

HB0565/355862/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 565

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Termination” insert “, Alteration, and Evaluation”; in line 3, after “of” insert “repealing certain provisions of law authorizing and governing a credit against the State income tax for certain expenses incurred for certain cellulosic ethanol technology research and development activities;”; in lines 4 and 7 and 8, in each instance, strike “on or after a certain date” and substitute “for a certain period of time”; in line 6, after “date” insert “or on or after a certain date”; strike beginning with “One” in line 8 down through “Credit” in line 9 and substitute “More Jobs for Marylanders”; strike beginning with “providing” in line 9 down through “expires;” in line 20 and substitute “altering the purposes of the Tax Credit Evaluation Act to include the legislative review of tax exemptions and preferences; requiring the Department of Legislative Services to conduct an evaluation of a State tax credit, exemption, or preference, or an aspect of a State tax credit, exemption, or preference, under certain circumstances; repealing provisions of law establishing a certain evaluation committee; requiring certain instrumentalities of the State and local governments to promptly provide certain information to the Department of Legislative Services and otherwise cooperate with the Department of Legislative Services; requiring the Department of Legislative Services, with respect to each evaluation, to submit a certain report to the General Assembly; prohibiting an individual or corporation from receiving a credit against the income tax for certain qualified research and development expenses in excess of a certain amount in a taxable year; altering the amount of research and development tax credits that the Department of Commerce may approve in certain calendar years; requiring the Department of Commerce to make available a certain percent of the total amount of research and development tax credits that the Department of Commerce may approve in a calendar year to small businesses; providing for the use of certain unused credits; providing for the calculation of the credit under certain circumstances; altering the definition of “qualified Maryland biotechnology”

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company” for purposes of the biotechnology investment tax credit to exclude a company that has received investments from certain qualified investors; providing for the termination of a credit against the State income tax for certain costs related to federal security clearances, to rent certain spaces, and to construct or renovate certain sensitive compartmented information facilities in the State; altering the termination date of the cybersecurity investment incentive tax credit; repealing certain obsolete provisions; making conforming changes; requiring the Department to conduct, in consultation with certain parties, a certain study and to report to the General Assembly on or before a certain date; defining a certain term;”; in line 16, after “Department” insert “of Commerce”; in line 20, after “correction,” insert “providing for a delayed effective date and for the application of certain provisions of this Act;”; after line 22, insert:

“BY repealing

Article – Tax – General

Section 1–304, 1–307 through 1–310, and 10–726

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)”;

and in line 25, strike “6–1002” and substitute “6–804”.

On pages 1 and 2, strike in their entirety the lines beginning with line 28 on page 1 through line 3 on page 2, inclusive.

On page 2, in line 6, strike “10–725(c), 10–730(f), 10–733.1(d), and 10–748(d)” and substitute “1–301 through 1–303, 1–305, 1–306, 1–311, 10–721(a)(7), (b), and (c), 10–725(a)(7), 10–732(b), and 10–741”; after line 8, insert:

“BY adding to

Article – Tax – General

Section 1–306 and 10–721(a)(7)

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–721(a)(1) and 10–725(a)(1)

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BY repealing and reenacting, with amendments,
Chapter 390 of the Acts of the General Assembly of 2013, as amended by Chapter
578 of the Acts of the General Assembly of 2018
Section 2”;

and strike in their entirety lines 9 through 13, inclusive.

AMENDMENT NO. 2

On page 2, in line 14, after “MARYLAND,” insert “That Section(s) 10–726 of Article – Tax – General of the Annotated Code of Maryland be repealed.”

SECTION 2. AND BE IT FURTHER ENACTED.”;

in lines 19 and 20 and 30, in each instance, strike “**MAY 31, 2020**” and substitute “**JUNE 30, 2020 OR ON OR AFTER JULY 1, 2021**”; and in lines 22 and 23, strike “**ON OR AFTER JUNE 1, 2020**” and substitute “**FROM JULY 1, 2020, THROUGH JUNE 30, 2021, BOTH INCLUSIVE**”.

On page 3, in line 11, strike “**ON OR AFTER JUNE 1, 2020**” and substitute “**FROM JULY 1, 2020, THROUGH JUNE 30, 2021, BOTH INCLUSIVE**”; and after line 11, insert:

“6–804.

