPOSED INVESTMENT WITHIN THE PERIOD
28 SPECIFIED BY SUBSECTION (B) OF THIS SECTION, THE BUSINESS IN WHICH THE
29 COMPANY PROPOSED TO INVEST IS CONSIDERED TO BE A QUALIFIED TECHNOLOGY
30 OR BIOSCIENCE BUSINESS OR EARLY STAGE TECHNOLOGY BUSINESS, AS
31 APPROPRIATE.

32 5-1708.

33 (A) EACH CERTIFIED CAPITAL COMPANY SHALL REPORT TO THE
34 DEPARTMENT AS SOON AS PRACTICABLE AFTER THE RECEIPT OF CERTIFIED
35 CAPITAL:

36 (1) THE NAME OF EACH CERTIFIED INVESTOR FROM WHOM THE
37 CERTIFIED CAPITAL WAS RECEIVED, INCLUDING THE CERTIFIED INVESTOR'S
38 INSURANCE PREMIUM TAX IDENTIFICATION NUMBER;

39 (2) THE AMOUNT OF EACH CERTIFIED INVESTOR'S INVESTMENT OF
40 CERTIFIED CAPITAL AND PREMIUM TAX CREDIT; AND

1 (3) THE DATE ON WHICH THE CERTIFIED CAPITAL WAS RECEIVED.

2 (B) NOT LATER THAN JANUARY 31 OF EACH YEAR, EACH CERTIFIED CAPITAL
3 COMPANY SHALL REPORT TO THE DEPARTMENT:

4 (1) THE AMOUNT OF THE COMPANY'S CERTIFIED CAPITAL AT THE END
5 OF THE PRECEDING YEAR;

6 (2) WHETHER OR NOT THE COMPANY HAS INVESTED MORE THAN 20
7 PERCENT OF ITS TOTAL CERTIFIED CAPITAL IN ANY ONE BUSINESS;

8 (3) EACH QUALIFIED INVESTMENT THAT THE COMPANY MADE DURING
9 THE PRECEDING YEAR AND, WITH RESPECT TO EACH QUALIFIED INVESTMENT, THE
10 NUMBER OF EMPLOYEES OF THE QUALIFIED TECHNOLOGY BUSINESS AT THE TIME
11 THE QUALIFIED INVESTMENT WAS MADE; AND

12 (4) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT
13 INCLUDING ANY INFORMATION REQUIRED BY THE DEPARTMENT TO PREPARE THE
14 REPORT REQUIRED UNDER § 5-1723 OF THIS SUBTITLE.

15 (C) (1) NOT LATER THAN APRIL 1 OF EACH YEAR, THE COMPANY SHALL
16 PROVIDE TO THE DEPARTMENT AN ANNUAL AUDITED FINANCIAL STATEMENT THAT
17 INCLUDES THE OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

18 (2) THE AUDIT SHALL ADDRESS THE METHODS OF OPERATION AND
19 CONDUCT OF THE BUSINESS OF THE COMPANY TO DETERMINE WHETHER:

20 (I) THE COMPANY IS COMPLYING WITH THIS SUBTITLE AND THE
21 REGULATIONS ADOPTED UNDER THIS SUBTITLE;

22 (II) THE FUNDS RECEIVED BY THE COMPANY HAVE BEEN
23 INVESTED AS REQUIRED WITHIN THE TIME PROVIDED BY § 5-1703 OF THIS SUBTITLE;
24 AND

25 (III) THE COMPANY HAS INVESTED THE FUNDS IN QUALIFIED
26 TECHNOLOGY OR BIOSCIENCE BUSINESSES.

27 5-1709.

28 (A) (1) NOT LATER THAN JULY 1 OF EACH YEAR, EACH CERTIFIED CAPITAL
29 COMPANY SHALL PAY A NONREFUNDABLE RENEWAL FEE OF \$5,000 TO THE
30 DEPARTMENT.

31 (2) IF A CERTIFIED CAPITAL COMPANY FAILS TO PAY ITS RENEWAL FEE
32 ON OR BEFORE THAT DATE, THE COMPANY MUST PAY, IN ADDITION TO THE
33 RENEWAL FEE, A LATE FEE OF \$5,000 TO CONTINUE ITS CERTIFICATION.

