

# HOUSE BILL 1125

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By: **Delegates Lee, Bronrott, Dumais, Glenn, Hecht, Hucker, Montgomery, Valderrama, and Waldstreicher**

Introduced and read first time: February 13, 2009

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Nanobiotechnology Investment Incentives**

3 FOR the purpose of allowing certain qualified investors a credit against the Maryland  
4 income tax for certain investments in nanobiotechnology companies; providing  
5 that a qualified investor may not own or control more than a certain percentage  
6 of the equity interest in a nanobiotechnology company; providing for  
7 applications to the Department of Business and Economic Development for  
8 approval of the credit and certification by the Department to investors of  
9 approved credit amounts; requiring a qualified investor to make an investment  
10 in a qualified nanobiotechnology company within a certain number of days after  
11 the Department issues an initial credit certificate; requiring a qualified investor  
12 to provide certain notice of an investment within a certain number of days;  
13 requiring, if certain notice is not provided, the Department to rescind the initial  
14 tax credit certificate and revert the amount to a certain Reserve Fund; limiting  
15 the amount of the credit allowed in an initial tax credit certificate; prohibiting  
16 the Secretary of the Department from certifying eligibility for tax credits,  
17 during any fiscal year, for investments in a single company that exceed a  
18 certain percentage of the total appropriations made to the Reserve Fund;  
19 allowing a qualified investor to claim a refund under certain circumstances;  
20 creating the Maryland Nanobiotechnology Investment Tax Credit Reserve  
21 Fund; providing that the Reserve Fund is a nonlapsing fund; providing for the  
22 investment of the money of the Reserve Fund; requiring the Secretary to issue  
23 an initial tax credit certificate for certain investments; providing that the  
24 Secretary may not issue initial tax credit certificates that total more than a  
25 certain appropriation to the Reserve Fund; allowing any excess money in the  
26 Reserve Fund to be used for credits in the next fiscal year; providing that the  
27 maximum credit amounts in the aggregate must be reduced if money is  
28 transferred from the Reserve Fund; authorizing the Governor to include a  
29 certain appropriation to the Reserve Fund in the budget bill; prohibiting the  
30 Governor from reducing an appropriation to the Reserve Fund as approved by

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the General Assembly in the budget bill; requiring the Secretary to issue a final  
2 tax credit certificate in a certain amount under certain circumstances; requiring  
3 the Department to provide certain notification to the Comptroller as to the  
4 amount of final credit certificates issued during a quarter; requiring the  
5 Comptroller, on notification that an investment has been certified, to transfer a  
6 certain amount from the Reserve Fund to the General Fund; providing for the  
7 recapture of the credit under certain circumstances; requiring the Department,  
8 before January 10 of each year, to report certain information to the Governor  
9 and General Assembly; requiring the Department and the Comptroller jointly to  
10 adopt certain regulations; defining certain terms; providing for the application  
11 of this Act; and generally relating to a State income tax credit for certain  
12 investment in certain nanobiotechnology companies.

13 BY adding to  
14 Article – Tax – General  
15 Section 10–728  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2008 Supplement)

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

20 **Article – Tax – General**

21 **10–728.**

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

24 (2) (I) “COMPANY” MEANS ANY ENTITY OF ANY FORM DULY  
25 ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE  
26 PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

27 (II) “COMPANY” DOES NOT INCLUDE A SOLE  
28 PROPRIETORSHIP.

29 (3) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND  
30 ECONOMIC DEVELOPMENT.

31 (4) (I) “INVESTMENT” MEANS THE CONTRIBUTION OF MONEY  
32 IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A  
33 RISK OF LOSS, TO A QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY IN  
34 EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, OR OTHER  
35 OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND  
36 NANOBIO TECHNOLOGY COMPANY, TITLE TO WHICH OWNERSHIP INTEREST  
37 SHALL VEST IN THE QUALIFIED INVESTOR.

