
By: **Senators Forehand, Britt, Currie, Della, Frosh, Garagiola, Giannetti,
Hogan, Hollinger, Jones, Klausmeier, Kramer, Lawlah, McFadden,
Munson, Ruben, and Teitelbaum**

Introduced and read first time: February 4, 2005

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 5, 2005

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~~
8 ~~approved credits by agreement and limiting the maximum amount of credits~~
9 ~~that may be allocated to an investor; limiting to a certain amount the total~~
10 ~~amount of credits that the Department may approve for any calendar year and~~
11 ~~that the Department may approve in the aggregate; prohibiting the Department~~
12 ~~from approving credits for aggregate investment in one biotechnology company~~
13 ~~that would exceed a certain percentage of credits in a calendar year; providing~~
14 for the issuance of certain initial credit certificates by the Department, subject
15 to certain requirements and limitations; providing certain limits on the amount
16 of credits that can be claimed; requiring the Secretary of the Department to
17 issue final credit certificates under certain circumstances; making certain
18 credits refundable under certain circumstances; establishing the Maryland
19 Biotechnology Investment Tax Credit Reserve Fund; authorizing the Governor
20 to include certain appropriations to a certain fund in the annual budget bill;
21 requiring the Comptroller to transfer certain amounts from a certain fund to the
22 General Fund under certain circumstances; specifying the year in which certain
23 credits may first be claimed; limiting the maximum amount of credits that may
24 be claimed on certain State income tax returns; providing for certain procedures
25 to claim approved credits; ~~providing that certain unused credits may be carried~~
26 forward to certain taxable years; ~~requiring certain venture capital firms to~~

1 ~~perform a certain audit each year and to make payments to the Department~~
 2 ~~under certain circumstances;~~ providing for revocation or recapture of a credit
 3 under certain circumstances; requiring the Department to make a certain report
 4 by a certain date each year; requiring the Department of Business and Economic
 5 Development and the State Comptroller jointly to adopt certain regulations;
 6 defining certain terms; providing for the application of this Act; and generally
 7 relating to credits against certain State taxes based on certain investments in
 8 certain biotechnology companies ~~and venture capital firms.~~

9 BY adding to
 10 Article - Tax - General
 11 Section 10-725
 12 Annotated Code of Maryland
 13 (2004 Replacement Volume)

14 ~~BY adding to~~
 15 ~~Article - Insurance~~
 16 ~~Section 6-121~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(2003 Replacement Volume and 2004 Supplement)~~

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

21 **Article - Tax - General**

22 10-725.

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

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

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

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

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

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

3 (6) "INVESTOR" DOES NOT INCLUDE:

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

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

10 (7) (5) "QUALIFIED INVESTOR" MEANS AN INVESTOR THAT IS:

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

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

15 (8) (6) "QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY" MEANS A
16 BIOTECHNOLOGY COMPANY THAT:

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

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

20 (III) HAS BEEN IN ACTIVE BUSINESS ~~FOR LESS~~ NO LONGER THAN 10
21 YEARS; AND

22 (IV) 4- HAS BEEN CERTIFIED AS A BIOTECHNOLOGY COMPANY
23 BY THE ~~DIRECTOR OF THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION~~
24 DEPARTMENT;

25 2- HAS RECEIVED FUNDING IN THE PREVIOUS 24 MONTHS
26 FROM THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, THE
27 MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, MDBIO, INC., OR THE
28 MARYLAND INDUSTRIAL PARTNERSHIPS PROGRAM; OR

29 3- HAS BEEN A TENANT OF A STATE FUNDED INCUBATOR
30 FACILITY WITHIN THE PREVIOUS 24 MONTHS.

