

ENROLLED BILL

-- *Ways and Means/Budget and Taxation* --

Introduced by **Delegates Feldman, Hixson, Barkley, Bartlett, Barve, Benson, Bohanan, Bromwell, Bronrott, Burns, Cardin, V. Clagett, Conroy, Cryor, D. Davis, Doory, Dumais, Franchot, Frush, Gaines, Gilleland, Glassman, Goldwater, Gordon, Griffith, Gutierrez, Haddaway, Hammen, Haynes, Heller, Holmes, Hurson, Impallaria, James, Jameson, Kaiser, King, Krebs, Krysiak, Lee, Love, Madaleno, Mandel, Marriott, McHale, McIntosh, Miller, Minnick, Moe, Montgomery, Morhaim, Murray, Parrott, Petzold, Quinter, Ramirez, Ross, Rudolph, Simmons, Smigel, Stern, Taylor, Trueschler, Vaughn, Walkup, ~~and Zirkin~~ Zirkin, Boschert, Bozman, C. Davis, Elmore, Goodwin, Healey, Howard, McKee, Myers, and Patterson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Biotechnology Investment Incentive Act**

3 FOR the purpose of providing for credits against certain State taxes for certain
4 investments in certain biotechnology companies ~~and venture capital firms~~;
5 providing for applications to the Department of Business and Economic
6 Development for approval of the credit and certification by the Department to
7 investors of approved credit amounts; ~~allowing certain investors to allocate~~

1 approved credits by agreement and limiting the maximum amount of credits
2 that may be allocated to an investor; limiting to a certain amount the total
3 amount of credits that the Department may approve for any calendar year and
4 that the Department may approve in the aggregate; prohibiting the Department
5 from approving credits for aggregate investment in one biotechnology company
6 that would exceed a certain percentage of credits in a calendar year; providing
7 for the issuance of certain initial credit certificates by the Department, subject
8 to certain requirements and limitations; providing certain limits on the amount
9 of credits that can be claimed; requiring the Secretary of the Department to
10 issue final credit certificates under certain circumstances; making certain
11 credits refundable under certain circumstances; establishing the Maryland
12 Biotechnology Investment Tax Credit Reserve Fund; authorizing the Governor
13 to include certain appropriations to a certain fund in the annual budget bill;
14 requiring the Comptroller to transfer certain amounts from a certain fund to the
15 General Fund under certain circumstances; specifying the year in which certain
16 credits may first be claimed; limiting the maximum amount of credits that may
17 be claimed on certain State income tax returns; providing for certain procedures
18 to claim approved credits; ~~providing that certain unused credits may be carried~~
19 ~~forward to certain taxable years; requiring certain venture capital firms to~~
20 ~~perform a certain audit each year and to make payments to the Department~~
21 ~~under certain circumstances; providing for revocation or recapture of a credit~~
22 ~~under certain circumstances; requiring the Department to make a certain report~~
23 ~~by a certain date each year; requiring the Department of Business and Economic~~
24 ~~Development and the State Comptroller jointly to adopt certain regulations;~~
25 ~~defining certain terms; providing for the application of this Act; and generally~~
26 ~~relating to credits against certain State taxes based on certain investments in~~
27 ~~certain biotechnology companies and venture capital firms.~~

28 BY adding to
29 Article - Tax - General
30 Section 10-725
31 Annotated Code of Maryland
32 (2004 Replacement Volume)

33 ~~BY adding to~~
34 ~~Article - Insurance~~
35 ~~Section 6-121~~
36 ~~Annotated Code of Maryland~~
37 ~~(2003 Replacement Volume and 2004 Supplement)~~

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

Article - Tax - General

10-725.

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

(2) "BIOTECHNOLOGY COMPANY" MEANS A COMPANY ORGANIZED FOR PROFIT THAT IS PRIMARILY ENGAGED IN THE RESEARCH, DEVELOPMENT, ~~AND OR~~ COMMERCIALIZATION OF INNOVATIVE AND PROPRIETARY TECHNOLOGY THAT COMPRISES, INTERACTS WITH, OR ANALYZES BIOLOGICAL MATERIAL INCLUDING BIOMOLECULES (DNA, RNA, OR PROTEIN), CELLS, TISSUES, OR ORGANS.

