

# SENATE BILL 702

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CF 4lr2827

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By: **Senator Beidle**

Introduced and read first time: January 30, 2024

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Biotechnology Investment Incentive Tax Credit Program –**  
3 **Pass-Through Entities**

4 FOR the purpose of allowing a qualified investor that is a pass-through entity that pays a  
5 certain income tax on behalf of its members to receive and allocate in any manner a  
6 credit or refund of a credit under the Biotechnology Investment Incentive Tax Credit  
7 Program; and generally relating to the Biotechnology Investment Incentive Tax  
8 Credit Program.

9 BY repealing and reenacting, without amendments,  
10 Article – Tax – General  
11 Section 10–725(a)(1) and (6) and (b)(2)  
12 Annotated Code of Maryland  
13 (2022 Replacement Volume and 2023 Supplement)

14 BY adding to  
15 Article – Tax – General  
16 Section 10–725(b)(5)  
17 Annotated Code of Maryland  
18 (2022 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Tax – General  
21 Section 10–725(d)(3)  
22 Annotated Code of Maryland  
23 (2022 Replacement Volume and 2023 Supplement)

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

26 **Article – Tax – General**

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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 (6) (i) “Qualified investor” means any individual or entity that invests  
4 at least \$25,000 in a qualified Maryland biotechnology company and that is required to file  
5 an income tax return in any jurisdiction.

6 (ii) “Qualified investor” does not include:

7 1. a qualified pension plan, individual retirement account, or  
8 other qualified retirement plan under the Employee Retirement Income Security Act of  
9 1974, as amended, or fiduciaries or custodians under such plans, or similar tax-favored  
10 plans or entities under the laws of other countries; or

11 2. a founder or current employee of the qualified Maryland  
12 biotechnology company, if the company has been in active business for more than 5 years.

13 (b) (2) Subject to paragraphs (3) and (4) of this subsection and subsections (d)  
14 and (e) of this section, for the taxable year in which an investment in a qualified Maryland  
15 biotechnology company is made, a qualified investor may claim a credit against the State  
16 income tax in an amount equal to the amount of tax credit stated in the final credit  
17 certificate approved by the Secretary for the investment as provided under this section.

18 **(5) IF THE QUALIFIED INVESTOR ALLOWED TO CLAIM A CREDIT**  
19 **UNDER PARAGRAPH (2) OF THIS SUBSECTION IS A PASS-THROUGH ENTITY THAT**  
20 **PAYS THE INCOME TAX IMPOSED UNDER § 10-102.1 OF THIS TITLE ON BEHALF OF**  
21 **ALL MEMBERS OF THE PASS-THROUGH ENTITY, THE PASS-THROUGH ENTITY MAY**  
22 **CLAIM AND ALLOCATE THE CREDIT AMONG THE MEMBERS OF THE PASS-THROUGH**  
23 **ENTITY IN ANY MANNER.**

24 (d) (3) **(I)** If the tax credit allowed under this section in any taxable year  
25 exceeds the total tax otherwise payable by the qualified investor for that taxable year, the  
26 qualified investor may claim a refund in the amount of the excess.

27 **(II) IF THE QUALIFIED INVESTOR ALLOWED TO CLAIM A REFUND**  
28 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS A PASS-THROUGH ENTITY THAT**  
29 **PAYS THE INCOME TAX IMPOSED UNDER § 10-102.1 OF THIS TITLE ON BEHALF OF**  
30 **ALL MEMBERS OF THE PASS-THROUGH ENTITY, THE PASS-THROUGH ENTITY MAY**  
31 **CLAIM AND ALLOCATE THE REFUND AMONG THE MEMBERS OF THE PASS-THROUGH**  
32 **ENTITY IN ANY MANNER.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
34 1, 2024, and shall be applicable to all taxable years beginning after December 31, 2023.