(a) The Program benefits authorized under this section may be claimed by a qualified business entity for:

(1) WITH RESPECT TO A QUALIFIED BUSINESS ENTITY ENROLLED IN THE PROGRAM BEFORE JULY 1, 2020, up to 10 consecutive benefit years; OR

(2) WITH RESPECT TO A QUALIFIED BUSINESS ENTITY ENROLLED IN THE PROGRAM ON OR AFTER JULY 1, 2020, UP TO 5 CONSECUTIVE BENEFIT YEARS.

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(b) On enrollment in the Program:

(1) a new business entity in a Tier I area is eligible for:

(i) a credit against the State income tax, established under § 10–741(b) of the Tax – General Article;

(ii) a credit against the State property tax, established under § 9–110 of the Tax – Property Article;

(iii) **WITH RESPECT TO A NEW BUSINESS ENTITY ENROLLED IN THE PROGRAM BEFORE JULY 1, 2020**, a refund of sales and use tax paid during the immediately preceding taxable year, as provided under § 11–411 of the Tax – General Article; and

(iv) a waiver of fees charged by the State Department of Assessments and Taxation, established under § 1–203.1 of the Corporations and Associations Article; and

(2) except as provided in subsection (c) of this section, an existing business entity that operates an eligible project is eligible for a credit against the State income tax, established under § 10–741(b) of the Tax – General Article.

(c) The income tax credit established under § 10–741(b) of the Tax – General Article is not available to an existing business entity if the entity moves its facility to another county in the State on or after June 1, 2017.

(d) If the number of qualified positions at the eligible project decreases to a number less than the number established in the first benefit year, the project shall be removed from the Program and all program benefits terminate.”.

On pages 3 and 4, strike in their entirety the lines beginning with line 12 on page 3 through line 9 on page 4, inclusive.

On page 4, after line 10, insert:

“1–301.

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[(a) In this subtitle, [the following words have the meanings indicated.

(b) “Evaluation”] “EVALUATION” means the process of legislative review of a tax credit, EXEMPTION, OR PREFERENCE for which this subtitle provides.

[(c) “Evaluation committee” means a committee that is appointed to carry out an evaluation.

(d) “Evaluation date” means the date on which an evaluation of a tax credit is to be completed.]

1-302.

The [purposes] PURPOSE of this subtitle [are] IS to[:

(1) establish a system of legislative review that will determine whether a tax credit, EXEMPTION, OR PREFERENCE is necessary for the public interest[; and

(2) ensure that the legislative review takes place by establishing, by statute, dates for review and other legislative action].

1-303.

[(a) An evaluation shall be made of the tax credits on or before the dates specified in subsections (b) through (h) of this section.

(b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

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(1) § 10-702 of this article (wages paid in an enterprise zone) and § 9-103 of the Tax – Property Article (qualified property in an enterprise zone); and

(2) Title 6, Subtitle 4 of the Economic Development Article, § 6-119 of the Insurance Article, and § 10-714 of this article (One Maryland economic development).

(c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

(1) § 10-704 of this article (earned income); and

(2) § 10-730 of this article (film production activity).

(d) On or before July 1, 2016, an evaluation shall be made of the tax credit under § 5A-303 of the State Finance and Procurement Article, § 6-105.2 of the Insurance Article, and § 10-704.5 of this article (sustainable communities).

(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

(1) § 9-230 of the Tax – Property Article, § 6-116 of the Insurance Article, and § 10-704.8 of this article (new job creating businesses); and

(2) § 10-704.4 of this article (job creation).

(f) On or before July 1, 2018, an evaluation shall be made of the tax credits under:

(1) § 10-721 of this article (qualified research and development expenses); and

(2) § 10-725 of this article (biotechnology investment incentive).

(g) On or before July 1, 2019, an evaluation shall be made of the tax credit under § 10-702 of this article (wages paid in a Regional Institution Strategic Enterprise zone) and § 9-103.1 of the Tax – Property Article (qualified property in a Regional Institution Strategic Enterprise zone).]

(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ON A REQUEST BY THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES, OR THE DIRECTOR OF THE OFFICE OF POLICY ANALYSIS IN THE DEPARTMENT OF LEGISLATIVE SERVICES, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL CONDUCT AN EVALUATION OF A STATE TAX CREDIT, EXEMPTION, OR PREFERENCE, OR AN ASPECT OF A STATE TAX CREDIT, EXEMPTION, OR PREFERENCE.

[(h)] (B) On or before July 1, 2021, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL CONDUCT an evaluation [shall be made] of the tax credit under § 10-741 of this article and the sales and use tax refund under § 11-411 of this article (More Jobs for Marylanders tax credit).