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

(I) "INVESTMENT" MEANS THE CONTRIBUTION OF PROPERTY, AT A RISK OF LOSS, TO A QUALIFIED COMPANY IN EXCHANGE FOR STOCK, A PARTNERSHIP INTEREST, OR OTHER OWNERSHIP INTEREST IN THE QUALIFIED COMPANY.

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

~~(5) "INVESTMENT ROUND" MEANS THE OFFERING OF INVESTMENT IN A BIOTECHNOLOGY COMPANY TO EXTERNAL INVESTORS.~~

~~(6) "INVESTOR" DOES NOT INCLUDE:~~

~~(I) AN INDIVIDUAL OR CORPORATION THAT, DIRECTLY OR INDIRECTLY, HOLDS OR CONTROLS AN OWNERSHIP INTEREST OF 10% OR MORE IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY; OR~~

~~(II) A PERSON RELATED, WITHIN THE MEANING OF § 267(B) OF THE INTERNAL REVENUE CODE, TO AN INDIVIDUAL OR CORPORATION DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.~~

~~(7) (5) "QUALIFIED INVESTOR" MEANS AN INVESTOR THAT IS:~~

~~(I) AN INDIVIDUAL THAT INVESTS AT LEAST \$25,000 IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY; OR~~

~~(II) A CORPORATION THAT INVESTS AT LEAST \$250,000 IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY.~~

~~(8) (6) "QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY" MEANS A BIOTECHNOLOGY COMPANY THAT:~~

~~(I) HAS ITS PRINCIPAL PLACE HEADQUARTERS AND BASE OF OPERATIONS IN THIS STATE;~~

1 (II) HAS FEWER THAN ~~400~~ 25 50 FULL-TIME EMPLOYEES;

2 (III) HAS BEEN IN ACTIVE BUSINESS ~~FOR LESS~~ NO LONGER THAN ~~10~~
3 5 10 YEARS; AND

4 (IV) ~~1-~~ HAS BEEN CERTIFIED AS A BIOTECHNOLOGY COMPANY
5 BY THE ~~DIRECTOR OF THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION~~
6 DEPARTMENT;

7 ~~2-~~ HAS RECEIVED FUNDING IN THE PREVIOUS 24 MONTHS
8 ~~FROM THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, THE~~
9 ~~MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, MDBIO, INC., OR THE~~
10 ~~MARYLAND INDUSTRIAL PARTNERSHIPS PROGRAM; OR~~

11 ~~3-~~ HAS BEEN A TENANT OF A STATE FUNDED INCUBATOR
12 ~~FACILITY WITHIN THE PREVIOUS 24 MONTHS.~~

13 ~~(9)~~ (7) "QUALIFIED MARYLAND VENTURE CAPITAL FIRM" MEANS AN
14 ENTITY THAT:

15 (I) IS ORGANIZED FOR THE PURPOSE OF INVESTING FUNDS IN
16 PRIVATELY HELD COMPANIES ENGAGED IN THE RESEARCH, DEVELOPMENT, ~~AND OR~~
17 COMMERCIALIZATION OF INNOVATIVE AND PROPRIETARY TECHNOLOGY;

18 (II) HAS AT LEAST TWO PRINCIPALS THAT EACH HAVE AT LEAST ~~3~~ 5
19 YEARS OF VENTURE CAPITAL EXPERIENCE;

20 (III) HAS AT LEAST 1 YEAR OF EXPERIENCE INVESTING IN
21 BIOTECHNOLOGY OR BIOPHARMACEUTICAL COMPANIES; AND

22 (IV) HAS ITS PRINCIPAL PLACE OF OPERATIONS IN THIS STATE;
23 AND.

24 ~~(V)~~ HAS AT LEAST ONE PRINCIPAL THAT HAS INVESTED AT LEAST
25 \$5,000,000 IN BIOTECHNOLOGY COMPANIES IN THE STATE AT THE TIME OF
26 APPLICATION FOR THE CREDIT UNDER THIS SECTION.