34 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A RENEWAL FEE
35 IS NOT REQUIRED WITHIN 6 MONTHS OF THE DATE ON WHICH THE COMPANY'S
36 CERTIFICATION IS ISSUED UNDER § 5-1703 OF THIS SUBTITLE.

1 5-1710.

2 (A) (1) A CERTIFIED CAPITAL COMPANY MAY MAKE A QUALIFIED
3 DISTRIBUTION AT ANY TIME.

4 (2) TO MAKE A DISTRIBUTION OF PAYMENT, OTHER THAN A QUALIFIED
5 DISTRIBUTION, A COMPANY MUST HAVE MADE QUALIFIED TECHNOLOGY OR
6 BIOSCIENCE BUSINESS INVESTMENTS IN AN AMOUNT CUMULATIVELY EQUAL TO 100
7 PERCENT OF ITS CERTIFIED CAPITAL.

8 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A COMPANY MAY
9 MAKE REPAYMENTS OF PRINCIPAL AND INTEREST ON ITS INDEBTEDNESS WITHOUT
10 ANY RESTRICTION, INCLUDING REPAYMENTS OF INDEBTEDNESS OF THE COMPANY
11 ON WHICH CERTIFIED INVESTORS EARNED PREMIUM TAX CREDITS.

12 (C) THE STATE SHALL RECEIVE 10 PERCENT OF ANY PROFIT REALIZED BY THE
13 CERTIFIED CAPITAL COMPANY ABOVE AND BEYOND THE TOTAL AMOUNT OF
14 CERTIFIED CAPITAL ALLOTTED TO THE CERTIFIED CAPITAL COMPANY.

15 5-1711.

16 (A) THE DEPARTMENT SHALL CONDUCT AN ANNUAL REVIEW OF EACH
17 CERTIFIED CAPITAL COMPANY TO:

18 (1) ENSURE THAT THE COMPANY CONTINUES TO SATISFY THE
19 REQUIREMENTS OF THIS SUBTITLE AND THAT THE COMPANY HAS NOT MADE ANY
20 INVESTMENT IN VIOLATION OF THIS SUBTITLE; AND

21 (2) DETERMINE THE ELIGIBILITY STATUS OF ITS QUALIFIED
22 INVESTMENTS.

23 (B) THE COST OF THE ANNUAL REVIEW SHALL BE PAID BY EACH CERTIFIED
24 CAPITAL COMPANY ACCORDING TO A REASONABLE FEE SCHEDULE ADOPTED BY THE
25 DEPARTMENT.

26 (C) (1) A MATERIAL VIOLATION OF § 5-1706, § 5-1708, OR § 5-1709 OF THIS
27 SUBTITLE IS GROUNDS FOR DECERTIFICATION OF THE CERTIFIED CAPITAL
28 COMPANY.

29 (2) IF THE DEPARTMENT DETERMINES THAT A COMPANY IS NOT IN
30 COMPLIANCE WITH § 5-1706, § 5-1708, OR § 5-1709 OF THIS SUBTITLE, THE SECRETARY
31 SHALL NOTIFY THE OFFICERS OF THE COMPANY IN WRITING THAT THE COMPANY
32 MAY BE SUBJECT TO DECERTIFICATION AFTER THE 120TH DAY AFTER THE DATE OF
33 MAILING OF THE NOTICE, UNLESS THE DEFICIENCIES ARE CORRECTED AND THE
34 COMPANY RETURNS TO COMPLIANCE WITH THOSE SECTIONS.

35 (D) (1) THE SECRETARY MAY DECERTIFY A CERTIFIED CAPITAL COMPANY,
36 AFTER OPPORTUNITY FOR HEARING, IF THE SECRETARY FINDS THAT THE COMPANY
37 IS NOT IN COMPLIANCE WITH § 5-1706, § 5-1708, OR § 5-1709 OF THIS SUBTITLE AT THE
38 END OF THE PERIOD ESTABLISHED BY SUBSECTION (C) OF THIS SECTION.

1 (2) DECERTIFICATION UNDER THIS SUBSECTION IS EFFECTIVE ON
2 RECEIPT OF NOTICE OF DECERTIFICATION BY THE COMPANY.

3 (3) THE DEPARTMENT SHALL NOTIFY THE INSURANCE COMMISSIONER
4 AND ANY OTHER APPROPRIATE STATE AGENCY OF THE DECERTIFICATION.

5 5-1712.

