

HOUSE BILL 803

Q3

3lr0012

By: **Chair, Ways and Means Committee (By Request – Departmental – Business and Economic Development)**

Introduced and read first time: February 6, 2013

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Business and Economic Development – Cybersecurity**
3 **Investment Incentive Tax Credit**

4 FOR the purpose of providing for credits against the State income tax for certain
5 investments in certain cybersecurity companies; providing for applications to
6 the Department of Business and Economic Development for approval of the
7 credit and certification by the Department to investors of approved credit
8 amounts; providing for the issuance of certain initial credit certificates by the
9 Department, subject to certain requirements and limitations; providing certain
10 limits on the amount of credits that can be claimed; requiring the Secretary of
11 the Department to issue final credit certificates under certain circumstances;
12 making certain credits refundable under certain circumstances; authorizing the
13 Department to establish a panel of experts in the area of cybersecurity
14 technology to assist the Department in making certain determinations;
15 providing for an exemption from certain provisions of the procurement law to
16 procure the services of certain experts to serve on a certain panel; establishing
17 the Maryland Cybersecurity Investment Tax Credit Reserve Fund; requiring
18 the Governor to include ~~an~~ a certain appropriation to the Reserve Fund in the
19 annual budget bill; providing for the payment of certain administrative costs
20 from a certain fund; requiring the Comptroller to transfer certain amounts from
21 the Reserve Fund to the General Fund under certain circumstances; requiring
22 the Comptroller to transfer certain amounts from the Reserve Fund to the
23 Department for certain purposes; specifying the year in which certain credits
24 may first be claimed; limiting the maximum amount of initial credit certificates

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 that may be issued in a certain fiscal year; providing that certain credit
 2 amounts may be carried over to subsequent taxable years; providing that
 3 certain credit amounts not issued under initial credit certificates in a certain
 4 fiscal year revert to the General Fund; limiting the maximum amount of credits
 5 that may be claimed on certain State income tax returns; providing for certain
 6 procedures to claim approved credits; providing for revocations or recapture of a
 7 credit under certain circumstances; requiring the Department to make a certain
 8 report by a certain date each year; requiring the Department and the
 9 Comptroller jointly to adopt certain regulations; defining certain terms;
 10 providing for the application of this Act; providing for the termination of this
 11 Act; and generally relating to credits against the State income tax based on
 12 certain investments in certain cybersecurity businesses in the State.

13 BY adding to
 14 Article – Tax – General
 15 Section 10–733
 16 Annotated Code of Maryland
 17 (2010 Replacement Volume and 2012 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 **10–733.**

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) “CYBERSECURITY COMPANY” MEANS A COMPANY ORGANIZED
 30 FOR PROFIT THAT IS ENGAGED PRIMARILY IN THE DEVELOPMENT OF
 31 INNOVATIVE AND PROPRIETARY CYBERSECURITY TECHNOLOGY.

32 (4) “CYBERSECURITY TECHNOLOGY” MEANS PRODUCTS OR
 33 GOODS INTENDED TO DETECT OR PREVENT ACTIVITY INTENDED TO RESULT IN
 34 UNAUTHORIZED ACCESS TO, EXFILTRATION OF, MANIPULATION OF, OR
 35 IMPAIRMENT TO THE INTEGRITY, CONFIDENTIALITY, OR AVAILABILITY OF AN
 36 INFORMATION SYSTEM OR INFORMATION STORED ON OR TRANSITING AN
 37 INFORMATION SYSTEM.

1 (5) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND
2 ECONOMIC DEVELOPMENT.

3 (6) (I) “INVESTMENT” MEANS THE CONTRIBUTION OF MONEY
4 IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A
5 RISK OF LOSS, TO A QUALIFIED MARYLAND CYBERSECURITY COMPANY IN
6 EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, OR ANY
7 OTHER OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND
8 CYBERSECURITY COMPANY, TITLE TO WHICH OWNERSHIP INTEREST SHALL
9 VEST IN THE QUALIFIED INVESTOR.

10 (II) “INVESTMENT” DOES NOT INCLUDE DEBT.

