

Chapter 409

(House Bill 173)

AN ACT concerning

Business and Economic Development – Invest Maryland Program

FOR the purpose of establishing an Invest Maryland Program for certain purposes; establishing a Maryland Venture ~~Capital~~ Fund Authority in the Department of Business and Economic Development for certain purposes; providing for the membership, terms, and duties of the Authority; *requiring members of the Authority to file certain financial disclosures*; allowing certain companies to purchase credits against the insurance premium tax in order to fund qualified investments in ~~qualified~~ businesses in the State; providing for administration of the credit by the Department; limiting the total premium tax credits that may be allowed for all years; providing a minimum amount of designated capital for which premium tax credits may be allocated; *requiring the Governor to submit a certain appropriation under certain circumstances*; ~~requiring the Governor and the Secretary to make providing for a certain reduction to certain credits under certain circumstances to the maximum amount of certain credits that may be allocated; authorizing the Governor to submit a certain budget amendment~~; requiring the Authority to obtain the services of an independent third party to conduct a bidding process for the purchase of certain tax credits for certain purposes; authorizing the Authority to enter into certain written agreements subject to the approval of the Department; prohibiting a member of the Authority from having a certain financial interest; establishing certain requirements for certain offers for certain tax credit bids; establishing certain procedures for certain offers; requiring certain dedicated capital to be paid to the Enterprise Fund and the Comptroller in certain amounts in accordance with certain procedures; *stating a certain goal of the State and a certain intent of the General Assembly*; requiring the Comptroller to distribute certain funds to the General Fund within a certain time; requiring certain investment returns to be reinvested in certain businesses; providing for the issuance and award of certain tax credit certificates; providing for certain penalties; providing for the reallocation of certain designated capital under certain circumstances; authorizing the Department to purchase certain insurance for certain purposes; authorizing a ~~purchase~~ purchaser of certain premium tax credits to claim the credits for certain taxable years; providing for the transfer of certain tax credits; providing for the certification ~~and renewal~~ of certain entities as venture firms in accordance with certain ~~procedures, with certain nonrefundable fees~~ procedures; providing for the allocation and use of certain designated capital by certain venture firms, the Enterprise Fund, the Rural Maryland Council, and the Maryland Small Business Development Financing Authority; requiring a venture firm, the Enterprise Fund, and the Financing Authority to make

certain qualified investments in ~~qualified businesses in~~ a certain manner ~~within a certain period~~; authorizing certain qualified businesses to receive certain follow-on investments; providing for certain determinations concerning qualified businesses; prohibiting an insurance company from taking certain actions with respect to a venture firm; ~~requiring the Department to report certain information to venture firms and the Financing Authority~~; requiring venture firms and the Financing Authority to report certain information at certain times to the Department; authorizing venture firms to make certain qualified distributions and nonqualified distributions in certain manners at certain times; ~~requiring certain investments to terminate as of a certain date~~; ~~providing for the treatment of certain designated capital in a certain manner for certain purposes~~; requiring the Department to submit certain information to the Maryland Insurance Administration; providing for the application of certain laws to certain services and transactions under this Act; authorizing the Department to adopt certain regulations; requiring the Department to submit an annual report to the Governor and certain committees of the General Assembly on certain matters; requiring the Department to publish the report on the Department's Web site in a certain format; providing that a certain publication is not required to include any ~~property~~ proprietary or confidential information; providing for the initial terms of the members of the Maryland Venture ~~Capital Fund~~ Authority; requiring the Department to ~~prepare and submit a certain annual report~~ disclose certain information; authorizing the Department to adopt certain regulations; defining certain terms; and generally relating to ~~an insurance premium tax credit for investments~~ credits, qualified investments, in certain companies making investments in qualified businesses in the ~~State~~ State, and the Invest Maryland Program.

BY adding to

Article – Economic Development

Section 6-501 through ~~6-529~~ ~~6-528~~ 6-529 to be under the new subtitle “Subtitle 5. Invest Maryland Program”

Annotated Code of Maryland

(2008 Volume and 2010 Supplement)

BY adding to

Article – Insurance

Section 6-122

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

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

Article – Economic Development

SUBTITLE 5. INVEST MARYLAND PROGRAM.

PART I. DEFINITIONS.**6-501.**

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

(B) (1) "AFFILIATE" MEANS:

(I) A PERSON WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY OWNS, CONTROLS, OR HOLDS POWER TO VOTE 15% OR MORE OF THE OUTSTANDING VOTING SECURITIES OR OTHER VOTING OWNERSHIP INTERESTS OF A VENTURE FIRM OR AN INSURANCE COMPANY; OR

(II) A PERSON, 15% OR MORE OF WHOSE OUTSTANDING VOTING SECURITIES OR OTHER VOTING OWNERSHIP INTERESTS IS DIRECTLY OR INDIRECTLY BENEFICIALLY OWNED, CONTROLLED, OR HELD WITH POWER TO VOTE BY A VENTURE FIRM OR AN INSURANCE COMPANY.

(2) "AFFILIATE" DOES NOT INCLUDE AN INSURANCE COMPANY THAT BECOMES A PURCHASER IN ACCORDANCE WITH AN ALLOCATION OF INVESTMENT TAX CREDITS UNDER THE PROGRAM SOLELY BY REASON OF THE ALLOCATION.

(C) "ALLOCATION AMOUNT" MEANS THE TOTAL AMOUNT OF TAX CREDITS ALLOCATED TO A PURCHASER.

(D) "ALLOCATION DATE" MEANS THE DATE ON WHICH ~~INVESTMENT~~ TAX CREDITS ARE ALLOCATED TO A PURCHASER UNDER § 6-513 OF THIS SUBTITLE.

(E) "AUTHORITY" MEANS THE MARYLAND VENTURE ~~CAPITAL~~ FUND AUTHORITY ESTABLISHED UNDER § 6-504 OF THIS SUBTITLE.

(F) "DESIGNATED CAPITAL" MEANS THE AMOUNT OF MONEY THAT A PURCHASER INVESTS UNDER THE PROGRAM.

(G) "ENTERPRISE FUND" MEANS THE ENTERPRISE FUND UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE.

(H) "FINANCING AUTHORITY" MEANS THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY UNDER TITLE 5, SUBTITLE 5 OF THIS ARTICLE.

(I) “INSURANCE PREMIUM TAX LIABILITY” MEANS:

(1) ANY LIABILITY INCURRED BY AN INSURANCE COMPANY UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE AS OF OCTOBER 1, 2011; OR

(2) IF THE LIABILITY REFERRED TO IN ITEM (1) OF THIS SUBSECTION IS ELIMINATED OR REDUCED, ANY OTHER TAX LIABILITY THAT HAS BEEN IMPOSED BY THE STATE ON THE INSURANCE COMPANY AS OF OCTOBER 1, 2011, NOT TO EXCEED THE AMOUNT OF THE LIABILITY ELIMINATED OR REDUCED.

(J) “PREMIUM TAX CREDIT” MEANS A CREDIT AGAINST INSURANCE PREMIUM TAX LIABILITY OFFERED TO A PURCHASER UNDER THE PROGRAM.

(K) “PROGRAM” MEANS THE INVEST MARYLAND PROGRAM UNDER THIS SUBTITLE.

(L) “PURCHASER” MEANS:

(1) AN INSURANCE COMPANY THAT:

(I) IS AUTHORIZED TO DO BUSINESS IN THE STATE;

(II) HAS INSURANCE PREMIUM TAX LIABILITY; AND

(III) CONTRIBUTES DESIGNATED CAPITAL TO PURCHASE AN ALLOCATION OF PREMIUM TAX CREDITS UNDER THE PROGRAM; OR

(2) A HOLDING COMPANY THAT:

(I) HAS AT LEAST ONE INSURANCE COMPANY SUBSIDIARY AUTHORIZED TO DO BUSINESS IN THE STATE; AND

(II) IS CONTRIBUTING DESIGNATED CAPITAL ON BEHALF OF ONE OR MORE OF THESE SUBSIDIARIES.

