

HOUSE BILL 972

Unofficial Copy
C8

2000 Regular Session
(01r1548)

ENROLLED BILL

-- Economic Matters/Budget and Taxation/Finance --

Introduced by **Delegates Busch, Hubers, Hill, Walkup, Fulton, Barve, McHale,
Goldwater, Brown, Love, Krysiak, Pendergrass, Moe, and Eckardt**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Business and Economic Development - Financing Programs Consolidation**
3 **Act of 2000**

4 FOR the purpose of consolidating the Department of Business and Economic
5 Development's programs for financial assistance; repealing the Department's
6 capacity to provide assistance for commercial rehabilitation; repealing the
7 statute governing the Brownfields Revitalization Incentive Program within the
8 Department; altering the list enumerating the Department's financial
9 assistance programs; repealing the statute governing the Enterprise Zone
10 Venture Capital Guarantee Fund; exempting the disposition of real or personal
11 property acquired by the Department of Business and Economic Development in
12 transactions funded from a certain fund; repealing the statute governing the
13 Maryland Enterprise Incentive Deposit Program; repealing the Maryland
14 Industrial Land Act, with the exception of the section governing the Smart
15 Growth Economic Development Infrastructure Fund; repealing references to the
16 Maryland Industrial Land Act in the statute governing the Smart Growth

1 Economic Development Infrastructure Fund; expanding the purposes of the
2 Maryland Industrial Development Financing Authority (MIDFA) to include
3 encouraging the creation and expansion of day care facilities; altering the
4 composition of MIDFA; creating the Industrial Development Fund to replace
5 MIDFA's Bond Insurance Fund and Authorized Purpose Insurance Fund, the
6 Department's Day Care Facilities Loan Guarantee Fund, and the Maryland
7 Enterprise Incentive Deposit Fund; repealing provisions governing the
8 Maryland Seafood and Aquaculture Loan Fund; authorizing MIDFA to provide
9 financial assistance for energy conservation projects and energy projects;
10 repealing the requirement for local governmental approval for bonds issued by
11 MIDFA; creating a Linked Deposit Program to be administered by MIDFA;
12 authorizing MIDFA to accept certain investment instruments in connection with
13 its provision of financial assistance; authorizing the Department to make grants
14 and investments from the Maryland Economic Development Assistance Fund;
15 authorizing the Department to use funds from the Maryland Economic
16 Development Assistance Fund to provide financial assistance for redevelopment
17 of brownfields sites, creation and expansion of day care facilities, expansion or
18 improvement of certain child care services, animal waste technology projects,
19 and aquaculture projects; specifying the dollar amount of the transactions that
20 may be approved by the Secretary of Business and Economic Development and
21 the Maryland Economic Development Assistance Authority; altering the terms
22 and conditions to be imposed on transactions from the Maryland Economic
23 Development Assistance Fund; repealing the termination of the Maryland
24 Economic Development Assistance Authority and Fund; repealing the statute
25 governing the Maryland Energy Financing Administration; repealing the
26 statute governing the Child Care Special Loan Fund; repealing the statute
27 governing the Maryland Workforce Training Fund; repealing the statute
28 governing the Animal Waste Technology Fund; correcting statutory cites to the
29 Brownfields Revitalization Incentive Program in the statute governing the
30 Maryland Department of the Environment; ~~authorizing an executive committee~~
31 ~~of the Legislative Policy Committee to approve the transfer of funds from the~~
32 ~~Economic Development Opportunities Program ("Sunny Day") Fund for certain~~
33 ~~projects~~; authorizing investments to be made from the Sunny Day Fund;
34 altering the due date for certain guidelines governing projects to receive support
35 from the Sunny Day Fund due from the Department of Business and Economic
36 Development to the Legislative Policy Committee; providing that an executive
37 agency may make certain changes to a transaction approved by the Legislative
38 Policy Committee or its executive committee; ~~transferring the Child Care~~
39 ~~Special Loan Fund within the Department of Business and Economic~~
40 ~~Development to the Department of Housing and Community Development~~;
41 validating bonds, notes, and other evidence of indebtedness and obligations
42 issued by the Department of Business and Economic Development or any of its
43 authorized bond issuers; requiring the Department of Legislative Services and
44 the publisher of the Annotated Code to propose and make certain revisions to
45 the Code; altering certain definitions; making technical corrections; providing
46 for the effective dates of this Act; and generally relating to the operation of the
47 Department of Business and Economic Development and the State's economic
48 development financing programs.

1 BY repealing
 2 Article 83A - Department of Business and Economic Development
 3 Section 3-401 and 3-402 and the subtitle "Subtitle 4. Commercial Revitalization
 4 and Rehabilitation Programs"; 3-901 through 3-905, inclusive, and the
 5 subtitle "Subtitle 9. Brownfields Revitalization Incentive Program"; 5-405;
 6 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
 7 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive;
 8 5-801 through 5-808, inclusive, and the subtitle "Subtitle 8. Industrial
 9 and Commercial Redevelopment"; 5-915 and 5-917 through 5-928,
 10 inclusive, and the various parts; 6-101 through 6-113, inclusive, and the
 11 subtitle "Subtitle 1. Day Care Facilities Loan Guarantee Fund"; 6-201
 12 through 6-213, inclusive, and the subtitle "Subtitle 2. Child Care Facilities
 13 Direct Loan Fund"; 6-301 through 6-312, inclusive, and the subtitle
 14 "Subtitle 3. Child Care Special Loan Fund"; 6-401 through 6-421,
 15 inclusive, and the subtitle "Subtitle 4. Maryland Energy Financing Act";
 16 6-601 through 6-606, inclusive, and the subtitle "Subtitle 6. Maryland
 17 Workforce Training Finance Fund"; and 6-801 through 6-807, inclusive,
 18 and the subtitle "Subtitle 8. Animal Waste Technology Fund"
 19 Annotated Code of Maryland
 20 (1998 Replacement Volume and 1999 Supplement)

21 BY repealing and reenacting, with amendments,
 22 Article 83A - Department of Business and Economic Development
 23 Section 5-101 through 5-103, inclusive; 5-214(c); 5-401 and 5-404; 5-501 and
 24 5-502; 5-719 to be under the amended subtitle "Subtitle 7. Smart Growth
 25 Economic Development Infrastructure Fund"; 5-901, 5-902, 5-905, 5-906,
 26 5-911, 5-914, 5-916, 5-929 through 5-941; 5-1202(b); 5-1401 through
 27 5-1406, inclusive
 28 Annotated Code of Maryland
 29 (1998 Replacement Volume and 1999 Supplement)

30 BY adding to
 31 Article 83A - Department of Business and Economic Development
 32 Section 5-503(c) and (d); 5-920, 5-927, 5-928, 5-929, 5-932; 5-1406, 5-1407,
 33 5-1408, ~~and 5-1410~~ 5-1409, and 5-1411
 34 Annotated Code of Maryland
 35 (1998 Replacement Volume and 1999 Supplement)

36 BY repealing and reenacting, with amendments,
 37 Article - Environment
 38 Section 7-507
 39 Annotated Code of Maryland
 40 (1996 Replacement Volume and 1999 Supplement)

41 BY repealing and reenacting, with amendments,

1 Article - State Finance and Procurement
 2 Section 5-7B-01(d)(1) and 7-314
 3 Annotated Code of Maryland
 4 (1995 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article - Tax - Property
 7 Section 9-229
 8 Annotated Code of Maryland
 9 (1994 Replacement Volume and 1999 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Chapter 301 of the Acts of the General Assembly of 1999
 12 Section 4

13 ~~BY transferring~~

14 ~~Article 83A - Department of Business and Economic Development~~
 15 ~~Section 6-301 through 6-312 and the subtitle "Subtitle 3. Child Care Special~~
 16 ~~Loan Fund", respectively~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(1998 Replacement Volume and 1999 Supplement)~~

19 ~~to be~~

20 ~~Article 83B - Department of Housing and Community Development~~
 21 ~~Section 4-301 through 4-312 and the subtitle "Subtitle 3. Child Care Special~~
 22 ~~Loan Fund", respectively~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(1998 Replacement Volume and 1999 Supplement)~~

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 26 MARYLAND, That Section(s) 3-401 and 3-402 and the subtitle "Subtitle 4.
 27 Commercial Revitalization and Rehabilitation Programs"; 3-901 through 3-905,
 28 inclusive, and the subtitle "Subtitle 9. Brownfields Revitalization Incentive Program";
 29 5-405; 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
 30 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive; 5-801 through
 31 5-808, inclusive, and the subtitle "Subtitle 8. Industrial and Commercial
 32 Redevelopment"; 5-915 and 5-917 through 5-928, inclusive, and the various parts;
 33 6-101 through 6-113, inclusive, and the subtitle "Subtitle 1. Day Care Facilities Loan
 34 Guarantee Fund"; 6-201 through 6-213, inclusive, and the subtitle "Subtitle 2. Child
 35 Care Facilities Direct Loan Fund"; ~~6-401 through 6-421, inclusive, and the subtitle~~
 36 ~~"Subtitle 4. Maryland Energy Financing Act 6-301 through 6-312, inclusive, and the~~
 37 ~~subtitle "Subtitle 3. Child Care Special Loan Fund"; 6-601 through 6-606, inclusive,~~
 38 ~~and the subtitle "Subtitle 6. Maryland Workforce Training Finance Fund"; and 6-801~~
 39 ~~through 6-807, inclusive, and the subtitle "Subtitle 8. Animal Waste Technology~~
 40 ~~Fund" of Article 83A - Department of Business and Economic Development of the~~
 41 ~~Annotated Code of Maryland be repealed.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-401
 2 through 6-421 and the subtitle "Subtitle 4. Maryland Energy Financing Act" of
 3 Article 83A - Department of Business and Economic Development of the Annotated
 4 Code of Maryland be repealed.

5 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That the Laws of
 6 Maryland read as follows:

7 **Article 83A - Department of Business and Economic Development**

8 Title 5. Economic Development and Financial Assistance Programs.

9 Subtitle 1. General Provisions.

10 5-101.

