

HOUSE BILL 886

C8, Q3

9lr0421

By: **Delegates Palakovich Carr, Lierman, Buckel, Carey, Crosby, Ebersole, Gilchrist, Guyton, Hettleman, Morgan, Patterson, Qi, Solomon, and Wilkins**

Introduced and read first time: February 8, 2019

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Angel Investor Tax Credit Program**

3 FOR the purpose of allowing a credit against the State income tax for a certain percentage
4 of an investment, not to exceed a certain amount, made in certain qualified
5 innovation businesses; requiring qualified innovation businesses to meet certain
6 certification requirements; requiring a qualified investor to meet certain
7 requirements in order to be eligible for the credit; requiring the qualified investor to
8 make a certain application, at least a certain number of days before making an
9 investment, to the Department of Commerce; requiring the Department to certify,
10 within a certain number of days of the application, the amount of the credit;
11 requiring, under certain circumstances, the Secretary to issue initial and final tax
12 credit certificates; requiring a qualified investor to make a certain investment and
13 provide certain proof within a certain period of time; authorizing, under certain
14 circumstances, the Department to rescind a tax credit; providing that the Secretary
15 may not certify eligibility for tax credits for investments in a single qualified
16 innovation business that in the aggregate exceed a certain percentage of the total
17 appropriations for a certain Reserve Fund for that fiscal year; requiring the
18 Secretary to certify a certain percentage of tax credits for investments in certain
19 qualified innovation businesses; providing for the carryforward of the credit;
20 establishing the Maryland Angel Investor Tax Credit Reserve Fund as a special,
21 nonlapsing fund; requiring the Department to administer the Reserve Fund;
22 requiring the State Treasurer to hold the Reserve Fund; specifying the contents of
23 the Reserve Fund; requiring the Governor to make an appropriation to the Reserve
24 Fund each fiscal year; requiring, each quarter, that the Department notify the
25 Comptroller of a certain amount and the Comptroller to transfer a certain amount
26 from the Reserve Fund to the General Fund; providing for the recapture of the credit
27 under certain circumstances; authorizing the Department, after a certain
28 notification and opportunity for appeal, to revoke a credit; requiring a qualified
29 innovation business that receives an investment to report certain information each
30 year to the Department; requiring the Department to report certain information in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a certain manner on or before a certain date each year; requiring the Department,
2 in consultation with the Comptroller, to adopt certain regulations; requiring a
3 certain certification agency, in consultation with the Department and the Office of
4 the Attorney General, to initiate a certain study of certain industries to make a
5 certain evaluation relating to certain business and entrepreneur participation in
6 those industries; requiring the certification agency to report certain findings to the
7 General Assembly on or before a certain date; defining certain terms; providing for
8 the application of this Act; providing for the termination of this Act; and generally
9 relating to a State income tax credit for certain qualified business investments.

10 BY repealing and reenacting, with amendments,

11 Article – Economic Development
12 Section 2.5–109(a)(4)
13 Annotated Code of Maryland
14 (2018 Replacement Volume)

15 BY adding to

16 Article – Tax – General
17 Section 10–749
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2018 Supplement)

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

22 **Article – Economic Development**

23 2.5–109.

24 (a) In this section, “economic development program” means:

25 (4) each of the tax credit programs administered by the Department,
26 including:

27 (i) the Film Production Activity Tax Credit;

28 (ii) the Job Creation Tax Credit;

29 (iii) the One Maryland Economic Development Tax Credit;

30 (iv) the Biotechnology Investment Incentive Tax Credit;

31 (v) the Research and Development Tax Credit;

32 (vi) the Security Clearance Administrative Expenses and
33 Construction and Equipment Costs Tax Credit;

- (vii) the Cybersecurity Investment Incentive Tax Credit; [and]
- (viii) the Aerospace, Electronics, or Defense Contract Tax Credit; AND
- (IX) THE ANGEL INVESTOR TAX CREDIT.**

Article – Tax – General

10-749.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COMPANY” MEANS ANY ENTITY OF ANY FORM DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

(II) “COMPANY” DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

(3) “DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.