(M) “QUALIFIED BUSINESS” MEANS A BUSINESS THAT, AT THE TIME OF THE FIRST INVESTMENT IN THE BUSINESS ~~BY A VENTURE FIRM, BY THE ENTERPRISE FUND, OR BY THE FINANCING AUTHORITY~~ UNDER THE PROGRAM:

(1) HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN THE STATE AND INTENDS TO MAINTAIN ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE AFTER RECEIVING ~~THE AN INVESTMENT FROM THE VENTURE FIRM,~~

~~THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY~~ UNDER THE PROGRAM;

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

(I) SUPPORT BUSINESS OPERATIONS IN THE STATE; OR

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

(3) HAS NOT MORE THAN 250 EMPLOYEES; AND

(4) IS NOT PRIMARILY ENGAGED IN:

(I) RETAIL SALES;

(II) REAL ESTATE DEVELOPMENT;

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

OR

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

(N) (1) "QUALIFIED DISTRIBUTION" MEANS A DISTRIBUTION OR PAYMENT BY A VENTURE FIRM IN CONNECTION WITH:

(I) THE REASONABLE COSTS AND EXPENSES OF ORGANIZING AND SYNDICATING THE VENTURE FIRM, INCLUDING FEES PAID FOR PROFESSIONAL SERVICES, UP TO A MAXIMUM AGGREGATE AMOUNT OF \$125,000;

(II) REASONABLE AND NECESSARY FEES PAID FOR ONGOING PROFESSIONAL SERVICES, INCLUDING LEGAL AND ACCOUNTING SERVICES, RELATED TO THE OPERATION OF THE VENTURE FIRM, UP TO A MAXIMUM AGGREGATE AMOUNT OF \$50,000 IN A SINGLE YEAR; AND

(III) A YEARLY MANAGEMENT FEE IN AN AMOUNT THAT:

~~1. IN THE FIRST 4 YEARS FOLLOWING THE ALLOCATION DATE OF THE VENTURE FIRM,~~ DOES NOT EXCEED 2.5% OF THE DESIGNATED CAPITAL ~~RECEIVED BY~~ ALLOCATED TO THE VENTURE FIRM; ~~AND~~

~~2. IN THE 5TH THROUGH 10TH YEARS FOLLOWING THE ALLOCATION DATE, DOES NOT EXCEED 2.5% OF THE LESSER OF THE DESIGNATED CAPITAL RECEIVED BY THE VENTURE FIRM OR THE AMOUNT OF THE VENTURE FIRM'S QUALIFIED INVESTMENTS.~~

(2) "QUALIFIED DISTRIBUTION" DOES NOT INCLUDE:

(I) ANY AMOUNT PAID TO A PURCHASER OR AN AFFILIATE OF A PURCHASER; OR

(II) ANY COSTS AND EXPENSES RELATED TO LOBBYING OR GOVERNMENT RELATIONS.

(O) (1) "QUALIFIED INVESTMENT" MEANS THE DIRECT OR INDIRECT INVESTMENT OF CASH BY A VENTURE FIRM, OR DIRECTLY OR INDIRECTLY BY THE ENTERPRISE FUND OR THE FINANCING AUTHORITY, IN A QUALIFIED BUSINESS FOR THE PURCHASE OF ANY OF THE FOLLOWING:

(I) A SHARE OF STOCK OR OTHER EQUITY INTEREST;

(II) A DEBT INSTRUMENT THAT IS CONVERTIBLE INTO EQUITY; ~~AND OR~~

(III) AN EQUITY PARTICIPATION INSTRUMENT SUCH AS AN OPTION OR WARRANT.

~~(2) FOR PURPOSES OF § 6-518(A) OF THIS SUBTITLE, "QUALIFIED INVESTMENT" INCLUDES:~~

~~(I) ANY AMOUNTS NECESSARY TO PAY TO A VENTURE FIRM THE COSTS AND FEES ALLOWED UNDER SUBSECTION (N)(1) OF THIS SECTION; AND~~

~~(II) ANY REASONABLE RESERVES ESTABLISHED BY A VENTURE FIRM FOR FOLLOW-ON INVESTMENTS IN A QUALIFIED BUSINESS.~~

(2) A QUALIFIED INVESTMENT INCLUDES THE DIRECT OR INDIRECT INVESTMENT OF CASH BY A VENTURE FIRM BASED ON THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE.

(P) "VENTURE FIRM" MEANS A PARTNERSHIP, CORPORATION, TRUST, OR LIMITED LIABILITY COMPANY, WHETHER ORGANIZED ON A PROFIT OR A

NOT-FOR-PROFIT BASIS, THAT IS CERTIFIED BY THE DEPARTMENT AS MEETING THE CRITERIA ESTABLISHED UNDER ~~§ 6-517~~ 6-518 OF THIS SUBTITLE.

6-502. RESERVED.

6-503. RESERVED.

PART II. MARYLAND VENTURE ~~CAPITAL~~ FUND AUTHORITY.

6-504.

THERE IS A MARYLAND VENTURE ~~CAPITAL~~ FUND AUTHORITY IN THE DEPARTMENT.

6-505.

~~(A) (1) THE AUTHORITY CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.~~

~~(2) OF THE SEVEN MEMBERS:~~

~~(i) AT LEAST FOUR SHALL HAVE EXPERIENCE IN WORKING WITH COMPANIES THAT ARE RAISING INVESTMENT CAPITAL FOR SEED STAGE TO GROWTH STAGE COMPANIES OR IN PROVIDING PROFESSIONAL SERVICES TO THE VENTURE CAPITAL INDUSTRY; AND~~

~~(ii) AT LEAST ONE SHALL HAVE EXPERIENCE AS A SMALL BUSINESS OWNER.~~

~~(3) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.~~

~~(4) THE GOVERNOR SHALL CONSIDER THE GEOGRAPHIC DIVERSITY OF THE STATE WHEN APPOINTING MEMBERS OF THE AUTHORITY.~~

(A) THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

(1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE;

(2) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(3) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE.

(B) (1) OF THE SEVEN MEMBERS APPOINTED BY THE GOVERNOR:

(I) 1. AT LEAST FOUR SHALL HAVE EXPERIENCE IN WORKING WITH COMPANIES THAT HAVE RAISED INVESTMENT CAPITAL FOR SEED-STAGE TO VENTURE-STAGE COMPANIES OR IN PROVIDING PROFESSIONAL SERVICES TO THE VENTURE CAPITAL INDUSTRY; AND

2. ONE OF THE FOUR MEMBERS SELECTED UNDER THIS SUBPARAGRAPH SHALL HAVE EXPERIENCE IN HIGHER EDUCATION RESEARCH AND DEVELOPMENT AND TECHNOLOGY TRANSFER PROJECTS;

(II) AT LEAST ONE SHALL HAVE EXPERIENCE AS A SMALL BUSINESS OWNER; ~~AND~~

(III) AT LEAST ONE SHALL HAVE EXPERIENCE AS A BUSINESS EXECUTIVE THAT HAS RAISED VENTURE CAPITAL INVESTMENTS; AND

(IV) AT LEAST ONE SHALL BE A RESIDENT OF A RURAL COUNTY IN THE STATE.

(2) THE GOVERNOR SHALL CONSIDER THE GEOGRAPHIC DIVERSITY OF THE STATE WHEN APPOINTING MEMBERS.

(C) THE MEMBERS APPOINTED BY THE PRESIDENT AND THE SPEAKER:

(1) MAY NOT BE ELECTED OFFICIALS; AND

(2) SHALL HAVE EXPERIENCE AND EXPERTISE IN VENTURE CAPITAL INVESTMENTS.