11 The Department shall administer the State's economic development and growth
 12 funds to facilitate the attraction, creation, expansion, and retention of businesses and
 13 jobs in Maryland. THE DEPARTMENT SHALL ASSIST AND ENCOURAGE LOCAL
 14 GOVERNMENTS TO DEVELOP STRATEGIC PLANS FOR ECONOMIC DEVELOPMENT.

15 5-102.

16 The Department shall administer economic development and financial
 17 assistance programs and funds, including the following:

- 18 (1) Maryland Small Business Development Financing Authority;
- 19 (2) Maryland Industrial Development Financing Authority;
- 20 (3) [Maryland Energy Financing Administration;
- 21 (4) Maryland Industrial and Commercial Redevelopment Fund;
- 22 (5) Maryland Industrial Land Act;
- 23 (6)] Enterprise Fund;
- 24 [(7) Maryland Enterprise Incentive Deposit Fund;
- 25 (8) Enterprise Zone Venture Capital Guarantee Fund;
- 26 (9)] (4) The Community Development Block Grant for Economic
 27 Development, jointly with the Department of Housing and Community Development;
- 28 [(10) Day Care Facilities Loan Guarantee Fund;
- 29 (11) Child Care Facilities Direct Loan Fund;
- 30 (12) Child Care Special Loan Fund;

- 1 (13) (5) Maryland Economic Adjustment Fund; [and]
2 (6) MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
3 AND FUND;
4 (7) MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND;
5 (8) SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE
6 FUND; AND
7 [(14)] (9) Other programs or funds designated in law or by the Governor
8 or Secretary.

9 5-103.

10 (a) Notwithstanding any other provision of law except for [§§ 5-715, 5-719,
11 and 5-802] § 5-701 of this article, the Secretary may transfer funds among any of the
12 various accounts within the Department or subject to its control, that are used to
13 provide financial support of any kind.

14 (b) Notwithstanding any other provision of law except for [§§ 5-715, 5-719,
15 and 5-802] § 5-701 of this article, the Secretary may transfer funds from any of the
16 accounts described in subsection (a) of this section to the Economic Development
17 Opportunities Program Fund established under § 7-314 of the State Finance and
18 Procurement Article.

19 (c) Where applicable, transfers under this section must comply with the
20 provisions of §§ 5-917(g) and 5-919(h) of this article.

21 (d) The Secretary shall accomplish any transfer under this section in
22 accordance with the appropriation amendment process under § 7-209 of the State
23 Finance and Procurement Article.

24 Subtitle 2. Maryland Economic Development Corporation.

25 5-214.

26 (c) [(1)] For purposes of applying for, receiving, and entering into agreements
27 in connection with loans, grants, insurance, or other forms of financial assistance, the
28 Corporation is[:

29 (i) A] A public body within the meaning of the Maryland Industrial
30 Development Financing Authority Act[: and

31 (ii) A political subdivision within the meaning of the Maryland
32 Industrial Land Act and the Maryland Industrial and Commercial Redevelopment
33 Fund Act.

1 (2) (i) Article 83A, §§ 5-712 and 5-803(c)(3) of the Code do not apply
2 to loans to the Corporation when it is receiving financial assistance as authorized
3 under paragraph (1).

4 (ii) Article 83A, § 5-713 does not apply to the Corporation].

5 Subtitle 4. Enterprise Zones.

6 5-401.

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

8 (b) "Area" means a geographic area within one or more political subdivisions
9 within the State described by a closed perimeter boundary.

10 (c) (1) "Business entity" means a person operating or conducting a trade or
11 business.

12 (2) Except as provided in § 9-103 of the Tax - Property Article, "business
13 entity" does not include a person owning, operating, developing, constructing, or
14 rehabilitating property intended for use primarily as single or multifamily residential
15 property located within the enterprise zone.

16 (d) "County" means a county of this State and includes the Mayor and City
17 Council of Baltimore.

18 (e) "Department" means the Department of Business and Economic
19 Development.

20 (f) "Enterprise zone" means an area:

21 (1) Meeting the requirements of § 5-403 of this subtitle and so
22 designated by the Secretary pursuant to § 5-402 of this subtitle;

23 (2) So designated by the United States government; or

24 (3) Designated as an empowerment zone by the United States
25 government pursuant to 26 U.S.C. § 1391 et seq.

26 (g) "Focus area" means an area meeting the requirements of § 5-402(k) of this
27 subtitle and so designated by the Secretary pursuant to § 5-402 of this subtitle.

28 (h) ["Fund" means the Enterprise Zone Venture Capital Guarantee Fund.

29 (i)] "Political subdivision" means any county or municipal corporation.

30 [(j)] (I) "Secretary" means the Secretary of Business and Economic
31 Development.

32 [(k)] (J) "Submission date" means April 15 and October 15 of any calendar
33 year.

1 5-404.

2 (a) The following incentives and initiatives shall be available to business
3 entities to the extent provided for in this section:

4 (1) The special property tax credit set forth in § 9-103 of the Tax -
5 Property Article;

6 (2) The income tax credits set forth in § 10-702 of the Tax - General
7 Article;

8 (3) The consideration for [loans under the Maryland Industrial Land Act
9 set forth in § 5-710 of this article;

10 (4) The consideration for grants and loans from the Maryland Industrial
11 and Commercial Redevelopment Fund set forth in § 5-803(c) of this article; and

12 (5) Insurance by the Enterprise Zone Venture Capital Guarantee Fund
13 established in § 5-405 of this article.] FINANCIAL ASSISTANCE FROM THE PROGRAMS
14 SET FORTH IN § 5-102 OF THIS ARTICLE.

15 (b) Any business entity moving into or locating within an enterprise zone on or
16 after the date on which the enterprise zone is designated pursuant to § 5-402 of this
17 subtitle may benefit from the incentives and initiatives set forth in this section, if:

18 (1) The business entity meets the requirements and conditions of the
19 Code section applicable to each incentive or initiative;

20 (2) The business entity is certified by the respective political subdivision
21 that it is in compliance with the standards submitted by the subdivision under §
22 5-402(d)(4) of this subtitle; and

23 (3) (i) The business entity creates new or additional jobs or makes a
24 capital investment in order to qualify for the property tax credit under § 9-103 of the
25 Tax - Property Article and the income tax credits under § 10-702 of the Tax - General
26 Article; and

27 (ii) In considering whether the business entity qualifies for [loans
28 and grants under the Maryland Industrial Land Act and the Maryland Industrial and
29 Commercial Redevelopment Fund and for insurance under the Enterprise Zone
30 Venture Capital Guarantee Fund] FINANCIAL ASSISTANCE FROM THE PROGRAMS
31 SET FORTH IN § 5-102 OF THIS ARTICLE, the Secretary determines that the business
32 entity will create new or additional jobs.

33 (c) Any business entity located within an enterprise zone before the date on
34 which the enterprise zone is designated pursuant to § 5-402 of this subtitle may not
35 benefit from the incentives and initiatives set forth in this section except with respect
36 to any capital investment or any expansion of its labor force occurring after the date
37 on which the enterprise zone is designated.

1 (d) Except as provided in § 10-702 of the Tax - General Article and § 9-103 of
2 the Tax - Property Article, the incentives and initiatives set forth in this section shall
3 be available for a period of 10 years following the date on which the area is designated
4 an enterprise zone pursuant to § 5-402 of this subtitle. No law hereinafter enacted
5 that eliminates or reduces the benefits available to business entities under this
6 section shall be applicable to any business entity located in an enterprise zone prior to
7 the effective date of such law.

8 Subtitle 5. Enterprise Fund.

9 5-501.

10 (a) In this [section] SUBTITLE the term "Fund" means the Enterprise Fund
11 established under this [section] SUBTITLE.

12 (b) Where the Department is otherwise authorized by law to make grants, the
13 Department may require repayment, with interest at a rate to be determined by the
14 Department, of all or a portion of a grant upon the occurrence of conditions specified
15 by the Department.

16 (c) (1) Where the Department is otherwise authorized by law to make
17 grants, including grants authorized under § 7-314 of the State Finance and
18 Procurement Article, the Department may use moneys appropriated for grants to
19 provide equity investment financing for a business enterprise.

20 (2) In providing equity investment financing under this [subsection]
21 SUBTITLE, the Department may not acquire an ownership interest in the enterprise
22 in which the equity investment is made that exceeds 25 percent.

23 (3) The Department shall divest itself from any enterprise in which an
24 equity investment is made under this [subsection] SUBTITLE within 15 years after
25 making the investment.

26 (4) The liability of the State and of the Department in providing equity
27 investment financing under this [subsection] SUBTITLE is limited to its investments
28 under this [subsection] SUBTITLE.

29 (5) The Department shall adopt regulations specifying:

30 (i) The types of business enterprises in which investments may be
31 made under this [subsection] SUBTITLE and the basic standards an enterprise is
32 required to meet to qualify for investments under this [subsection] SUBTITLE; and

33 (ii) The amount of funds available for investments under this
34 [subsection] SUBTITLE and the criteria upon which investment decisions will be
35 made by the Department.

1 5-502.

2 (a) There is an Enterprise Fund in the Department established as a
3 nonlapsing, revolving special fund managed and supervised by the Secretary.

4 (b) The Fund may consist of any of the following:

5 (1) Moneys appropriated by the State to the Fund;

6 (2) Moneys made available to the Fund through appropriate federal
7 programs or private contributions;

8 (3) Income from investments that the State Treasurer makes from
9 moneys in the Fund;

10 (4) Repayments of principal and interest from loans made from the
11 Fund;

12 (5) Proceeds from the sale, disposition, lease or rental by the
13 Department of collateral related to any financing provided by the Department under
14 this [section] SUBTITLE;

15 (6) Premiums, fees, royalties, and repayments of principal, interest and
16 investment paid to the Department by or on behalf of a business enterprise in which
17 the Department has made an equity investment, or by or on behalf of an investor
18 providing an investment guaranteed by the Department under this [section]
19 SUBTITLE;

20 (7) Recovery of any equity investment made by the Department in a
21 business enterprise, including any arrangement under which the Department's
22 investment in the business enterprise is recovered through:

23 (i) A requirement that the Department receive a proportion of cash
24 flow, commissions, royalties, or payments on a patent; or

25 (ii) The repurchase from the Department of any evidence of equity
26 participation, such as notes, stocks, bonds or debentures;

27 (8) Repayments received from conditional grants extended by the
28 Department; and

29 (9) Any other moneys made available to the Department.

