

SENATE BILL 226

Q3
SB 1107/16 – B&T

7lr1847
CF HB 373

By: **Senators Manno, Edwards, Feldman, Hough, Kasemeyer, King, Lee, Madaleno, Peters, Serafini, ~~and Young~~ Young, DeGrange, and McFadden**

Introduced and read first time: January 19, 2017

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2017

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 company”
5 to extend a certain period of time from a certain date that an active business may
6 claim the biotechnology tax credit; altering the definition of “company” to include an
7 entity that becomes duly organized and existing under certain laws and for a certain
8 purpose within a certain time period; providing for the recapture of the credit under
9 certain circumstances; providing for the application of this Act; and generally
10 relating to credits against certain State taxes based on certain investments in
11 biotechnology companies.

12 BY repealing and reenacting, without amendments,

13 Article – Tax – General
14 Section 10–725(a)(1)
15 Annotated Code of Maryland
16 (2016 Replacement Volume)

17 BY repealing and reenacting, with amendments,

18 Article – Tax – General
19 Section ~~10–725(a)(7)~~ 10–725(a)(3) and (7) and (f)
20 Annotated Code of Maryland
21 (2016 Replacement Volume)

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 MARYLAND,
2 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 (3) (i) **1.** “Company” means any entity of any form duly organized
7 and existing under the laws of any jurisdiction for the purpose of conducting business for
8 profit.

9 **2.** “COMPANY” INCLUDES AN ENTITY THAT BECOMES
10 DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE
11 PURPOSE OF CONDUCTING BUSINESS FOR PROFIT WITHIN 4 MONTHS OF RECEIVING
12 A QUALIFIED INVESTMENT.

13 (ii) “Company” does not include a sole proprietorship.

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

- 16 1. has its headquarters and base of operations in this State;
- 17 2. has fewer than 50 full–time employees;
- 18 3. except as provided in subparagraph (ii) of this paragraph,
19 has been in active business no longer than [10] 12 years;
- 20 4. does not have its securities publicly traded on any
21 exchange; and
- 22 5. has been certified as a biotechnology company by the
23 Department.

24 (ii) “Qualified Maryland biotechnology company” includes:

25 1. a company that has been in active business for up to [12]
26 15 years if the Department determines that the company requires additional time to
27 complete the process of regulatory approval; **OR**

28 2. [for fiscal years 2012 and 2013 only, a company that has
29 been in active business for up to 15 years; or

1 3.] a company that has been in active business no longer than
2 ~~[10]~~ **12** years from the date the company first received a qualified investment under this
3 section.

4 (f) (1) The credit claimed under this section shall be recaptured as provided
5 in paragraph ~~[(2)](3)~~ of this subsection if within 2 years from the close of the taxable year
6 for which the credit is claimed:

7 (i) the qualified investor sells, transfers, or otherwise disposes of the
8 ownership interest in the qualified Maryland biotechnology company that gave rise to the
9 credit; or

10 (ii) the qualified Maryland biotechnology company that gave rise to
11 the credit ceases operating as an active business with its headquarters and base of
12 operations in the State.

13 **(2) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE**
14 **RECAPTURED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION IF, WITHIN 4**
15 **MONTHS OF RECEIVING A QUALIFIED INVESTMENT, A QUALIFIED MARYLAND**
16 **BIOTECHNOLOGY COMPANY IS NOT DULY ORGANIZED AND EXISTING UNDER THE**
17 **LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR**
18 **PROFIT.**

19 ~~[(2)](3)~~ The amount required to be recaptured under this subsection is
20 the product of multiplying:

21 (i) the total amount of the credit claimed or, in the case of an event
22 described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the
23 ownership interest disposed of; and

24 (ii) 1. 100%, if the event requiring recapture of the credit occurs
25 during the taxable year for which the tax credit is claimed;

26 2. 67%, if the event requiring recapture of the credit occurs
27 during the first year after the close of the taxable year for which the tax credit is claimed;
28 or

29 3. 33%, if the event requiring recapture of the credit occurs
30 more than 1 year but not more than 2 years after the close of the taxable year for which the
31 tax credit is claimed.

32 ~~[(3)](4)~~ The qualified investor that claimed the credit shall pay the
33 amount to be recaptured as determined under paragraph ~~[(2)](3)~~ of this subsection as taxes
34 payable to the State for the taxable year in which the event requiring recapture of the credit
35 occurs.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2017, and shall be applicable to all initial credit certificates issued after June 30, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.