11 (III) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS
12 AT RISK OF LOSS WHEN REPAYMENT ENTIRELY DEPENDS ON THE SUCCESS OF
13 THE BUSINESS OPERATIONS OF THE QUALIFIED COMPANY.

14 (7) “PANEL” MEANS THE PANEL THAT THE DEPARTMENT MAY
15 ESTABLISH UNDER SUBSECTION (E) OF THIS SECTION COMPOSED OF EXPERTS
16 IN THE AREA OF CYBERSECURITY TECHNOLOGY.

17 (8) (I) “QUALIFIED INVESTOR” MEANS ANY INDIVIDUAL OR
18 ENTITY THAT INVESTS AT LEAST \$25,000 IN A QUALIFIED MARYLAND
19 CYBERSECURITY COMPANY AND THAT IS REQUIRED TO FILE AN INCOME TAX
20 RETURN IN ANY JURISDICTION.

21 (II) “QUALIFIED INVESTOR” DOES NOT INCLUDE A
22 QUALIFIED PENSION PLAN, AN INDIVIDUAL RETIREMENT ACCOUNT, OR ANY
23 OTHER QUALIFIED RETIREMENT PLAN UNDER THE EMPLOYEE RETIREMENT
24 INCOME SECURITY ACT OF 1974, AS AMENDED, OR FIDUCIARIES OR
25 CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX-FAVORED PLANS OR
26 ENTITIES UNDER THE LAWS OF OTHER COUNTRIES.

27 (9) “QUALIFIED MARYLAND CYBERSECURITY COMPANY” MEANS
28 A CYBERSECURITY COMPANY THAT HAS MET THE CRITERIA SET FORTH IN
29 SUBSECTION (C)(2) OF THIS SECTION AND BEEN DETERMINED UNDER
30 SUBSECTION (C)(3)(II)2 OF THIS SECTION TO QUALIFY FOR INVESTMENTS THAT
31 ARE ELIGIBLE FOR THE TAX CREDIT UNDER THIS SECTION.

32 (10) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND
33 ECONOMIC DEVELOPMENT.

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

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

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

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

15 **(III) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS**
16 **TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND**

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

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

25 **(C) (1) AT LEAST 30 DAYS PRIOR TO MAKING AN INVESTMENT IN A**
26 **QUALIFIED MARYLAND CYBERSECURITY COMPANY FOR WHICH A QUALIFIED**
27 **INVESTOR WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE, THE**
28 **QUALIFIED INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.**

29 **(2) THE APPLICATION SHALL EVIDENCE THAT THE QUALIFIED**
30 **MARYLAND CYBERSECURITY COMPANY HAS SATISFIED THE FOLLOWING**
31 **MINIMUM REQUIREMENTS FOR CONSIDERATION AS A QUALIFIED MARYLAND**
32 **CYBERSECURITY COMPANY:**

33 **(I) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN**
34 **THIS STATE;**

1 **(II) HAS NOT PARTICIPATED IN THE TAX CREDIT PROGRAM**
2 **UNDER THIS SECTION FOR MORE THAN 1 PRIOR FISCAL YEAR;**

3 **(III) HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 5**
4 **YEARS;**

5 **(IV) HAS AN AGGREGATE CAPITALIZATION OF AT LEAST**
6 **\$100,000;**

7 **(V) OWNS OR HAS PROPERLY LICENSED ANY PROPRIETARY**
8 **TECHNOLOGY;**

9 **(VI) HAS FEWER THAN 50 FULL-TIME EMPLOYEES;**

10 **(VII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON**
11 **ANY EXCHANGE;**

12 **(VIII) IS IN GOOD STANDING;**

13 **(IX) IS CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS**
14 **TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE;**

15 **(X) IS NOT IN DEFAULT UNDER THE TERMS OF ANY**
16 **CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT**
17 **OR SUBDIVISION OF THE STATE; AND**

18 **(XI) MEETS ANY OTHER REASONABLE REQUIREMENTS OF**
19 **THE DEPARTMENT EVIDENCING THAT THE COMPANY IS A GOING CONCERN**
20 **PRIMARILY ENGAGED IN THE DEVELOPMENT OF INNOVATIVE AND**
21 **PROPRIETARY CYBERSECURITY TECHNOLOGY.**