[(i)] (C) On or before July 1, 2023, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL CONDUCT an evaluation [shall be made] of the tax credits under § 10-733 of this article (cybersecurity investment incentive) and § 10-733.1 of this article (purchase of cybersecurity technology or service).

[1-304.

(a) Evaluation of a tax credit shall be completed by an evaluation committee appointed jointly by the President of the Senate and the Speaker of the House.

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(b) Each evaluation committee for a tax credit shall be appointed on or before May 31 of the year before the evaluation date of that tax modification or tax exemption.

(c) An evaluation committee shall include at least one member of the Senate Budget and Taxation Committee and at least one member of the House Committee on Ways and Means.]

[1-305.] 1-304.

[On or before June 30 of the year before the evaluation date of a tax credit] IN CONDUCTING AN EVALUATION UNDER THIS SUBTITLE, [each evaluation committee for that tax credit] THE DEPARTMENT OF LEGISLATIVE SERVICES shall:

(1) consult with:

(i) the Department of Budget and Management;

(ii) [the Department of Legislative Services;

(iii)] the Comptroller; and

[(iv)] (III) the department, INSTRUMENTALITY OF THE STATE, OR LOCAL GOVERNMENT that administers the tax credit, EXEMPTION, OR PREFERENCE under evaluation; and

(2) prepare a plan for the evaluation.

[1-306.] 1-305.

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During an evaluation, the Comptroller, the Department of Budget and Management, and the department, INSTRUMENTALITY OF THE STATE, OR LOCAL GOVERNMENT that administers the tax credit, EXEMPTION, OR PREFERENCE shall:

(1) provide promptly any information that the Department of Legislative Services [or an evaluation committee] requests; and

(2) otherwise cooperate with the Department of Legislative Services [and the evaluation committee].

[1-307.

(a) (1) Subject to § 2-1257 of the State Government Article, on or before November 15 of the year before the evaluation date of a tax credit, the Department of Legislative Services shall submit to the General Assembly an evaluation report on the tax credit.

(2) The Department of Legislative Services shall make copies of the report available to the public.

(b) The report required under subsection (a) of this section shall discuss:

(1) the purpose for which the tax credit was established;

(2) whether the original intent of the tax credit is still appropriate;

(3) whether the tax credit is meeting its objectives;

(4) whether the purposes of the tax credit could be more efficiently and effectively carried out through alternative methods; and

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(5) the costs of providing the tax credit, including the administrative cost to the State and lost revenues to the State and local governments.]

[1-308.

On or before December 31 of the year before the evaluation date of a tax credit, the evaluation committee shall hold a public hearing to receive, from the Comptroller and the public, testimony regarding the evaluation report.]

[1-309.

(a) Subject to § 2-1257 of the State Government Article, on or before the 20th day of the regular session of the General Assembly in the year of the evaluation date of a tax credit, the evaluation committee for the tax credit shall submit a report to the General Assembly.

(b) (1) The report required under subsection (a) of this section shall recommend whether the tax credit should be continued, with or without changes, or terminated.

(2) The report shall be accompanied by any legislation that is needed to accomplish the recommendations in the report.]

[1-310.

The continuation of a tax credit designated for evaluation under this subtitle is for a 7-year period and is subject to reevaluation 7 years after the previous evaluation, unless another period is set by law.]

1-306.

**IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,
WITH RESPECT TO EACH EVALUATION CONDUCTED BY THE DEPARTMENT OF**

LEGISLATIVE SERVICES, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL
SUBMIT A REPORT TO THE GENERAL ASSEMBLY, THAT:

(1) DISCUSSES, TO THE DEGREE RELEVANT:

(I) THE PURPOSE FOR WHICH THE TAX CREDIT, EXEMPTION,
OR PREFERENCE WAS ESTABLISHED;

(II) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT,
EXEMPTION, OR PREFERENCE IS STILL APPROPRIATE;

(III) WHETHER THE TAX CREDIT, EXEMPTION, OR
PREFERENCE IS MEETING ITS OBJECTIVES;

(IV) WHETHER THE PURPOSES OF THE TAX CREDIT,
EXEMPTION, OR PREFERENCE COULD BE MORE EFFICIENTLY AND EFFECTIVELY
CARRIED OUT THROUGH ALTERNATIVE METHODS; AND

(V) THE COSTS OF PROVIDING THE TAX CREDIT, EXEMPTION,
OR PREFERENCE, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND
LOST REVENUES TO THE STATE AND LOCAL GOVERNMENTS; AND

(2) RECOMMENDS WHETHER THE TAX CREDIT, EXEMPTION, OR
PREFERENCE SHOULD BE CONTINUED, WITH OR WITHOUT CHANGES, OR
TERMINATED.

