

HOUSE BILL 1469

C8
HB 783/02 – W&M

0lr3439

By: **Delegates Frick, Hixson, King, Feldman, and Schuh**

Introduced and read first time: February 26, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Small Business Investment Companies**

3 FOR the purpose of allowing a credit against the insurance premium tax for
4 investments by certain persons in certain companies that make investments in
5 certain qualified businesses in the State; providing for administration of the
6 credit by the Department of Business and Economic Development; establishing
7 certain requirements for initial certification and continued certification of
8 Maryland small business investment companies; providing for applications to
9 the Department for certification as a Maryland small business investment
10 company; prohibiting certain persons from engaging in certain activities
11 relating to a Maryland small business investment company; providing for
12 determinations by the Department as to whether certain investments by
13 Maryland small business investment companies will meet certain requirements;
14 requiring Maryland small business investment companies to provide certain
15 reports and certain audited financial statements to the Department; requiring
16 certain applicants to pay certain nonrefundable application fees; requiring a
17 Maryland small business investment company to pay certain annual renewal
18 fees; providing for annual reviews by the Department of Maryland small
19 business investment companies; providing for decertification of Maryland small
20 business investment companies under certain circumstances; authorizing the
21 Department to impose administrative penalties for certain violations; providing
22 for the recapture of certain tax credits under certain circumstances; providing
23 for the carry forward of certain unused tax credits; providing for the allocation
24 of credits among Maryland small business investment companies; limiting the
25 total designated capital for which premium tax credits may be allowed for all
26 years; limiting the total credits that may be allowed for all participating
27 investors for any year; providing for allocation of the maximum amount of
28 credits under certain circumstances; authorizing certain investments to be
29 treated in a certain manner for certain purposes under the insurance law;
30 providing for certain treatment of certain tax credits for insurance rate making
31 purposes; providing for the transfer of certain tax credits under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circumstances; requiring the Department to prepare and submit a certain
 2 report; requiring the Department to adopt certain regulations; defining certain
 3 terms; and generally relating to an insurance premium tax credit for
 4 investments in certain companies making investments in qualified businesses
 5 in the State.

6 BY adding to

7 Article – Economic Development

8 Section 6–501 through 6–522 to be under the new subtitle “Subtitle 5. Maryland
 9 Small Business Investment Company Tax Credit”

10 Annotated Code of Maryland

11 (2008 Volume and 2009 Supplement)

12 BY adding to

13 Article – Insurance

14 Section 6–122

15 Annotated Code of Maryland

16 (2003 Replacement Volume and 2009 Supplement)

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

19 **Article – Economic Development**

20 **SUBTITLE 5. MARYLAND SMALL BUSINESS INVESTMENT COMPANY TAX**
 21 **CREDIT.**

22 **6–501.**

23 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 24 **INDICATED.**

25 **(B) “AFFILIATE” MEANS, IN RELATION TO ANOTHER PERSON:**

26 **(1) A PERSON WHO IS AN AFFILIATE OF THE OTHER PERSON FOR**
 27 **PURPOSES OF § 7–101 OF THE INSURANCE ARTICLE;**

28 **(2) A PERSON WHO DIRECTLY OR INDIRECTLY:**

29 **(I) BENEFICIALLY OWNS 15% OR MORE OF THE**
 30 **OUTSTANDING VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS OF THE**
 31 **OTHER PERSON, WHETHER THROUGH RIGHTS, OPTIONS, CONVERTIBLE**
 32 **INTERESTS, OR OTHERWISE; OR**

1 (II) CONTROLS OR HOLDS POWER TO VOTE 15% OR MORE OF
2 THE OUTSTANDING VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS OF
3 THE OTHER PERSON; OR

4 (3) A PERSON OF WHICH 15% OR MORE OF THE OUTSTANDING
5 VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS ARE DIRECTLY OR
6 INDIRECTLY:

7 (I) BENEFICIALLY OWNED BY THE OTHER PERSON,
8 WHETHER THROUGH RIGHTS, OPTIONS, CONVERTIBLE INTERESTS, OR
9 OTHERWISE; OR

10 (II) CONTROLLED OR HELD WITH POWER TO VOTE BY THE
11 OTHER PERSON.

12 (C) “ALLOCATION DATE” MEANS THE DATE THAT THE PARTICIPATING
13 INVESTORS OF A MARYLAND SMALL BUSINESS INVESTMENT COMPANY ARE
14 ALLOCATED DESIGNATED CAPITAL BY THE DEPARTMENT UNDER THIS
15 SUBTITLE.

16 (D) “DESIGNATED CAPITAL” MEANS AN INVESTMENT OF CASH BY A
17 PARTICIPATING INVESTOR IN A MARYLAND SMALL BUSINESS INVESTMENT
18 COMPANY THAT FULLY FUNDS THE PURCHASE PRICE OF AN EQUITY INTEREST
19 IN THE COMPANY OR A QUALIFIED DEBT INSTRUMENT ISSUED BY THE
20 MARYLAND SMALL BUSINESS INVESTMENT COMPANY.

21 (E) “INSURANCE PREMIUM TAX LIABILITY” MEANS:

22 (1) ANY LIABILITY INCURRED BY ANY PERSON UNDER TITLE 6,
23 SUBTITLE 1 OF THE INSURANCE ARTICLE; OR

24 (2) IF THE TAX LIABILITY IMPOSED UNDER TITLE 6, SUBTITLE 1
25 OF THE INSURANCE ARTICLE ON JANUARY 1, 2010, IS ELIMINATED OR
26 REDUCED, ANY TAX LIABILITY IMPOSED ON AN INSURER OR OTHER PERSON
27 THAT HAD INSURANCE PREMIUM TAX LIABILITY UNDER TITLE 6, SUBTITLE 1 OF
28 THE INSURANCE ARTICLE ON THAT DATE.

29 (F) “MARYLAND SMALL BUSINESS INVESTMENT COMPANY” MEANS A
30 PARTNERSHIP, CORPORATION, TRUST, OR LIMITED LIABILITY COMPANY,
31 WHETHER ORGANIZED ON A PROFIT BASIS, THAT HAS AS ITS PRIMARY BUSINESS
32 ACTIVITY THE INVESTMENT OF CASH IN QUALIFIED BUSINESSES AND THAT IS
33 CERTIFIED AS MEETING THE CRITERIA OF THIS SUBTITLE.