(D) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

~~(B)~~ (E) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

~~(4) THE GOVERNOR MAY REMOVE A MEMBER WITH OR WITHOUT CAUSE~~ A MEMBER APPOINTED BY THE GOVERNOR MAY BE REMOVED BY THE GOVERNOR WITH OR WITHOUT CAUSE.

(5) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON JULY 1, 2011.

(F) A MEMBER OF THE AUTHORITY MAY NOT HAVE ANY FINANCIAL INTEREST IN A PURCHASER, QUALIFIED BUSINESS, OR VENTURE FIRM.

6-506.

(A) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE MEMBERS.

(B) THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND THEIR TERMS OF OFFICE.

6-507.

(A) (1) ~~A MAJORITY OF THE MEMBERS THEN SERVING IS~~ FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.

(2) AN ACT OF THE AUTHORITY MUST BE APPROVED BY A MAJORITY VOTE OF THE MEMBERS ATTENDING A MEETING AT WHICH A QUORUM IS PRESENT.

(B) A MEMBER OF THE AUTHORITY:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE AUTHORITY; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) A MEMBER OF THE AUTHORITY SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.

6-508.

THE AUTHORITY SHALL PROVIDE ADVICE ~~TO AND COUNSEL TO~~ CONSULT WITH THE DEPARTMENT IN CONNECTION WITH THE ADMINISTRATION OF THE PROGRAM UNDER THIS SUBTITLE.

6-509. RESERVED.

6-510. RESERVED.

PART III. DESIGNATED CAPITAL.

6-511.

(A) ALL DESIGNATED CAPITAL FROM PURCHASERS SHALL BE DEPOSITED INTO THE ENTERPRISE FUND TO BE INVESTED ~~IN QUALIFIED BUSINESSES~~ AS PROVIDED IN THIS SUBTITLE.

(B) THE DEPARTMENT SHALL ALLOCATE DESIGNATED CAPITAL AS FOLLOWS:

(1) ~~50%~~ 67% TO ONE OR MORE VENTURE FIRMS TO FUND THE MAKING OF QUALIFIED INVESTMENTS ~~IN QUALIFIED BUSINESSES~~ BASED ON THE CRITERIA SET FORTH IN THIS SUBTITLE;

(2) ~~50%~~ 33% TO THE ENTERPRISE FUND, TO BE ALLOCATED:

(I) \$250,000 TO THE RURAL MARYLAND COUNCIL FOR ITS OPERATIONAL EXPENSES;

(II) 75% OF THE REMAINING AMOUNT TO FUND THE MAKING OF QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES UNDER THE EXISTING POLICIES AND PROCEDURES OF THE ENTERPRISE FUND UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE; AND

~~(II)~~ (III) 25% OF THE REMAINING AMOUNT TO THE FINANCING AUTHORITY EQUITY PARTICIPATION INVESTMENT PROGRAM, TO BE INVESTED IN QUALIFIED BUSINESSES IN ACCORDANCE WITH THE POLICIES AND PROCEDURES OF THE FINANCING AUTHORITY UNDER TITLE 5, SUBTITLE 5, PART V OF THIS ARTICLE.

(C) IT IS THE GOAL OF THE STATE THAT A PORTION OF THE DESIGNATED CAPITAL RECEIVED UNDER SUBSECTION (B)(2)(II) OF THIS SECTION BE USED TO MAKE QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES LOCATED IN RURAL AREAS OF THE STATE.

~~(C)~~ (D) AS SOON AS PRACTICABLE AFTER THE DEPARTMENT RECEIVES EACH INSTALLMENT OF DESIGNATED CAPITAL, THE DEPARTMENT AND EACH VENTURE FIRM THAT HAS BEEN ALLOCATED DESIGNATED CAPITAL SHALL ENTER INTO A CONTRACT UNDER WHICH THE ALLOCATED AMOUNT OF

DESIGNATED CAPITAL WILL BE TRANSFERRED BY THE DEPARTMENT ~~OR~~ TO THE VENTURE FIRM FOR INVESTMENT AS PROVIDED IN THIS SUBTITLE.

~~(D)~~ (E) THE DEPARTMENT SHALL SECURE THE COMMITMENT OF THE PURCHASERS IN ACCORDANCE WITH § 6-512 OF THIS SUBTITLE.

6-512.

(A) THE AUTHORITY SHALL OBTAIN THE SERVICES OF AN INDEPENDENT THIRD PARTY TO CONDUCT A BIDDING PROCESS IN ORDER TO SECURE PURCHASERS FOR THE PROGRAM AS PROVIDED IN THIS SECTION.

(B) USING THE PROCEDURES ADOPTED BY THE INDEPENDENT THIRD PARTY, EACH POTENTIAL PURCHASER SHALL MAKE A TIMELY AND IRREVOCABLE OFFER, SUBJECT ONLY TO THE DEPARTMENT'S ISSUANCE TO THE PURCHASER OF TAX CREDIT CERTIFICATES, TO MAKE SPECIFIED CONTRIBUTIONS OF DESIGNATED CAPITAL TO THE DEPARTMENT ON THE DATES SPECIFIED IN § 6-513(A) OF THIS SUBTITLE ~~THE DEPARTMENT SPECIFIES~~.

(C) THE OFFER SHALL INCLUDE:

(1) THE REQUESTED AMOUNT OF TAX CREDITS, WHICH MAY NOT BE LESS THAN \$1,000,000;

(2) THE POTENTIAL PURCHASER'S SPECIFIED CONTRIBUTION FOR EACH TAX CREDIT DOLLAR REQUESTED, WHICH MAY NOT BE LESS THAN THE GREATER OF:

(I) 70% OF THE REQUESTED DOLLAR AMOUNT OF TAX CREDITS; OR

(II) THE PERCENTAGE OF THE REQUESTED DOLLAR AMOUNT OF TAX CREDITS THAT THE SECRETARY, ON THE RECOMMENDATION OF THE INDEPENDENT THIRD PARTY, DETERMINES TO BE CONSISTENT WITH MARKET CONDITIONS AS OF THE OFFER DATE; AND

(3) ANY OTHER INFORMATION THE INDEPENDENT THIRD PARTY REQUIRES.

(D) (1) THE DEADLINE FOR SUBMISSION OF APPLICATIONS FOR TAX CREDITS IS ~~DECEMBER 1, 2011~~ FEBRUARY 1, 2012.

(2) EACH POTENTIAL PURCHASER SHALL RECEIVE A WRITTEN NOTICE FROM THE DEPARTMENT NOT LATER THAN ~~FEBRUARY~~ MARCH ~~MAY~~ MAY 1,

2012, INDICATING WHETHER OR NOT IT HAS BEEN APPROVED AS A PURCHASER AND, IF SO, THE AMOUNT OF TAX CREDITS ALLOCATED.

(E) THE MAXIMUM AMOUNT OF PREMIUM TAX CREDITS THAT MAY BE ALLOCATED UNDER THIS SUBTITLE FOR ALL YEARS IN WHICH PREMIUM TAX CREDITS ARE ALLOCATED IS ~~\$142,000,000~~ \$100,000,000.

6-513.

(A) DESIGNATED CAPITAL COMMITTED BY A PURCHASER SHALL BE PAID TO THE ENTERPRISE FUND OF THE DEPARTMENT IN THREE EQUAL YEARLY INSTALLMENTS DUE ON ~~JANUARY APRIL~~ JUNE 1 OF 2012, 2013, AND 2014.

(B) ON RECEIPT OF EACH INSTALLMENT OF DESIGNATED CAPITAL, THE DEPARTMENT SHALL ISSUE TO EACH PURCHASER A TAX CREDIT CERTIFICATE REPRESENTING A FULLY VESTED CREDIT AGAINST INSURANCE PREMIUM TAX LIABILITY EQUAL TO ONE-THIRD OF THE TOTAL PREMIUM TAX CREDITS ALLOCATED TO THE PURCHASER.