30 5-503.

31 (C) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
32 DOES NOT APPLY TO ANY SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER
33 DISPOSITION OF ANY REAL OR PERSONAL PROPERTY ACQUIRED BY THE
34 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE,
35 INCLUDING SHARES OF STOCK IN A BUSINESS ENTITY. THE DEPARTMENT SHALL
36 CONSULT WITH THE OFFICE OF THE TREASURER IN CONNECTION WITH ANY

1 PROPOSED DISPOSITION OF PROPERTY ACQUIRED BY THE DEPARTMENT UNDER
2 THIS SUBTITLE.

3 (D) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES
4 NOT APPLY TO THE DEPARTMENT FOR SERVICES RELATED TO THE INVESTMENT,
5 MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE DEPARTMENT IN
6 ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING COMMISSIONS
7 RELATED TO THE TRANSFER OF SHARES OF STOCK IN A BUSINESS ENTITY.

8 Subtitle 7. [Maryland Industrial Land Act.] SMART GROWTH ECONOMIC
9 DEVELOPMENT INFRASTRUCTURE FUND.

10 [5-719.] 5-701.

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

12 (2) "Fund" means the Smart Growth Economic Development
13 Infrastructure Fund established under subsection (b) of this section.

14 (3) "Qualified distressed county" means a county, including Baltimore
15 City, that has developed in consultation with the municipal corporations located
16 within the county and submitted to the Secretary a local strategic plan for economic
17 development that has been approved by the Secretary and:

18 (i) For which the average rate of unemployment for the most
19 recent 18-month period for which data are available is greater than 150% of the
20 average rate of unemployment for the entire State during that same period; or

21 (ii) For which the average per capita personal income for the most
22 recent 24-month period for which data are available is equal to or less than 67% of
23 the average personal per capita income for the entire State during that same period.

24 (b) (1) There is a Smart Growth Economic Development Infrastructure
25 Fund.

26 (2) The Fund consists of:

27 (i) Appropriations to the Fund;

28 (ii) Any investment earnings of the Fund;

29 (iii) Moneys received in payment of interest and repayment of
30 principal for loans provided from the Fund; and

31 (iv) Moneys made available to the Fund from any other source.

32 (3) The Fund shall be administered by the Secretary and shall be used
33 exclusively for the purpose of providing financial assistance in the manner provided
34 under subsection (c) of this section to qualified distressed counties, or to the Maryland

1 Economic Development Corporation for projects located in qualified distressed
2 counties, under this section.

3 (4) The Secretary may not transfer funds from the Fund to any of the
4 various accounts within the Department or subject to its control.

5 (5) The Fund is a continuing, nonlapsing fund which is not subject to §
6 7-302 of the State Finance and Procurement Article.

7 (c) (1) Except as otherwise provided in this section, the Secretary may
8 approve financial assistance from the Fund to a qualified distressed county for the
9 purposes of financing the costs of acquisition, improvements, and rehabilitation of
10 land for industrial sites and parks, development of water and sewer lines, shell
11 buildings, infrastructure serving existing retail and office oriented centers occupying
12 at least 400,000 square feet on a limited basis of no more than one per jurisdiction,
13 and other needed infrastructure projects[, as set forth in §§ 5-704 through 5-709 of
14 this subtitle].

15 (2) Except as otherwise provided in this subsection, financial assistance
16 under this section[:

17 (i) Is subject to the applicable requirements, terms, and conditions
18 of loans under §§ 5-704 through 5-709 of this subtitle; and

19 (ii) May] MAY be in the form of a loan, an investment, or a loan
20 convertible in whole or in part to a grant upon the satisfaction of specified conditions,
21 all upon terms specified by the Department.

22 (3) (i) In addition to any other requirements for an application for
23 financial assistance under this subtitle, an application for financial assistance under
24 this section shall include, for each project:

25 1. A marketing plan designed to market the project to
26 prospective businesses and a statement of planned marketing expenditures as a
27 percent of the total financial assistance amount requested; and

28 2. A site plan for the project that is consistent with the
29 county's local strategic economic development plan as to the location and type of
30 project.

31 (ii) The Secretary may not approve financial assistance for a project
32 under this section unless the Secretary approves the marketing plan and site plan for
33 the project submitted with the application.

34 (4) (i) Each loan agreement under this section shall include a
35 provision for repayment of principal to begin only after the project is initially
36 occupied.

1 (ii) The Secretary may include in a loan agreement under this
2 section a provision for payment of interest to begin only after the project is initially
3 occupied.

4 (5) (i) To be eligible for financial assistance under this section, the
5 Maryland Economic Development Corporation shall enlist as a co-applicant for the
6 financial assistance the qualified distressed county or municipal corporation applying
7 under subsection (e) of this section in which the project to be funded under this
8 section is located.

9 (ii) As the co-applicant, the qualified distressed county or
10 municipal corporation applying shall:

11 1. Certify that it supports the project and that the proposed
12 financial assistance is consistent with the qualified distressed county's plan for
13 economic development; and

14 2. Provide to the Department details of the qualified
15 distressed county's support for and participation in the project.

16 (6) In approving financial assistance, the Secretary shall consider the
17 aggregate amount of financial assistance that may already have been provided for a
18 particular qualified distressed county under this section and under any other State
19 economic development program to ensure that no particular qualified distressed
20 county benefits disproportionately from financial assistance under this section.

21 (d) The Department may develop a local strategic plan for economic
22 development in a qualified distressed county in consultation with a municipal
23 corporation in that county if:

24 (1) The qualified distressed county has not developed a local strategic
25 plan for economic development; or

26 (2) The qualified distressed county has developed a local strategic plan
27 for economic development but is not actively pursuing financial assistance from the
28 Fund.

29 (e) A municipal corporation located in a qualified distressed county may:

30 (1) Apply for financial assistance from the Fund in a manner consistent
31 with the plan developed by the Department in consultation with the municipal
32 corporation if the qualified distressed county has not developed a local strategic plan
33 for economic development; or

34 (2) Apply for financial assistance from the Fund in a manner consistent
35 with the plan developed by the qualified distressed county if the qualified distressed
36 county has developed a local strategic plan for economic development but is not
37 actively pursuing financial assistance from the Fund.

1 Subtitle 9. Maryland Industrial Development Financing Authority.

2 [Part I. Definitions; General Provisions.]

3 5-901.

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

5 (b) "Acquisition" means the acquisition, construction, reconstruction,
6 equipping, expansion, extension, improvement, rehabilitation, or remodeling of 1 or
7 more facilities OR ENERGY PROJECTS.8 (c) "Authority" means the Maryland Industrial Development Financing
9 Authority.10 (d) ["Authorized Purpose Insurance Fund" means the Authorized Purpose
11 Insurance Fund created by § 5-915 of this subtitle.12 (e) "Authorized purpose obligations" means bonds or notes, or other
13 instruments, certificates, or other evidences of obligation issued, offered for sale or
14 delivered by any person or public body for any purpose found and determined by the
15 Authority to accomplish the purposes of this subtitle.16 [(f) "Bond Insurance Fund" means the Bond Insurance Fund created by §
17 5-914 of this subtitle.18 (g) (E) "Bonds" means bonds, notes, bond anticipation notes, notes in the
19 nature of commercial paper or other instruments, certificates, or evidences of
20 obligation issued and sold by any public body, agency or instrumentality of the State
21 to finance or refinance 1 or more facilities [or 1 or more energy projects], or to refund
22 outstanding bonds, including, by way of example, bonds within the meaning indicated
23 in the Maryland Economic Development Revenue Bond Act and bonds within the
24 meaning indicated in [§ 6-402 of] this [article] SUBTITLE.25 (F) "COGENERATION" MEANS THE COMBINED GENERATION BY ANY FACILITY
26 OF:

27 (1) ELECTRICAL OR MECHANICAL POWER; AND

28 (2) STEAM OR OTHER FORMS OF USEFUL ENERGY, SUCH AS HEAT, THAT
29 ARE USED FOR INDUSTRIAL, COMMERCIAL, HEATING, OR COOLING PURPOSES.30 (G) "COMMERCIAL BUILDING" MEANS, FOR THE PURPOSE OF PROVIDING
31 FINANCIAL ASSISTANCE FOR AN ENERGY CONSERVATION PROJECT OR A SOLAR
32 ENERGY PROJECT IN A COMMERCIAL BUILDING, ANY BUILDING, OTHER THAN A
33 RESIDENTIAL BUILDING, THAT IS USED PRIMARILY TO CARRY ON A BUSINESS,
34 INCLUDING ANY NONPROFIT BUSINESS, AND IS NOT USED PRIMARILY FOR THE
35 MANUFACTURE OR PRODUCTION OF RAW MATERIALS, PRODUCTS, OR
36 AGRICULTURAL COMMODITIES.

1 (h) "County" means any of the 23 counties of Maryland, and the Mayor and
2 City Council of Baltimore.

3 (i) "Department" means the Department of Business and Economic
4 Development of the State.

5 [(j) "Energy project" means any energy project within the meaning indicated
6 in § 6-402 of this article.]

7 (J) "ENERGY AUDIT" MEANS:

8 (1) AN ENERGY AUDIT PERFORMED FOR PURPOSES OF THE NATIONAL
9 ENERGY CONSERVATION POLICY ACT, P.L. 95-619; OR

10 (2) AN ON-SITE INSPECTION OF A COMMERCIAL BUILDING, AN
11 INDUSTRIAL BUILDING, OR AN INDUSTRIAL PROCESS, WHICH INSPECTION INCLUDES
12 A DETERMINATION OF, AND PROVIDES INFORMATION ON:

13 (I) THE TYPE, QUANTITY, AND RATE OF ENERGY CONSUMPTION OF
14 THE BUILDING OR PROCESS;

15 (II) APPROPRIATE ENERGY CONSERVING MAINTENANCE AND
16 OPERATION PROCEDURES THAT MAY BE EMPLOYED TO REDUCE THE ENERGY
17 CONSUMPTION OF THE BUILDING OR PROCESS; AND

18 (III) THE COST OF IMPLEMENTING APPROPRIATE ENERGY
19 CONSERVATION PROJECTS OR SOLAR ENERGY PROJECTS AND THE SAVINGS IN
20 ENERGY COSTS THAT ARE LIKELY TO RESULT FROM THE IMPLEMENTATION OF THE
21 PROJECTS.