1 **(G) “PARTICIPATING INVESTOR” MEANS AN INSURER OR OTHER**
2 **PERSON HAVING INSURANCE PREMIUM TAX LIABILITY THAT CONTRIBUTES**
3 **DESIGNATED CAPITAL IN ACCORDANCE WITH AN ALLOCATION OF PREMIUM TAX**
4 **CREDITS UNDER THIS SUBTITLE.**

5 **(H) “PREMIUM TAX CREDIT ALLOCATION CLAIM” MEANS A CLAIM FOR**
6 **ALLOCATION OF PREMIUM TAX CREDITS.**

7 **(I) “QUALIFIED BUSINESS” MEANS A BUSINESS THAT, AT THE TIME OF**
8 **A MARYLAND SMALL BUSINESS INVESTMENT COMPANY’S FIRST INVESTMENT IN**
9 **THE BUSINESS:**

10 **(1) (I) IS HEADQUARTERED IN THIS STATE AND INTENDS TO**
11 **REMAIN IN THIS STATE AFTER RECEIPT OF THE INVESTMENT BY THE**
12 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY; AND**

13 **(II) HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN**
14 **THIS STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THIS STATE**
15 **AFTER RECEIPT OF THE INVESTMENT BY THE MARYLAND SMALL BUSINESS**
16 **INVESTMENT COMPANY;**

17 **(2) HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY**
18 **TO:**

19 **(I) SUPPORT BUSINESS OPERATIONS IN THIS STATE; OR**

20 **(II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND**
21 **SUPPORT BUSINESS OPERATIONS IN THIS STATE;**

22 **(3) HAS NOT MORE THAN 250 EMPLOYEES AND EMPLOYS AT**
23 **LEAST 80% OF ITS EMPLOYEES IN THIS STATE;**

24 **(4) MEETS THE GOALS AND REQUIREMENTS FOR MINORITY**
25 **BUSINESS PARTICIPATION UNDER § 14-302 OF THE STATE FINANCE AND**
26 **PROCUREMENT ARTICLE; AND**

27 **(5) IS NOT PRIMARILY ENGAGED IN:**

28 **(I) RETAIL SALES;**

29 **(II) REAL ESTATE DEVELOPMENT;**

30 **(III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING;**

31 **OR**

1 **(IV) THE PROVISION OF PROFESSIONAL SERVICES PROVIDED**
2 **BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.**

3 **(J) “QUALIFIED DEBT INSTRUMENT” MEANS A DEBT INSTRUMENT**
4 **ISSUED BY A MARYLAND SMALL BUSINESS INVESTMENT COMPANY, AT PAR**
5 **VALUE OR A PREMIUM, THAT:**

6 **(1) HAS AN ORIGINAL MATURITY DATE OF AT LEAST 4 YEARS**
7 **AFTER THE DATE OF ISSUANCE;**

8 **(2) HAS A REPAYMENT SCHEDULE THAT IS NOT FASTER THAN A**
9 **LEVEL PRINCIPAL AMORTIZATION OVER 4 YEARS; AND**

10 **(3) HAS NO INTEREST, DISTRIBUTION, OR PAYMENT FEATURES**
11 **THAT ARE RELATED TO THE PROFITABILITY OF THE MARYLAND SMALL**
12 **BUSINESS INVESTMENT COMPANY OR THE PERFORMANCE OF THE MARYLAND**
13 **SMALL BUSINESS INVESTMENT COMPANY’S INVESTMENT PORTFOLIO.**

14 **(K) (1) “QUALIFIED DISTRIBUTION” MEANS ANY DISTRIBUTION OR**
15 **PAYMENT FROM DESIGNATED CAPITAL BY A MARYLAND SMALL BUSINESS**
16 **INVESTMENT COMPANY IN CONNECTION WITH:**

17 **(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
18 **REASONABLE COST AND EXPENSES OF FORMING, SYNDICATING, MANAGING,**
19 **AND OPERATING THE COMPANY, IF THE DISTRIBUTION OR PAYMENT IS NOT**
20 **MADE DIRECTLY OR INDIRECTLY TO A PARTICIPATING INVESTOR OR AN**
21 **AFFILIATE OF A PARTICIPATING INVESTOR, INCLUDING:**

22 **1. REASONABLE AND NECESSARY FEES PAID FOR**
23 **PROFESSIONAL SERVICES, INCLUDING LEGAL AND ACCOUNTING SERVICES,**
24 **RELATED TO THE FORMATION AND OPERATION OF THE COMPANY;**

25 **2. AN ANNUAL MANAGEMENT FEE IN AN AMOUNT**
26 **THAT DOES NOT EXCEED 2% OF THE DESIGNATED CAPITAL OF THE COMPANY;**
27 **AND**

28 **3. COSTS OF FINANCING AND INSURING THE**
29 **OBLIGATIONS OF A MARYLAND SMALL BUSINESS INVESTMENT COMPANY; AND**

30 **(II) PRINCIPAL AND INTEREST PAYMENTS TO HOLDERS OF**
31 **QUALIFIED DEBT INSTRUMENTS ISSUED BY A MARYLAND SMALL BUSINESS**
32 **INVESTMENT COMPANY.**

1 **(2) “QUALIFIED DISTRIBUTION” DOES NOT INCLUDE:**

2 **(I) ANY AMOUNT PAID AS A MANAGEMENT FEE TO A**
3 **PARTICIPATING INVESTOR OR AN AFFILIATE OF A PARTICIPATING INVESTOR;**
4 **OR**

5 **(II) ANY COSTS AND EXPENSES RELATED TO LOBBYING OR**
6 **GOVERNMENT RELATIONS.**

7 **(L) “QUALIFIED INVESTMENT” MEANS THE INVESTMENT OF CASH BY A**
8 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY IN A QUALIFIED BUSINESS**
9 **FOR THE PURCHASE OF ANY DEBT, DEBT PARTICIPATION, EQUITY, OR HYBRID**
10 **SECURITY OF ANY NATURE OR DESCRIPTION, INCLUDING A DEBT INSTRUMENT**
11 **OR SECURITY THAT HAS THE CHARACTERISTICS OF DEBT BUT THAT PROVIDES**
12 **FOR CONVERSION INTO EQUITY OR EQUITY PARTICIPATION INSTRUMENTS SUCH**
13 **AS OPTIONS OR WARRANTS.**

14 **6-502.**

15 **THE DEPARTMENT SHALL ADMINISTER THIS SUBTITLE AND MAY ADOPT**
16 **REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.**

17 **6-503.**

18 **(A) THE SECRETARY SHALL ESTABLISH THE APPLICATION**
19 **PROCEDURES FOR MARYLAND SMALL BUSINESS INVESTMENT COMPANIES.**

20 **(B) (1) AN APPLICANT MUST FILE AN APPLICATION IN THE FORM**
21 **REQUIRED BY THE DEPARTMENT ACCOMPANIED BY A NONREFUNDABLE**
22 **APPLICATION FEE OF \$7,500.**

23 **(2) THE APPLICATION MUST INCLUDE AN AUDITED BALANCE**
24 **SHEET OF THE APPLICANT, WITH AN UNQUALIFIED OPINION FROM AN**
25 **INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, AS OF A DATE NOT MORE THAN**
26 **35 DAYS BEFORE THE DATE OF THE APPLICATION.**

27 **(C) TO QUALIFY AS A MARYLAND SMALL BUSINESS INVESTMENT**
28 **COMPANY:**

29 **(1) THE APPLICANT MUST HAVE, AT THE TIME OF APPLICATION**
30 **FOR CERTIFICATION, AN EQUITY CAPITALIZATION OF AT LEAST \$500,000 IN THE**
31 **FORM OF CASH OR CASH EQUIVALENTS;**