27 (B) ~~(+)~~ SUBJECT TO PARAGRAPHS ~~(2) THROUGH (4) OF THIS SUBSECTION~~
28 SUBSECTIONS (D) AND (E) OF THIS SECTION, A QUALIFIED INVESTOR, OR A
29 QUALIFIED MARYLAND VENTURE CAPITAL FIRM, ~~OR THE PARTNERS OF A QUALIFIED~~
30 ~~MARYLAND VENTURE CAPITAL FIRM~~ MAY CLAIM CREDITS ~~A CREDIT~~ AGAINST THE
31 STATE INCOME TAX IN AN AMOUNT EQUAL TO THE FINAL CREDIT CERTIFICATE
32 APPROVED BY THE SECRETARY ~~OR THE PREMIUM TAX IMPOSED UNDER § 6-102 OF~~
33 ~~THE INSURANCE ARTICLE FOR INVESTMENTS~~ AN INVESTMENT IN A QUALIFIED
34 MARYLAND BIOTECHNOLOGY COMPANY AS PROVIDED UNDER THIS SECTION.

35 ~~(2)~~ A QUALIFIED INVESTOR MAY CLAIM CREDITS AGAINST THE STATE
36 INCOME TAX OR THE PREMIUM TAX IMPOSED UNDER § 6-102 OF THE INSURANCE
37 ARTICLE IN AN AMOUNT EQUAL TO 50% OF THE INVESTMENT MADE IN A QUALIFIED
38 MARYLAND BIOTECHNOLOGY COMPANY.

~~(3) (4) IF A QUALIFIED MARYLAND VENTURE CAPITAL FIRM INVESTS AT LEAST ONE THIRD OF THE TOTAL INVESTMENT MADE IN A INVESTMENT ROUND IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY, EACH INVESTOR IN THE INVESTMENT ROUND MAY CLAIM CREDITS AGAINST THE STATE INCOME TAX OR THE PREMIUM TAX IMPOSED UNDER § 6-102 OF THE INSURANCE ARTICLE FOR INVESTMENTS IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY AS PROVIDED UNDER THIS SECTION.~~

~~(H) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE INVESTORS IN AN INVESTMENT ROUND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BY AGREEMENT ALLOCATE AMONG THE INVESTORS THE TOTAL CREDITS EARNED BY ALL INVESTORS.~~

~~(HH) AN INVESTOR MAY NOT BE ALLOCATED AN AMOUNT OF CREDITS THAT EXCEEDS TWICE THE AMOUNT INVESTED IN THE ROUND.~~

~~(4) THE SAME TAX CREDIT MAY NOT BE APPLIED MORE THAN ONCE AGAINST DIFFERENT STATE TAXES.~~

(C) (1) AT LEAST 30 DAYS PRIOR TO MAKING AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY FOR WHICH A QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM ~~INTENDS TO CLAIM CREDITS~~ WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER SUBSECTION (B) OF THIS SECTION, THE QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

~~(2) IF AN INVESTMENT ROUND IS LED BY A QUALIFIED MARYLAND VENTURE CAPITAL FIRM AS PROVIDED IN SUBSECTION (B)(3) OF THIS SECTION, THE APPLICATION SHALL INCLUDE THE PROPOSED ALLOCATION OF THE CREDITS AMONG THE INVESTORS IN THE INVESTMENT ROUND.~~

~~(3)~~ (2) THE DEPARTMENT SHALL:

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

(II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION, CERTIFY THE AMOUNT OF ANY APPROVED TAX CREDITS TO A QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM.

~~(4) (3) (I) AFTER THE DEPARTMENT HAS CERTIFIED TAX CREDITS ISSUED AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL HAVE 44 30 DAYS TO MAKE AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER THIS SECTION.~~

(II) WITHIN 5 10 DAYS OF MAKING AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY, A QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL PROVIDE NOTICE TO THE DEPARTMENT.