(C) THE DEPARTMENT SHALL ISSUE TAX CREDIT CERTIFICATES TO PURCHASERS IN ACCORDANCE WITH THE BIDDING PROCESS SELECTED BY THE INDEPENDENT THIRD PARTY ON BEHALF OF THE AUTHORITY UNDER § 6-512 OF THIS SUBTITLE.

(D) THE TAX CREDIT CERTIFICATE SHALL STATE:

(1) THE TOTAL AMOUNT OF PREMIUM TAX CREDITS THAT THE PURCHASER MAY CLAIM;

(2) THE AMOUNT OF DESIGNATED CAPITAL THAT THE PURCHASER HAS CONTRIBUTED IN RETURN FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE;

(3) THE DATES ON WHICH THE TAX CREDITS WILL BE AVAILABLE FOR USE BY THE PURCHASER;

(4) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

(5) THE PROCEDURES TO BE USED FOR TRANSFERRING THE TAX CREDITS; AND

(6) ANY OTHER REQUIREMENTS THE DEPARTMENT CONSIDERS NECESSARY.

(E) (1) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED TO ANY PURCHASER THAT FAILS TO MAKE A CONTRIBUTION OF DESIGNATED CAPITAL WITHIN THE TIME THE DEPARTMENT SPECIFIES.

(2) A PURCHASER THAT FAILS TO MAKE A CONTRIBUTION OF DESIGNATED CAPITAL WITHIN THE TIME THE DEPARTMENT SPECIFIES SHALL BE SUBJECT TO A PENALTY EQUAL TO 10% OF THE AMOUNT OF DESIGNATED CAPITAL THAT REMAINS UNPAID, PAYABLE TO THE DEPARTMENT WITHIN 30 DAYS AFTER DEMAND BY THE DEPARTMENT.

(3) THE DEPARTMENT MAY OFFER TO REALLOCATE THE DEFAULTED DESIGNATED CAPITAL AMONG THE OTHER PURCHASERS, SO THAT THE RESULT AFTER REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION HAD BEEN PERFORMED WITHOUT CONSIDERING THE PREMIUM TAX CREDIT ALLOCATION TO THE DEFAULTING PURCHASER.

(4) IF THE REALLOCATION OF DESIGNATED CAPITAL RESULTS IN THE CONTRIBUTION BY ANOTHER PURCHASER OR PURCHASERS OF THE AMOUNT OF DESIGNATED CAPITAL NOT CONTRIBUTED BY THE DEFAULTING PURCHASER, THEN THE DEPARTMENT MAY WAIVE THE PENALTY PROVIDED UNDER THIS SUBSECTION.

(5) (I) A PURCHASER THAT FAILS TO MAKE A CONTRIBUTION OF DESIGNATED CAPITAL WITHIN THE TIME SPECIFIED MAY AVOID THE IMPOSITION OF THE PENALTY BY TRANSFERRING THE ALLOCATION OF TAX CREDITS TO A NEW OR EXISTING PURCHASER WITHIN 30 DAYS AFTER THE DUE DATE OF THE DEFAULTED INSTALLMENT.

(II) ANY TRANSFEREE OF AN ALLOCATION OF TAX CREDITS OF A DEFAULTING PURCHASER UNDER THIS SECTION SHALL AGREE TO MAKE THE REQUIRED CONTRIBUTION OF DESIGNATED CAPITAL WITHIN 30 DAYS AFTER THE DATE OF THE TRANSFER.

(6) (I) THE DEPARTMENT IN ITS SOLE DISCRETION MAY PURCHASE INSURANCE OR MAKE OTHER FINANCIAL ARRANGEMENTS IN ORDER TO ENSURE THE AVAILABILITY OF THE FULL AMOUNT OF DESIGNATED CAPITAL COMMITTED BY PURCHASERS.

(II) THE DEPARTMENT SHALL DISCLOSE ANY PURCHASE OF INSURANCE OR OTHER SIMILAR FINANCIAL ARRANGEMENT UNDER THIS

PARAGRAPH IN THE ANNUAL REPORT REQUIRED UNDER ~~§ 6-529~~ ~~§ 6-528~~ § 6-529 OF THIS SUBTITLE.

~~(F) THE AWARDING OF TAX CREDIT CERTIFICATES SHALL BE IN THE SECRETARY'S SOLE DISCRETION.~~

6-514.

(A) (1) SUBJECT TO THE RESTRICTION IN PARAGRAPH (2) OF THIS SUBSECTION, A PURCHASER MAY CLAIM THE PREMIUM TAX CREDIT ON A PREMIUM TAX RETURN FILED AFTER DECEMBER 31, 2014, FOR A TAXABLE YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2014.

(2) IN EACH CALENDAR YEAR FROM 2015 THROUGH 2019, A PURCHASER MAY CLAIM UP TO 20% OF THE PREMIUM TAX CREDIT ALLOCATED TO THAT PURCHASER.

(B) (1) THE CREDIT TO BE APPLIED AGAINST INSURANCE PREMIUM TAX LIABILITY IN ANY 1 YEAR MAY NOT EXCEED THE INSURANCE PREMIUM TAX LIABILITY OF THE PURCHASER FOR THAT TAXABLE YEAR.

(2) ANY UNUSED CREDIT AGAINST INSURANCE PREMIUM TAX LIABILITY MAY BE:

(I) CARRIED FORWARD INDEFINITELY UNTIL THE PREMIUM TAX CREDITS ARE USED; AND

(II) USED BY THE PURCHASER WITHOUT RESTRICTION DURING ANY CALENDAR YEAR AFTER 2019.

(3) ON 30 DAYS' ADVANCE NOTICE TO THE DEPARTMENT, PREMIUM TAX CREDITS ALLOCATED TO A PURCHASER UNDER THIS SUBTITLE MAY BE TRANSFERRED WITHOUT FURTHER RESTRICTION TO ANY OTHER ENTITY THAT:

(I) MEETS THE DEFINITION OF A PURCHASER;

(II) IS IN GOOD STANDING WITH THE MARYLAND INSURANCE ADMINISTRATION; AND

(III) AGREES TO ASSUME ALL OF THE TRANSFEROR'S OBLIGATIONS UNDER THE PROGRAM.

(C) A PURCHASER CLAIMING A CREDIT AGAINST INSURANCE PREMIUM TAX LIABILITY EARNED THROUGH AN INVESTMENT UNDER THE PROGRAM IS NOT REQUIRED TO PAY ANY ADDITIONAL TAX AS A RESULT OF CLAIMING THE CREDIT.

(D) A PURCHASER IS NOT REQUIRED TO REDUCE THE AMOUNT OF PREMIUM TAX INCLUDED BY THE PURCHASER IN CONNECTION WITH RATE-MAKING FOR ANY INSURANCE CONTRACT WRITTEN IN THE STATE BECAUSE OF A REDUCTION IN THE PURCHASER'S INSURANCE PREMIUM TAX DERIVED FROM THE CREDIT GRANTED UNDER THIS SUBTITLE.

6-515. RESERVED.

6-516. RESERVED.

~~PART IV. VENTURE FIRMS AND INVESTMENTS.~~

~~6-517.~~

~~(A) THE SECRETARY SHALL ESTABLISH APPLICATION PROCEDURES FOR AN ENTITY TO BE CERTIFIED AS A VENTURE FIRM.~~

PART IV. VENTURE FIRMS AND INVESTMENTS.

6-517.

(A) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, THE AUTHORITY SHALL OBTAIN THE SERVICES OF AN INDEPENDENT THIRD PARTY TO:

(1) ESTABLISH APPLICATION PROCEDURES FOR AN ENTITY TO BE CERTIFIED AS A VENTURE FIRM; AND

(2) REVIEW AND EVALUATE APPLICATIONS FOR VENTURE FIRM CERTIFICATION UNDER THIS SECTION.