6 (A) THE DEPARTMENT MAY IMPOSE AN ADMINISTRATIVE PENALTY ON A
7 CERTIFIED CAPITAL COMPANY THAT VIOLATES THIS SUBTITLE.

8 (B) (1) THE AMOUNT OF THE PENALTY MAY NOT EXCEED \$25,000, AND EACH
9 DAY A VIOLATION CONTINUES OR OCCURS IS A SEPARATE VIOLATION FOR THE
10 PURPOSE OF IMPOSING A PENALTY.

11 (2) THE AMOUNT OF THE PENALTY SHALL BE BASED ON:

12 (I) THE SERIOUSNESS OF THE VIOLATION, INCLUDING THE
13 NATURE, CIRCUMSTANCES, EXTENT, AND GRAVITY OF THE VIOLATION;

14 (II) THE ECONOMIC HARM CAUSED BY THE VIOLATION;

15 (III) THE HISTORY OF PREVIOUS VIOLATIONS;

16 (IV) THE AMOUNT NECESSARY TO DETER A FUTURE VIOLATION;

17 (V) EFFORTS TO CORRECT THE VIOLATION; AND

18 (VI) ANY OTHER MATTER THAT JUSTICE MAY REQUIRE.

19 (C) (1) WITHIN 30 DAYS AFTER THE DATE ON WHICH A PENALTY IS
20 ASSESSED UNDER THIS SUBTITLE, A CERTIFIED CAPITAL COMPANY AGAINST WHICH
21 THE ASSESSMENT IS MADE MAY SUBMIT TO THE DEPARTMENT AN APPLICATION FOR
22 REDETERMINATION OF THE PENALTY.

23 (2) IF A CERTIFIED CAPITAL COMPANY FAILS TO SUBMIT AN
24 APPLICATION FOR REDETERMINATION WITHIN THE TIME ALLOWED UNDER
25 PARAGRAPH (1) OF THIS SUBSECTION, THE ASSESSMENT BECOMES FINAL.

26 (3) THE DEPARTMENT PROMPTLY SHALL:

27 (I) HOLD A HEARING ON A CERTIFIED COMPANY'S APPLICATION
28 FOR REDETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

29 (II) AFTER THE HEARING, ACT ON THE APPLICATION FOR
30 REDETERMINATION AND MAIL TO THE CERTIFIED CAPITAL COMPANY A NOTICE OF
31 FINAL DETERMINATION.

32 (D) THE ATTORNEY GENERAL MAY SUE TO COLLECT THE PENALTY.

1 (E) A PROCEEDING TO IMPOSE THE PENALTY IS A CONTESTED CASE UNDER
2 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

3 5-1713.

4 (A) DECERTIFICATION OF A CERTIFIED CAPITAL COMPANY MAY CAUSE THE
5 RECAPTURE OF PREMIUM TAX CREDITS PREVIOUSLY CLAIMED AND THE
6 FORFEITURE OF FUTURE PREMIUM TAX CREDITS TO BE CLAIMED BY CERTIFIED
7 INVESTORS WITH RESPECT TO THE COMPANY, AS FOLLOWS:

8 (1) DECERTIFICATION OF A COMPANY ON OR BEFORE THE THIRD
9 ANNIVERSARY OF ITS ALLOCATION DATE CAUSES THE RECAPTURE OF ANY PREMIUM
10 TAX CREDIT PREVIOUSLY CLAIMED AND THE FORFEITURE OF ANY FUTURE PREMIUM
11 TAX CREDIT TO BE CLAIMED BY A CERTIFIED INVESTOR WITH RESPECT TO THE
12 COMPANY;

13 (2) FOR A COMPANY THAT MEETS THE REQUIREMENTS FOR CONTINUED
14 CERTIFICATION UNDER § 5-1706(A)(1) OF THIS SUBTITLE AND SUBSEQUENTLY FAILS
15 TO MEET THE REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER § 5-1706(A)(2)
16 OF THIS SUBTITLE, ANY PREMIUM TAX CREDIT THAT HAS BEEN OR WILL BE TAKEN
17 BY A CERTIFIED INVESTOR AFTER THE THIRD ANNIVERSARY OF THE ALLOCATION
18 DATE OF THE COMPANY IS SUBJECT TO RECAPTURE OR FORFEITURE;