1 **(2) AT LEAST TWO PRINCIPALS OR PERSONS EMPLOYED TO**
2 **DIRECT THE INVESTMENT OF THE DESIGNATED CAPITAL OF THE APPLICANT**
3 **MUST HAVE AT LEAST 5 YEARS OF MONEY MANAGEMENT EXPERIENCE IN THE**
4 **VENTURE CAPITAL OR PRIVATE EQUITY OR BANKING INDUSTRY;**

5 **(3) THE APPLICANT MUST SATISFY ANY ADDITIONAL**
6 **REQUIREMENT IMPOSED BY THE DEPARTMENT;**

7 **(4) THE APPLICANT MUST HAVE INCORPORATED WITHIN THE**
8 **STATE AT LEAST 60 DAYS BEFORE APPLICATION; AND**

9 **(5) THE APPLICANT MUST HAVE ESTABLISHED AN OFFICE WITHIN**
10 **THE STATE OR DO SO WITHIN 60 DAYS OF QUALIFICATION.**

11 **(D) THE SECRETARY SHALL REVIEW THE APPLICATION,**
12 **ORGANIZATIONAL DOCUMENTS, AND BUSINESS HISTORY OF EACH APPLICANT**
13 **AND SHALL ENSURE THAT THE APPLICANT SATISFIES THE REQUIREMENTS OF**
14 **THIS SUBTITLE.**

15 **(E) NOT LATER THAN THE 45TH DAY AFTER THE DATE AN APPLICATION**
16 **IS FILED, THE SECRETARY SHALL:**

17 **(1) ISSUE THE CERTIFICATION; OR**

18 **(2) REFUSE TO ISSUE THE CERTIFICATION AND COMMUNICATE IN**
19 **DETAIL TO THE APPLICANT THE GROUNDS FOR THE REFUSAL, INCLUDING**
20 **SUGGESTIONS FOR THE REMOVAL OF THOSE GROUNDS.**

21 **6-504.**

22 **(A) AN INSURER, GROUP OF INSURERS, OR OTHER PERSONS WHO MAY**
23 **HAVE STATE INSURANCE PREMIUM TAX LIABILITY, OR THE AFFILIATES OF THE**
24 **INSURERS OR OTHER PERSONS, MAY NOT DIRECTLY OR INDIRECTLY:**

25 **(1) MANAGE A MARYLAND SMALL BUSINESS INVESTMENT**
26 **COMPANY;**

27 **(2) BENEFICIALLY OWN, WHETHER THROUGH RIGHTS, OPTIONS,**
28 **CONVERTIBLE INTERESTS, OR OTHERWISE, MORE THAN 15% OF THE**
29 **OUTSTANDING VOTING SECURITIES OF A MARYLAND SMALL BUSINESS**
30 **INVESTMENT COMPANY; OR**

31 **(3) CONTROL THE DIRECTION OF INVESTMENTS FOR A**
32 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY.**

1 **(B) NOT MORE THAN ONE AFFILIATE OF THE PARTICIPATING**
2 **INVESTORS IN ANY MARYLAND SMALL BUSINESS INVESTMENT COMPANY MAY**
3 **PROVIDE A GUARANTY, INDEMNITY, BOND, INSURANCE POLICY, OR OTHER**
4 **PAYMENT UNDERTAKING IN FAVOR OF ALL OF THE PARTICIPATING INVESTORS**
5 **OF THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY AND ITS**
6 **AFFILIATES.**

7 **(C) SUBSECTION (A) OF THIS SECTION APPLIES WITHOUT REGARD TO**
8 **WHETHER THE INSURER OR OTHER PERSON OR THE AFFILIATE OF THE INSURER**
9 **OR OTHER PERSON IS LICENSED BY OR TRANSACTS BUSINESS IN THIS STATE.**

10 **(D) THIS SECTION DOES NOT PRECLUDE A PARTICIPATING INVESTOR,**
11 **AN INSURER, OR ANY OTHER PARTY FROM EXERCISING ITS LEGAL RIGHTS AND**
12 **REMEDIES, INCLUDING INTERIM MANAGEMENT OF A MARYLAND SMALL**
13 **BUSINESS INVESTMENT COMPANY, IF AUTHORIZED BY LAW, WITH RESPECT TO A**
14 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY THAT IS IN DEFAULT OF**
15 **ITS STATUTORY OR CONTRACTUAL OBLIGATIONS TO THE PARTICIPATING**
16 **INVESTOR, INSURER, OR OTHER PARTY.**

17 **(E) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT THIRD**
18 **PARTY TO REVIEW, INVESTIGATE, AND CERTIFY THAT THE APPLICATIONS**
19 **COMPLY WITH THE PROVISIONS OF THIS SECTION.**

20 **6-505.**

21 **(A) (1) TO CONTINUE TO BE CERTIFIED, A MARYLAND SMALL**
22 **BUSINESS INVESTMENT COMPANY SHALL MAKE QUALIFIED INVESTMENTS**
23 **ACCORDING TO THE SCHEDULE SET FORTH IN THIS SUBSECTION.**

24 **(2) BEFORE THE SECOND ANNIVERSARY OF ITS ALLOCATION**
25 **DATE, A MARYLAND SMALL BUSINESS INVESTMENT COMPANY MUST HAVE MADE**
26 **QUALIFIED INVESTMENTS IN AN AMOUNT CUMULATIVELY EQUAL TO AT LEAST**
27 **75% OF ITS DESIGNATED CAPITAL.**

28 **(3) SUBJECT TO SUBSECTION (B) OF THIS SECTION, BEFORE THE**
29 **FOURTH ANNIVERSARY OF ITS ALLOCATION DATE, A MARYLAND SMALL**
30 **BUSINESS INVESTMENT COMPANY MUST HAVE MADE QUALIFIED INVESTMENTS**
31 **IN AN AMOUNT CUMULATIVELY EQUAL TO AT LEAST 25% OF ITS DESIGNATED**
32 **CAPITAL.**

33 **(B) (1) (I) THE AGGREGATE CUMULATIVE AMOUNT OF ALL**
34 **QUALIFIED INVESTMENTS MADE BY THE MARYLAND SMALL BUSINESS**
35 **INVESTMENT COMPANY AFTER ITS ALLOCATION DATE SHALL BE CONSIDERED IN**

1 THE COMPUTATION OF THE PERCENTAGE REQUIREMENTS UNDER THIS
2 SUBTITLE.

3 (II) FOR PURPOSES OF SATISFYING THE PERCENTAGE
4 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION AND OF § 6-509 OF THIS
5 SUBTITLE, A MARYLAND SMALL BUSINESS INVESTMENT COMPANY THAT HAS
6 RAISED DESIGNATED CAPITAL IN ACCORDANCE WITH AN ALLOCATION UNDER §
7 6-518 OF THIS SUBTITLE SHALL BE CONSIDERED TO HAVE INVESTED \$2 FOR
8 EVERY \$1 ACTUALLY INVESTED IN A QUALIFIED BUSINESS THAT HAS ITS PLACE
9 OF BUSINESS AND ITS EMPLOYEES IN A JURISDICTION THAT QUALIFIED FOR
10 THE ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDITS UNDER §§ 6-401
11 THROUGH 6-407 OF THIS TITLE.