(B) THE INDEPENDENT THIRD PARTY SELECTED BY THE AUTHORITY SHALL:

(1) REVIEW AND EVALUATE THE APPLICATION, ORGANIZATIONAL DOCUMENTS, AND BUSINESS HISTORY OF EACH APPLICANT;

(2) EVALUATE WHETHER THE APPLICANT IS LIKELY TO ACHIEVE THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE; AND

(3) RECOMMEND TO THE AUTHORITY WHICH VENTURE FIRMS SHOULD RECEIVE ALLOCATIONS OF DESIGNATED CAPITAL UNDER THE PROGRAM.

(C) (1) ON RECEIVING THE RECOMMENDATIONS OF THE INDEPENDENT THIRD PARTY SELECTED UNDER SUBSECTION (A) OF THIS SECTION AND SUBJECT TO ~~§ 6-517~~ § 6-518 OF THIS SUBTITLE, THE AUTHORITY SHALL SELECT VENTURE FIRMS TO RECEIVE ALLOCATIONS OF DESIGNATED CAPITAL THAT ARE CONSISTENT WITH THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE.

(2) THE AUTHORITY SHALL ENSURE THAT THE VENTURE FIRMS RECEIVING DESIGNATED CAPITAL FOR INVESTMENT UNDER THIS SUBTITLE MAKE INVESTMENTS IN THE STATE THAT EQUAL OR EXCEED THE AMOUNT OF DESIGNATED CAPITAL RECEIVED UNDER THIS SUBTITLE.

(3) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, THE AUTHORITY MAY ENTER INTO WRITTEN AGREEMENTS, INCLUDING PARTNERSHIP AGREEMENTS AND SIDE AGREEMENTS, THAT ARE NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

6-518.

(A) IN SELECTING APPLICANTS FOR VENTURE FIRM CERTIFICATION, THE AUTHORITY SHALL CONSIDER:

(1) THE MANAGEMENT STRUCTURE OF THE APPLICANT, INCLUDING:

(I) THE INVESTMENT EXPERIENCE OF THE PRINCIPALS;

(II) THE APPLICANT'S REPUTATION IN THE VENTURE FIRM INDUSTRY AND THE APPLICANT'S ABILITY TO ATTRACT CO-INVESTMENT CAPITAL AND SYNDICATE INVESTMENTS IN QUALIFIED BUSINESSES IN THE STATE;

(III) THE KNOWLEDGE, EXPERIENCE, AND CAPABILITIES OF THE APPLICANT IN SUBJECT AREAS RELEVANT TO VENTURE-STAGE BUSINESSES IN THE STATE; AND

(IV) THE TENURE AND TURNOVER HISTORY OF PRINCIPALS AND SENIOR INVESTMENT PROFESSIONALS OF THE APPLICANT;

(2) THE APPLICANT'S INVESTMENT STRATEGY, INCLUDING:

(I) THE APPLICANT'S TRACK RECORD OF INVESTING IN VENTURE-STAGE BUSINESSES;

(II) THE APPLICANT'S HISTORY OF ATTRACTING CO-INVESTMENT CAPITAL AND SYNDICATE INVESTMENTS;

(III) THE SOUNDNESS OF THE APPLICANT'S INVESTMENT STRATEGY AND THE COMPATIBILITY OF THAT STRATEGY WITH BUSINESS OPPORTUNITIES IN THE STATE; AND

(IV) THE APPLICANT'S HISTORY OF JOB CREATION THROUGH INVESTMENT;

(3) THE APPLICANT'S COMMITMENT TO MAKING INVESTMENTS, THAT TO THE FULLEST EXTENT POSSIBLE:

(I) CREATE EMPLOYMENT OPPORTUNITIES IN THE STATE;

(II) LEAD TO THE GROWTH OF THE STATE ECONOMY AND QUALIFIED BUSINESSES IN THE STATE;

(III) COMPLEMENT THE RESEARCH AND DEVELOPMENT PROJECTS OF STATE ACADEMIC INSTITUTIONS; AND

(IV) FOSTER THE DEVELOPMENT OF TECHNOLOGIES AND INDUSTRIES THAT PRESENT OPPORTUNITIES FOR THE GROWTH OF QUALIFIED BUSINESSES IN THE STATE; AND

(4) THE APPLICANT'S COMMITMENT TO THE STATE INCLUDING:

(I) THE APPLICANT'S PRESENCE IN THE STATE THROUGH PERMANENT LOCAL OFFICES OR AFFILIATION WITH LOCAL INVESTMENT FIRMS;

(II) THE LOCAL PRESENCE OF SENIOR INVESTMENT PROFESSIONALS;

(III) THE APPLICANT'S HISTORY OF INVESTING IN VENTURE-STAGE BUSINESSES IN THE STATE;

(IV) THE APPLICANT'S ABILITY TO IDENTIFY INVESTMENT OPPORTUNITIES THROUGH WORKING RELATIONSHIPS WITH STATE RESEARCH AND DEVELOPMENT INSTITUTIONS AND STATE-BASED BUSINESSES;

(V) THE APPLICANT'S RELATIONSHIP WITH OTHER VENTURE FIRMS IN THE REGION;

(VI) THE APPLICANT'S HISTORY OF INVESTING IN AREAS RELEVANT TO VENTURE-STAGE BUSINESSES IN THE STATE; AND

(VII) THE APPLICANT'S COMMITMENT TO INVESTING A SIMILAR OR GREATER AMOUNT OF DESIGNATED CAPITAL RECEIVED UNDER THIS SUBTITLE IN STATE-BASED VENTURES AND QUALIFIED BUSINESSES.

(B) (1) AN APPLICANT SHALL FILE AN APPLICATION WITH THE DEPARTMENT IN THE FORM REQUIRED BY THE DEPARTMENT, ACCOMPANIED BY A NONREFUNDABLE APPLICATION FEE OF \$7,500 DEPARTMENT.

(2) THE APPLICATION SHALL INCLUDE AN AUDITED BALANCE SHEET AS OF A DATE NOT MORE THAN 60 DAYS BEFORE THE APPLICATION DATE WITH AN UNQUALIFIED OPINION FROM AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT THE APPLICANT'S MOST RECENT FINANCIAL STATEMENTS.

(3) THE DEPARTMENT SHALL BEGIN ACCEPTING APPLICATIONS FOR CERTIFICATION ON OR BEFORE JANUARY 1, 2012.

(4) AN APPLICATION FOR CERTIFICATION MAY NOT BE ACCEPTED AFTER MAY 1, 2012.

(C) TO BE CERTIFIED AS A VENTURE FIRM:

(1) THE APPLICANT MUST HAVE, AT THE TIME OF APPLICATION, AN EQUITY CAPITALIZATION CAPITALIZATION, NET ASSETS, OR WRITTEN COMMITMENTS OF AT LEAST \$500,000 IN THE FORM OF CASH OR CASH EQUIVALENTS; AND

(2) AT LEAST TWO PRINCIPALS OR PERSONS EMPLOYED TO DIRECT THE INVESTMENT OF THE DESIGNATED CAPITAL OF THE APPLICANT MUST HAVE AT LEAST 5 YEARS OF MONEY MANAGEMENT EXPERIENCE IN THE VENTURE CAPITAL OR PRIVATE EQUITY SECTORS; AND

~~(3) THE APPLICANT MUST HAVE ESTABLISHED AN OFFICE IN THE STATE OR DO SO WITHIN 60 DAYS AFTER CERTIFICATION.~~

~~(D) AN INDEPENDENT THIRD PARTY THAT THE AUTHORITY SELECTS SHALL:~~

~~(1) REVIEW AND EVALUATE THE APPLICATION, ORGANIZATIONAL DOCUMENTS, AND BUSINESS HISTORY OF EACH APPLICANT;~~

~~(2) ENSURE THAT THE APPLICANT SATISFIES THE REQUIREMENTS OF THIS SUBTITLE; AND~~

~~(3) BASED ON SELECTION CRITERIA LISTED IN THIS SECTION AND ANY ADDITIONAL CRITERIA PROVIDED BY THE DEPARTMENT OR THE AUTHORITY, CERTIFY THE VENTURE FIRMS THAT ARE TO RECEIVE ALLOCATIONS OF DESIGNATED CAPITAL UNDER THE PROGRAM.~~