22 (K) "ENERGY CONSERVATION PROJECT" MEANS:

23 (1) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
24 BUILDING, OR AN INDUSTRIAL PROCESS, THE PURCHASE OR INSTALLATION OR
25 MODIFICATION OF AN INSTALLATION WHICH IS DESIGNED PRIMARILY TO REDUCE
26 THE CONSUMPTION OF ENERGY, INCLUDING:

27 (I) CAULKING AND WEATHER STRIPPING;

28 (II) THE INSULATION OF THE BUILDING STRUCTURE AND ANY
29 SYSTEM WITHIN THE BUILDING;

30 (III) A STORM WINDOW OR DOOR, A MULTIGLAZED WINDOW OR
31 DOOR, HEAT-ABSORBING OR HEAT-REFLECTING WINDOW OR DOOR SYSTEM,
32 GLAZING, REDUCTION IN GLASS AREA, OR OTHER WINDOW OR DOOR SYSTEM
33 MODIFICATION;

34 (IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;

1 (V) ANY EQUIPMENT ASSOCIATED WITH AN AUTOMATIC ENERGY
2 CONTROL SYSTEM WHICH IS REQUIRED TO OPERATE A VARIABLE STEAM,
3 HYDRAULIC, OR VENTILATION SYSTEM;

4 (VI) A MODIFICATION OF A FURNACE OR A UTILITY PLANT AND
5 DISTRIBUTION SYSTEM INCLUDING:

6 1. A REPLACEMENT BURNER, FURNACE, OR BOILER, OR ANY
7 COMBINATION OF THESE ITEMS, THAT INCREASES THE ENERGY EFFICIENCY OF THE
8 HEATING SYSTEM;

9 2. ANY DEVICE FOR MODIFYING A FLUE OPENING THAT
10 INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM; AND

11 3. AN ELECTRICAL OR MECHANICAL FURNACE IGNITION
12 SYSTEM THAT REPLACES A STANDING GAS PILOT LIGHT;

13 (VII) THE REPLACEMENT OR MODIFICATION OF A LIGHTING SYSTEM
14 THAT INCREASES THE ENERGY EFFICIENCY OF THE LIGHTING SYSTEM;

15 (VIII) AN ENERGY RECOVERY SYSTEM;

16 (IX) A COGENERATION SYSTEM;

17 (X) ANY SYSTEM FOR PROCESSING OR CONVERTING TO STEAM,
18 ELECTRICITY, HEAT, OR OTHER USEFUL FORM OF ENERGY, THE WASTE PRODUCTS
19 OF THE INDUSTRIAL PROCESS;

20 (XI) AN IMPROVEMENT TO THE INDUSTRIAL PROCESS THAT
21 REDUCES THE ENERGY REQUIREMENTS PER UNIT OF OUTPUT; AND

22 (XII) ANY OTHER ENERGY CONSERVATION IMPROVEMENT THAT THE
23 AUTHORITY DETERMINES BY RULE AND REGULATION AS APPROPRIATE AND
24 CONSISTENT WITH THE LEGISLATIVE PURPOSE OF THIS SUBTITLE; AND

25 (2) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
26 BUILDING, OR AN INDUSTRIAL PROCESS, ANY PLANNING OR TECHNICAL SERVICE,
27 AND ANY ENERGY AUDIT, IF THE SERVICE OR AUDIT IS RELATED TO OR
28 UNDERTAKEN WITH THE INSTALLATION, OR THE MODIFICATION OF THE
29 INSTALLATION, THAT INCLUDES ANY OF THE ITEMS SPECIFIED IN PARAGRAPH (1) OF
30 THIS SUBSECTION.

31 (L) "ENERGY PROJECT" MEANS:

32 (1) THE CONSTRUCTION OF A FACILITY FOR THE PRODUCTION OF
33 SOLAR ENERGY EQUIPMENT;

34 (2) AN ENERGY CONSERVATION PROJECT;

35 (3) A SOLAR ENERGY PROJECT;

- 1 (4) (I) THE CONSTRUCTION OF A FACILITY OR PORTION OF A FACILITY
2 FOR:
- 3 1. THE PRODUCTION OF GASEOUS, LIQUID, OR SOLID FUEL
4 AND BY-PRODUCTS FROM ANY ORGANIC MATTER, OTHER THAN A FOSSIL FUEL,
5 INCLUDING FROM AN AGRICULTURAL CROP OR AGRICULTURAL WASTE OR RESIDUE,
6 WOOD OR WOOD WASTE OR RESIDUE, ANIMAL WASTE, AQUATIC PLANT, SEWAGE,
7 SEWAGE SLUDGE, OR MUNICIPAL OR INDUSTRIAL OR COMMERCIAL WASTE, OR ANY
8 MIXTURE OF ONE OF THESE SUBSTANCES WITH INORGANIC REFUSE FROM ANY
9 PUBLICLY OR PRIVATELY OPERATED MUNICIPAL WASTE COLLECTION OR SIMILAR
10 DISPOSAL SYSTEM; AND
- 11 2. THE COMBUSTION OF ANY OF THE FUELS DELINEATED IN
12 ITEM 1 OF THIS ITEM OR OF A MIXTURE OF ANY OF THESE FUELS WITH ANY OTHER
13 MATERIALS, FOR THE PURPOSE OF GENERATING HEAT, MECHANICAL POWER,
14 ELECTRICITY, INCLUDING COGENERATION, OR OTHER USEFUL FORMS OF ENERGY;
- 15 (II) THE CONVERSION OF ANY FACILITY TO UTILIZE ANY OF THE
16 FUELS DELINEATED IN ITEM (I)1 OF THIS ITEM;
- 17 (III) THE EXPANSION OR IMPROVEMENT OF ANY FACILITY THAT
18 INCREASES THE CAPACITY OR EFFICIENCY OF THAT FACILITY TO USE ANY OF THE
19 FUELS DELINEATED IN ITEM (I)1 OF THIS ITEM;
- 20 (IV) THE ACQUISITION AND INSTALLATION OF MACHINERY AND
21 EQUIPMENT FOR USE IN ANY FACILITY DELINEATED IN ITEMS (I), (II), AND (III) OF
22 THIS ITEM; AND
- 23 (V) THE ACQUISITION OF LAND FOR ANY FACILITY DELINEATED IN
24 ITEMS (I), (II), AND (III) OF THIS ITEM;
- 25 (5) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
26 EQUIPMENT, OR A FACILITY FOR UTILIZING GROUNDWATER AS A HEAT SOURCE FOR
27 A HEATING SYSTEM OR AS A HEAT SINK FOR AN AIR CONDITIONING SYSTEM;
- 28 (6) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
29 EQUIPMENT, OR ANY FACILITY FOR THE DEVELOPMENT AND USE OF NATURAL HEAT
30 OF THE EARTH OR THE ENERGY IN WHATEVER FORM BELOW THE SURFACE OF THE
31 EARTH PRESENT IN, RESULTING FROM, OR CREATED BY OR WHICH MAY BE
32 EXTRACTED FROM THIS NATURAL HEAT TO PROVIDE USEFUL ENERGY IN THE FORM
33 OF HEAT FOR DIRECT USE OR FOR GENERATION OF ELECTRICITY;
- 34 (7) THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF A
35 HYDROELECTRIC FACILITY THAT IS LOCATED AT THE SITE OF AN EXISTING DAM,
36 WHICH FACILITY USES THE WATER POWER POTENTIAL OF THE DAM AND WHICH
37 FACILITY HAS NOT MORE THAN 30,000 KILOWATTS OF INSTALLED CAPACITY;
- 38 (8) (I) THE CONSTRUCTION OF ANY FUEL PRODUCTION FACILITY FOR
39 THE PURPOSE OF COMMERCIAL PRODUCTION OF A GASEOUS, LIQUID, OR SOLID
40 FUEL, OR OF A COMBINATION OF THESE FUELS, WHICH CAN BE USED AS A

1 [(l)] (N) "Facility" or "facilities" means any facility or facilities within the
2 meaning indicated in the Maryland Economic Development Revenue Bond Act AND
3 ANY ENERGY PROJECT.

4 [(m)] (O) "Facility applicant" means any facility applicant within the meaning
5 indicated in the Maryland Economic Development Revenue Bond Act.

6 [(n)] (P) "Facility user" means any facility user within the meaning indicated
7 in the Maryland Economic Development Revenue Bond Act.

8 [(o)] (Q) "Financial assistance" means any financial assistance provided by
9 the Authority under [§ 5-929, § 5-931, or § 5-938 of] this subtitle.

10 [(p)] (R) "Foreign entity" means a person, business association, or corporation
11 located outside the United States, or a governmental unit of a country other than the
12 United States.

13 (S) "INDUSTRIAL BUILDING" MEANS ANY BUILDING, OTHER THAN A
14 COMMERCIAL BUILDING OR A RESIDENTIAL BUILDING, THAT:

15 (1) IS USED PRIMARILY TO CARRY ON A BUSINESS, INCLUDING ANY
16 NONPROFIT BUSINESS;

17 (2) IS USED PRIMARILY FOR AN INDUSTRIAL PROCESS; AND

18 (3) PROVIDES A METHOD OF CONTROLLING ENERGY USAGE WITHIN ITS
19 EXTERIOR ENVELOPE BUT, AS DESIGNED, DOES NOT HAVE A PEAK DESIGN RATE OF
20 ENERGY USAGE OF LESS THAN 3.5 B.T.U. PER HOUR PER SQUARE FOOT OR 1 WATT
21 PER SQUARE FOOT OF FLOOR AREA.

22 (T) "INDUSTRIAL DEVELOPMENT FUND" MEANS THE FUND CREATED BY §
23 5-914 OF THIS SUBTITLE.