12 (2) ANY PROCEEDS RECEIVED FROM A QUALIFIED INVESTMENT
13 MAY BE INVESTED IN ANOTHER QUALIFIED INVESTMENT AND COUNT TOWARD
14 ANY REQUIREMENT IN THIS SUBTITLE WITH RESPECT TO INVESTMENTS OF
15 DESIGNATED CAPITAL.

16 (C) (1) A BUSINESS THAT IS CLASSIFIED AS A QUALIFIED BUSINESS
17 AT THE TIME OF THE FIRST INVESTMENT IN THE BUSINESS BY A MARYLAND
18 SMALL BUSINESS INVESTMENT COMPANY REMAINS CLASSIFIED AS A QUALIFIED
19 BUSINESS AND MAY RECEIVE FOLLOW-ON INVESTMENTS FROM ANY MARYLAND
20 SMALL BUSINESS INVESTMENT COMPANY.

21 (2) EXCEPT AS PROVIDED BY THIS SUBSECTION, A FOLLOW-ON
22 INVESTMENT MADE UNDER THIS SUBSECTION IS A QUALIFIED INVESTMENT
23 EVEN THOUGH THE BUSINESS MAY NOT MEET THE DEFINITION OF A QUALIFIED
24 BUSINESS AT THE TIME OF THE FOLLOW-ON INVESTMENT.

25 (3) A FOLLOW-ON INVESTMENT DOES NOT QUALIFY AS A
26 QUALIFIED INVESTMENT IF, AT THE TIME OF THE FOLLOW-ON INVESTMENT,
27 THE QUALIFIED BUSINESS NO LONGER HAS ITS PRINCIPAL BUSINESS
28 OPERATIONS IN THIS STATE.

29 (D) A QUALIFIED INVESTMENT MAY NOT BE MADE AT A COST TO A
30 MARYLAND SMALL BUSINESS INVESTMENT COMPANY GREATER THAN 15% OF
31 THE TOTAL DESIGNATED CAPITAL OF THE COMPANY.

32 (E) AS A CONDITION OF THE INVESTMENT, THE QUALIFIED BUSINESS
33 SHALL AGREE THAT AS LONG AS THE MARYLAND SMALL BUSINESS INVESTMENT
34 COMPANY CONTINUES TO HOLD THE INVESTMENT, OR AS LONG AS THIS
35 SUBTITLE IS IN EFFECT, THE QUALIFIED BUSINESS WILL NOT RELOCATE ITS
36 HEADQUARTERS OUT OF THIS STATE AND WILL MAINTAIN AT LEAST 75% OF ITS
37 EMPLOYEES IN THIS STATE.

1 **(F) A MARYLAND SMALL BUSINESS INVESTMENT COMPANY SHALL**
2 **INVEST ANY DESIGNATED CAPITAL NOT INVESTED IN QUALIFIED INVESTMENTS**
3 **ONLY IN:**

4 **(1) CASH DEPOSITED WITH A FEDERALLY INSURED FINANCIAL**
5 **INSTITUTION;**

6 **(2) CERTIFICATES OF DEPOSIT IN A FEDERALLY INSURED**
7 **FINANCIAL INSTITUTION;**

8 **(3) INVESTMENT SECURITIES THAT ARE OBLIGATIONS OF THE**
9 **UNITED STATES OR ITS AGENCIES OR INSTRUMENTALITIES OR OBLIGATIONS**
10 **THAT ARE GUARANTEED FULLY AS TO PRINCIPAL AND INTEREST BY THE**
11 **UNITED STATES;**

12 **(4) DEBT INSTRUMENTS RATED AT LEAST "A" OR ITS**
13 **EQUIVALENT BY A NATIONALLY RECOGNIZED CREDIT RATING ORGANIZATION,**
14 **OR ISSUED BY, OR GUARANTEED WITH RESPECT TO PAYMENT BY, AN ENTITY**
15 **WHOSE UNSECURED INDEBTEDNESS IS RATED AT LEAST "A" OR ITS**
16 **EQUIVALENT BY A NATIONALLY RECOGNIZED CREDIT RATING ORGANIZATION,**
17 **AND THAT INDEBTEDNESS IS NOT SUBORDINATED TO OTHER UNSECURED**
18 **INDEBTEDNESS OF THE ISSUER OR THE GUARANTOR;**

19 **(5) OBLIGATIONS OF THIS STATE OR ANY MUNICIPALITY OR**
20 **POLITICAL SUBDIVISION OF THIS STATE; OR**

21 **(6) ANY OTHER INVESTMENTS APPROVED IN ADVANCE AND IN**
22 **WRITING BY THE DEPARTMENT.**

23 **6-506.**

24 **(A) BEFORE MAKING AN INVESTMENT IN A BUSINESS, A MARYLAND**
25 **SMALL BUSINESS INVESTMENT COMPANY MAY REQUEST FROM THE**
26 **DEPARTMENT A WRITTEN OPINION AS TO WHETHER THE BUSINESS IS A**
27 **QUALIFIED BUSINESS.**

28 **(B) NOT LATER THAN THE 10TH BUSINESS DAY AFTER THE DATE OF**
29 **THE RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE**
30 **DEPARTMENT SHALL:**

31 **(1) DETERMINE WHETHER THE BUSINESS MEETS THE DEFINITION**
32 **OF A QUALIFIED BUSINESS; AND**

1 **(2) PROVIDE THE MARYLAND SMALL BUSINESS INVESTMENT**
2 **COMPANY:**

3 **(I) NOTICE OF THE DETERMINATION AND AN EXPLANATION**
4 **OF ITS DETERMINATION; OR**

5 **(II) NOTICE THAT AN ADDITIONAL 10 DAYS WILL BE NEEDED**
6 **TO REVIEW AND MAKE THE DETERMINATION.**

7 **(C) IF THE DEPARTMENT FAILS TO NOTIFY THE MARYLAND SMALL**
8 **BUSINESS INVESTMENT COMPANY WITH RESPECT TO THE PROPOSED**
9 **INVESTMENT WITHIN THE PERIOD SPECIFIED BY SUBSECTION (B) OF THIS**
10 **SECTION, THE BUSINESS IN WHICH THE COMPANY PROPOSED TO INVEST IS**
11 **CONSIDERED TO BE A QUALIFIED BUSINESS.**

12 **6-507.**

13 **(A) EACH MARYLAND SMALL BUSINESS INVESTMENT COMPANY SHALL**
14 **REPORT TO THE DEPARTMENT AS SOON AS PRACTICABLE AFTER THE RECEIPT**
15 **OF DESIGNATED CAPITAL:**

16 **(1) THE NAME OF EACH PARTICIPATING INVESTOR FROM WHOM**
17 **THE DESIGNATED CAPITAL WAS RECEIVED, INCLUDING THE PARTICIPATING**
18 **INVESTOR'S INSURANCE PREMIUM TAX IDENTIFICATION NUMBER;**

19 **(2) THE AMOUNT OF EACH PARTICIPATING INVESTOR'S**
20 **INVESTMENT OF DESIGNATED CAPITAL AND PREMIUM TAX CREDIT; AND**