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

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

25 **(II) WITHIN 30 CALENDAR DAYS OF RECEIPT OF AN**
26 **APPLICATION:**

27 **1. CERTIFY THE AMOUNT OF ANY APPROVED TAX**
28 **CREDITS TO A QUALIFIED INVESTOR; AND**

1 **2. DETERMINE WHETHER A CYBERSECURITY**
2 **COMPANY QUALIFIES FOR INVESTMENTS THAT ARE ELIGIBLE FOR THE TAX**
3 **CREDIT UNDER THIS SECTION.**

4 **(4) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES**
5 **AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED**
6 **INVESTOR SHALL HAVE 30 CALENDAR DAYS TO MAKE AN INVESTMENT IN A**
7 **QUALIFIED MARYLAND CYBERSECURITY COMPANY UNDER THIS SECTION.**

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

12 **1. THE DATE OF THE INVESTMENT;**

13 **2. THE AMOUNT INVESTED;**

14 **3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS**
15 **BY THE QUALIFIED MARYLAND CYBERSECURITY COMPANY;**

16 **4. A COMPLETE DESCRIPTION OF THE NATURE OF**
17 **THE OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND**
18 **CYBERSECURITY COMPANY ACQUIRED IN CONSIDERATION OF THE INVESTMENT;**
19 **AND**

20 **5. ANY REASONABLE SUPPORTING DOCUMENTATION**
21 **THE DEPARTMENT MAY REQUIRE.**

22 **(III) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE**
23 **NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN**
24 **SUBPARAGRAPH (II) OF THIS PARAGRAPH WITHIN 40 CALENDAR DAYS AFTER**
25 **THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT**
26 **CERTIFICATE UNDER THIS SECTION:**

27 **1. THE DEPARTMENT SHALL RESCIND THE INITIAL**
28 **TAX CREDIT CERTIFICATE; AND**

29 **2. THE CREDIT AMOUNT ALLOCATED TO THE**
30 **RESCINDED CERTIFICATE SHALL REVERT TO THE MARYLAND CYBERSECURITY**
31 **INVESTMENT TAX CREDIT RESERVE FUND AND SHALL BE AVAILABLE IN THE**
32 **APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER**
33 **INITIAL TAX CREDIT CERTIFICATES IN ACCORDANCE WITH THE PROVISIONS OF**
34 **THIS SECTION.**

1 (D) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT
2 CERTIFICATE ISSUED UNDER THIS SECTION IS 33% OF THE INVESTMENT IN A
3 QUALIFIED MARYLAND CYBERSECURITY COMPANY, NOT TO EXCEED \$250,000.

4 (2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT
5 CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE
6 QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT IN THE AGGREGATE
7 EXCEED 15% OF THE TOTAL APPROPRIATIONS TO THE MARYLAND
8 CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND FOR THAT FISCAL
9 YEAR.

10 ~~(3) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY~~
11 ~~TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE~~
12 ~~QUALIFIED INVESTOR FOR THAT TAXABLE YEAR, THE QUALIFIED INVESTOR MAY~~
13 ~~CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.~~

14 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY
15 TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN
16 INDIVIDUAL OR A CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST
17 THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER
18 OF:

19 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

20 (II) THE EXPIRATION OF THE SEVENTH TAXABLE YEAR
21 AFTER THE TAXABLE YEAR IN WHICH THE INVESTMENT EXPENSE WAS
22 INCURRED.

23 (E) (1) THE DEPARTMENT MAY ESTABLISH A PANEL COMPOSED OF
24 EXPERTS IN THE AREA OF CYBERSECURITY TECHNOLOGY.

25 (2) THE DEPARTMENT MAY ESTABLISH THE PANEL UNDER
26 SERVICE CONTRACTS WITH INDEPENDENT REVIEWERS.

27 (3) THE PANEL SHALL ASSIST THE DEPARTMENT IN ITS
28 DETERMINATION AS TO WHETHER A COMPANY IS A QUALIFIED MARYLAND
29 CYBERSECURITY COMPANY.

