

SENATE BILL 19

Q3, C8

(PRE-FILED)

11r0102
CF 11r0113

By: **Chair, Budget and Taxation Committee (By Request – Departmental – Commerce)**

Requested: October 22, 2020

Introduced and read first time: January 13, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Biotechnology Investment Incentive Tax Credit**
3 **Program – Alterations**

4 FOR the purpose of altering eligibility for the Biotechnology Investment Incentive Tax
5 Credit Program by altering the definition of “qualified Maryland biotechnology
6 company”; stating the purpose of the program; altering the calculation of the tax
7 credit under the program; altering the maximum percentage of the Maryland
8 Biotechnology Investment Tax Credit Reserve Fund that a single qualified Maryland
9 biotechnology company may receive in a fiscal year; providing for the application of
10 this Act; and generally relating to the Biotechnology Investment Incentive Tax
11 Credit Program.

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 and 2020 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Tax – General
19 Section 10–725(a)(7), (b), (d)(1) and (2), and (j)
20 Annotated Code of Maryland
21 (2016 Replacement Volume and 2020 Supplement)

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

24 **Article – Tax – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-725.

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

3 (7) (i) “Qualified Maryland biotechnology company” means a
4 biotechnology company that:

5 1. has its headquarters and base of operations in this State;

6 2. has fewer than 50 full-time employees;

7 3. [except as provided in subparagraph (ii) of this
8 paragraph,] has been in active business no longer than 12 years;

9 4. does not have its securities publicly traded on any
10 exchange; [and]

11 5. has been certified as a biotechnology company by the
12 Department; AND

13 6. HAS RECEIVED IN THE AGGREGATE NOT MORE THAN
14 \$7,000,000 IN TAX CREDITS UNDER THIS SECTION.

15 (ii) “Qualified Maryland biotechnology company” includes[:

16 1. a company that has been in active business for up to 15
17 years if the Department determines that the company requires additional time to complete
18 the process of regulatory approval;

19 2. a company that has been in active business no longer than
20 12 years from the date the company first received a qualified investment under this section;
21 or

22 3.] a company that, within 2 months of the receipt of the
23 investment, has met the requirements of subparagraph (i) of this paragraph.

24 (b) (1) **THE BIOTECHNOLOGY INVESTMENT INCENTIVE TAX CREDIT IS**
25 **INTENDED TO FOSTER THE GROWTH OF MARYLAND’S BIOTECHNOLOGY INDUSTRY**
26 **BY INCENTIVIZING INVESTMENT IN EARLY STAGE COMPANIES WITH THE GOAL OF**
27 **INCREASING THE NUMBER OF COMPANIES DEVELOPING BIOTECHNOLOGIES IN**
28 **MARYLAND, INCREASING OVERALL INVESTMENTS IN THE BIOTECHNOLOGY**
29 **SECTOR, AND INCREASING THE NUMBER OF INDIVIDUAL INVESTORS ACTIVELY**
30 **INVESTING IN MARYLAND’S LIFE SCIENCES COMPANIES.**

1 ~~[(1)]~~ **(2)** Subject to paragraphs ~~[(2) and]~~ (3) **AND (4)** of this subsection
2 and subsections (d) and (e) of this section, for the taxable year in which an investment in a
3 qualified Maryland biotechnology company is made, a qualified investor may claim a credit
4 against the State income tax in an amount equal to the amount of tax credit stated in the
5 final credit certificate approved by the Secretary for the investment as provided under this
6 section.

7 ~~[(2)]~~ **(3)** To be eligible for the tax credit described in paragraph ~~[(1)]~~ **(2)**
8 of this subsection, the qualified investor shall be:

9 (i) for a company, duly organized and in good standing in the
10 jurisdiction under the laws under which it is organized;

11 (ii) for a company, in good standing and authorized or registered to
12 do business in the State;

13 (iii) current in the payment of all tax obligations to the State or any
14 unit or subdivision of the State; and

15 (iv) not in default under the terms of any contract with, indebtedness
16 to, or grant from the State or any unit or subdivision of the State.

17 ~~[(3)]~~ **(4)** To be eligible for the tax credit described in paragraph ~~[(1)]~~ **(2)**
18 of this subsection, the qualified investor may not, after making the proposed investment,
19 own or control more than 25% of the equity interests in the qualified Maryland
20 biotechnology company in which the investment is to be made.

21 (d) (1) The tax credit allowed in an initial tax credit certificate issued under
22 this section is:

23 (i) except as provided in item (ii) of this paragraph, ~~[50%]~~ **33%** of
24 the investment in a qualified Maryland biotechnology company, not to exceed \$250,000; or

25 (ii) if a qualified Maryland biotechnology company is located in
26 Allegany, Dorchester, Garrett, or Somerset counties, ~~[75%]~~ **50%** of the investment in the
27 qualified Maryland biotechnology company, not to exceed \$500,000.

28 (2) During any fiscal year, the Secretary may not certify eligibility for tax
29 credits for investments in a single qualified Maryland biotechnology company that in the
30 aggregate exceed ~~[15%]~~ **10%** of the total appropriations to the Maryland Biotechnology
31 Investment Tax Credit Reserve Fund for that fiscal year.

32 (j) If a company receives an investment under subsection ~~[(a)(7)(ii)3]~~ **(A)(7)(II)**
33 of this section and fails to satisfy the requirements for a qualified Maryland biotechnology
34 company within 2 months, the Department shall revoke any final tax credit certificates
35 that have been issued and recapture any tax credits already claimed by the qualified

1 investor.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
3 1, 2021, and shall be applicable to all initial credit certificates issued after June 30, 2021.