19 (3) FOR A COMPANY THAT HAS MET THE REQUIREMENTS FOR
20 CONTINUED CERTIFICATION UNDER § 5-1706(A)(1) AND (2) OF THIS SUBTITLE AND IS
21 SUBSEQUENTLY DECERTIFIED, ANY PREMIUM TAX CREDIT THAT HAS BEEN OR WILL
22 BE TAKEN BY A CERTIFIED INVESTOR ON OR BEFORE THE FIFTH ANNIVERSARY OF
23 THE ALLOCATION DATE IS NOT SUBJECT TO RECAPTURE OR FORFEITURE, BUT ANY
24 PREMIUM TAX CREDIT TO BE TAKEN AFTER THE FIFTH ANNIVERSARY OF THE
25 ALLOCATION DATE IS SUBJECT TO FORFEITURE ONLY IF THE COMPANY IS
26 DECERTIFIED ON OR BEFORE THE FIFTH ANNIVERSARY OF ITS ALLOCATION DATE;
27 AND

28 (4) FOR A COMPANY THAT HAS INVESTED AN AMOUNT CUMULATIVELY
29 EQUAL TO 50 PERCENT OF ITS CERTIFIED CAPITAL IN QUALIFIED INVESTMENTS, ANY
30 PREMIUM TAX CREDIT CLAIMED OR TO BE CLAIMED BY A CERTIFIED INVESTOR IS
31 NOT SUBJECT TO RECAPTURE OR FORFEITURE UNDER THIS SECTION.

32 (B) THE DEPARTMENT SHALL SEND WRITTEN NOTICE TO THE ADDRESS OF
33 EACH CERTIFIED INVESTOR WHOSE PREMIUM TAX CREDIT IS SUBJECT TO
34 RECAPTURE OR FORFEITURE, USING THE ADDRESS SHOWN ON THE LAST PREMIUM
35 TAX FILING.

36 5-1714.

37 IF A BUSINESS IN WHICH A QUALIFIED INVESTMENT IS MADE RELOCATES ITS
38 PRINCIPAL BUSINESS OPERATIONS TO ANOTHER STATE DURING THE TERM OF THE
39 CERTIFIED CAPITAL COMPANY'S INVESTMENT IN THE BUSINESS, OTHER THAN BY
40 MERGER WITH OR ACQUISITION BY A COMPANY OUTSIDE THE STATE, THE
41 CUMULATIVE AMOUNT OF QUALIFIED INVESTMENTS MADE BY THE CERTIFIED

1 CAPITAL COMPANY FOR PURPOSES OF SATISFYING THE REQUIREMENTS SET FORTH
2 IN § 5-1710 OF THIS SUBTITLE SHALL BE REDUCED BY THE AMOUNT OF THE
3 CERTIFIED CAPITAL COMPANY'S INVESTMENT IN THE BUSINESS THAT HAS
4 RELOCATED, UNLESS THE BUSINESS DEMONSTRATES THAT IT HAS RETURNED ITS
5 PRINCIPAL BUSINESS OPERATIONS TO THIS STATE WITHIN 3 MONTHS OF SUCH
6 RELOCATION.

7 5-1715.

8 THE CERTIFIED CAPITAL COMPANY MAY AGREE TO INDEMNIFY, OR PURCHASE
9 INSURANCE FOR THE BENEFIT OF, A CERTIFIED INVESTOR FOR LOSSES RESULTING
10 FROM THE RECAPTURE OR FORFEITURE OF PREMIUM TAX CREDITS UNDER § 5-1713
11 OF THIS SUBTITLE.

12 5-1716.

13 (A) (1) A CERTIFIED INVESTOR WHO MAKES AN INVESTMENT OF CERTIFIED
14 CAPITAL SHALL IN THE YEAR OF INVESTMENT EARN A VESTED CREDIT AGAINST
15 STATE INSURANCE PREMIUM TAX LIABILITY EQUAL TO 100 PERCENT OF THE
16 CERTIFIED INVESTOR'S INVESTMENT OF CERTIFIED CAPITAL, SUBJECT TO THE
17 LIMITS IMPOSED BY THIS SUBTITLE.

18 (2) EXCEPT AS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION, A
19 CERTIFIED INVESTOR MAY TAKE UP TO 12.5 PERCENT OF THE VESTED PREMIUM TAX
20 CREDIT IN ANY TAXABLE YEAR OF THE CERTIFIED INVESTOR, ONCE THE CREDITS
21 ARE EARNED.

