

# HOUSE BILL 328

Q3

3lr1622  
CF SB 779

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

Introduced and read first time: January 24, 2013

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2013

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## 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)  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2012 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Tax – General  
18 Section 10–725(a)(7)  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2012 Supplement)

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### 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.



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

3 **Article – Tax – General**

4 10–725.

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

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

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

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

16 ~~[(1.) (I)]~~ has its headquarters and base of operations in  
17 this State;

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

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

23 ~~[(4.) (IV)]~~ does not have its securities publicly traded on  
24 any exchange; and

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

27 ~~[(ii)]~~ “Qualified Maryland biotechnology company” includes:

28 1. a company that has been in active business for up to  
29 12 years if the Department determines that the company requires additional time to  
30 complete the process of regulatory approval; ~~and~~

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

1                                   **3.    A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS**  
2 **NO LONGER THAN 10 YEARS FROM THE DATE THE COMPANY FIRST RECEIVED AN**  
3 **INVESTMENT BY A QUALIFIED INVESTOR WHO RECEIVED A CREDIT UNDER THIS**  
4 **SECTION.**‡

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.