1                   (II) **“INVESTMENT” DOES NOT INCLUDE DEBT.**

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

5                   (5) **“NANOBIOTECHNOLOGY COMPANY” MEANS A COMPANY**  
6 **ORGANIZED FOR PROFIT THAT IS PRIMARILY ENGAGED IN THE APPLICATION OF**  
7 **NANOTECHNOLOGY TO THE LIFE SCIENCES INCLUDING RESEARCH RELATING TO**  
8 **THE CHARACTERIZATION OF NANOMATERIALS FOR HEALTH AND**  
9 **ENVIRONMENTAL SAFETY IMPLICATIONS.**

10                  (6) (I) **“QUALIFIED INVESTOR” MEANS ANY INDIVIDUAL OR**  
11 **ENTITY THAT INVESTS AT LEAST \$25,000 IN A QUALIFIED MARYLAND**  
12 **NANOBIOTECHNOLOGY COMPANY AND THAT IS REQUIRED TO FILE AN INCOME**  
13 **TAX RETURN IN ANY JURISDICTION.**

14                   (II) **“QUALIFIED INVESTOR” DOES NOT INCLUDE A**  
15 **QUALIFIED PENSION PLAN, INDIVIDUAL RETIREMENT ACCOUNT, OR OTHER**  
16 **QUALIFIED RETIREMENT PLAN UNDER THE EMPLOYEE RETIREMENT INCOME**  
17 **SECURITY ACT OF 1974, AS AMENDED, OR FIDUCIARIES OR CUSTODIANS UNDER**  
18 **SUCH PLANS, OR SIMILAR TAX-FAVORED PLANS OR ENTITIES UNDER THE LAWS**  
19 **OF OTHER COUNTRIES.**

20                  (7) (I) **“QUALIFIED MARYLAND NANOBIOTECHNOLOGY**  
21 **COMPANY” MEANS A NANOBIOTECHNOLOGY COMPANY THAT:**

22                               1. **HAS ITS HEADQUARTERS AND BASE OF**  
23 **OPERATIONS IN THIS STATE;**

24                               2. **HAS FEWER THAN 50 FULL-TIME EMPLOYEES;**

25                               3. **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**  
26 **THIS PARAGRAPH, HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 10 YEARS;**

27                               4. **DOES NOT HAVE ITS SECURITIES PUBLICLY**  
28 **TRADED ON ANY EXCHANGE; AND**

29                               5. **HAS BEEN CERTIFIED AS A NANOBIOTECHNOLOGY**  
30 **COMPANY BY THE DEPARTMENT.**

31                   (II) **“QUALIFIED MARYLAND NANOBIOTECHNOLOGY**  
32 **COMPANY” INCLUDES A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS FOR UP**

1 TO 12 YEARS IF THE DEPARTMENT DETERMINES THAT THE COMPANY REQUIRES  
2 ADDITIONAL TIME TO COMPLETE THE PROCESS OF REGULATORY APPROVAL.

3 (B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION  
4 AND SUBSECTIONS (D) AND (E) OF THIS SECTION, FOR THE TAXABLE YEAR IN  
5 WHICH AN INVESTMENT IN A QUALIFIED MARYLAND NANOBIO TECHNOLOGY  
6 COMPANY IS MADE, A QUALIFIED INVESTOR MAY CLAIM A CREDIT AGAINST THE  
7 STATE INCOME TAX IN AN AMOUNT EQUAL TO THE AMOUNT OF TAX CREDIT  
8 STATED IN THE FINAL CREDIT CERTIFICATE APPROVED BY THE SECRETARY  
9 FOR THE INVESTMENT AS PROVIDED UNDER THIS SECTION.

10 (2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN  
11 PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR SHALL BE:

12 (I) FOR A COMPANY, DULY ORGANIZED AND IN GOOD  
13 STANDING IN THE JURISDICTION UNDER THE LAWS UNDER WHICH IT IS  
14 ORGANIZED;

15 (II) FOR A COMPANY, IN GOOD STANDING AND AUTHORIZED  
16 OR REGISTERED TO DO BUSINESS IN THE STATE;

17 (III) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS  
18 TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

19 (IV) NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT  
20 WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR  
21 SUBDIVISION OF THE STATE.

22 (3) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN  
23 PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT,  
24 AFTER MAKING THE PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN  
25 25% OF THE EQUITY INTERESTS IN THE QUALIFIED MARYLAND  
26 NANOBIO TECHNOLOGY COMPANY IN WHICH THE INVESTMENT IS TO BE MADE.