24 (U) "INDUSTRIAL PROCESS" MEANS:

25 (1) A PROCESS USED TO PRODUCE OR MANUFACTURE GOODS OR
26 PRODUCTS; OR

27 (2) THE STORAGE OR SHIPMENT OF MATERIALS, GOODS, OR PRODUCTS.

28 (V) "LINKED DEPOSIT PROGRAM" MEANS THE PROGRAM CREATED BY § 5-927
29 OF THIS SUBTITLE.

30 [(q)] (W) "Municipality" means a municipal corporation subject to the
31 provisions of Article XI-E of the Constitution of the State.

32 [(r)] (X) "Property" means any real property or personal property.

33 [(s)] (Y) "Public body" means any public body within the meaning indicated in
34 the Maryland Economic Development Revenue Bond Act [or the Maryland Energy
35 Financing Administration].

1 [(t)] (Z) "Public port" means any public port within the meaning indicated in
2 the Maryland Economic Development Revenue Bond Act.

3 [(u)] (AA) "Retail establishment" means any establishment selling goods or
4 services to the ultimate user or consumer of those goods or services, not for the
5 purpose of resale, but for that user's or consumer's personal rather than business use.

6 [(v)] (BB) "Secretary" means the Secretary of Business and Economic
7 Development.

8 (CC) (1) "SOLAR ENERGY PROJECT" MEANS, WITH RESPECT TO ANY
9 COMMERCIAL OR INDUSTRIAL BUILDING, ANY ADDITION, ALTERATION, OR
10 IMPROVEMENT THAT IS DESIGNED TO USE WIND ENERGY, ENERGY PRODUCED BY A
11 WOOD-BURNING APPLIANCE, OR SOLAR ENERGY, EITHER OF THE ACTIVE TYPE
12 BASED ON MECHANICALLY FORCED ENERGY TRANSFER OR OF THE PASSIVE TYPE
13 BASED ON CONVECTIVE, CONDUCTIVE, OR RADIANT ENERGY TRANSFER, OR SOME
14 COMBINATION OF THESE TYPES, TO REDUCE THE ENERGY REQUIREMENTS OF THE
15 BUILDING.

16 (2) "SOLAR ENERGY PROJECT" INCLUDES A SOLAR PROCESS HEAT
17 DEVICE, SOLAR ELECTRIC DEVICE, OR ANY EARTH SHELTERED BUILDING IN WHICH
18 THE SHELTERING SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY
19 THE BUILDING.

20 [(w)] (DD) "Transaction" means any transaction with respect to which
21 financial assistance is or will be provided by the Authority under § 5-918 OF this
22 subtitle.

23 5-902.

24 (a) The General Assembly makes the following findings:

25 (1) Conditions of unemployment exist in many areas of the State;

26 (2) The acquisition of new facilities and existing facilities is essential to
27 relieve this unemployment and to establish a balanced economy within the State;

28 (3) The present and prospective health, happiness, safety, right of
29 gainful employment, and general welfare of the citizens of each of the counties and
30 municipalities of the State will be promoted by the acquisition of facilities;

31 (4) The control or abatement of pollution of the environment of the State,
32 including that by noise, is necessary to retain existing industry and commercial
33 enterprises in, and attract new industry and commercial enterprises to, the State and
34 to protect the health, welfare, and safety of the citizens of the State, to protect the
35 natural resources of the State, and to encourage the economic development of the
36 State;

37 (5) The public ports of the State are assets of value to the entire State;
38 the residents of all parts of the State benefit directly from the waterborne commerce

1 that they attract and service; and any improvement to these ports that increases their
2 export and import commerce will benefit the people of the entire State;

3 (6) Businesses need greater access to capital markets; and

4 (7) The availability of financial assistance will promote the economic
5 development of the State.

6 (b) The General Assembly declares its legislative purpose to:

7 (1) Relieve conditions of unemployment in the State;

8 (2) Encourage the increase of industry and commerce and a balanced
9 economy in the State;

10 (3) Assist in the retention of existing industry and commerce and in the
11 attraction of new industry and commerce in the State through, among other things,
12 port development and the control, reduction, or abatement of pollution of the
13 environment and the utilization and disposal of wastes;

14 (4) Promote economic development;

15 (5) Protect natural resources and encourage resource recovery; and

16 (6) Generally promote the health, welfare, and safety of the residents of
17 each of the counties and municipalities of the State, INCLUDING ENCOURAGING THE
18 CREATION AND EXPANSION OF DAY CARE FACILITIES IN THE STATE.

19 (c) This subtitle shall be liberally construed to effect its purposes.

20 [Part II. Establishment and Organization of Authority.]

21 5-905.

22 (a) The Authority consists of the following 9 members:

23 (1) 7 members appointed by the Secretary with the approval of the
24 Governor; and

25 (2) As ex officio members:

26 (i) The Secretary or the Secretary's designee; and

27 (ii) The State Treasurer or the State Comptroller, as designated by
28 the Governor. If designated by the Governor to serve on the Board, the State
29 Treasurer or State Comptroller may designate a [deputy treasurer or the deputy
30 comptroller, as applicable] REPRESENTATIVE TO SERVE ON THE BOARD.

31 (b) (1) The term of an appointed member is 5 years.

1 (2) The terms of appointed members are staggered as required by the
2 terms provided for members of the Authority on July 1, 1980.

3 (3) At the end of a term, an appointed member continues to serve until a
4 successor is appointed and qualifies.

5 (4) A member who is appointed after a term has begun serves only for
6 the rest of the term and until a successor is appointed and qualifies.

7 (c) The Governor may remove an appointed member at the Governor's
8 pleasure.

9 5-906.

10 (a) From among its members, the Authority shall elect a chairman, AND A vice
11 chairman[, and treasurer].

12 (b) The manner of election of officers and their terms of office shall be as the
13 Authority determines.

14 5-911.

15 In addition to any other powers set forth in this subtitle, the Authority may:

16 (1) Adopt bylaws to regulate its affairs and the conduct of its business;

17 (2) Adopt and use an official seal;

18 (3) Maintain offices at the places in this State that it designates;

19 (4) Sue and be sued in its own name;

20 (5) Contract for and engage the services of consultants;

21 (6) Use the services of other governmental agencies;

22 (7) Contract for and accept, for use in carrying out the provisions of this
23 subtitle, loans and grants from the federal, State, or any local government and any of
24 their respective agencies and instrumentalities;

25 (8) Acquire, manage, operate, dispose of, or otherwise deal with property,
26 take assignments of rentals and leases, and make contracts, leases, agreements, and
27 arrangements that are necessary or incidental to the performance of its duties, upon
28 such terms and conditions that it may deem advisable;

29 (9) Acquire or take assignments of documents executed, obtained, or
30 delivered in connection with financial assistance provided by the Authority under this
31 subtitle;

32 (10) Subject to the provisions of any outstanding agreements entered into
33 by the Authority under this subtitle, enter into covenants or agreements with respect

1 to the Authority's insurance funds, and establish accounts within the Authority's
2 insurance funds which may be used to implement the purposes of this subtitle. If the
3 Authority elects to establish separate accounts, the Authority may allocate its
4 revenues and receipts among the respective accounts in any manner the Authority
5 considers appropriate;

6 (11) Fix, determine, charge, and collect any premiums, fees, charges,
7 costs, and expenses, including, by way of example, any application fees, commitment
8 fees, program fees, financing charges, or publication fees in connection with financial
9 assistance provided by the Authority under this subtitle;

10 (12) Adopt rules and regulations necessary to carry out the purposes of
11 this subtitle;

12 (13) Authorize the chairman, vice chairman, or executive director of the
13 Authority, on behalf of the Authority, to perform any duty, and specify, prescribe,
14 determine, provide for or approve such matters, details, forms, documents, or
15 procedures as the Authority, in its sole and absolute discretion, deems appropriate to
16 accomplish the purposes of this subtitle; AND

17 (14) [With the approval of the Secretary, exercise any or all of the powers,
18 duties and authority of the Secretary, in accordance with Title 6, Subtitle 4 of this
19 article, relating to the Maryland Energy Financing Administration; and

20 (15)] Do anything necessary or convenient to carry out its powers and the
21 purposes of this subtitle.

22 [Part III. Insurance Funds.]

23 5-914.

24 (a) There is [a] AN [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund
25 which replaces the Authority's [Industrial Project Insurance] BOND INSURANCE
26 Fund, THE AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE
27 DEPARTMENT'S DAY CARE FACILITIES LOAN GUARANTEE FUND, AND THE
28 MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND. Moneys on deposit in the
29 Authority's [Industrial Project Insurance] BOND INSURANCE Fund, THE
30 AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE DEPARTMENT'S DAY
31 CARE FACILITIES LOAN GUARANTEE FUND, AND THE MARYLAND ENTERPRISE
32 INCENTIVE DEPOSIT FUND shall be transferred to the [Bond Insurance] INDUSTRIAL
33 DEVELOPMENT Fund on July 1, [1983] 2000.

34 (b) The [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund is a continuing,
35 nonlapsing, revolving fund that consists of:

36 (1) Moneys appropriated by the State to the [Bond Insurance]
37 INDUSTRIAL DEVELOPMENT Fund;

1 (2) Premiums, fees, and any other amounts received by the Authority
2 with respect to financial assistance provided by the Authority from the [Bond
3 Insurance] INDUSTRIAL DEVELOPMENT Fund;

4 (3) Proceeds as designated by the Authority from the sale, lease, or other
5 disposition of property held or acquired by the Authority;

6 (4) INTEREST RECEIVED FROM LINKED DEPOSITS MADE FROM THE
7 LINKED DEPOSIT FUND;

8 [(4)] (5) Income from investments that the State Treasurer, on
9 instruction of the Authority, makes from moneys in the [Bond Insurance]
10 INDUSTRIAL DEVELOPMENT Fund; and

11 [(5)] (6) Any other moneys made available under this subtitle.