30 (4) A MEMBER OF THE PANEL IS NOT ELIGIBLE TO RECEIVE THE
31 TAX CREDIT UNDER THIS SECTION.

32 (5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
33 PARAGRAPH, DIVISION II OF THE STATE FINANCE AND PROCUREMENT

1 ARTICLE DOES NOT APPLY TO A SERVICE THAT THE DEPARTMENT OBTAINS
2 UNDER THIS SECTION.

3 (II) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE
4 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES THE
5 DEPARTMENT OBTAINS UNDER THIS SECTION.

6 (F) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE
7 MARYLAND CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND
8 ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

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

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

16 (III) THE MONEY IN THE RESERVE FUND MAY BE USED BY
17 THE DEPARTMENT TO PAY THE COSTS OF ADMINISTERING THE TAX CREDIT
18 PROGRAM UNDER THIS SECTION.

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

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

26 (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS
27 SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE
28 INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE
29 TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND
30 FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL
31 ASSEMBLY, AS REDUCED BY THE AMOUNT NEEDED TO PAY THE COSTS OF
32 ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

33 2. IF THE AGGREGATE CREDIT AMOUNTS UNDER
34 INITIAL TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN
35 THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR,

1 ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE
2 ISSUED UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

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

9 (IV) ~~FOR EACH FISCAL YEAR,~~ FISCAL YEAR 2015 AND EACH
10 FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE BUDGET
11 BILL AN APPROPRIATION OF AT LEAST \$2,000,000 TO THE RESERVE FUND.

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

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

19 (4) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH
20 AND IN PARAGRAPH (5) OF THIS SUBSECTION, MONEY APPROPRIATED TO THE
21 RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

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

25 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE
26 INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT; AND

27 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
28 INVESTMENT.

29 2. ON NOTIFICATION THAT AN INVESTMENT HAS
30 BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO
31 THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR
32 THE INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.

33 (III) 1. PERIODICALLY, BUT NOT MORE FREQUENTLY
34 THAN QUARTERLY, THE DEPARTMENT MAY SUBMIT INVOICES FOR COSTS THAT

1 HAVE BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN
2 ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

3 2. THE COMPTROLLER SHALL TRANSFER MONEY
4 FROM THE RESERVE FUND TO THE DEPARTMENT TO PAY FOR COSTS THAT
5 HAVE BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN
6 ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

7 (5) (I) FROM THE AMOUNT APPROPRIATED TO THE RESERVE
8 FUND IN FISCAL YEAR 2014, THE DEPARTMENT MAY NOT ISSUE INITIAL TAX
9 CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE THAT
10 EXCEED \$2,000,000.

11 (II) ANY AMOUNT REMAINING IN THE RESERVE FUND
12 AFTER THE ISSUANCE OF INITIAL TAX CREDIT CERTIFICATES UNDER
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REVERT TO THE GENERAL
14 FUND.

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

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

22 (II) THE QUALIFIED MARYLAND CYBERSECURITY COMPANY
23 THAT GAVE RISE TO THE CREDIT CEASES OPERATING AS AN ACTIVE BUSINESS
24 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 FOR WHICH THE TAX CREDIT
33 IS CLAIMED;

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 CLAIMED; 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 CLAIMED.**

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

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

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

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

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

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

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

1 **(II) THE NAME AND ADDRESS OF THE QUALIFIED**
 2 **MARYLAND CYBERSECURITY COMPANY THAT RECEIVED THE INVESTMENT**
 3 **GIVING RISE TO THE CREDIT UNDER THIS SECTION AND THE COUNTY WHERE**
 4 **THE QUALIFIED MARYLAND CYBERSECURITY COMPANY IS LOCATED; AND**

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

7 **(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
 8 **SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED**
 9 **INVESTORS:**

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

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

14 **(III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES**
 15 **AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS**
 16 **SECTION.**

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 23 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,
 24 2013, but before January 1, 2019. This Act shall remain effective for a period of 6
 25 years and, at the end of June 30, 2019 with no further action required by the General
 26 Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.