27 (C) (1) AT LEAST 30 DAYS PRIOR TO MAKING AN INVESTMENT IN A  
28 QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY FOR WHICH A  
29 QUALIFIED INVESTOR WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT  
30 CERTIFICATE UNDER SUBSECTION (B) OF THIS SECTION, THE QUALIFIED  
31 INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

32 (2) THE APPLICATION SHALL EVIDENCE THAT THE QUALIFIED  
33 MARYLAND NANOBIO TECHNOLOGY COMPANY IS:

34 (I) IN GOOD STANDING;

1                   **(II) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS**  
2 **TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND**

3                   **(III) NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT**  
4 **WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR**  
5 **SUBDIVISION OF THE STATE.**

6                   **(3) THE DEPARTMENT SHALL:**

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

9                   **(II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION,**  
10 **CERTIFY THE AMOUNT OF ANY APPROVED TAX CREDITS TO A QUALIFIED**  
11 **INVESTOR.**

12                   **(4) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES**  
13 **AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED**  
14 **INVESTOR SHALL HAVE 30 CALENDAR DAYS TO MAKE AN INVESTMENT IN A**  
15 **QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY UNDER THIS SECTION.**

16                   **(II) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON**  
17 **WHICH A QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED**  
18 **INVESTOR SHALL PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE**  
19 **MAKING OF THE INVESTMENT, INCLUDING:**

- 20                               **1. THE DATE OF THE INVESTMENT;**
- 21                               **2. THE AMOUNT INVESTED;**
- 22                               **3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS**  
23 **BY THE QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY;**
- 24                               **4. A COMPLETE DESCRIPTION OF THE NATURE OF**  
25 **THE OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND**  
26 **NANOBIO TECHNOLOGY COMPANY ACQUIRED IN CONSIDERATION OF THE**  
27 **INVESTMENT; AND**
- 28                               **5. ANY REASONABLE SUPPORTING DOCUMENTATION**  
29 **THE DEPARTMENT MAY REQUIRE.**

30                   **(III) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE**  
31 **NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN**

1 SUBPARAGRAPH (II) OF THIS PARAGRAPH WITHIN 40 CALENDAR DAYS AFTER  
2 THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT  
3 CERTIFICATE UNDER THIS SECTION:

4 1. THE DEPARTMENT SHALL RESCIND THE INITIAL  
5 TAX CREDIT CERTIFICATE; AND

6 2. THE CREDIT AMOUNT ALLOCATED TO THE  
7 RESCINDED CERTIFICATE SHALL REVERT TO THE MARYLAND  
8 NANOBIO TECHNOLOGY INVESTMENT TAX CREDIT RESERVE FUND AND SHALL  
9 BE AVAILABLE IN THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE  
10 DEPARTMENT TO OTHER INITIAL TAX CREDIT CERTIFICATES IN ACCORDANCE  
11 WITH THE PROVISIONS OF THIS SECTION.

12 (D) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT  
13 CERTIFICATE ISSUED UNDER THIS SECTION IS 50% OF THE INVESTMENT IN A  
14 QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY, NOT TO EXCEED  
15 \$250,000.

16 (2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT  
17 CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE  
18 QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY THAT IN THE  
19 AGGREGATE EXCEED 15% OF THE TOTAL APPROPRIATIONS TO THE MARYLAND  
20 NANOBIO TECHNOLOGY INVESTMENT TAX CREDIT RESERVE FUND FOR THAT  
21 FISCAL YEAR.

22 (3) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY  
23 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE  
24 QUALIFIED INVESTOR FOR THAT TAXABLE YEAR, THE QUALIFIED INVESTOR MAY  
25 CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

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

29 (2) (I) THERE IS A MARYLAND NANOBIO TECHNOLOGY  
30 INVESTMENT TAX CREDIT RESERVE FUND WHICH IS A SPECIAL CONTINUING,  
31 NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE  
32 AND PROCUREMENT ARTICLE.

33 (II) THE MONEY IN THE RESERVE FUND SHALL BE  
34 INVESTED AND REINVESTED BY THE STATE TREASURER, AND INTEREST AND  
35 EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.

1           (3) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION,  
2 THE SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH  
3 APPROVED INVESTMENT IN A QUALIFIED MARYLAND NANOBIO TECHNOLOGY  
4 COMPANY ELIGIBLE FOR A TAX CREDIT.