21 **(3) THE DATE ON WHICH THE DESIGNATED CAPITAL WAS**
22 **RECEIVED.**

23 **(B) NOT LATER THAN JANUARY 31 OF EACH YEAR, EACH MARYLAND**
24 **SMALL BUSINESS INVESTMENT COMPANY SHALL REPORT TO THE DEPARTMENT:**

25 **(1) THE AMOUNT OF THE COMPANY'S DESIGNATED CAPITAL AT**
26 **THE END OF THE PRECEDING YEAR;**

27 **(2) WHETHER OR NOT THE COMPANY HAS INVESTED MORE THAN**
28 **15% OF ITS TOTAL DESIGNATED CAPITAL IN ANY ONE BUSINESS;**

29 **(3) EACH QUALIFIED INVESTMENT THAT THE COMPANY MADE**
30 **DURING THE PRECEDING YEAR AND, WITH RESPECT TO EACH QUALIFIED**
31 **INVESTMENT, THE NUMBER OF EMPLOYEES OF THE QUALIFIED BUSINESS AT**
32 **THE TIME THE QUALIFIED INVESTMENT WAS MADE; AND**

1 **(4) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT,**
2 **INCLUDING ANY INFORMATION REQUIRED BY THE DEPARTMENT TO PREPARE**
3 **THE REPORT REQUIRED UNDER § 6-522 OF THIS SUBTITLE.**

4 **(C) (1) NOT LATER THAN APRIL 1 OF EACH YEAR, THE MARYLAND**
5 **SMALL BUSINESS INVESTMENT COMPANY SHALL PROVIDE TO THE DEPARTMENT**
6 **AN ANNUAL AUDITED FINANCIAL STATEMENT THAT INCLUDES THE OPINION OF**
7 **AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

8 **(2) THE AUDIT SHALL ADDRESS THE METHODS OF OPERATION**
9 **AND CONDUCT OF THE BUSINESS OF THE MARYLAND SMALL BUSINESS**
10 **INVESTMENT COMPANY TO DETERMINE WHETHER:**

11 **(I) THE COMPANY IS COMPLYING WITH THIS SUBTITLE AND**
12 **THE REGULATIONS ADOPTED UNDER THIS SUBTITLE;**

13 **(II) THE FUNDS RECEIVED BY THE COMPANY HAVE BEEN**
14 **INVESTED AS REQUIRED WITHIN THE TIME PROVIDED IN § 6-505 OF THIS**
15 **SUBTITLE; AND**

16 **(III) THE COMPANY HAS INVESTED THE FUNDS IN QUALIFIED**
17 **BUSINESSES.**

18 **6-508.**

19 **(A) (1) NOT LATER THAN APRIL 1 OF EACH YEAR, EACH MARYLAND**
20 **SMALL BUSINESS INVESTMENT COMPANY SHALL PAY A NONREFUNDABLE**
21 **RENEWAL FEE OF \$5,000 TO THE DEPARTMENT.**

22 **(2) IF A MARYLAND SMALL BUSINESS INVESTMENT COMPANY**
23 **FAILS TO PAY ITS RENEWAL FEE ON OR BEFORE THAT DATE, THE COMPANY**
24 **MUST PAY, IN ADDITION TO THE RENEWAL FEE, A LATE FEE OF \$5,000 TO**
25 **CONTINUE ITS CERTIFICATION.**

26 **(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A RENEWAL**
27 **FEE IS NOT REQUIRED WITHIN 6 MONTHS OF THE DATE ON WHICH THE**
28 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY'S CERTIFICATION IS**
29 **ISSUED UNDER § 6-503 OF THIS SUBTITLE.**

30 **6-509.**

31 **(A) (1) A MARYLAND SMALL BUSINESS INVESTMENT COMPANY MAY**
32 **MAKE A QUALIFIED DISTRIBUTION AT ANY TIME.**

1 **(2) TO MAKE A DISTRIBUTION OF PAYMENT, OTHER THAN A**
2 **QUALIFIED DISTRIBUTION, A MARYLAND SMALL BUSINESS INVESTMENT**
3 **COMPANY MUST HAVE MADE QUALIFIED BUSINESS INVESTMENTS IN AN AMOUNT**
4 **CUMULATIVELY EQUAL TO 100% OF ITS DESIGNATED CAPITAL.**

5 **(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A**
6 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY MAY MAKE REPAYMENTS**
7 **OF PRINCIPAL AND INTEREST ON ITS INDEBTEDNESS WITHOUT ANY**
8 **RESTRICTION, INCLUDING REPAYMENTS OF INDEBTEDNESS OF THE COMPANY**
9 **ON WHICH PARTICIPATING INVESTORS EARNED PREMIUM TAX CREDITS.**

10 **(C) THE STATE SHALL RECEIVE 15% OF ANY PROFIT REALIZED BY THE**
11 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY ABOVE AND BEYOND THE**
12 **TOTAL AMOUNT OF DESIGNATED CAPITAL ALLOTTED TO THE MARYLAND SMALL**
13 **BUSINESS INVESTMENT COMPANY.**

14 **6-510.**

15 **(A) THE DEPARTMENT SHALL CONDUCT AN ANNUAL REVIEW OF EACH**
16 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY TO:**

17 **(1) ENSURE THAT THE COMPANY CONTINUES TO SATISFY THE**
18 **REQUIREMENTS OF THIS SUBTITLE AND THAT THE COMPANY HAS NOT MADE**
19 **ANY INVESTMENT IN VIOLATION OF THIS SUBTITLE; AND**

20 **(2) DETERMINE THE ELIGIBILITY STATUS OF THE COMPANY'S**
21 **QUALIFIED INVESTMENTS.**

22 **(B) THE COST OF THE ANNUAL REVIEW SHALL BE PAID BY EACH**
23 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY ACCORDING TO A**
24 **REASONABLE FEE SCHEDULE ADOPTED BY THE DEPARTMENT.**

25 **(C) (1) A MATERIAL VIOLATION OF § 6-505, § 6-507, OR § 6-508 OF**
26 **THIS SUBTITLE IS GROUNDS FOR DECERTIFICATION OF THE MARYLAND SMALL**
27 **BUSINESS INVESTMENT COMPANY.**

28 **(2) IF THE DEPARTMENT DETERMINES THAT A MARYLAND**
29 **SMALL BUSINESS INVESTMENT COMPANY IS NOT IN COMPLIANCE WITH § 6-505,**
30 **§ 6-507, OR § 6-508 OF THIS SUBTITLE, THE SECRETARY SHALL NOTIFY THE**
31 **OFFICERS OF THE COMPANY IN WRITING THAT THE COMPANY MAY BE SUBJECT**
32 **TO DECERTIFICATION AFTER THE 120TH DAY AFTER THE DATE OF MAILING OF**
33 **THE NOTICE, UNLESS THE DEFICIENCIES ARE CORRECTED AND THE COMPANY**
34 **RETURNS TO COMPLIANCE WITH THOSE SECTIONS.**