(4) (I) “INVESTMENT” MEANS THE CONTRIBUTION OF MONEY IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A RISK OF LOSS, TO A QUALIFIED INNOVATION BUSINESS IN EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, CONVERTIBLE DEBT, OR OTHER OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS, TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR.

(II) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS AT RISK OF LOSS WHEN THE REPAYMENT OF THE INVESTMENT DEPENDS ENTIRELY ON THE SUCCESS OF THE BUSINESS OPERATIONS OF THE QUALIFIED INNOVATION BUSINESS.

(5) “LEGALLY OWNED OR LICENSED” MEANS PATENTED, PATENT PENDING, SUBJECT OF TRADE SECRETS, OR COPYRIGHTED.

(6) “PASS-THROUGH ENTITY” MEANS A BUSINESS ENTITY THAT IS A SUBCHAPTER S CORPORATION, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A TRUST THAT HAS NO BUSINESS OPERATIONS AND IS FORMED FOR THE SOLE PURPOSE OF MAKING INVESTMENTS.

(7) (I) “QUALIFIED INNOVATION BUSINESS” MEANS A COMPANY THAT:

1 1. HAS MET THE CRITERIA SET FORTH IN SUBSECTION
2 (C) OF THIS SECTION; AND

3 2. IS IN ONE OF THE FOLLOWING INDUSTRIES:

4 A. ADVANCED MATERIALS AND MANUFACTURING
5 SYSTEMS;

6 B. AEROSPACE;

7 C. AGRICULTURAL TECHNOLOGY;

8 D. CLEAN ENERGY AND NATURAL RESOURCES;

9 E. ELECTRONIC DEVICE TECHNOLOGY;

10 F. HEALTH AND MEDICAL TECHNOLOGY;

11 G. INFORMATION TECHNOLOGY;

12 H. NANOTECHNOLOGY; AND

13 I. TRANSPORTATION AND LOGISTICS.

14 (II) “QUALIFIED INNOVATION BUSINESS” DOES NOT INCLUDE:

15 1. A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY
16 UNDER § 10-725 OF THIS SUBTITLE; OR

17 2. A QUALIFIED MARYLAND CYBERSECURITY COMPANY
18 UNDER § 10-733 OF THIS SUBTITLE.

19 (8) (I) “QUALIFIED INVESTOR” MEANS AN ACCREDITED INVESTOR
20 UNDER 17 C.F.R. § 230.501 THAT IS AN INDIVIDUAL, A MARRIED COUPLE THAT
21 FILES A JOINT TAX RETURN, OR A PASS-THROUGH ENTITY CERTIFIED BY THE
22 DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION.

23 (II) “QUALIFIED INVESTOR” DOES NOT INCLUDE:

24 1. A QUALIFIED PENSION PLAN, AN INDIVIDUAL
25 RETIREMENT ACCOUNT, OR ANY OTHER QUALIFIED RETIREMENT PLAN UNDER THE
26 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR
27 FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX-FAVORED

1 PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES; OR

2 2. A CORPORATION SUBJECT TO THE CORPORATE
3 INCOME TAX.

4 (9) “RESERVE FUND” MEANS THE MARYLAND ANGEL INVESTOR TAX
5 CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.

6 (10) “SECRETARY” MEANS THE SECRETARY OF COMMERCE.

7 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND THE
8 LIMITATIONS UNDER THIS SECTION, FOR THE TAXABLE YEAR IN WHICH AN
9 INVESTMENT IN A QUALIFIED INNOVATION BUSINESS IS MADE, A QUALIFIED
10 INVESTOR MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT
11 EQUAL TO THE AMOUNT OF THE TAX CREDIT STATED IN THE FINAL CREDIT
12 CERTIFICATE APPROVED BY THE SECRETARY.