22 (B) (1) NO PREMIUM TAX CREDITS MAY BE USED UNTIL THE SECOND
23 CALENDAR YEAR AFTER THE YEAR OF THE INVESTMENT BY THE CERTIFIED
24 INVESTOR.

25 (2) THE CREDIT TO BE APPLIED AGAINST STATE INSURANCE PREMIUM
26 TAX LIABILITY IN ANY ONE YEAR MAY NOT EXCEED THE STATE INSURANCE
27 PREMIUM TAX LIABILITY OF THE CERTIFIED INVESTOR FOR THE TAXABLE YEAR.

28 (3) ANY UNUSED CREDIT AGAINST STATE INSURANCE PREMIUM TAX
29 LIABILITY MAY BE CARRIED FORWARD INDEFINITELY UNTIL THE PREMIUM TAX
30 CREDITS ARE USED.

31 (C) A CERTIFIED INVESTOR CLAIMING A CREDIT AGAINST STATE INSURANCE
32 PREMIUM TAX LIABILITY EARNED THROUGH AN INVESTMENT IN A COMPANY IS NOT
33 REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX LEVIED UNDER TITLE 6,
34 SUBTITLE 3 OF THE INSURANCE ARTICLE AS A RESULT OF CLAIMING THAT CREDIT.

35 5-1717.

36 (A) (1) A PREMIUM TAX CREDIT ALLOCATION CLAIM SHALL BE PREPARED
37 AND EXECUTED BY A CERTIFIED INVESTOR ON A FORM PROVIDED BY THE
38 DEPARTMENT.

1 (2) THE CERTIFIED CAPITAL COMPANY SHALL FILE THE CLAIM WITH
2 THE DEPARTMENT ON OR BEFORE JULY 1, 2003.

3 (3) THE PREMIUM TAX CREDIT ALLOCATION CLAIM FORM MUST
4 INCLUDE AN AFFIDAVIT OF THE CERTIFIED INVESTOR UNDER WHICH THE
5 CERTIFIED INVESTOR BECOMES LEGALLY BOUND AND IRREVOCABLY COMMITTED
6 TO MAKE AN INVESTMENT OF CERTIFIED CAPITAL IN A CERTIFIED CAPITAL
7 COMPANY IN THE AMOUNT ALLOCATED EVEN IF THE AMOUNT ALLOCATED IS LESS
8 THAN THE AMOUNT OF THE CLAIM, SUBJECT ONLY TO THE RECEIPT OF AN
9 ALLOCATION UNDER § 5-1719 OF THIS SUBTITLE.

10 (B) A CERTIFIED INVESTOR MAY NOT CLAIM A PREMIUM TAX CREDIT UNDER §
11 5-1716 OF THIS SUBTITLE FOR AN INVESTMENT THAT HAS NOT BEEN FUNDED, EVEN
12 IF THE CERTIFIED INVESTOR HAS COMMITTED TO FUND THE INVESTMENT.

13 5-1718.

14 (A) THE TOTAL AMOUNT OF CERTIFIED CAPITAL FOR WHICH PREMIUM TAX
15 CREDITS MAY BE ALLOWED UNDER THIS SUBTITLE FOR ALL YEARS IN WHICH
16 PREMIUM TAX CREDITS ARE ALLOWED IS \$100,000,000.

17 (B) THE TOTAL AMOUNT OF CERTIFIED CAPITAL FOR WHICH PREMIUM TAX
18 CREDITS MAY BE ALLOWED FOR ALL CERTIFIED INVESTORS UNDER THIS SUBTITLE
19 MAY NOT EXCEED THE AMOUNT THAT WOULD ENTITLE ALL CERTIFIED INVESTORS
20 IN CERTIFIED CAPITAL COMPANIES TO TAKE TOTAL CREDITS OF \$12,500,000 IN EACH
21 YEAR BEGINNING IN CALENDAR YEAR 2004.

22 (C) A CERTIFIED CAPITAL COMPANY AND ITS AFFILIATES MAY NOT FILE
23 PREMIUM TAX CREDIT ALLOCATION CLAIMS IN EXCESS OF THE MAXIMUM AMOUNT
24 OF CERTIFIED CAPITAL FOR WHICH PREMIUM TAX CREDITS MAY BE ALLOWED AS
25 PROVIDED IN THIS SECTION.