1 **(D) (1) THE SECRETARY MAY DECERTIFY A MARYLAND SMALL**
2 **BUSINESS INVESTMENT COMPANY, AFTER OPPORTUNITY FOR HEARING, IF THE**
3 **SECRETARY FINDS THAT THE COMPANY IS NOT IN COMPLIANCE WITH § 6-505, §**
4 **6-507, OR § 6-508 OF THIS SUBTITLE AT THE END OF THE PERIOD ESTABLISHED**
5 **BY SUBSECTION (C) OF THIS SECTION.**

6 **(2) DECERTIFICATION UNDER THIS SUBSECTION IS EFFECTIVE**
7 **ON RECEIPT OF NOTICE OF DECERTIFICATION BY THE MARYLAND SMALL**
8 **BUSINESS INVESTMENT COMPANY.**

9 **(3) THE DEPARTMENT SHALL NOTIFY THE MARYLAND**
10 **INSURANCE COMMISSIONER AND ANY OTHER APPROPRIATE STATE AGENCY OF**
11 **THE DECERTIFICATION.**

12 **6-511.**

13 **(A) THE DEPARTMENT MAY IMPOSE AN ADMINISTRATIVE PENALTY ON**
14 **A MARYLAND SMALL BUSINESS INVESTMENT COMPANY THAT VIOLATES THIS**
15 **SUBTITLE.**

16 **(B) (1) THE AMOUNT OF THE PENALTY MAY NOT EXCEED \$25,000,**
17 **AND EACH DAY A VIOLATION CONTINUES OR OCCURS IS A SEPARATE VIOLATION**
18 **FOR THE PURPOSE OF IMPOSING A PENALTY.**

19 **(2) THE AMOUNT OF THE PENALTY SHALL BE BASED ON:**

20 **(I) THE SERIOUSNESS OF THE VIOLATION, INCLUDING THE**
21 **NATURE, CIRCUMSTANCES, EXTENT, AND GRAVITY OF THE VIOLATION;**

22 **(II) THE ECONOMIC HARM CAUSED BY THE VIOLATION;**

23 **(III) THE HISTORY OF PREVIOUS VIOLATIONS;**

24 **(IV) THE AMOUNT NECESSARY TO DETER A FUTURE**
25 **VIOLATION;**

26 **(V) EFFORTS TO CORRECT THE VIOLATION; AND**

27 **(VI) ANY OTHER MATTER THAT JUSTICE MAY REQUIRE.**

28 **(C) (1) WITHIN 30 DAYS AFTER THE DATE ON WHICH A PENALTY IS**
29 **ASSESSED UNDER THIS SUBTITLE, A MARYLAND SMALL BUSINESS INVESTMENT**

1 COMPANY AGAINST WHICH THE ASSESSMENT IS MADE MAY SUBMIT TO THE
2 DEPARTMENT AN APPLICATION FOR REDETERMINATION OF THE PENALTY.

3 (2) IF A MARYLAND SMALL BUSINESS INVESTMENT COMPANY
4 FAILS TO SUBMIT AN APPLICATION FOR REDETERMINATION WITHIN THE TIME
5 ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ASSESSMENT
6 BECOMES FINAL.

7 (3) THE DEPARTMENT PROMPTLY SHALL:

8 (I) HOLD A HEARING ON A MARYLAND SMALL BUSINESS
9 INVESTMENT COMPANY'S APPLICATION FOR REDETERMINATION UNDER
10 PARAGRAPH (1) OF THIS SUBSECTION; AND

11 (II) AFTER THE HEARING, ACT ON THE APPLICATION FOR
12 REDETERMINATION AND MAIL TO THE MARYLAND SMALL BUSINESS
13 INVESTMENT COMPANY A NOTICE OF FINAL DETERMINATION.

14 (D) THE ATTORNEY GENERAL MAY SUE TO COLLECT THE PENALTY.

15 (E) A PROCEEDING TO IMPOSE THE PENALTY IS A CONTESTED CASE
16 UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

17 6-512.

18 (A) (1) DECERTIFICATION OF A MARYLAND SMALL BUSINESS
19 INVESTMENT COMPANY MAY CAUSE THE RECAPTURE OF PREMIUM TAX CREDITS
20 PREVIOUSLY CLAIMED AND THE FORFEITURE OF FUTURE PREMIUM TAX
21 CREDITS TO BE CLAIMED BY PARTICIPATING INVESTORS WITH RESPECT TO THE
22 COMPANY, AS PROVIDED IN THIS SUBSECTION.

23 (2) DECERTIFICATION OF A MARYLAND SMALL BUSINESS
24 INVESTMENT COMPANY ON OR BEFORE THE THIRD ANNIVERSARY OF ITS
25 ALLOCATION DATE CAUSES THE RECAPTURE OF ANY PREMIUM TAX CREDIT
26 PREVIOUSLY CLAIMED AND THE FORFEITURE OF ANY FUTURE PREMIUM TAX
27 CREDIT TO BE CLAIMED BY A PARTICIPATING INVESTOR WITH RESPECT TO THE
28 COMPANY.

29 (3) FOR A MARYLAND SMALL BUSINESS INVESTMENT COMPANY
30 THAT MEETS THE REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER
31 § 6-505(A)(1) OF THIS SUBTITLE AND SUBSEQUENTLY FAILS TO MEET THE
32 REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER § 6-505(A)(2) OF THIS
33 SUBTITLE, ANY PREMIUM TAX CREDIT THAT HAS BEEN OR WILL BE TAKEN BY A
34 PARTICIPATING INVESTOR AFTER THE THIRD ANNIVERSARY OF THE

1 ALLOCATION DATE OF THE COMPANY IS SUBJECT TO RECAPTURE OR
2 FORFEITURE.

3 (4) FOR A MARYLAND SMALL BUSINESS INVESTMENT COMPANY
4 THAT HAS MET THE REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER §
5 6-505(A)(1) AND (2) OF THIS SUBTITLE AND IS SUBSEQUENTLY DECERTIFIED,
6 ANY PREMIUM TAX CREDIT THAT HAS BEEN OR WILL BE TAKEN BY A
7 PARTICIPATING INVESTOR ON OR BEFORE THE FIFTH ANNIVERSARY OF THE
8 ALLOCATION DATE IS NOT SUBJECT TO RECAPTURE OR FORFEITURE, BUT ANY
9 PREMIUM TAX CREDIT TO BE TAKEN AFTER THE FIFTH ANNIVERSARY OF THE
10 ALLOCATION DATE IS SUBJECT TO FORFEITURE ONLY IF THE COMPANY IS
11 DECERTIFIED ON OR BEFORE THE FIFTH ANNIVERSARY OF ITS ALLOCATION
12 DATE.

13 (5) FOR A MARYLAND SMALL BUSINESS INVESTMENT COMPANY
14 THAT HAS INVESTED AN AMOUNT CUMULATIVELY EQUAL TO 50% OF ITS
15 DESIGNATED CAPITAL IN QUALIFIED INVESTMENTS, ANY PREMIUM TAX CREDIT
16 CLAIMED OR TO BE CLAIMED BY A PARTICIPATING INVESTOR IS NOT SUBJECT
17 TO RECAPTURE OR FORFEITURE UNDER THIS SECTION.