1 ~~(III)~~ THE NOTICE TO THE DEPARTMENT SHALL INCLUDE THE
 2 ~~PROPOSED ALLOCATION OF CREDITS AMONG INVESTORS IN AN INVESTMENT ROUND~~
 3 ~~LED BY A QUALIFIED MARYLAND VENTURE CAPITAL FIRM AS PROVIDED IN~~
 4 ~~SUBSECTION (B)(3) OF THIS SECTION.~~

5 ~~(IV)~~ ~~(III)~~ IF A QUALIFIED INVESTOR OR QUALIFIED MARYLAND
 6 VENTURE CAPITAL FIRM DOES NOT PROVIDE THE NOTICE REQUIRED IN
 7 SUBPARAGRAPH (II) OF THIS PARAGRAPH WITHIN ~~20~~ 30 DAYS AFTER THE
 8 ~~CERTIFICATION OF TAX CREDITS~~ ISSUANCE OF AN INITIAL TAX CREDIT CERTIFICATE
 9 UNDER THIS SECTION, THE DEPARTMENT SHALL RESCIND THE ~~CERTIFICATION~~
 10 CERTIFICATE.

11 (D) (1) ~~(I)~~ THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT
 12 CERTIFICATE ISSUED UNDER THIS SECTION IS 50% OF THE INVESTMENT IN A
 13 QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY, NOT TO EXCEED:

14 ~~1-~~ (I) \$50,000 FOR A QUALIFIED INVESTOR THAT IS AN
 15 INDIVIDUAL;

16 ~~2-~~ (II) \$250,000 FOR A QUALIFIED INVESTOR THAT IS A
 17 CORPORATION; OR

18 ~~3-~~ (III) \$250,000 FOR A QUALIFIED MARYLAND VENTURE
 19 CAPITAL FIRM.

20 (2) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY
 21 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED
 22 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM FOR THAT TAXABLE
 23 YEAR, THE QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL
 24 FIRM MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

25 (E) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE MARYLAND
 26 BIOTECHNOLOGY INVESTMENT TAX CREDIT RESERVE FUND ESTABLISHED UNDER
 27 PARAGRAPH (2) OF THIS SUBSECTION.

28 (2) (1) THERE IS A BIOTECHNOLOGY INVESTMENT TAX CREDIT
 29 RESERVE FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT
 30 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

31 (II) THE MONEY IN THE FUND SHALL BE INVESTED AND
 32 REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE
 33 CREDITED TO THE GENERAL FUND.

34 (3) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
 35 SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH
 36 APPROVED INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY
 37 ELIGIBLE FOR A TAX CREDIT.

38 (II) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS
 39 SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE

1 QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM IS
2 ELIGIBLE.

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

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

13 3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED
14 FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW
15 OTHER THAN UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT
16 AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX
17 CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

18 (IV) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN
19 THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND.

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

24 (VI) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY
25 A QUALIFIED INVESTOR OR A QUALIFIED MARYLAND VENTURE CAPITAL FIRM, THE
26 SECRETARY SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE TO THE QUALIFIED
27 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM.

28 (VII) A QUALIFIED INVESTOR OR A QUALIFIED MARYLAND VENTURE
29 CAPITAL FIRM MAY REDEEM A FINAL TAX CREDIT CERTIFICATE FOR A TAXABLE
30 YEAR BEGINNING AFTER DECEMBER 31, 2006.

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

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

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

38 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
39 INVESTMENT.

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

5 ~~(D) (1) (1) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE~~
6 ~~DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED~~
7 ~~\$12,000,000 FOR ANY CALENDAR YEAR.~~

8 ~~(H) THE DEPARTMENT MAY NOT APPROVE CREDITS UNDER THIS~~
9 ~~SECTION FOR AGGREGATE INVESTMENTS IN ONE QUALIFIED MARYLAND~~
10 ~~BIOTECHNOLOGY COMPANY THAT WOULD REPRESENT MORE THAN 10% OF THE~~
11 ~~TOTAL CREDITS APPROVED BY THE DEPARTMENT IN A CALENDAR YEAR.~~

12 ~~(2) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT~~
13 ~~UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED:~~

14 ~~(1) \$18,000,000 FOR ALL INVESTMENTS MADE BY QUALIFIED~~
15 ~~INVESTORS; AND~~

16 ~~(H) \$42,000,000 FOR ALL INVESTMENTS MADE IN INVESTMENT~~
17 ~~ROUNDS LED BY QUALIFIED MARYLAND VENTURE CAPITAL FIRMS.~~

18 ~~(3) ONCE THE TOTAL AMOUNT OF CREDITS APPLIED FOR UNDER~~
19 ~~SUBSECTION (B) OF THIS SECTION EXCEEDS THE AMOUNTS SPECIFIED UNDER~~
20 ~~PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT APPROVE ANY~~
21 ~~ADDITIONAL CREDITS UNDER THIS SECTION.~~