13 (2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH
14 (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT, AFTER MAKING THE
15 PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 20% OF THE EQUITY
16 INTERESTS IN THE QUALIFIED INNOVATION BUSINESS IN WHICH THE INVESTMENT
17 IS TO BE MADE.

18 (C) (1) TO BE ELIGIBLE FOR THE TAX CREDIT UNDER SUBSECTION (B) OF
19 THIS SECTION, THE INVESTMENT MUST BE IN A QUALIFIED INNOVATION BUSINESS
20 THAT IS CERTIFIED BY THE DEPARTMENT UNDER THIS SUBSECTION.

21 (2) BEFORE RECEIVING AN INVESTMENT FROM A QUALIFIED
22 INVESTOR, A QUALIFIED INNOVATION BUSINESS SHALL SUBMIT AN APPLICATION TO
23 THE DEPARTMENT.

24 (3) THE APPLICATION REQUIRED UNDER THIS SUBSECTION SHALL
25 PROVIDE EVIDENCE THAT THE QUALIFIED INNOVATION BUSINESS:

26 (I) IS IN GOOD STANDING AND AUTHORIZED TO CONDUCT
27 BUSINESS IN THE STATE BY INCLUDING A LETTER OF GOOD STANDING FROM THE
28 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

29 (II) HAS DEVELOPED OR IS IN THE PROCESS OF DEVELOPING A
30 TECHNOLOGY, PRODUCT, OR SERVICE THAT IS UNIQUE AND LEGALLY OWNED OR
31 LICENSED BY THE QUALIFIED INNOVATION BUSINESS;

32 (III) DOES NOT HAVE ANNUAL REVENUE GREATER THAN

1 **\$1,000,000;**

2 (IV) HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 5 YEARS;

3 (V) HAS NOT RECEIVED MORE THAN \$3,000,000 IN
4 INVESTMENTS;

5 (VI) HAS FEWER THAN 15 FULL-TIME EQUIVALENT EMPLOYEES;

6 (VII) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THIS
7 STATE; AND

8 (VIII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY
9 EXCHANGE.

10 (4) (I) DURING THE YEAR IN WHICH AN INVESTMENT IS MADE, A
11 QUALIFIED INNOVATION BUSINESS SHALL HAVE AT LEAST:

12 1. 51% OF THE QUALIFIED INNOVATION BUSINESS'S
13 FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED IN THE STATE; AND

14 2. 51% OF THE QUALIFIED INNOVATION BUSINESS'S
15 PAYROLL PAID TO EMPLOYEES IN THE STATE.

16 (II) THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES IS
17 CALCULATED BY DIVIDING THE TOTAL HOURS PAID IN A YEAR BY THE PRODUCT OF
18 40 TIMES THE NUMBER OF WEEKS OF PAYROLL INCURRED IN A YEAR.

19 (D) (1) AT LEAST 30 DAYS BEFORE MAKING AN INVESTMENT IN A
20 QUALIFIED INNOVATION BUSINESS FOR WHICH A QUALIFIED INVESTOR WOULD BE
21 ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, THE
22 QUALIFIED INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

23 (2) THE APPLICATION SHALL PROVIDE EVIDENCE THAT:

24 (I) THE QUALIFIED INVESTOR HAS INDIVIDUAL INCOME TAX
25 LIABILITY IN THE STATE; AND

26 (II) 1. THE QUALIFIED INVESTOR INTENDS TO MAKE AN
27 INVESTMENT OF AT LEAST \$10,000; OR

28 2. IF THE QUALIFIED INVESTOR IS A PASS-THROUGH
29 ENTITY OR A MARRIED COUPLE FILING A JOINT RETURN, THE QUALIFIED INVESTOR

1 INTENDS TO MAKE AN INVESTMENT OF AT LEAST \$20,000.

2 (3) WITH REGARD TO A QUALIFIED INNOVATION BUSINESS IN WHICH
3 A QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT, THE QUALIFIED
4 INVESTOR MAY NOT:

5 (I) BE A PERSON ELECTED OR APPOINTED BY THE GOVERNING
6 BODY OF THE QUALIFIED INNOVATION BUSINESS TO MANAGE THE BUSINESS;

7 (II) BE A PERSON HAVING AUTHORITY TO ACT ON BEHALF OF
8 THE QUALIFIED INNOVATION BUSINESS;

9 (III) HAVE MORE THAN 20% OF THE VOTING SECURITIES OF THE
10 QUALIFIED INNOVATION BUSINESS, HELD INDIVIDUALLY OR IN COMBINATION WITH
11 FAMILY MEMBERS; OR

12 (IV) BE A FAMILY MEMBER OF A QUALIFIED INVESTOR THAT IS
13 PROHIBITED FROM BEING A QUALIFIED INVESTOR UNDER ITEM (I), (II), OR (III) OF
14 THIS PARAGRAPH.

15 (4) THE DEPARTMENT SHALL:

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

18 (II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION, CERTIFY,
19 AS PROVIDED IN THIS SECTION, THE AMOUNT OF ANY APPROVED TAX CREDITS TO A
20 QUALIFIED INVESTOR.

21 (5) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE
22 SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH
23 APPROVED INVESTMENT IN A QUALIFIED INNOVATION BUSINESS ELIGIBLE FOR A
24 TAX CREDIT.

25 (II) AN INITIAL TAX CREDIT CERTIFICATE SHALL STATE THE
26 MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE QUALIFIED INVESTOR IS
27 ELIGIBLE.

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

1 **2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**
2 **TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE**
3 **AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY**
4 **EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER**
5 **INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.**

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

11 **(6) (I) FOR EACH OF THE FIRST THREE QUARTERS OF A FISCAL**
12 **YEAR, WITH RESPECT TO APPLICATIONS RECEIVED DURING A QUARTER, THE**
13 **DEPARTMENT MAY NOT ISSUE INITIAL TAX CREDIT CERTIFICATES WITH TOTAL**
14 **CREDIT AMOUNTS IN EXCESS OF 25% OF THE FUNDS IN THE RESERVE FUND AT THE**
15 **BEGINNING OF THE FISCAL YEAR.**

16 **(II) FOR THE FINAL QUARTER OF A FISCAL YEAR, WITH RESPECT**
17 **TO APPLICATIONS RECEIVED DURING THAT QUARTER, THE DEPARTMENT MAY**
18 **ISSUE INITIAL TAX CREDIT CERTIFICATES WITH TOTAL CREDIT AMOUNTS EQUAL TO**
19 **THE AMOUNT OF FUNDS REMAINING IN THE RESERVE FUND.**

20 **(7) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN**
21 **INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR**
22 **SHALL HAVE 60 CALENDAR DAYS TO MAKE AN INVESTMENT IN A QUALIFIED**
23 **INNOVATION BUSINESS UNDER THIS SECTION.**

24 **(II) THE DEPARTMENT MAY GRANT AN EXTENSION OF NOT**
25 **MORE THAN 30 CALENDAR DAYS OF THE TIME PERIOD UNDER SUBPARAGRAPH (I)**
26 **OF THIS PARAGRAPH.**

27 **(III) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON WHICH A**
28 **QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED INVESTOR SHALL**
29 **PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE MAKING OF THE**
30 **INVESTMENT, INCLUDING:**

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

32 **2. THE AMOUNT INVESTED;**

33 **3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY**

1 THE QUALIFIED INNOVATION BUSINESS;

2 4. A COMPLETE DESCRIPTION OF THE NATURE OF THE
3 OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS
4 ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND

5 5. ANY SUPPORTING DOCUMENTATION THE
6 DEPARTMENT MAY REQUIRE.

7 (IV) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE NOTICE
8 AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN SUBPARAGRAPH
9 (III) OF THIS PARAGRAPH WITHIN 100 CALENDAR DAYS AFTER THE DATE ON WHICH
10 THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS
11 SECTION:

12 1. THE DEPARTMENT SHALL RESCIND THE INITIAL TAX
13 CREDIT CERTIFICATE; AND

14 2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED
15 CERTIFICATE SHALL REVERT TO THE RESERVE FUND AND SHALL BE AVAILABLE IN
16 THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER
17 INITIAL TAX CREDIT CERTIFICATES.