[1-311.] 1-307.

This subtitle may be cited as the "Tax Credit Evaluation Act".

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10-732.

(b) (1) Subject to the limitations of this section, for a taxable year beginning after December 31, 2012, but before January 1, [2022] 2020, an individual or a corporation may claim credits against the State income tax for:

(i) security clearance administrative expenses, not to exceed \$200,000;

(ii) expenses incurred for rental payments owed during the first year of a rental agreement for spaces leased in the State if the individual or corporation is a small business that performs security-based contracting, not to exceed \$200,000; and

(iii) subject to paragraph (2) of this subsection, construction and equipment costs incurred to construct or renovate a single SCIF in an amount equal to the lesser of 50% of the costs or \$200,000.

(2) The total amount of construction and equipment costs incurred to construct or renovate multiple SCIFs for which an individual or a corporation is eligible to claim as a credit against the State income tax is \$500,000.

10-741.

(d) (1) In this subsection, "Reserve Fund" means the More Jobs for Marylanders Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a More Jobs for Marylanders Tax Credit Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) The money in the Reserve Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

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(3) (i) Subject to the limitations of this subsection, the Department shall issue an initial tax credit certificate in an amount equal to a percentage of total wages paid for each qualified position at an eligible project as calculated under subsection (b)(2) of this section.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the qualified business entity is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Department may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than:

A. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES ENROLLED IN THE MORE JOBS FOR MARYLANDERS PROGRAM BEFORE JULY 1, 2020, \$9,000,000 in a fiscal year; AND

B. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES ENROLLED IN THE MORE JOBS FOR MARYLANDERS PROGRAM ON OR AFTER JULY 1, 2020, \$5,000,000 IN A FISCAL YEAR.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the maximum provided under subparagraph 1 of this subparagraph, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Department may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) For fiscal year 2019 and each fiscal year thereafter, the Governor shall include in the annual budget bill an appropriation to the Reserve Fund in an amount that is no less than the amount the Department reports is necessary under subsection (e) of this section to:

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1. maintain the current level of manufacturing activity in the State;

2. attract new manufacturing activity to the State; and

3. attract new businesses to and encourage the expansion of existing businesses within opportunity zones in the State.

(v) Notwithstanding the provisions of § 7-213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on an amount equal to a percentage of the total actual wages paid for each qualified position at an eligible project as calculated under subsection (b)(2) of this section, the Department shall issue a final tax credit certificate to the qualified business entity.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the qualified business entity; and

B. the final certified credit amount for the qualified business entity.

2. On notification that a final credit amount has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the initial tax credit certificate for the qualified business entity from the Reserve Fund to the General Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-721.

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

(7) “NET BOOK VALUE ASSETS” MEANS THE TOTAL OF A BUSINESS’S NET VALUE OF ASSETS, INCLUDING INTANGIBLES BUT NOT INCLUDING LIABILITIES, MINUS DEPRECIATION AND AMORTIZATION.

[(7)] (8) “Small business” means a for-profit corporation, limited liability company, partnership, or sole proprietorship with net book value assets totaling, at the beginning or the end of the taxable year for which Maryland qualified research and development expenses are incurred, as reported on the balance sheet, less than \$5,000,000.

(b) Subject to the limitations of this section, an individual or a corporation may claim credits against the State income tax in an amount equal to:

(1) **FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2021, 3% of the Maryland qualified research and development expenses, not exceeding the Maryland base amount for the individual or corporation, paid or incurred by the individual or corporation during the taxable year; and**

(2) 10% of the amount by which the Maryland qualified research and development expenses paid or incurred by the individual or corporation during the taxable year exceed the Maryland base amount for the individual or corporation.

(c) (1) By November 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, an individual or corporation shall submit an application to the Department for the credits allowed under subsection (b)(1) and (2) of this section.

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(2) (i) Except as provided under paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(1) of this section may not exceed:

1. \$4,500,000 in calendar year 2016; and
2. \$5,500,000 in [calendar year 2017 and each calendar year thereafter] EACH OF CALENDAR YEARS 2017 THROUGH 2020.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(1) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and
2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(1) of this section in the calendar year.