26 5-1719.

27 (A) IF THE TOTAL PREMIUM TAX CREDITS CLAIMED BY ALL CERTIFIED
28 INVESTORS EXCEEDS THE TOTAL LIMITS ON PREMIUM TAX CREDITS ESTABLISHED
29 BY § 5-1718(A) OF THIS SUBTITLE, THE DEPARTMENT SHALL ALLOCATE THE TOTAL
30 AMOUNT OF PREMIUM TAX CREDITS ALLOWED UNDER THIS SUBTITLE TO CERTIFIED
31 INVESTORS IN CERTIFIED CAPITAL COMPANIES ON A PRO RATA BASIS IN
32 ACCORDANCE WITH THIS SECTION.

33 (B) THE PRO RATA ALLOCATION FOR EACH CERTIFIED INVESTOR SHALL BE
34 THE PRODUCT OF:

35 (1) A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF THE
36 PREMIUM TAX CREDIT ALLOCATION CLAIM FILED ON BEHALF OF THE INVESTOR
37 AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF ALL PREMIUM TAX
38 CREDIT ALLOCATION CLAIMS FILED ON BEHALF OF ALL CERTIFIED INVESTORS; AND

1 (2) THE TOTAL AMOUNT OF CERTIFIED CAPITAL FOR WHICH PREMIUM
2 TAX CREDITS MAY BE ALLOWED UNDER THIS SUBTITLE.

3 (C) (1) NOT LATER THAN AUGUST 1, 2003, THE DEPARTMENT SHALL NOTIFY
4 EACH CERTIFIED CAPITAL COMPANY OF THE AMOUNT OF TAX CREDITS ALLOCATED
5 TO EACH CERTIFIED INVESTOR.

6 (2) EACH CERTIFIED CAPITAL COMPANY SHALL NOTIFY EACH
7 CERTIFIED INVESTOR OF THE CERTIFIED INVESTOR'S PREMIUM TAX CREDIT
8 ALLOCATION.

9 (D) (1) IF THE CERTIFIED CAPITAL COMPANY DOES NOT RECEIVE AN
10 INVESTMENT OF CERTIFIED CAPITAL EQUALING THE AMOUNT OF PREMIUM TAX
11 CREDITS ALLOCATED TO A CERTIFIED INVESTOR FOR WHICH IT FILED A PREMIUM
12 TAX CREDIT ALLOCATION CLAIM BEFORE THE END OF THE 10TH BUSINESS DAY
13 AFTER THE DATE OF RECEIPT OF NOTICE OF ALLOCATION, THE COMPANY SHALL
14 NOTIFY THE DEPARTMENT BY OVERNIGHT COMMON CARRIER DELIVERY SERVICE
15 AND THAT PORTION OF CAPITAL ALLOCATED TO THE CERTIFIED INVESTOR SHALL
16 BE FORFEITED.

17 (2) THE DEPARTMENT SHALL REALLOCATE THE FORFEITED CAPITAL
18 AMONG THE CERTIFIED INVESTORS IN THE OTHER CERTIFIED CAPITAL COMPANIES
19 THAT ORIGINALLY RECEIVED AN ALLOCATION SO THAT THE RESULT AFTER
20 REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION UNDER THIS SECTION
21 HAD BEEN PERFORMED WITHOUT CONSIDERING THE PREMIUM TAX CREDIT
22 ALLOCATION CLAIMS THAT WERE SUBSEQUENTLY FORFEITED.

23 5-1720.

24 IN ANY CASE UNDER THE INSURANCE LAW OF THIS STATE IN WHICH THE
25 ASSETS OF A CERTIFIED INVESTOR ARE EXAMINED OR CONSIDERED, THE CERTIFIED
26 CAPITAL MAY BE TREATED AS AN ADMITTED ASSET, SUBJECT TO THE SAME
27 FINANCIAL RATING AS THAT HELD BY THE STATE.

28 5-1721.

29 A CERTIFIED INVESTOR IS NOT REQUIRED TO REDUCE THE AMOUNT OF
30 PREMIUM TAX INCLUDED BY THE INVESTOR IN CONNECTION WITH RATE MAKING
31 FOR ANY INSURANCE CONTRACT WRITTEN IN THIS STATE BECAUSE OF A REDUCTION
32 IN THE INVESTOR'S MARYLAND INSURANCE PREMIUM TAX DERIVED FROM THE
33 CREDIT GRANTED UNDER THIS SUBTITLE.