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

21 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE TAX
22 CREDIT ALLOWED IN AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS
23 SECTION IS:

24 (I) 50% OF THE INVESTMENT IN A QUALIFIED INNOVATION
25 BUSINESS LOCATED IN ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, BALTIMORE
26 CITY, HOWARD COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY;
27 OR

28 (II) 67% OF THE INVESTMENT IN A QUALIFIED INNOVATION
29 BUSINESS LOCATED IN ANY OTHER COUNTY.

30 (2) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT
31 CERTIFICATE ISSUED UNDER THIS SECTION MAY NOT EXCEED:

32 (I) \$50,000; OR

1 **(II) \$100,000 FOR A QUALIFIED INVESTOR THAT IS A MARRIED**
2 **COUPLE THAT FILES A JOINT RETURN OR A PASS-THROUGH ENTITY.**

3 **(3) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY**
4 **ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED**
5 **INNOVATION BUSINESS THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL**
6 **APPROPRIATIONS TO THE RESERVE FUND FOR THAT FISCAL YEAR.**

7 **(4) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
8 **YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE QUALIFIED**
9 **INVESTOR MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX**
10 **FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

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

12 **(II) THE EXPIRATION OF THE FOURTH TAXABLE YEAR AFTER**
13 **THE TAXABLE YEAR IN WHICH THE QUALIFIED INVESTOR FIRST CLAIMED THE TAX**
14 **CREDIT ALLOWED UNDER THIS SECTION.**

15 **(F) (1) THERE IS A MARYLAND ANGEL INVESTOR TAX CREDIT RESERVE**
16 **FUND THAT IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF**
17 **THE STATE FINANCE AND PROCUREMENT ARTICLE.**

18 **(2) THE DEPARTMENT SHALL ADMINISTER THE RESERVE FUND.**

19 **(3) (I) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED**
20 **AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE**
21 **CREDITED TO THE GENERAL FUND.**

22 **(II) THE RESERVE FUND CONSISTS OF MONEY APPROPRIATED**
23 **IN THE STATE BUDGET FOR THE RESERVE FUND.**

24 **(III) FOR EACH FISCAL YEAR, IT IS THE INTENT OF THE GENERAL**
25 **ASSEMBLY THAT THE GOVERNOR INCLUDE IN THE BUDGET BILL AN**
26 **APPROPRIATION OF AT LEAST \$5,000,000 FOR THE RESERVE FUND.**

27 **(4) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE**
28 **FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN**
29 **APPROPRIATION FOR THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY**
30 **THE GENERAL ASSEMBLY.**

31 **(5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY**

1 APPROPRIATED FOR THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

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

5 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE
6 INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT; AND

7 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
8 INVESTMENT.

9 2. ON NOTIFICATION THAT AN INVESTMENT HAS BEEN
10 CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE
11 CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE
12 INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.

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

16 (I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR
17 OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED
18 INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT;

19 (II) THE QUALIFIED INVESTOR IS EMPLOYED BY THE QUALIFIED
20 INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT; OR

21 (III) THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO
22 THE CREDIT NO LONGER MAINTAINS ITS HEADQUARTERS AND BASE OF OPERATIONS
23 IN THE STATE.