22 ~~(E) A TAX CREDIT UNDER THIS SECTION MAY BE CLAIMED IN THE THIRD~~
23 ~~TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE INVESTMENT WAS MADE.~~

24 ~~(F) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE~~
25 ~~TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED BY ANY INDIVIDUAL OR~~
26 ~~CORPORATION FOR ANY TAXABLE YEAR MAY NOT EXCEED:~~

27 ~~(1) \$200,000 ON A STATE INDIVIDUAL INCOME TAX RETURN; OR~~

28 ~~(2) \$500,000 ON A STATE CORPORATE INCOME TAX RETURN.~~

29 ~~(G) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS SECTION, A~~
30 ~~QUALIFIED INVESTOR OR PARTNER IN A QUALIFIED MARYLAND VENTURE CAPITAL~~
31 ~~FIRM SHALL:~~

32 ~~(1) FILE AN AMENDED STATE INCOME TAX RETURN FOR THE TAXABLE~~
33 ~~YEAR IN WHICH THE INVESTMENT WAS MADE; AND~~

34 ~~(2) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE~~
35 ~~APPROVED CREDIT AMOUNT TO THE AMENDED STATE INCOME TAX RETURN.~~

~~(H) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE TAX LIABILITY FOR THAT TAXABLE YEAR, A QUALIFIED INVESTOR OR A PARTNER IN A QUALIFIED MARYLAND VENTURE CAPITAL FIRM MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE TAX LIABILITY FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:~~

~~(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR~~

~~(2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE INVESTMENT WAS MADE.~~

~~(H) (1) (1) ON OR BEFORE APRIL 30TH OF EACH YEAR, A QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL:~~

~~1. HAVE AN AUDIT PERFORMED ON ITS FINANCIAL STATEMENTS FOR THE PRECEDING CALENDAR YEAR BY A FIRM OF CERTIFIED PUBLIC ACCOUNTANTS LICENSED TO PRACTICE IN THE STATE; AND~~

~~2. PROVIDE A COPY OF THE AUDIT TO THE DEPARTMENT.~~

~~(H) THE AUDIT REQUIRED UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH SHALL INCLUDE A DETERMINATION OF WHETHER PROFITS PRODUCING AN INTERNAL RATE OF RETURN OF 10% HAVE BEEN EARNED ON INVESTMENTS MADE BY THE QUALIFIED MARYLAND VENTURE CAPITAL FIRM THAT THE QUALIFIED MARYLAND VENTURE CAPITAL FIRM CLAIMED CREDITS UNDER THIS SECTION.~~

~~(2) WITHIN 60 DAYS FOLLOWING THE ISSUANCE OF THE AUDIT REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL PAY TO THE DEPARTMENT AN AMOUNT EQUAL TO 25% OF ALL PROFITS DETERMINED UNDER PARAGRAPH (1)(H) OF THIS SUBSECTION TO BE IN EXCESS OF THE AMOUNT REQUIRED TO PRODUCE AN ANNUAL INTERNAL RATE OF RETURN OF 10%.~~

~~(F) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF, WITHIN 2 YEARS FROM THE CLOSE OF THE TAXABLE YEAR IN WHICH THE CREDIT IS APPROVED, THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY THAT GAVE RISE TO THE CREDIT.~~

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

~~(I) THE PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED OF AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~(II) 1. 100%, IF THE DISPOSITION OCCURS DURING THE TAXABLE YEAR IN WHICH THE TAX CREDIT IS APPROVED;~~

1 2. 67%, IF THE DISPOSITION OCCURS DURING THE FIRST
2 YEAR AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS
3 APPROVED; OR

4 3. 33%, IF THE DISPOSITION OCCURS MORE THAN 1 YEAR
5 BUT NOT MORE THAN 2 YEARS AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH
6 THE TAX CREDIT IS APPROVED.

7 (3) THE QUALIFIED INVESTOR OR ~~PARTNER~~ IN A QUALIFIED MARYLAND
8 VENTURE CAPITAL FIRM THAT CLAIMED THE CREDIT SHALL PAY THE AMOUNT TO BE
9 RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION AS
10 TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE DISPOSITION
11 DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION OCCURS.