31 (9) (7) "QUALIFIED MARYLAND VENTURE CAPITAL FIRM" MEANS AN
32 ENTITY THAT:

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

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

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

5 (IV) HAS ITS PRINCIPAL PLACE OF OPERATIONS IN THIS STATE;
6 ~~AND.~~

7 ~~(V) HAS AT LEAST ONE PRINCIPAL THAT HAS INVESTED AT LEAST~~
8 ~~\$5,000,000 IN BIOTECHNOLOGY COMPANIES IN THE STATE AT THE TIME OF~~
9 ~~APPLICATION FOR THE CREDIT UNDER THIS SECTION.~~

10 (B) ~~(1) SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION~~
11 ~~SUBSECTIONS (D) AND (E) OF THIS SECTION, A QUALIFIED INVESTOR, OR A~~
12 ~~QUALIFIED MARYLAND VENTURE CAPITAL FIRM, OR THE PARTNERS OF A QUALIFIED~~
13 ~~MARYLAND VENTURE CAPITAL FIRM MAY CLAIM CREDITS A CREDIT AGAINST THE~~
14 ~~STATE INCOME TAX IN AN AMOUNT EQUAL TO THE FINAL CREDIT CERTIFICATE~~
15 ~~APPROVED BY THE SECRETARY OR THE PREMIUM TAX IMPOSED UNDER § 6-102 OF~~
16 ~~THE INSURANCE ARTICLE FOR INVESTMENTS AN INVESTMENT IN A QUALIFIED~~
17 ~~MARYLAND BIOTECHNOLOGY COMPANY AS PROVIDED UNDER THIS SECTION.~~

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

22 ~~(3) (1) IF A QUALIFIED MARYLAND VENTURE CAPITAL FIRM INVESTS~~
23 ~~AT LEAST ONE THIRD OF THE TOTAL INVESTMENT MADE IN A INVESTMENT ROUND~~
24 ~~IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY, EACH INVESTOR IN THE~~
25 ~~INVESTMENT ROUND MAY CLAIM CREDITS AGAINST THE STATE INCOME TAX OR THE~~
26 ~~PREMIUM TAX IMPOSED UNDER § 6-102 OF THE INSURANCE ARTICLE FOR~~
27 ~~INVESTMENTS IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY AS~~
28 ~~PROVIDED UNDER THIS SECTION.~~

29 ~~(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS~~
30 ~~PARAGRAPH, THE INVESTORS IN AN INVESTMENT ROUND UNDER SUBPARAGRAPH (1)~~
31 ~~OF THIS PARAGRAPH MAY BY AGREEMENT ALLOCATE AMONG THE INVESTORS THE~~
32 ~~TOTAL CREDITS EARNED BY ALL INVESTORS.~~

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

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

37 (C) (1) AT LEAST 30 DAYS PRIOR TO MAKING AN INVESTMENT IN A
38 QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY FOR WHICH A QUALIFIED
39 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM ~~INTENDS TO CLAIM~~
40 ~~CREDITS~~ WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER

1 SUBSECTION (B) OF THIS SECTION, THE QUALIFIED INVESTOR OR QUALIFIED
2 MARYLAND VENTURE CAPITAL FIRM SHALL SUBMIT AN APPLICATION TO THE
3 DEPARTMENT.

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

8 ~~(3)~~ (2) THE DEPARTMENT SHALL:

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

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

14 ~~(4)~~ (3) (I) AFTER THE DEPARTMENT HAS ~~CERTIFIED TAX CREDITS~~
15 ~~ISSUED AN INITIAL TAX CREDIT CERTIFICATE~~ UNDER THIS SECTION, A QUALIFIED
16 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM SHALL HAVE ~~44~~ 30
17 DAYS TO MAKE AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY
18 COMPANY UNDER THIS SECTION.

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

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

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

32 (D) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT CERTIFICATE
33 ISSUED UNDER THIS SECTION IS 50% OF THE INVESTMENT IN A QUALIFIED
34 MARYLAND BIOTECHNOLOGY COMPANY, NOT TO EXCEED:

35 (I) \$50,000 FOR A QUALIFIED INVESTOR THAT IS AN INDIVIDUAL;

36 (II) \$250,000 FOR A QUALIFIED INVESTOR THAT IS A CORPORATION;

37 OR

1 (III) \$250,000 FOR A QUALIFIED MARYLAND VENTURE CAPITAL
2 FIRM.

3 (2) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY
4 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED
5 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM FOR THAT TAXABLE
6 YEAR, THE QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL
7 FIRM MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

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

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

14 (II) THE MONEY IN THE FUND SHALL BE INVESTED AND
15 REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE
16 CREDITED TO THE GENERAL FUND.