24 (2) THE AMOUNT REQUIRED TO BE RECAPTURED UNDER THIS
25 SUBSECTION IS THE PRODUCT OF MULTIPLYING:

26 (I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE
27 CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE
28 PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED
29 OF; AND

30 (II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF THE
31 CREDIT OCCURS DURING THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS
32 CLAIMED; OR

1 **2. 50%, IF THE EVENT REQUIRING RECAPTURE OF THE**
2 **CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR**
3 **FOR WHICH THE TAX CREDIT IS CLAIMED.**

4 **(3) THE QUALIFIED INVESTOR THAT CLAIMED THE CREDIT SHALL**
5 **PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF**
6 **THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN**
7 **WHICH THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS.**

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

13 **(2) THE REVOCATION UNDER PARAGRAPH (1) OF THIS SUBSECTION**
14 **MAY BE IN FULL OR IN PART AS THE DEPARTMENT MAY DETERMINE AND, SUBJECT**
15 **TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE COMMUNICATED TO THE**
16 **QUALIFIED INVESTOR AND THE COMPTROLLER.**

17 **(3) BEFORE NOTIFICATION TO THE COMPTROLLER, THE QUALIFIED**
18 **INVESTOR SHALL HAVE AN OPPORTUNITY TO APPEAL ANY REVOCATION TO THE**
19 **DEPARTMENT.**

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

23 **(I) ON OR BEFORE FEBRUARY 1 EACH YEAR FOLLOWING THE YEAR IN**
24 **WHICH A QUALIFIED INNOVATION BUSINESS RECEIVES AN INVESTMENT, THE**
25 **QUALIFIED INNOVATION BUSINESS SHALL SUBMIT TO THE DEPARTMENT A REPORT**
26 **THAT DETAILS THE TOTAL:**

27 **(1) NUMBER AND AMOUNT OF INVESTMENTS RECEIVED DURING THE**
28 **PRIOR YEAR;**

29 **(2) NUMBER OF DIRECT JOBS CREATED OR SUPPORTED BY**
30 **INVESTMENTS MADE DURING THE PRIOR YEAR; AND**

31 **(3) AMOUNT OF ADDITIONAL INVESTMENTS LEVERAGED BY**
32 **INVESTMENTS MADE DURING THE PRIOR YEAR.**

1 **(J) (1) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC**
2 **DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL REPORT ON THE TAX CREDIT**
3 **CERTIFICATES ISSUED UNDER THIS SECTION.**

4 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
5 **SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE ISSUED:**

6 **(I) THE NAME OF THE QUALIFIED INVESTOR AND THE AMOUNT**
7 **OF CREDIT ISSUED OR ALLOCATED TO EACH INVESTOR;**

8 **(II) THE NAME AND ADDRESS OF THE QUALIFIED INNOVATION**
9 **BUSINESS THAT RECEIVED THE INVESTMENT GIVING RISE TO THE CREDIT UNDER**
10 **THIS SECTION AND THE COUNTY WHERE THE QUALIFIED INNOVATION BUSINESS IS**
11 **LOCATED; AND**

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

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

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

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

20 **(III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES**
21 **AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS.**

22 **(K) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER,**
23 **SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND**
24 **TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF,**
25 **AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS**
26 **SECTION.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That:

28 (a) The certification agency, as defined in § 14-301 of the State Finance and
29 Procurement Article, in consultation with the Department of Commerce and the Office of
30 the Attorney General, shall initiate a study of the industries described under §
31 10-749(a)(7)(i)2 of the Tax – General Article, as enacted by Section 1 of this Act, to
32 determine whether there is a compelling interest to implement remedial measures to assist
33 minorities and women in those industries.

1 (b) In performing the study required under subsection (a) of this section, the
2 certification agency also shall evaluate race-neutral programs or other methods that may
3 be used to address the needs of minority and women businesses in the industries described
4 under § 10-749(a)(7)(i)2 of the Tax – General Article, as enacted by Section 1 of this Act,
5 and minority and women entrepreneurs seeking to participate in those industries.

6 (c) On or before December 1, 2019, the certification agency shall report to the
7 General Assembly, in accordance with § 2-1246 of the State Government Article, on the
8 findings of the study required under subsection (a) of this section.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018, but
11 before January 1, 2023. It shall remain effective for a period of 5 years and, at the end of
12 June 30, 2024, this Act, with no further action required by the General Assembly, shall be
13 abrogated and of no further force and effect.