12 ~~(K)~~ (G) (1) THE DEPARTMENT MAY REVOKE ITS CERTIFICATION OF AN
13 APPROVED CREDIT UNDER THIS SECTION IF ANY REPRESENTATION IN CONNECTION
14 WITH THE APPLICATION FOR THE CERTIFICATION PROVES TO HAVE BEEN FALSE
15 WHEN MADE.

16 (2) THE REVOCATION MAY BE IN FULL OR IN PART AS THE DEPARTMENT
17 MAY DETERMINE AND, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE
18 COMMUNICATED TO THE QUALIFIED INVESTOR, THE QUALIFIED MARYLAND
19 VENTURE CAPITAL FIRM, AND THE COMPTROLLER.

20 (3) THE QUALIFIED INVESTOR OR ~~A PARTNER~~ IN A QUALIFIED
21 MARYLAND VENTURE CAPITAL FIRM SHALL HAVE AN OPPORTUNITY TO APPEAL ANY
22 REVOCATION TO THE DEPARTMENT PRIOR TO NOTIFICATION OF THE COMPTROLLER.

23 (4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE
24 QUALIFIED INVESTOR OR ~~A PARTNER~~ IN A QUALIFIED MARYLAND VENTURE CAPITAL
25 FIRM TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE QUALIFIED INVESTOR
26 OR ~~PARTNER~~ IN A QUALIFIED MARYLAND VENTURE CAPITAL FIRM HAS ALREADY
27 CLAIMED.

28 ~~(L)~~ (H) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE DEPARTMENT
29 SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
30 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE CREDITS INITIAL TAX
31 CREDIT CERTIFICATES AWARDED UNDER THIS SECTION FOR THE PRIOR CALENDAR
32 YEAR.

33 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
34 SUBSECTION SHALL INCLUDE FOR EACH ~~CREDIT~~ CREDIT INITIAL TAX CREDIT CERTIFICATE
35 AWARDED:

36 (I) THE NAME OF THE QUALIFIED INVESTOR OR THE NAME OF THE
37 QUALIFIED MARYLAND VENTURE CAPITAL FIRM ~~AND THE PARTNERS IN THE~~
38 ~~QUALIFIED MARYLAND VENTURE CAPITAL FIRM~~ AND THE AMOUNT OF CREDIT
39 AWARDED OR ALLOCATED TO EACH INVESTOR OR FIRM;

1 (II) THE NAME AND ADDRESS OF THE QUALIFIED MARYLAND
 2 BIOTECHNOLOGY COMPANY THAT RECEIVED THE INVESTMENT GIVING RISE TO THE
 3 CREDIT UNDER THIS SECTION AND THE COUNTY WHERE THE QUALIFIED MARYLAND
 4 BIOTECHNOLOGY COMPANY IS LOCATED; AND

5 (III) THE DATES OF RECEIPT AND APPROVAL BY THE ~~DIRECTOR~~
 6 ~~DEPARTMENT OF ALL APPLICATIONS REGARDING THE CREDIT, INCLUDING~~
 7 ~~APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.~~

8 (3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
 9 SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED INVESTORS
 10 AND QUALIFIED MARYLAND VENTURE CAPITAL FIRMS:

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

13 (II) THE NUMBER OF APPLICATIONS ~~WHICH A TAX CREDIT WAS~~
 14 ~~CERTIFIED FOR WHICH INITIAL TAX CREDIT CERTIFICATES WERE ISSUED~~ IN EACH
 15 CALENDAR YEAR; AND

16 (III) THE TOTAL ~~CREDITS~~ INITIAL TAX CREDIT CERTIFICATES
 17 AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS
 18 SECTION.

19 ~~(M)~~ (I) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT
 20 REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

21 **~~Article—Insurance~~**

22 ~~6-121.~~

23 ~~AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR~~
 24 ~~INVESTMENTS IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY OR~~
 25 ~~QUALIFIED MARYLAND VENTURE CAPITAL FIRM AS PROVIDED UNDER § 10-725 OF~~
 26 ~~THE TAX—GENERAL ARTICLE.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
 29 2004.