34 5-1722.

35 (A) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO FACILITATE THE
36 TRANSFER OR ASSIGNMENT OF PREMIUM TAX CREDITS BY CERTIFIED INVESTORS.

37 (2) A CERTIFIED INVESTOR MAY TRANSFER OR ASSIGN PREMIUM TAX
38 CREDITS ONLY IN COMPLIANCE WITH THE REGULATIONS ADOPTED UNDER THIS
39 SUBSECTION.

1 (B) THE TRANSFER OR ASSIGNMENT OF A PREMIUM TAX CREDIT DOES NOT
2 AFFECT THE SCHEDULE FOR TAKING THE PREMIUM TAX CREDIT UNDER THIS
3 SUBTITLE.

4 5-1723.

5 (A) (1) THE DEPARTMENT SHALL PREPARE A REPORT EVERY 2 YEARS WITH
6 RESPECT TO RESULTS OF THE IMPLEMENTATION OF THIS SUBTITLE.

7 (2) THE REPORT SHALL INCLUDE:

8 (I) THE NUMBER OF CERTIFIED CAPITAL COMPANIES HOLDING
9 CERTIFIED CAPITAL;

10 (II) THE AMOUNT OF CERTIFIED CAPITAL INVESTED IN EACH
11 CERTIFIED CAPITAL COMPANY;

12 (III) THE AMOUNT OF CERTIFIED CAPITAL THE CERTIFIED CAPITAL
13 COMPANY HAS INVESTED IN QUALIFIED TECHNOLOGY BUSINESSES AS OF JANUARY
14 1, 2005, AND THE CUMULATIVE TOTAL FOR EACH SUBSEQUENT YEAR;

15 (IV) THE TOTAL AMOUNT OF TAX CREDITS GRANTED UNDER THIS
16 SUBTITLE FOR EACH YEAR THAT CREDITS HAVE BEEN GRANTED;

17 (V) THE PERFORMANCE OF EACH CERTIFIED CAPITAL COMPANY
18 WITH RESPECT TO RENEWAL AND REPORTING REQUIREMENTS IMPOSED UNDER
19 THIS SUBTITLE;

20 (VI) WITH RESPECT TO THE QUALIFIED TECHNOLOGY OR
21 BIOSCIENCE BUSINESSES IN WHICH CAPITAL COMPANIES HAVE INVESTED:

22 1. THE CLASSIFICATION OF THE QUALIFIED TECHNOLOGY
23 OR BIOSCIENCE BUSINESSES ACCORDING TO THE INDUSTRIAL SECTOR AND THE
24 SIZE OF THE BUSINESS;

25 2. THE TOTAL NUMBER OF JOBS CREATED BY THE
26 INVESTMENT AND THE AVERAGE WAGES PAID FOR THE JOBS; AND

27 3. THE TOTAL NUMBER OF JOBS RETAINED AS A RESULT OF
28 THE INVESTMENT AND THE AVERAGE WAGES PAID FOR THE JOBS; AND

29 (VII) THE CERTIFIED CAPITAL COMPANIES THAT HAVE BEEN
30 DECERTIFIED OR THAT HAVE FAILED TO RENEW THE CERTIFICATION AND THE
31 REASON FOR ANY DECERTIFICATION.

32 (C) ON OR BEFORE DECEMBER 15 OF EACH EVEN-NUMBERED YEAR, THE
33 DEPARTMENT SHALL SUBMIT THE REPORT TO THE GOVERNOR, AND, SUBJECT TO §
34 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

1

Article - Insurance

2 6-121.

3 AN INSURER MAY CLAIM A TAX CREDIT FOR AN INVESTMENT OF CERTIFIED
4 CAPITAL AS PROVIDED UNDER ARTICLE 83A, § 5-1716 OF THE CODE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
6 Business and Economic Development shall:

7 (1) On or before January 1, 2003, adopt regulations necessary to
8 implement the provisions of Article 83A, Title 5, Subtitle 17 of the Code as enacted by
9 this Act; and

10 (2) On or before July 1, 2003, adopt regulations to facilitate the transfer
11 or assignment of premium tax credits by certified investors as provided in Article
12 83A, § 5-1722 of the Code.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2002.