(3) (i) [Except] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH AND EXCEPT as provided in paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(2) of this section may not exceed:

1. \$4,500,000 in calendar year 2016; and
2. \$6,500,000 in [calendar year 2017 and each calendar year thereafter] EACH OF CALENDAR YEARS 2017 THROUGH 2020; AND
3. \$9,000,000 IN CALENDAR YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER.

(II) THE DEPARTMENT SHALL MAKE AVAILABLE 30% OF THE MAXIMUM AMOUNT OF CREDITS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR APPLICANTS THAT ARE SMALL BUSINESSES.

(III) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY SMALL BUSINESSES UNDER SUBSECTION (B)(2) OF THIS SECTION IS LESS THAN THE AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL MAKE AVAILABLE THE UNUSED AMOUNT OF CREDITS FOR USE BY INDIVIDUALS AND CORPORATIONS THAT ARE NOT SMALL BUSINESSES.

[(ii)] (IV) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations EXCLUDING SMALL BUSINESSES under subsection (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this paragraph LESS THE AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, the Department shall approve a credit under subsection (b)(2) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph LESS THE AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; and

2. the denominator of which is the total of all credits applied for by all applicants EXCLUDING SMALL BUSINESSES under subsection (b)(2) of this section in the calendar year.

(V) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY SMALL BUSINESSES UNDER SUBSECTION (B)(2) OF THIS SECTION EXCEEDS THE AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER SUBSECTION (B)(2) OF THIS SECTION FOR EACH APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

1. THE NUMERATOR OF WHICH IS THE AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND

2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL CREDITS APPLIED FOR BY ALL SMALL BUSINESS APPLICANTS UNDER SUBSECTION (B)(2) OF THIS SECTION IN THE CALENDAR YEAR.

(4) (i) For any calendar year, if the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section, the maximum specified under paragraph (3)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section.

(ii) For any calendar year, if the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section, the maximum specified under paragraph (2)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section.

(5) THE DEPARTMENT MAY NOT APPROVE A TAX CREDIT FOR AN APPLICANT IN AN AMOUNT THAT EXCEEDS 5% OF THE MAXIMUM SPECIFIED UNDER PARAGRAPH (3)(I) OF THIS SUBSECTION.

[(5)] (6) By February 15 of the calendar year following the end of the year in which the individual or corporation submitted an application for the credit in accordance with paragraph (1) of this subsection, the Department shall certify to the individual or corporation the amount of the research and development tax credits

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approved by the Department for the individual or corporation under subsection (b)(1) and (2) of this section.

[(6)] (7) To claim the approved credits allowed under this section, an individual or corporation shall:

(i) 1. file an amended income tax return for the taxable year in which the Maryland qualified research and development expense was incurred; and

2. attach a copy of the Department's certification of the approved credit amount to the amended income tax return; or

(ii) subject to subsection (d) of this section, attach a copy of the Department's certification of the approved credit amount to an income tax return filed for any of the 7 taxable years after the taxable year in which the Maryland qualified research and development expenses were incurred.

10-725.

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

(7) (i) "Qualified Maryland biotechnology company" means a biotechnology company that:

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

2. has fewer than 50 full-time employees;

3. [except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than 12 years] **HAS NOT RECEIVED**

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INVESTMENTS FROM QUALIFIED INVESTORS WHO HAVE COLLECTIVELY RECEIVED MORE THAN \$6,000,000 OF TAX CREDITS UNDER THIS SECTION;

4. does not have its securities publicly traded on any exchange; and

5. has been certified as a biotechnology company by the Department.

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

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

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

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

Chapter 390 of the Acts of 2013, as amended by Chapter 578 of the Acts of 2018

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2013, but before January 1, [2023] 2021. This Act shall remain effective for a period of [10] 8 years and, at the end of June 30, [2023] 2021, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2020, the Department of Commerce shall:

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(1) in consultation with qualified experts in the biotechnology and cybersecurity industries, study the methods and criteria by which the Department might award tax credits under the biotechnology investment incentive tax credit program, the cybersecurity investment incentive tax credit program, and the Maryland research and development tax credit program on a competitive basis; and

(2) report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on its findings and recommendations.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2010.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2020.”.

On pages 4 and 5, strike in their entirety the lines beginning with line 11 on page 4 through line 29 on page 10, inclusive.