

HOUSE BILL 328

Q3

(3lr1622)

ENROLLED BILL

— *Ways and Means/Budget and Taxation* —

Introduced by **Delegates Feldman, Afzali, Aumann, Barkley, Barve, Boteler, Dumais, George, Impallaria, A. Kelly, Lee, and Luedtke**

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 Tax Credit – Qualified Maryland Biotechnology**
3 **Company – Definition**

4 FOR the purpose of altering the definition of “qualified Maryland biotechnology
5 company” for purposes of the biotechnology investment tax credit to ~~exclude a~~
6 ~~company that has received investments from certain qualified investors;~~
7 ~~repealing obsolete language~~ include a company that has been in active business
8 for a certain period of time from a certain date; providing for the application of
9 this Act; and generally relating to credits against certain State taxes based on
10 certain investments in certain biotechnology companies.

11 BY repealing and reenacting, without amendments,
12 Article – Tax – General
13 Section 10–725(a)(1) and (6)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Tax – General
5 Section 10–725(a)(7)
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2012 Supplement)

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

10 **Article – Tax – General**

11 10–725.

12 (a) (1) In this section the following words have the meanings indicated.

13 (6) (i) “Qualified investor” means any individual or entity that
14 invests at least \$25,000 in a qualified Maryland biotechnology company and that is
15 required to file an income tax return in any jurisdiction.

16 (ii) “Qualified investor” does not include a qualified pension
17 plan, individual retirement account, or other qualified retirement plan under the
18 Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or
19 custodians under such plans, or similar tax–favored plans or entities under the laws of
20 other countries.

21 (7) ~~[(i)]~~ “Qualified Maryland biotechnology company” means a
22 biotechnology company that:

23 ~~[(1)]~~ ~~(I)~~ has its headquarters and base of operations in
24 this State;

25 ~~[(2)]~~ ~~(II)~~ has fewer than 50 full–time employees;

26 ~~[(3)]~~ ~~(III)~~ ~~[except as provided in subparagraph (ii) of this~~
27 ~~paragraph, has been in active business no longer than 10 years]~~ ~~HAS NOT RECEIVED~~
28 ~~INVESTMENTS FROM QUALIFIED INVESTORS WHO HAVE COLLECTIVELY~~
29 ~~RECEIVED MORE THAN \$5 MILLION OF TAX CREDITS UNDER THIS SECTION;~~

30 ~~[(4)]~~ ~~(IV)~~ does not have its securities publicly traded on
31 any exchange; and

32 ~~[(5)]~~ ~~(V)~~ has been certified as a biotechnology company
33 by the Department.

1 {(ii) “Qualified Maryland biotechnology company” includes:

2 1. a company that has been in active business for up to
3 12 years if the Department determines that the company requires additional time to
4 complete the process of regulatory approval; ~~and~~

5 2. for fiscal years 2012 and 2013 only, a company that
6 has been in active business for up to 15 years; OR

7 **3. A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS**
8 **NO LONGER THAN 10 YEARS FROM THE DATE THE COMPANY FIRST RECEIVED ~~AN~~**
9 **A QUALIFIED INVESTMENT BY A QUALIFIED INVESTOR WHO RECEIVED A CREDIT**
10 **UNDER THIS SECTION.**{

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 June 1, 2013, and shall be applicable to all initial tax credit certificates issued after
13 June 30, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.