12 (c) The [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund shall be used:

13 (1) For the purposes described in [§ 5-929] §§ 5-916, 5-918, 5-927, AND
14 5-928 of this subtitle; and

15 (2) To pay any and all expenses of the Authority, including, by way of
16 example:

17 (i) Any and all expenses for administrative, legal, actuarial, and
18 other services; [and]

19 (ii) All costs, charges, fees, and expenses of the Authority related to
20 the authorizing, preparing, printing, selling, issuing, and insuring of bonds AND
21 AUTHORIZED PURPOSE OBLIGATIONS (including, by way of example, bonds OR
22 AUTHORIZED PURPOSE OBLIGATIONS, the proceeds of which are used to refinance or
23 refund outstanding bonds OR AUTHORIZED PURPOSE OBLIGATIONS), and the funding
24 of reserves; AND

25 (III) ALL COSTS OF PROVIDING ANY OTHER FINANCIAL ASSISTANCE
26 AUTHORIZED UNDER THIS SUBTITLE.

27 (d) Moneys in the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund, to the
28 extent that such moneys exceed the amount that the Authority considers necessary to
29 meet its current expenses and obligations, shall be deposited with the State Treasurer
30 and invested and reinvested in the same manner as other State funds, and any
31 investment earnings shall be paid into the [Bond Insurance] INDUSTRIAL
32 DEVELOPMENT Fund. Any net earnings of the [Bond Insurance] INDUSTRIAL
33 DEVELOPMENT Fund, beyond those necessary to further or implement the purposes
34 of this subtitle, may not inure to the benefit of any person other than the State.

35 (e) If the Authority and the Secretary find that more money is needed to keep
36 the reserves of the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund at an
37 adequate level, the Authority, with the consent of the Secretary, shall send a written

1 request to the Board of Public Works for additional money. The Board of Public Works
2 may pay the requested amount from its emergency fund.

3 (f) If at any time the amount of money credited to the [Bond Insurance]
4 INDUSTRIAL DEVELOPMENT Fund exceeds the amount that the Authority considers
5 necessary to meet its obligations under this subtitle, and to meet the requirements of
6 this subtitle, the Authority may determine, with the consent of the Secretary, to[

7 (1) Deposit the excess moneys into the Authorized Purpose Insurance
8 Fund to be used for the purposes described in § 5-915(c) of this subtitle;

9 (2) Deposit the excess moneys into the Maryland Seafood and
10 Aquaculture Loan Fund to be used for the purposes described in § 5-919(a) of this
11 subtitle; or

12 (3) Pay] PAY the excess moneys to the State Treasurer.

13 [5-916.] 5-915.

14 The State Treasurer shall report annually to the Authority as to:

15 (1) The status of the [Bond Insurance] INDUSTRIAL DEVELOPMENT
16 Fund [and the Authorized Purpose Insurance Fund];

17 (2) The market value of the assets in the [Bond Insurance] INDUSTRIAL
18 DEVELOPMENT Fund [and the Authorized Purpose Insurance Fund] as of the date of
19 the report; and

20 (3) The earnings received from investments authorized under this [Part
21 III] SUBTITLE during the period covered by the report.

22 [Part IIIA. Maryland Seafood and Aquaculture Loan Fund.]

23 [Part IV. Use of Insurance Funds.]

24 [5-929.] 5-916.

25 Subject to the provisions of [this Part IV] § 5-917 OF THIS SUBTITLE, the
26 Authority may, from the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund:

27 (1) Insure the payment or repayment of all or any part of the principal of,
28 redemption or prepayment premiums or penalties on, and interest on bonds;

29 (2) Insure the payment or repayment of all or any part of the principal of,
30 redemption or prepayment premiums or penalties on, and interest on any instrument
31 executed, obtained, or delivered in connection with the issuance and sale of bonds;
32 and

1 (3) Pay or insure the payment of any fees or premiums necessary to
2 obtain insurance, guarantees, or other credit support from any person in connection
3 with financial assistance provided by the Authority under this subtitle.

4 [5-930.] 5-917.

5 (a) The Authority may use the [Bond Insurance] INDUSTRIAL DEVELOPMENT
6 Fund for the purposes described in [§ 5-929] § 5-916 of this subtitle only if the
7 requirements of this section are satisfied.

8 (b) The Authority shall determine, in its sole and absolute discretion, that the
9 economic impact of the transaction will be substantial. To determine the economic
10 impact of a transaction, the Authority may consider any factor it considers relevant.

11 (c) (1) The Authority shall determine that the acquisition of a facility will
12 not result in:

13 (i) The removal of the business operations of the facility user from
14 one county to another county; or

15 (ii) The abandonment of a facility in the State; or

16 (2) If the acquisition of a facility will result in the occurrence of either of
17 these events, the Authority shall determine that the acquisition of the facility will:

18 (i) Discourage the facility user from leaving the State; or

19 (ii) Preserve the competitive position of the facility user in its
20 industry.

21 (d) The Authority shall determine that the Authority will not be required,
22 except on default, to operate, service, or maintain the facility [or energy project].

23 (e) The bonds or instruments with respect to which financial assistance is
24 provided by the Authority shall be secured in a manner approved by the Authority.

25 (f) Financial assistance provided by the Authority from the [Bond Insurance]
26 INDUSTRIAL DEVELOPMENT Fund UNDER § 5-916 OF THIS SUBTITLE with respect to
27 any one facility may not exceed the total aggregate amount of [\$5,000,000] \$7,500,000.

28 (g) The total aggregate amount of insurance from the [Bond Insurance]
29 INDUSTRIAL DEVELOPMENT Fund with respect to the insured portions of principal of
30 bonds or other instruments may not exceed at any time an amount equal to 5 times
31 the balance in the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund.

32 [5-931.] 5-918.

33 Subject to the provisions of [this Part IV] § 5-919 OF THIS SUBTITLE, the
34 Authority may, from the [Authorized Purpose Insurance] INDUSTRIAL
35 DEVELOPMENT Fund:

1 (1) Insure the payment or repayment of the principal of, redemption or
2 prepayment premiums or penalties on, and interest on authorized purpose
3 obligations; and

4 (2) Pay or insure the payment of any fees or premiums necessary to
5 obtain insurance, guarantees, or other credit support from any person in connection
6 with financial assistance provided by the Authority under this subtitle.

7 [5-932.] 5-919.

8 (a) The Authority may use the [Authorized Purpose Insurance] INDUSTRIAL
9 DEVELOPMENT Fund for the purposes described in [§ 5-931] § 5-918 of this subtitle
10 only if the requirements of this section are satisfied.

11 (b) The Authority shall determine, in its sole and absolute discretion, that the
12 economic impact of the transaction will be substantial. To determine the economic
13 impact of a transaction, the Authority may consider any factor it considers relevant.

14 (c) (1) The Authority shall determine that the transaction will not result in:

15 (i) The removal of the business operations of any person benefiting
16 from the transaction, from one county to another county; or

17 (ii) The abandonment of the business operations of any person
18 benefiting from the transaction, in the State; or

19 (2) If the transaction will result in the occurrence of either of these
20 events, the Authority shall determine that the transaction will:

21 (i) Discourage the business from leaving the State; or

22 (ii) Preserve the competitive position of the business in its industry.

23 (d) The financial assistance to be provided by the Authority may not be used
24 in connection with a retail establishment unless the Authority determines, in its sole
25 and absolute discretion, that financial assistance in connection with a retail
26 establishment will accomplish the purposes of this subtitle.

27 (e) The Authority shall determine that the Authority will not be required,
28 except on default, to operate, service, or maintain any business.

29 (f) The authorized purpose obligations with respect to which financial
30 assistance is provided by the Authority shall be secured in a manner approved by the
31 Authority.

32 (g) Financial assistance provided by the Authority from the [Authorized
33 Purpose Insurance] INDUSTRIAL DEVELOPMENT Fund UNDER § 5-918 OF THIS
34 SUBTITLE with respect to any one transaction may not exceed the total aggregate
35 amount of [\$1,000,000] § 2,500,000.

1 (h) The total aggregate amount of insurance from the [Authorized Purpose
2 Insurance] INDUSTRIAL DEVELOPMENT Fund may not exceed at any time an amount
3 equal to 5 times the balance in the [Authorized Purpose Insurance] INDUSTRIAL
4 DEVELOPMENT Fund.

5 (i) The total aggregate amount of insurance from the [Authorized Purpose
6 Insurance] INDUSTRIAL DEVELOPMENT Fund of any one authorized purpose
7 obligation UNDER § 5-918 OF THIS SUBTITLE may not exceed:

8 (1) For an export-related financing transaction, 90 percent of the total of
9 the principal of, redemption or prepayment premiums or penalties on, and interest
10 on, the authorized purpose obligation; or

11 (2) For a transaction other than an export-related financing transaction,
12 80 percent of the total of the principal of, redemption or prepayment premiums or
13 penalties on, and interest on, the authorized purpose obligation.

14 5-920.

15 (A) IN AWARDING FINANCIAL ASSISTANCE FOR AN ENERGY PROJECT, THE
16 AUTHORITY SHALL CONSIDER THE EXTENT TO WHICH ANY ENERGY PROJECT FOR
17 WHICH FINANCIAL ASSISTANCE IS AWARDED WOULD:

18 (1) RESULT IN A REDUCTION IN THE CONSUMPTION OF ENERGY,
19 PARTICULARLY THE CONSUMPTION OF PETROLEUM;

20 (2) RESULT IN AN INCREASE IN ENERGY SUPPLY AVAILABLE TO
21 CITIZENS OF THE STATE;

22 (3) RESULT IN INCREASES IN EMPLOYMENT AND ECONOMIC ACTIVITY
23 IN THE STATE;

24 (4) EMBODY SOUND TECHNOLOGY AND ECONOMIC FEASIBILITY;

25 (5) MINIMIZE ANY ADVERSE IMPACT ON ENVIRONMENTAL QUALITY;
26 AND

27 (6) MAXIMIZE THE UTILIZATION OF FEDERAL PROGRAMS THAT PROVIDE
28 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

29 (B) THE AUTHORITY SHALL PROMOTE THE VARIOUS PROGRAMS OF
30 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS ESTABLISHED UNDER THIS
31 SUBTITLE BY INFORMING CONSUMERS, THE PRIVATE SECTOR, AND FINANCIAL
32 INSTITUTIONS OF THE BENEFITS OF THESE PROGRAMS, AND BY ACTIVELY SEEKING
33 THEIR PARTICIPATION. IN PARTICULAR, THE AUTHORITY SHALL:

34 (1) DEVELOP AND DISSEMINATE CLEAR AND CONCISE DESCRIPTIONS
35 OF ITS VARIOUS PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS;
36 AND

1 (2) SERVE AS A CLEARINGHOUSE FOR INFORMATION ON FEDERAL AND
2 STATE PROGRAMS THAT PROVIDE FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

3 (C) THE AUTHORITY SHALL TAKE ALL ACTIONS NECESSARY TO QUALIFY FOR
4 AND TO PARTICIPATE IN THE VARIOUS PROGRAMS OF FINANCIAL ASSISTANCE FOR
5 ENERGY PROJECTS ESTABLISHED UNDER THE ENERGY SECURITY ACT, P.L. 96-294. IN
6 FURTHERANCE THEREOF, THE AUTHORITY SHALL BE SPECIFICALLY DEEMED TO BE,
7 FOR PURPOSES OF THAT ACT:

8 (1) A "PERSON", AS DEFINED IN TITLE II, § 203(17), CONCERNING THE
9 FINANCING OF BIOMASS ENERGY, MUNICIPAL SOLID WASTE, AND ALCOHOL FUELS
10 PROJECTS;

11 (2) A "GOVERNMENT CORPORATION", AS USED IN TITLE II, SUBTITLE C, §
12 252, CONCERNING THE FINANCING OF OTHER BIOMASS ENERGY PROJECTS; AND

13 (3) A "PERSON", AS USED IN TITLE VI, SUBTITLE A, § 611, CONCERNING
14 THE FINANCING OF GEOTHERMAL ENERGY PROJECTS.

15 (D) THE AUTHORITY IS CONSIDERED TO BE A "NONPROFIT ORGANIZATION",
16 AS USED IN §§ 402 AND 403 OF TITLE IV OF THE PUBLIC UTILITY REGULATORY
17 POLICIES ACT OF 1978, P.L. 95-617, CONCERNING SMALL-SCALE HYDROPOWER
18 PROJECTS.

19 [5-933.] 5-921.

20 The Authority may authorize the executive director of the Authority to approve,
21 on behalf of the Authority, any financial assistance to be provided from the
22 [Authorized Purpose Insurance] INDUSTRIAL DEVELOPMENT Fund UNDER § 5-918
23 OF THIS SUBTITLE which does not exceed, with respect to any one transaction, the
24 total aggregate amount of \$50,000. Any such approval by the executive director shall:

25 (1) Be subject to the concurrence of the Secretary or the chairman of the
26 Authority;

27 (2) Comply with the requirements of this subtitle; and

28 (3) Be binding upon the Authority.

29 [5-934.] 5-922.

30 The Authority may itself approve the form of any agreement entered into by the
31 Authority under this subtitle or may authorize the executive director of the Authority
32 to approve the form of any agreement entered into by the Authority under this
33 subtitle. Any payment by the Authority under an agreement entered into by the
34 Authority under this subtitle shall be made at the time and in the manner that the
35 Authority, in its sole and absolute discretion, determines.

1 [5-935.] 5-923.

2 [Transactions are] FINANCIAL ASSISTANCE AWARDED BY THE AUTHORITY
3 UNDER THIS SUBTITLE IS:

4 (1) Subject to the provisions of Article 49B of the Code concerning
5 discrimination and unlawful practices; and

6 (2) Not subject to the provisions of Title 17, Subtitle 1 of the State
7 Finance and Procurement Article.

8 [Part V. Premiums and Fees.]

9 [5-936.] 5-924.

10 (a) The Authority may, in its sole and absolute discretion, set the premiums
11 and fees to be paid to it for providing financial assistance under this subtitle.

12 (b) The premiums and fees set by the Authority shall be payable in the
13 amounts, at the time and in the manner that the Authority, in its sole and absolute
14 discretion, requires.

15 (c) The premiums and fees need not be uniform among [transactions]
16 APPROVALS FOR FINANCIAL ASSISTANCE, and may vary in amount:

17 (1) Among [transactions] APPROVALS FOR FINANCIAL ASSISTANCE;
18 and

19 (2) At different stages during the terms of [transactions] THE
20 FINANCIAL ASSISTANCE.

21 (d) A determination by the Authority, in accordance with [this Part V] § 5-925
22 of this subtitle, shall remain effective throughout the period during which the
23 financial assistance provided by the Authority is in effect.

24 [5-937.] 5-925.

25 (a) The Authority may not charge any premium for insurance if the Authority
26 determines that, at the time of approval of insurance, the facility[, energy project,] or
27 business with respect to which insurance is provided by the Authority is located in a
28 county where the average unemployment rate is at least 1 percent greater than the
29 average unemployment rate for the United States, as determined in accordance with
30 this section.

31 (b) (1) Average unemployment rates for a county shall be those established
32 by the State Employment Security Administration or any other agency or
33 instrumentality responsible for establishing the rates.

1 (2) Average unemployment rates for the United States shall be those
2 established by the United States Department of Labor or any other agency or
3 department responsible for establishing the rates.

4 (c) The Authority shall:

5 (1) Annually review the unemployment rates; and

6 (2) Only consider annual unemployment rates established not more than
7 12 months before the date of the Authority's review.

8 [Part VI. Issuance of Bonds by Authority.]

9 [5-938.] 5-926.

10 (a) In order to accomplish the purposes of this subtitle, in addition to any
11 other powers it may have and notwithstanding any limitation of law, the Authority, on
12 behalf of the State, may issue and sell bonds as provided in and in accordance with
13 the Maryland Economic Development Revenue Bond Act AND THIS SUBTITLE.

14 (b) The Authority may accomplish the acquisition of 1 or more facilities from
15 the proceeds of the sale of its bonds by 1 or more of the methods described in the
16 Maryland Economic Development Revenue Bond Act.

17 (c) The Authority may issue its bonds without obtaining the consent of any
18 other unit of State government, and without any proceedings, or the occurrence of any
19 conditions, other than those expressly required by this subtitle. Prior to the issuance
20 of any bonds by the Authority, the Authority shall notify the State Board of Public
21 Works of its intention to issue the bonds up to a stated amount and the Board of
22 Public Works may coordinate the issuance of the bonds with any intended issuance of
23 bonds of the State, its agencies, and public instrumentalities; however, the failure to
24 notify the Board of Public Works shall not affect in any way:

25 (1) The validity or enforceability of any bonds issued by the Authority;

26 (2) The validity of any finding or determination by the Authority under
27 this subtitle; or

28 (3) The validity or enforceability of any agreement entered into by the
29 Authority under this subtitle.

30 (d) (1) When bonds are issued by the Authority, it is in the interest of the
31 public welfare and purpose that the Authority attempt to achieve a goal that 10
32 percent of the facility users are minority business enterprises as defined under §
33 14-301 of the State Finance and Procurement Article.

34 (2) The failure to achieve the goal set out under paragraph (1) of this
35 subsection shall not affect in any way:

1 (i) The validity or enforceability of any bonds issued by the
2 Authority;

3 (ii) The validity of any finding or determination by the Authority
4 under this subtitle; or

5 (iii) The validity or enforceability of any agreement entered into by
6 the Authority under this subtitle.

7 (e) [Prior to the issuance and sale of bonds by the Authority, the legislative
8 body of the county or municipality in which the facility to be financed with the
9 proceeds of the bonds is to be located, shall adopt a resolution which shall:

10 (1) Be administrative in nature, not subject to the procedures required
11 for legislative acts and not subject to referendum;

12 (2) Specify and describe the facility; and

13 (3) Generally describe the public purpose to be served by the facility.

14 (f) Except for the Authority's insurance (if any), bonds issued by the Authority
15 and the interest on them are limited obligations of the Authority, the principal of,
16 premium, if any, and interest on which are payable solely (except for bond
17 anticipation notes and notes in the nature of commercial paper) from revenues or
18 moneys to be received in connection with the financing or refinancing of a facility [or]
19 AND from any other moneys made available to the Authority for such purpose.
20 Neither the bonds issued by the Authority nor the interest thereon shall ever
21 constitute an indebtedness or a charge against the general credit or taxing powers of
22 the State, the Department, the Authority or any other public body within the meaning
23 of any constitutional or charter provision or statutory limitation and neither shall
24 ever constitute or give rise to any pecuniary liability of the State, the Department, the
25 Authority or any other public body. Each bond issued by the Authority, on its face,
26 may plainly state that it has been issued under the provisions of the Maryland
27 Economic Development Revenue Bond Act AND THIS SUBTITLE and that it does not
28 constitute an indebtedness to which the faith and credit of the State, the Department,
29 the Authority or any other public body is pledged.

30 [(g)] (F) Bonds issued by the Authority shall be exempt from taxation by the
31 State and by its several counties and municipalities as provided in the Maryland
32 Economic Development Revenue Bond Act.

33 [(h)] (G) Facilities financed with the proceeds of bonds issued by the Authority
34 are not subject to the requirements of any law regarding competitive bidding.

35 5-927.

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

1 (2) "APPLICANT" MEANS THE ELIGIBLE BUSINESS APPLYING FOR ~~THE~~
 2 ~~LOAN AND THE~~ FIXED ASSET FINANCING ASSISTED BY A LINKED DEPOSIT.

3 (3) "ELIGIBLE BUSINESS" MEANS A FOR-PROFIT BUSINESS THAT:

4 (I) IS LOCATED IN A COUNTY THAT HAS AN UNEMPLOYMENT RATE
 5 OF 130 PERCENT OF THE UNEMPLOYMENT RATE FOR THE STATE DURING THE MOST
 6 RECENT 4 CONSECUTIVE QUARTERS FOR WHICH DATA ARE AVAILABLE AND HAS A
 7 POPULATION UNDER 200,000;

8 (II) IS IN GOOD STANDING WITH EACH STATE REGULATORY
 9 AUTHORITY WITH JURISDICTION OVER THE BUSINESS OF THE APPLICANT,
 10 INCLUDING THE STATE WORKERS' COMPENSATION COMMISSION, THE DEPARTMENT
 11 OF ASSESSMENTS AND TAXATION, AND THE DEPARTMENT OF LABOR, LICENSING
 12 AND REGULATION; AND

13 (III) EMPLOYS 500 OR FEWER EMPLOYEES.