17 (3) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
18 SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH
19 APPROVED INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY
20 ELIGIBLE FOR A TAX CREDIT.

21 (II) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS
22 SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE
23 QUALIFIED INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM IS
24 ELIGIBLE.

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

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

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

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

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

7 (VI) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY
8 A QUALIFIED INVESTOR OR A QUALIFIED MARYLAND VENTURE CAPITAL FIRM, THE
9 SECRETARY SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE TO THE QUALIFIED
10 INVESTOR OR QUALIFIED MARYLAND VENTURE CAPITAL FIRM.

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

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

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

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

21 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
22 INVESTMENT.

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

27 ~~(D) (1) (1) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE~~
28 ~~DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED~~
29 ~~\$12,000,000 FOR ANY CALENDAR YEAR.~~

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

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

36 ~~(1) \$18,000,000 FOR ALL INVESTMENTS MADE BY QUALIFIED~~
37 ~~INVESTORS; AND~~

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

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

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

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

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

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

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

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

~~(2) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE
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.~~

~~(I) (1) (I) 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 (I) OF THIS
PARAGRAPH SHALL INCLUDE A DETERMINATION OF WHETHER PROFITS PRODUCING~~

~~1 AN INTERNAL RATE OF RETURN OF 10% HAVE BEEN EARNED ON INVESTMENTS
2 MADE BY THE QUALIFIED MARYLAND VENTURE CAPITAL FIRM THAT THE QUALIFIED
3 MARYLAND VENTURE CAPITAL FIRM CLAIMED CREDITS UNDER THIS SECTION.~~

~~4 (2) WITHIN 60 DAYS FOLLOWING THE ISSUANCE OF THE AUDIT REPORT
5 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A QUALIFIED MARYLAND
6 VENTURE CAPITAL FIRM SHALL PAY TO THE DEPARTMENT AN AMOUNT EQUAL TO
7 25% OF ALL PROFITS DETERMINED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION
8 TO BE IN EXCESS OF THE AMOUNT REQUIRED TO PRODUCE AN ANNUAL INTERNAL
9 RATE OF RETURN OF 10%.~~

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

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

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

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

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

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

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

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

(2) THE REVOCATION MAY BE IN FULL OR IN PART AS THE DEPARTMENT
39 MAY DETERMINE AND, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE

1 COMMUNICATED TO THE QUALIFIED INVESTOR, THE QUALIFIED MARYLAND
2 VENTURE CAPITAL FIRM, AND THE COMPTROLLER.

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

6 (4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE
7 QUALIFIED INVESTOR OR ~~A PARTNER IN~~ A QUALIFIED MARYLAND VENTURE CAPITAL
8 FIRM TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE QUALIFIED INVESTOR
9 OR ~~PARTNER IN~~ A QUALIFIED MARYLAND VENTURE CAPITAL FIRM HAS ALREADY
10 CLAIMED.

11 ~~(E)~~ (H) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE DEPARTMENT
12 SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
13 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE CREDITS INITIAL TAX
14 CREDIT CERTIFICATES AWARDED UNDER THIS SECTION FOR THE PRIOR CALENDAR
15 YEAR.

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

19 (I) THE NAME OF THE QUALIFIED INVESTOR OR THE NAME OF THE
20 QUALIFIED MARYLAND VENTURE CAPITAL FIRM ~~AND THE PARTNERS IN THE~~
21 ~~QUALIFIED MARYLAND VENTURE CAPITAL FIRM~~ AND THE AMOUNT OF CREDIT
22 AWARDED OR ALLOCATED TO EACH INVESTOR OR FIRM;

23 (II) THE NAME AND ADDRESS OF THE QUALIFIED MARYLAND
24 BIOTECHNOLOGY COMPANY THAT RECEIVED THE INVESTMENT GIVING RISE TO THE
25 CREDIT UNDER THIS SECTION AND THE COUNTY WHERE THE QUALIFIED MARYLAND
26 BIOTECHNOLOGY COMPANY IS LOCATED; AND

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

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

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

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

1 (III) THE TOTAL ~~CREDITS~~ INITIAL TAX CREDIT CERTIFICATES
2 AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS
3 SECTION.

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

6 **~~Article—Insurance~~**

7 ~~6-121.~~

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
14 2004.