~~(E) (1) THE DEPARTMENT SHALL BEGIN ACCEPTING APPLICATIONS FOR CERTIFICATION ON OR BEFORE JANUARY 1, 2012.~~

~~(2) AN APPLICATION FOR CERTIFICATION MAY NOT BE ACCEPTED AFTER MARCH 1, 2012.~~

~~(F) (D) NOT LATER THAN ~~45~~ 90 DAYS AFTER AN APPLICATION IS FILED, THE SECRETARY SHALL EITHER:~~

~~(1) ISSUE THE CERTIFICATION; OR~~

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

~~(G) (1) NOT LATER THAN APRIL 1 OF EACH YEAR, EACH VENTURE FIRM SHALL PAY A NONREFUNDABLE RENEWAL FEE OF \$5,000 TO THE DEPARTMENT.~~

~~(2) IF A VENTURE FIRM FAILS TO PAY ITS RENEWAL FEE ON OR BEFORE THAT DATE, THE VENTURE FIRM SHALL PAY, IN ADDITION TO THE RENEWAL FEE, A LATE FEE OF \$5,000 TO CONTINUE ITS CERTIFICATION.~~

~~(H) NOTWITHSTANDING SUBSECTION (G) OF THIS SECTION, A RENEWAL FEE IS NOT REQUIRED WITHIN 6 MONTHS AFTER THE DATE ON WHICH THE VENTURE FIRM'S CERTIFICATION IS ISSUED UNDER THIS SECTION.~~

~~6-518.~~ 6-519.

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A VENTURE FIRM, THE ENTERPRISE FUND, AND THE FINANCING AUTHORITY SHALL MAKE QUALIFIED INVESTMENTS EQUAL TO 90% OF THEIR RESPECTIVE AMOUNTS OF DESIGNATED CAPITAL WITHIN 5 YEARS AFTER RECEIVING THE FIRST INSTALLMENT OF DESIGNATED CAPITAL UNDER THE PROGRAM.~~

~~(B) (1) THE AGGREGATE CUMULATIVE AMOUNT OF ALL QUALIFIED INVESTMENTS MADE BY THE VENTURE FIRM, THE ENTERPRISE FUND, AND THE FINANCING AUTHORITY AFTER THE RECEIPT OF THE FIRST INSTALLMENT OF DESIGNATED CAPITAL UNDER THE PROGRAM SHALL BE CONSIDERED IN COMPUTING THE PERCENTAGE REQUIREMENTS UNDER THIS SUBTITLE.~~

~~(2) ANY PROCEEDS RECEIVED FROM A QUALIFIED INVESTMENT:~~

~~(I) MAY BE INVESTED IN ANOTHER QUALIFIED INVESTMENT; AND~~

~~(II) SHALL COUNT TOWARD ANY REQUIREMENT IN THIS SUBTITLE WITH RESPECT TO INVESTMENTS OF DESIGNATED CAPITAL.~~

~~(C)~~ (A) (1) A BUSINESS THAT IS CLASSIFIED AS A QUALIFIED BUSINESS AT THE TIME OF THE FIRST INVESTMENT IN THE BUSINESS BY A VENTURE FIRM, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY REMAINS CLASSIFIED AS A QUALIFIED BUSINESS AND MAY RECEIVE FOLLOW-ON INVESTMENTS FROM A VENTURE FIRM, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A FOLLOW-ON INVESTMENT MADE UNDER THIS SUBSECTION IS A QUALIFIED INVESTMENT EVEN THOUGH THE BUSINESS DOES NOT MEET THE DEFINITION OF A QUALIFIED BUSINESS AT THE TIME OF THE FOLLOW-ON INVESTMENT.

(3) ~~A~~ WITH RESPECT TO AN INVESTMENT BY THE ENTERPRISE FUND OR THE FINANCING AUTHORITY, A FOLLOW-ON INVESTMENT DOES NOT QUALIFY AS A QUALIFIED INVESTMENT IF, AT THE TIME OF THE FOLLOW-ON INVESTMENT, THE QUALIFIED BUSINESS NO LONGER HAS ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE.

~~(D) WITHOUT THE PRIOR APPROVAL OF THE DEPARTMENT, A VENTURE FIRM OR THE FINANCING AUTHORITY MAY NOT MAKE A QUALIFIED INVESTMENT IN ANY ONE QUALIFIED BUSINESS THAT IS GREATER THAN 15% OF~~

~~THE TOTAL DESIGNATED CAPITAL ALLOCATED TO THE VENTURE FIRM OR TO THE FINANCING AUTHORITY.~~

~~(E) AS A CONDITION OF THE INVESTMENT, THE QUALIFIED BUSINESS SHALL:~~

~~(1) AGREE THAT WHILE THE VENTURE FIRM, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY CONTINUES TO HOLD THE INVESTMENT, THE QUALIFIED BUSINESS WILL MAINTAIN ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE; AND~~

~~(2) EXECUTE A REPURCHASE AGREEMENT WITH THE DEPARTMENT UNDER WHICH THE QUALIFIED BUSINESS AGREES TO REPURCHASE ANY QUALIFIED INVESTMENT HELD BY A VENTURE FIRM, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY UNDER THE PROGRAM IF THE QUALIFIED BUSINESS VOLUNTARILY RELOCATES ITS BUSINESS OPERATIONS OUT OF THE STATE.~~

~~(F) A VENTURE FIRM MAY INVEST ANY DESIGNATED CAPITAL NOT INVESTED IN QUALIFIED INVESTMENTS IN ANY MANNER THAT IT CONSIDERS APPROPRIATE.~~

~~(C)~~ (B) EACH VENTURE FIRM SHALL:

~~(1) INFORM THE DEPARTMENT IN WRITING WHEN THE VENTURE FIRM REQUIRES DESIGNATED CAPITAL FOR INVESTMENT IN A QUALIFIED BUSINESS OR FOR THE PAYMENT OF APPROVED FEES AND EXPENSES; AND~~

~~(2) PROVIDE DOCUMENTATION TO THE DEPARTMENT FOR EACH QUALIFIED INVESTMENT IN A QUALIFIED BUSINESS IN THE FORM REQUIRED BY THE DEPARTMENT.~~

~~6-519.~~

~~(A) BEFORE MAKING AN INVESTMENT IN A BUSINESS, A VENTURE FIRM SHALL REQUEST FROM THE SECRETARY OR THE SECRETARY'S DESIGNEE A WRITTEN DETERMINATION AS TO WHETHER THE BUSINESS IS A QUALIFIED BUSINESS.~~

~~(B) NOT LATER THAN 10 BUSINESS DAYS AFTER RECEIVING A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL:~~

~~(1) DETERMINE WHETHER THE BUSINESS MEETS THE DEFINITION OF A QUALIFIED BUSINESS; AND~~

~~(2) PROVIDE THE VENTURE FIRM:~~

~~(i) NOTICE AND EXPLANATION OF THE DETERMINATION;~~

~~OR~~

~~(ii) NOTICE THAT AN ADDITIONAL 10 BUSINESS DAYS WILL BE NEEDED TO REVIEW AND MAKE THE DETERMINATION.~~

6-520.

(A) AN INSURANCE COMPANY OR AFFILIATE MAY NOT DIRECTLY OR INDIRECTLY:

(1) MANAGE A VENTURE FIRM;

(2) BENEFICIALLY OWN, THROUGH RIGHTS, OPTIONS, CONVERTIBLE INTERESTS, OR OTHERWISE, MORE THAN 15% OF THE VOTING SECURITIES OR OTHER VOTING OWNERSHIP INTEREST OF A VENTURE FIRM; OR

(3) CONTROL THE DIRECTION OF INVESTMENTS FOR A VENTURE FIRM.