18 (B) THE DEPARTMENT SHALL SEND WRITTEN NOTICE TO THE ADDRESS
19 OF EACH PARTICIPATING INVESTOR WHOSE PREMIUM TAX CREDIT IS SUBJECT
20 TO RECAPTURE OR FORFEITURE, USING THE ADDRESS SHOWN ON THE LAST
21 PREMIUM TAX FILING.

22 6-513.

23 IF A BUSINESS IN WHICH A QUALIFIED INVESTMENT IS MADE RELOCATES
24 ITS PRINCIPAL BUSINESS OPERATIONS TO ANOTHER STATE DURING THE TERM
25 OF THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY'S INVESTMENT IN
26 THE BUSINESS, OTHER THAN BY MERGER WITH OR ACQUISITION BY A COMPANY
27 OUTSIDE THE STATE, THE CUMULATIVE AMOUNT OF QUALIFIED INVESTMENTS
28 MADE BY THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY FOR
29 PURPOSES OF SATISFYING THE REQUIREMENTS SET FORTH IN § 6-509 OF THIS
30 SUBTITLE SHALL BE REDUCED BY THE AMOUNT OF THE MARYLAND SMALL
31 BUSINESS INVESTMENT COMPANY'S INVESTMENT IN THE BUSINESS THAT HAS
32 RELOCATED, UNLESS THE BUSINESS DEMONSTRATES THAT IT HAS RETURNED
33 ITS PRINCIPAL BUSINESS OPERATIONS TO THIS STATE WITHIN 3 MONTHS OF
34 SUCH RELOCATION.

35 6-514.

36 THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY MAY AGREE TO
37 INDEMNIFY, OR PURCHASE INSURANCE FOR THE BENEFIT OF, A PARTICIPATING

1 INVESTOR FOR LOSSES RESULTING FROM THE RECAPTURE OR FORFEITURE OF
2 PREMIUM TAX CREDITS UNDER § 6-512 OF THIS SUBTITLE.

3 **6-515.**

4 (A) (1) A PARTICIPATING INVESTOR WHO MAKES AN INVESTMENT OF
5 DESIGNATED CAPITAL SHALL IN THE YEAR OF INVESTMENT EARN A VESTED
6 CREDIT AGAINST STATE INSURANCE PREMIUM TAX LIABILITY EQUAL TO 100%
7 OF THE PARTICIPATING INVESTOR'S INVESTMENT OF DESIGNATED CAPITAL,
8 SUBJECT TO THE LIMITS IMPOSED BY THIS SUBTITLE.

9 (2) EXCEPT AS PROVIDED IN SUBSECTION (B)(1) OF THIS
10 SECTION, A PARTICIPATING INVESTOR MAY TAKE UP TO 25% OF THE VESTED
11 PREMIUM TAX CREDIT IN ANY TAXABLE YEAR OF THE PARTICIPATING
12 INVESTOR, ONCE THE CREDITS ARE EARNED.

13 (B) (1) NO PREMIUM TAX CREDITS MAY BE USED UNTIL THE FIFTH
14 CALENDAR YEAR AFTER THE YEAR OF THE INVESTMENT BY THE PARTICIPATING
15 INVESTOR.

16 (2) THE CREDIT TO BE APPLIED AGAINST STATE INSURANCE
17 PREMIUM TAX LIABILITY IN ANY ONE YEAR MAY NOT EXCEED THE STATE
18 INSURANCE PREMIUM TAX LIABILITY OF THE PARTICIPATING INVESTOR FOR
19 THE TAXABLE YEAR.

20 (3) ANY UNUSED CREDIT AGAINST STATE INSURANCE PREMIUM
21 TAX LIABILITY MAY BE CARRIED FORWARD INDEFINITELY UNTIL THE PREMIUM
22 TAX CREDITS ARE USED.

23 (C) A PARTICIPATING INVESTOR CLAIMING A CREDIT AGAINST STATE
24 INSURANCE PREMIUM TAX LIABILITY EARNED THROUGH AN INVESTMENT IN A
25 COMPANY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX
26 LEVIED UNDER TITLE 6, SUBTITLE 3 OF THE INSURANCE ARTICLE AS A RESULT
27 OF CLAIMING THAT CREDIT.

28 **6-516.**

29 (A) (1) A PREMIUM TAX CREDIT ALLOCATION CLAIM SHALL BE
30 PREPARED AND EXECUTED BY A PARTICIPATING INVESTOR ON A FORM
31 PROVIDED BY THE DEPARTMENT.

32 (2) THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY
33 SHALL FILE THE CLAIM WITH THE DEPARTMENT ON OR BEFORE JULY 1, 2011.

1 **(3) THE PREMIUM TAX CREDIT ALLOCATION CLAIM FORM MUST**
2 **INCLUDE AN AFFIDAVIT OF THE PARTICIPATING INVESTOR UNDER WHICH THE**
3 **PARTICIPATING INVESTOR BECOMES LEGALLY BOUND AND IRREVOCABLY**
4 **COMMITTED TO MAKE AN INVESTMENT OF DESIGNATED CAPITAL IN A**
5 **MARYLAND SMALL BUSINESS INVESTMENT COMPANY IN THE AMOUNT**
6 **ALLOCATED EVEN IF THE AMOUNT ALLOCATED IS LESS THAN THE AMOUNT OF**
7 **THE CLAIM, SUBJECT ONLY TO THE RECEIPT OF AN ALLOCATION UNDER § 6-518**
8 **OF THIS SUBTITLE.**

9 **(B) A PARTICIPATING INVESTOR MAY NOT CLAIM A PREMIUM TAX**
10 **CREDIT UNDER § 6-515 OF THIS SUBTITLE FOR AN INVESTMENT THAT HAS NOT**
11 **BEEN FUNDED, EVEN IF THE PARTICIPATING INVESTOR HAS COMMITTED TO**
12 **FUND THE INVESTMENT.**

13 **6-517.**

14 **(A) THE TOTAL AMOUNT OF DESIGNATED CAPITAL FOR WHICH**
15 **PREMIUM TAX CREDITS MAY BE ALLOWED UNDER THIS SUBTITLE FOR ALL**
16 **YEARS IN WHICH PREMIUM TAX CREDITS ARE ALLOWED IS \$100,000,000.**

17 **(B) THE TOTAL AMOUNT OF DESIGNATED CAPITAL FOR WHICH**
18 **PREMIUM TAX CREDITS MAY BE ALLOWED FOR ALL PARTICIPATING INVESTORS**
19 **UNDER THIS SUBTITLE MAY NOT EXCEED THE AMOUNT THAT WOULD ENTITLE**
20 **ALL PARTICIPATING INVESTORS IN MARYLAND SMALL BUSINESS INVESTMENT**
21 **COMPANIES TO TAKE TOTAL CREDITS OF \$12,500,000 IN EACH YEAR BEGINNING**
22 **IN CALENDAR YEAR 2012.**

23 **(C) A MARYLAND SMALL BUSINESS INVESTMENT COMPANY AND ITS**
24 **AFFILIATES MAY NOT FILE PREMIUM TAX CREDIT ALLOCATION CLAIMS IN**
25 **EXCESS OF THE MAXIMUM AMOUNT OF DESIGNATED CAPITAL FOR WHICH**
26 **PREMIUM TAX CREDITS MAY BE ALLOWED AS PROVIDED IN THIS SECTION.**