5                       (II) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER  
6 THIS SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR  
7 WHICH THE QUALIFIED INVESTOR IS ELIGIBLE.

8                       (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS  
9 SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE  
10 INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE  
11 TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND  
12 FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL  
13 ASSEMBLY.

14                               2. IF THE AGGREGATE CREDIT AMOUNTS UNDER  
15 INITIAL TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN  
16 THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR,  
17 ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE  
18 ISSUED UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

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

25                       (IV) FOR EACH FISCAL YEAR, THE GOVERNOR MAY INCLUDE  
26 IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND.

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

31                       (VI) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT  
32 MADE BY A QUALIFIED INVESTOR, THE SECRETARY SHALL ISSUE A FINAL TAX  
33 CREDIT CERTIFICATE TO THE QUALIFIED INVESTOR.

34                       (VII) A QUALIFIED INVESTOR MAY REDEEM A FINAL TAX  
35 CREDIT CERTIFICATE FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
36 2008.

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

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

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

8                           **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**  
9 **INVESTMENT.**

10                           **2. ON NOTIFICATION THAT AN INVESTMENT HAS**  
11 **BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO**  
12 **THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR**  
13 **THE INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.**

14           **(F) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE**  
15 **RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF WITHIN**  
16 **2 YEARS FROM THE CLOSE OF THE TAXABLE YEAR IN WHICH THE CREDIT IS**  
17 **APPROVED:**

18                           **(I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR**  
19 **OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED**  
20 **MARYLAND NANOBIO TECHNOLOGY COMPANY THAT GAVE RISE TO THE CREDIT;**  
21 **OR**

22                           **(II) THE QUALIFIED MARYLAND NANOBIO TECHNOLOGY**  
23 **COMPANY THAT GAVE RISE TO THE CREDIT CEASES OPERATING AS AN ACTIVE**  
24 **BUSINESS WITH ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE STATE.**

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

27                           **(I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN**  
28 **THE CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION,**  
29 **THE PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST**  
30 **DISPOSED OF; AND**

31                           **(II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF**  
32 **THE CREDIT OCCURS DURING THE TAXABLE YEAR IN WHICH THE TAX CREDIT IS**  
33 **APPROVED;**



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

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

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

11                   **(G) (1) THE DEPARTMENT MAY REVOKE ITS INITIAL OR FINAL**  
12 **CERTIFICATION OF AN APPROVED CREDIT UNDER THIS SECTION IF ANY**  
13 **REPRESENTATION IN CONNECTION WITH THE APPLICATION FOR THE**  
14 **CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE**  
15 **WHEN MADE.**

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

20                   **(3) THE QUALIFIED INVESTOR SHALL HAVE AN OPPORTUNITY TO**  
21 **APPEAL ANY REVOCATION TO THE DEPARTMENT PRIOR TO NOTIFICATION OF**  
22 **THE COMPTROLLER.**

23                   **(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST**  
24 **THE QUALIFIED INVESTOR TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT**  
25 **THE QUALIFIED INVESTOR HAS ALREADY CLAIMED.**

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

31                   **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**  
32 **SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE**  
33 **AWARDED:**

1           **(I) THE NAME OF THE QUALIFIED INVESTOR AND THE**  
2 **AMOUNT OF CREDIT AWARDED OR ALLOCATED TO EACH INVESTOR;**

3           **(II) THE NAME AND ADDRESS OF THE QUALIFIED**  
4 **MARYLAND NANOBIO TECHNOLOGY COMPANY THAT RECEIVED THE**  
5 **INVESTMENT GIVING RISE TO THE CREDIT UNDER THIS SECTION AND THE**  
6 **COUNTY WHERE THE QUALIFIED MARYLAND NANOBIO TECHNOLOGY COMPANY**  
7 **IS LOCATED; AND**

8           **(III) THE DATES OF RECEIPT AND APPROVAL BY THE**  
9 **DEPARTMENT OF ALL APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.**

10           **(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**  
11 **SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED**  
12 **INVESTORS:**

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

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

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

20           **(I) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT**  
21 **REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND TO**  
22 **SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF,**  
23 **AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS**  
24 **SECTION.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,  
27 2008.