(B) SUBSECTION (A) OF THIS SECTION APPLIES WHETHER OR NOT THE INSURANCE COMPANY OR AFFILIATE IS AUTHORIZED TO DO BUSINESS IN THE STATE.

6-521.

~~(A) THE DEPARTMENT SHALL REPORT TO EACH VENTURE FIRM AND THE FINANCING AUTHORITY AS SOON AS PRACTICABLE BUT NOT LATER THAN 30 DAYS AFTER RECEIVING DESIGNATED CAPITAL FROM PURCHASERS:~~

~~(1) THE NAME OF EACH PURCHASER FROM WHOM THE DESIGNATED CAPITAL WAS RECEIVED;~~

~~(2) THE AMOUNT OF EACH PURCHASER'S COMMITMENT OF DESIGNATED CAPITAL; AND~~

~~(3) THE DATES WHEN EACH INSTALLMENT OF DESIGNATED CAPITAL WILL BE PAID TO THE DEPARTMENT.~~

~~(B)~~ (A) NOT LATER THAN JANUARY 31 OF EACH YEAR, EACH VENTURE FIRM AND THE FINANCING AUTHORITY SHALL REPORT TO THE DEPARTMENT:

(1) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PRECEDING CALENDAR YEAR;

(2) ALL QUALIFIED INVESTMENTS ~~THAT THE VENTURE FIRM OR THE FINANCING AUTHORITY HAS~~ MADE DURING THE PRECEDING CALENDAR YEAR, INCLUDING THE NUMBER OF EMPLOYEES OF EACH ~~QUALIFIED~~ BUSINESS AT THE TIME THE QUALIFIED INVESTMENT WAS MADE AND AS OF DECEMBER 31 OF THAT YEAR;

(3) FOR ANY QUALIFIED ~~BUSINESS~~ INVESTMENT IN WHICH THE VENTURE FIRM OR THE FINANCING AUTHORITY NO LONGER HAS ~~AN INVESTMENT~~ A POSITION AS OF THE END OF THE CALENDAR YEAR, THE NUMBER OF EMPLOYEES OF THE ~~QUALIFIED~~ BUSINESS AS OF THE DATE THE INVESTMENT WAS TERMINATED; AND

(4) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES TO ASCERTAIN THE IMPACT OF THE PROGRAM ON THE ECONOMY OF THE STATE.

(C) NOT LATER THAN 180 DAYS AFTER THE END OF ITS FISCAL YEAR, EACH VENTURE FIRM SHALL PROVIDE TO THE DEPARTMENT AN AUDITED FINANCIAL STATEMENT THAT INCLUDES THE OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(D) NOT LATER THAN 60 DAYS AFTER THE SALE OR OTHER DISPOSITION OF ~~AN INTEREST IN A QUALIFIED BUSINESS~~ A QUALIFIED INVESTMENT, THE SELLING VENTURE FIRM OR THE FINANCING AUTHORITY SHALL PROVIDE TO THE DEPARTMENT A REPORT ON THE AMOUNT OF THE INTEREST SOLD OR DISPOSED OF AND THE CONSIDERATION RECEIVED FOR THE SALE OR DISPOSITION.

~~(E) (1) EACH VENTURE FIRM AND THE FINANCING AUTHORITY SHALL REPORT TO THE DEPARTMENT WHEN IT HAS SATISFIED THE INVESTMENT SCHEDULE REQUIREMENTS OF § 6-518(A) OF THIS SUBTITLE.~~

~~(2) WITHIN 60 DAYS AFTER RECEIVING THE NOTICE, THE DEPARTMENT SHALL EITHER:~~

~~(i) CONFIRM THAT THE VENTURE FIRM OR THE FINANCING AUTHORITY HAS SATISFIED THOSE REQUIREMENTS; OR~~

~~(H) PROVIDE NOTICE OF NONCOMPLIANCE WITH AN EXPLANATION OF ANY EXISTING DEFICIENCIES.~~

6-522.

(A) A VENTURE FIRM MAY MAKE A QUALIFIED DISTRIBUTION AT ANY TIME.

(B) TO MAKE A DISTRIBUTION THAT IS NOT A QUALIFIED DISTRIBUTION, A VENTURE FIRM FIRST SHALL ~~HAVE RETURNED TO THE DEPARTMENT~~ ALL PAY TO THE COMPTROLLER THE TOTAL AMOUNT OF THE DESIGNATED CAPITAL ALLOCATED TO THE VENTURE FIRM.

(C) AFTER THE VENTURE FIRM HAS MADE THE PAYMENT REFERRED TO IN SUBSECTION (B) OF THIS SECTION, ANY ADDITIONAL NONQUALIFIED DISTRIBUTIONS SHALL BE MADE:

(I) 80% TO THE ~~DEPARTMENT~~ COMPTROLLER; AND

(II) 20% TO THE OWNERS OF THE VENTURE FIRM.

(D) ~~ALL PAYMENTS MADE TO THE DEPARTMENT UNDER THIS SECTION SHALL BE DEPOSITED IN THE ENTERPRISE FUND~~ THE COMPTROLLER SHALL DISTRIBUTE ALL PAYMENTS RECEIVED UNDER THIS SECTION TO THE GENERAL FUND WITHIN 30 DAYS OF RECEIPT.

6-523.

INVESTMENT RETURNS RESULTING FROM THE QUALIFIED INVESTMENTS MADE UNDER THE PROGRAM BY THE ENTERPRISE FUND OR THE FINANCING AUTHORITY SHALL BE USED TO MAKE ADDITIONAL QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES BY THE ENTERPRISE FUND OR THE FINANCING AUTHORITY.

~~6-523.~~

~~(A) THE INVESTMENT IN QUALIFIED BUSINESSES BY VENTURE FIRMS UNDER THIS SUBTITLE SHALL TERMINATE AS OF JANUARY 1, 2022.~~

~~(B) ANY VENTURE FIRM HOLDING AN INVESTMENT IN A QUALIFIED BUSINESS AS OF JANUARY 1, 2022, SHALL EITHER:~~

~~(1) LIQUIDATE THE INVESTMENT AND DISTRIBUTE THE PROCEEDS IN ACCORDANCE WITH § 6-512 OF THIS SUBTITLE; OR~~

~~(2) DISTRIBUTE THE INVESTMENT IN ACCORDANCE WITH § 6-512 OF THIS SUBTITLE.~~

~~6-524 6-523.~~ 6-524. RESERVED.

~~6-525 6-524.~~ 6-525. RESERVED.

PART V. MISCELLANEOUS.

~~6-526 6-525.~~ 6-526.

(A) IN ANY CASE UNDER THE INSURANCE LAW OF THE STATE IN WHICH THE ASSETS OF A PURCHASER ARE EXAMINED OR CONSIDERED, THE DESIGNATED CAPITAL SHALL BE TREATED AS AN ADMITTED ASSET, SUBJECT TO THE SAME FINANCIAL RATING AS THAT HELD BY THE STATE.

(B) THE DEPARTMENT SHALL SUBMIT THE FOLLOWING TO THE MARYLAND INSURANCE ADMINISTRATION:

(1) THE NAMES, ADDRESSES, AND AMOUNT OF DESIGNATED CAPITAL TO BE CONTRIBUTED AND PREMIUM TAX CREDITS EARNED BY EACH SUCCESSFUL BIDDER WITHIN 30 DAYS AFTER THE CLOSE OF THE BIDDING PROCESS UNDER § 6-512 OF THIS SUBTITLE;

(2) A COPY OF THE TAX CREDIT CERTIFICATE ISSUED TO EACH PURCHASER WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CERTIFICATE UNDER § 6-513 OF THIS SUBTITLE;

(3) THE OCCURRENCE OF A DEFAULT BY A PURCHASER; AND

(4) THE TRANSFER OF PREMIUM TAX CREDITS BY A PURCHASER.