27 **6-518.**

28 **(A) IF THE TOTAL PREMIUM TAX CREDITS CLAIMED BY ALL**
29 **PARTICIPATING INVESTORS EXCEEDS THE TOTAL LIMITS ON PREMIUM TAX**
30 **CREDITS ESTABLISHED BY § 6-517(A) OF THIS SUBTITLE, THE DEPARTMENT**
31 **SHALL ALLOCATE THE TOTAL AMOUNT OF PREMIUM TAX CREDITS ALLOWED**
32 **UNDER THIS SUBTITLE TO PARTICIPATING INVESTORS IN MARYLAND SMALL**
33 **BUSINESS INVESTMENT COMPANIES ON A PRO RATA BASIS IN ACCORDANCE**
34 **WITH THIS SECTION.**

35 **(B) THE PRO RATA ALLOCATION FOR EACH PARTICIPATING INVESTOR**
36 **SHALL BE THE PRODUCT OF:**

1 **(1) A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF**
2 **THE PREMIUM TAX CREDIT ALLOCATION CLAIM FILED ON BEHALF OF THE**
3 **INVESTOR AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF ALL**
4 **PREMIUM TAX CREDIT ALLOCATION CLAIMS FILED ON BEHALF OF ALL**
5 **PARTICIPATING INVESTORS; AND**

6 **(2) THE TOTAL AMOUNT OF DESIGNATED CAPITAL FOR WHICH**
7 **PREMIUM TAX CREDITS MAY BE ALLOWED UNDER THIS SUBTITLE.**

8 **(C) (1) NOT LATER THAN AUGUST 1, 2011, THE DEPARTMENT SHALL**
9 **NOTIFY EACH MARYLAND SMALL BUSINESS INVESTMENT COMPANY OF THE**
10 **AMOUNT OF TAX CREDITS ALLOCATED TO EACH PARTICIPATING INVESTOR.**

11 **(2) EACH MARYLAND SMALL BUSINESS INVESTMENT COMPANY**
12 **SHALL NOTIFY EACH PARTICIPATING INVESTOR OF THE PARTICIPATING**
13 **INVESTOR'S PREMIUM TAX CREDIT ALLOCATION.**

14 **(D) (1) IF THE MARYLAND SMALL BUSINESS INVESTMENT COMPANY**
15 **DOES NOT RECEIVE AN INVESTMENT OF DESIGNATED CAPITAL EQUALING THE**
16 **AMOUNT OF PREMIUM TAX CREDITS ALLOCATED TO A PARTICIPATING**
17 **INVESTOR FOR WHICH IT FILED A PREMIUM TAX CREDIT ALLOCATION CLAIM**
18 **BEFORE THE END OF THE 10TH BUSINESS DAY AFTER THE DATE OF RECEIPT OF**
19 **NOTICE OF ALLOCATION, THE COMPANY SHALL NOTIFY THE DEPARTMENT BY**
20 **OVERNIGHT COMMON CARRIER DELIVERY SERVICE AND THAT PORTION OF**
21 **CAPITAL ALLOCATED TO THE PARTICIPATING INVESTOR SHALL BE FORFEITED.**

22 **(2) THE DEPARTMENT SHALL REALLOCATE THE FORFEITED**
23 **CAPITAL AMONG THE PARTICIPATING INVESTORS IN THE OTHER MARYLAND**
24 **SMALL BUSINESS INVESTMENT COMPANIES THAT ORIGINALLY RECEIVED AN**
25 **ALLOCATION SO THAT THE RESULT AFTER REALLOCATION IS THE SAME AS IF**
26 **THE INITIAL ALLOCATION UNDER THIS SECTION HAD BEEN PERFORMED**
27 **WITHOUT CONSIDERING THE PREMIUM TAX CREDIT ALLOCATION CLAIMS THAT**
28 **WERE SUBSEQUENTLY FORFEITED.**

29 **6-519.**

30 **IN ANY CASE UNDER THE INSURANCE LAW OF THIS STATE IN WHICH THE**
31 **ASSETS OF A PARTICIPATING INVESTOR ARE EXAMINED OR CONSIDERED, THE**
32 **DESIGNATED CAPITAL MAY BE TREATED AS AN ADMITTED ASSET, SUBJECT TO**
33 **THE SAME FINANCIAL RATING AS THAT HELD BY THE STATE.**

34 **6-520.**

1 **A PARTICIPATING INVESTOR IS NOT REQUIRED TO REDUCE THE AMOUNT**
2 **OF PREMIUM TAX INCLUDED BY THE INVESTOR IN CONNECTION WITH RATE**
3 **MAKING FOR ANY INSURANCE CONTRACT WRITTEN IN THIS STATE BECAUSE OF**
4 **A REDUCTION IN THE INVESTOR'S MARYLAND INSURANCE PREMIUM TAX**
5 **DERIVED FROM THE CREDIT GRANTED UNDER THIS SUBTITLE.**

6 **6-521.**

7 **(A) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
8 **FACILITATE THE TRANSFER OR ASSIGNMENT OF PREMIUM TAX CREDITS BY**
9 **PARTICIPATING INVESTORS.**

10 **(2) A PARTICIPATING INVESTOR MAY TRANSFER OR ASSIGN**
11 **PREMIUM TAX CREDITS ONLY IN COMPLIANCE WITH THE REGULATIONS**
12 **ADOPTED UNDER THIS SUBSECTION.**

13 **(B) THE TRANSFER OR ASSIGNMENT OF A PREMIUM TAX CREDIT DOES**
14 **NOT AFFECT THE SCHEDULE FOR TAKING THE PREMIUM TAX CREDIT UNDER**
15 **THIS SUBTITLE.**

16 **6-522.**

17 **(A) (1) THE DEPARTMENT SHALL PREPARE A REPORT EVERY 2**
18 **YEARS WITH RESPECT TO RESULTS OF THE IMPLEMENTATION OF THIS**
19 **SUBTITLE.**

20 **(2) THE REPORT SHALL INCLUDE:**

21 **(I) THE NUMBER OF MARYLAND SMALL BUSINESS**
22 **INVESTMENT COMPANIES HOLDING DESIGNATED CAPITAL;**

23 **(II) THE AMOUNT OF DESIGNATED CAPITAL INVESTED IN**
24 **EACH MARYLAND SMALL BUSINESS INVESTMENT COMPANY;**

25 **(III) THE AMOUNT OF DESIGNATED CAPITAL THE MARYLAND**
26 **SMALL BUSINESS INVESTMENT COMPANY HAS INVESTED IN QUALIFIED**
27 **BUSINESSES AS OF JANUARY 1, 2013, AND THE CUMULATIVE TOTAL FOR EACH**
28 **SUBSEQUENT YEAR;**

29 **(IV) THE TOTAL AMOUNT OF TAX CREDITS GRANTED UNDER**
30 **THIS SUBTITLE FOR EACH YEAR THAT CREDITS HAVE BEEN GRANTED;**

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2010.