~~6-527 6-526.~~ 6-527.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A SERVICE THAT THE DEPARTMENT OBTAINS THAT IS RELATED TO THE INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF AN ASSET OF THE DEPARTMENT IN A TRANSACTION AUTHORIZED UNDER THIS SUBTITLE.

(B) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES RELATED TO THE INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE.

(C) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO THE SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER DISPOSITION OF REAL OR PERSONAL PROPERTY, INCLUDING A SHARE OF STOCK IN A BUSINESS ENTITY, THAT THE DEPARTMENT ACQUIRES IN A TRANSACTION AUTHORIZED UNDER THIS SUBTITLE.

~~6-528 6-527. 6-528.~~

THE DEPARTMENT SHALL ADMINISTER THIS SUBTITLE AND MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

~~6-529 6-528. 6-529.~~

(A) (1) ON OR BEFORE JANUARY 1, 2013, AND JANUARY 1 OF EACH SUBSEQUENT YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE IMPLEMENTATION OF THE PROGRAM TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ~~TO THE GENERAL ASSEMBLY~~ THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE WAYS AND MEANS COMMITTEE.

(2) THE DEPARTMENT SHALL PUBLISH THE REPORT ON THE DEPARTMENT'S WEB SITE IN A PUBLICLY AVAILABLE FORMAT.

(3) THE REPORT PUBLISHED ON THE WEB SITE IS NOT REQUIRED TO INCLUDE ANY PROPRIETARY OR CONFIDENTIAL INFORMATION.

(B) THE REPORT SHALL INCLUDE:

~~(1) THE NUMBER OF VENTURE FIRMS THAT HAVE BEEN ALLOCATED DESIGNATED CAPITAL;~~

~~(2) THE AMOUNT OF DESIGNATED CAPITAL ALLOCATED TO EACH VENTURE FIRM, THE ENTERPRISE FUND, AND THE FINANCING AUTHORITY;~~

~~(3) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL THE VENTURE FIRM, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY HAS INVESTED IN QUALIFIED BUSINESSES AS OF THE DATE OF THE REPORT;~~

~~(4) THE TOTAL AMOUNT OF TAX CREDITS GRANTED UNDER THE PROGRAM FOR EACH YEAR THAT CREDITS HAVE BEEN GRANTED;~~

~~(5) THE PERFORMANCE OF EACH VENTURE FIRM WITH RESPECT TO RENEWAL AND REPORTING REQUIREMENTS IMPOSED UNDER THIS SUBTITLE;~~

(1) WITH RESPECT TO EACH PURCHASER OF PREMIUM TAX CREDITS UNDER THE PROGRAM:

(I) THE NAME OF THE PURCHASER OF PREMIUM TAX CREDITS;

(II) THE AMOUNT OF PREMIUM TAX CREDITS ALLOCATED TO THE PURCHASER;

(III) THE AMOUNT OF DESIGNATED CAPITAL THE PURCHASER CONTRIBUTED FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE; AND

(IV) THE AMOUNT OF ANY TAX CREDITS THAT HAVE BEEN TRANSFERRED UNDER § 6-514 OF THIS SUBTITLE;

(2) WITH RESPECT TO EACH VENTURE FIRM THAT HAS RECEIVED AN ALLOCATION OF DESIGNATED CAPITAL:

(I) THE NAME AND ADDRESS OF THE VENTURE FIRM;

(II) THE NAMES OF THE INDIVIDUALS MAKING QUALIFIED INVESTMENTS UNDER THE PROGRAM;

(III) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED DURING THE PREVIOUS YEAR;

(IV) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL RECEIVED;

(V) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PREVIOUS CALENDAR YEAR;

(VI) THE NAMES AND LOCATIONS OF QUALIFIED BUSINESSES RECEIVING DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT;

(VII) THE ANNUAL PERFORMANCE OF EACH QUALIFIED INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS CALCULATED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(VIII) THE AMOUNT OF ANY QUALIFIED DISTRIBUTION OR NONQUALIFIED DISTRIBUTION TAKEN DURING THE PRIOR YEAR, INCLUDING ANY MANAGEMENT FEE;

(3) WITH RESPECT TO THE ENTERPRISE FUND:

(I) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED DURING THE PREVIOUS YEAR;

(II) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL RECEIVED;

(III) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PRECEDING CALENDAR YEAR;

(IV) THE NAMES AND LOCATIONS OF QUALIFIED BUSINESSES RECEIVING DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT; AND

(V) THE ANNUAL PERFORMANCE OF EACH QUALIFIED INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS CALCULATED UNDER FINANCIAL ACCOUNTING STANDARD 157 OF THE FINANCIAL ACCOUNTING STANDARDS BOARD;

(4) WITH RESPECT TO THE FINANCING AUTHORITY:

(I) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED DURING THE PREVIOUS YEAR AND THE AMOUNT ALLOCATED TO THE EQUITY PARTICIPATION INVESTMENT PROGRAM;

(II) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL RECEIVED;

(III) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PRECEDING CALENDAR YEAR;

(IV) THE NAMES AND LOCATIONS OF QUALIFIED BUSINESSES RECEIVING DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT; AND

(V) THE ANNUAL PERFORMANCE OF EACH QUALIFIED INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS CALCULATED UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

~~(6)~~ (5) WITH RESPECT TO THE QUALIFIED BUSINESSES IN WHICH VENTURE FIRMS, THE ENTERPRISE FUND, OR THE FINANCING AUTHORITY HAVE INVESTED:

(I) THE CLASSIFICATION OF THE QUALIFIED BUSINESSES ACCORDING TO THE INDUSTRIAL SECTOR AND THE SIZE OF THE BUSINESS;

(II) THE TOTAL NUMBER OF JOBS CREATED IN THE STATE BY THE INVESTMENT AND THE AVERAGE WAGES PAID FOR THE JOBS; AND

(III) THE TOTAL NUMBER OF JOBS RETAINED IN THE STATE AS A RESULT OF THE INVESTMENT AND THE AVERAGE WAGES PAID FOR THE JOBS;~~AND.~~

~~(7) THE VENTURE FIRMS THAT HAVE FAILED TO RENEW THE CERTIFICATION.~~

Article – Insurance

6-122.

AN INSURER MAY CLAIM A TAX CREDIT FOR AN INVESTMENT OF DESIGNATED CAPITAL AS PROVIDED UNDER TITLE 6, SUBTITLE 5 OF THE ECONOMIC DEVELOPMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the Maryland Venture ~~Capital Fund~~ Authority appointed under § 6-505 of the Economic Development Article, as enacted by this Act, shall expire as follows:

- (1) three members in 2014; and
- (2) four members in 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) If the December 2011 report of the Board of Revenue Estimates indicates an increase in General Fund revenues for fiscal year 2012 over the revenues estimated

in the March 2011 report as adjusted by the 2011 enacted legislation by at least \$70,000,000, the Governor shall submit a deficiency appropriation for the fiscal year 2012 budget to the Dedicated Purpose Account during the 2012 legislative session.

(b) The amount of the deficiency appropriation may not exceed \$70,000,000.

(c) If the General Assembly approves or modifies the deficiency appropriation, the maximum amount specified in § 6-512(e) of the Economic Development Article, as enacted by this Act, of the credits that may be allocated under this Act shall be reduced in an amount so that the resulting amount of designated capital as defined under § 6-501 of the Economic Development Article, as enacted by this Act, plus the amount of the deficiency appropriation, as approved by the General Assembly, is equal to the amount of designated capital that the auction would have otherwise resulted in if \$100,000,000 in credits were available for auction.

(d) The Governor is authorized to transfer by approved budget amendment from the Dedicated Purpose Account an amount equal to the approved deficiency appropriation to fund investments under this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a portion of funds received under this Act be used to make qualified investments in qualified businesses located in rural counties of the State.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 19, 2011.