14 (4) (I) "FIXED ASSET FINANCING" MEANS ~~THE USE OF~~ A COMMERCIAL
 15 LOAN TO FINANCE:

16 1. THE ACQUISITION OR CONSTRUCTION OF A BUILDING, IN
 17 WHOLE OR IN PART;

18 2. THE ACQUISITION OF THE LAND UPON WHICH THE
 19 BUILDING IS LOCATED OR IS TO BE LOCATED IF THE LAND IS NOT ALREADY OWNED
 20 BY THE APPLICANT; OR

21 3. THE ACQUISITION OF MACHINERY AND EQUIPMENT.

22 (II) "FIXED ASSET FINANCING" DOES NOT INCLUDE THE
 23 REFINANCING OF AN EXISTING DEBT.

24 (5) "LENDER" MEANS A FINANCIAL INSTITUTION THAT:

25 (I) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;

26 (II) IS A PUBLIC DEPOSITORY OF STATE FUNDS;

27 (III) AGREES TO RECEIVE LINKED DEPOSITS UNDER THE
 28 PROVISIONS OF THIS SUBTITLE; AND

29 (IV) IS INSURED BY:

30 1. ~~THE FEDERAL DEPOSIT INSURANCE CORPORATION; OR,~~

31 2. ~~THE FEDERAL SAVINGS AND LOAN INSURANCE~~
 32 ~~CORPORATION.~~

33 (6) "LINKED DEPOSIT" MEANS A ~~CERTIFICATE OF DEPOSIT THAT IS~~
 34 PLACED BY THE AUTHORITY WITH A LENDER AT 3 PERCENT AND EARNS INCOME

1 BELOW THE PREVAILING MARKET RATE FOR EQUIVALENT DEPOSITS MADE WITH
2 THE LENDER AT THE TIME OF THE DEPOSIT.

3 (B) (1) THERE IS A LINKED DEPOSIT PROGRAM IN THE DEPARTMENT,
4 WHICH REPLACES THE DEPARTMENT'S MARYLAND ENTERPRISE INCENTIVE DEPOSIT
5 FUND PROGRAM.

6 (2) THE PURPOSE OF THE LINKED DEPOSIT PROGRAM IS TO STIMULATE
7 ECONOMIC AND EMPLOYMENT GROWTH IN RURAL AREAS OF THE STATE THAT HAVE
8 HIGH UNEMPLOYMENT.

9 (3) THE PROGRAM WILL ASSIST ELIGIBLE BUSINESSES IN OBTAINING
10 LOANS AT LOWER THAN MARKET RATES.

11 (4) THE ELIGIBLE BUSINESS MAY USE THE LOAN FOR THE ACQUISITION
12 OF LAND, BUILDINGS, MACHINERY, AND EQUIPMENT.

13 (5) THE ACQUISITIONS MADE BY THE ELIGIBLE BUSINESS SHALL BE
14 USED TO CREATE OR RETAIN EMPLOYMENT OPPORTUNITIES IN THE RURAL AREA.

15 (C) THE AUTHORITY MAY ~~MAKE PLACE~~ A LINKED DEPOSIT WITH A LENDER IN
16 ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

17 (D) (1) TO OBTAIN FIXED ASSET FINANCING ASSISTED BY A LINKED
18 DEPOSIT UNDER THE PROVISIONS OF THIS SUBTITLE, AN ELIGIBLE BUSINESS SHALL
19 APPLY TO A LENDER FOR FIXED ASSET FINANCING OF NOT MORE THAN \$500,000.

20 (2) IN ADDITION TO THE INFORMATION REQUIRED BY THE LENDER AS
21 PART OF ITS STANDARD LOAN APPLICATION PROCEDURE, THE APPLICANT SHALL
22 PROVIDE TO THE LENDER, IN A FORM PRESCRIBED BY THE AUTHORITY:

23 (I) A CERTIFICATION, WITH SUPPORTING DOCUMENTATION, THAT
24 THE APPLICANT IS AN ELIGIBLE BUSINESS; AND

25 (II) A DESCRIPTION OF THE NUMBER AND KINDS OF JOBS TO BE
26 CREATED OR RETAINED AS A RESULT OF PROVIDING THE LINKED DEPOSIT.

27 (E) (1) ON CONDITIONAL APPROVAL OF A FIXED ASSET FINANCING LOAN
28 APPLICATION TO BE ASSISTED BY A LINKED DEPOSIT, THE LENDER SHALL FORWARD
29 THE LOAN PACKAGE TO THE AUTHORITY ~~A LINKED DEPOSIT LOAN PACKAGE WITH~~
30 ~~THE INFORMATION REQUIRED UNDER THIS SUBTITLE AND IN A FORM PRESCRIBED~~
31 ~~BY THE AUTHORITY.~~

32 (2) IN ADDITION TO ANY OTHER INFORMATION REASONABLY REQUIRED
33 BY THE AUTHORITY TO CARRY OUT THE PURPOSES OF THIS SECTION, THE LINKED
34 DEPOSIT LOAN PACKAGE SHALL INCLUDE THE INFORMATION REQUIRED OF THE
35 APPLICANT UNDER SUBSECTION (D)(2) OF THIS SECTION.

1 (3) BY FORWARDING THE LOAN PACKAGE TO THE AUTHORITY, THE
2 LENDER IS NOT REPRESENTING TO THE AUTHORITY THE ACCURACY OR VALIDITY OF
3 ANY INFORMATION IN THE LOAN PACKAGE AS IT RELATES TO THE APPLICANT.

4 (F) IN DETERMINING WHETHER TO ACCEPT A LINKED DEPOSIT LOAN
5 PACKAGE, THE AUTHORITY SHALL:

6 (1) CONFIRM THE ELIGIBILITY OF THE APPLICANT; AND

7 (2) CONSIDER:

8 (I) THE NUMBER AND KIND OF JOBS TO BE CREATED OR RETAINED
9 AS A RESULT OF PROVIDING THE LINKED DEPOSIT;

10 (II) THE AMOUNT OF THE LOAN;

11 (III) THE AMOUNT OF MONEY IN THE INDUSTRIAL DEVELOPMENT
12 FUND AND THE AMOUNT COMMITTED TO LINKED DEPOSITS;

13 (IV) WHETHER THE AVAILABILITY OF LINKED DEPOSIT FINANCING
14 IS ESSENTIAL FOR THE ECONOMIC FEASIBILITY OF THE ACQUISITION TO BE MADE;

15 (V) THE ECONOMIC NEEDS OF THE AREA IN WHICH THE ELIGIBLE
16 BUSINESS IS LOCATED;

17 (VI) THE FINANCIAL FEASIBILITY OF THE LOAN TO BE MADE; AND

18 (VII) ANY OTHER FACTORS THAT THE AUTHORITY CONSIDERS
19 RELEVANT.

20 (G) IF THE AUTHORITY ACCEPTS A LINKED DEPOSIT LOAN PACKAGE
21 FORWARDED FROM A LENDER, THE AUTHORITY AND THE LENDER SHALL ENTER
22 INTO A DEPOSIT AGREEMENT UNDER WHICH:

23 (1) ~~THE AUTHORITY SHALL PLACE WITH THE LENDER A 5-YEAR~~
24 ~~CERTIFICATE OF DEPOSIT IN THE AMOUNT OF THE LOAN, AT A RATE 3 PERCENT~~
25 ~~BELOW THE LENDER'S PREVAILING RATE FOR EQUIVALENT DEPOSITS AT THE TIME~~
26 ~~OF THE DEPOSIT; AND~~

27 (2) ~~THE LENDER WILL AGREE TO APPROVE THE APPLICANT'S LOAN~~
28 ~~APPLICATION AT A FIXED INTEREST RATE WHICH SHALL BE AT LEAST 3 PERCENT~~
29 ~~BELOW ITS THEN CUSTOMARY RATE FOR SIMILAR LOANS, FOR A TERM OF AT LEAST~~
30 ~~5 YEARS, AND UPON SUCH OTHER TERMS AND CONDITIONS AS THE AUTHORITY~~
31 ~~SHALL APPROVE. THE LENDER MUST ALSO AGREE NOT TO ASSIGN OR SELL THE~~
32 ~~LOAN TO ANY OTHER LENDER SO LONG AS THE LINKED DEPOSIT IS IN EFFECT. THE~~
33 ~~LENDER MUST ALSO AGREE NOT TO CHARGE THE ELIGIBLE BUSINESS MORE THAN A~~
34 ~~TOTAL OF 1 PERCENT OF THE PRINCIPAL AMOUNT OF THE LOAN FOR ORIGINATION,~~
35 ~~PLACEMENT, OR DISCOUNT FEES OR OTHER CHARGES AS ADDITIONAL~~
36 ~~COMPENSATION FOR THE LOAN~~ AN AGREEMENT UNDER WHICH THE AMOUNT AND

1 TERM OF, AND SCHEDULE FOR PAYMENT OF PRINCIPAL AND INTEREST ON, THE
2 LINKED DEPOSIT SHALL BE DETERMINED.

3 (H) ON RECEIVING A LINKED DEPOSIT FROM THE AUTHORITY, THE LENDER
4 ~~SHALL CARRY OUT THE ISSUE A~~ LOAN COMMITMENT TO THE APPLICANT THAT
5 SHALL PROVIDE, AMONG OTHER TERMS, THAT THE INTEREST RATE ON THE
6 FINANCING WILL BE BELOW THE PREVAILING MARKET RATE TO THE SAME EXTENT
7 AND FOR AS LONG AS INCOME EARNED ON THE LINKED DEPOSIT IS BELOW INCOME
8 PAID ON EQUIVALENT DEPOSITS WITH THE LENDER.

9 ~~(I) AT THE CONCLUSION OF THE DEPOSIT TERM OR AT AN EARLIER TIME AS~~
10 ~~THE LOAN TO THE APPLICANT IS REPAID OR OTHERWISE TERMINATED, THE DEPOSIT~~
11 ~~SHALL REVERT TO THE INDUSTRIAL DEVELOPMENT FUND, AND THE RATE OF THE~~
12 ~~LOAN SHALL RETURN TO THE PREVAILING RATE, AS PROVIDED IN THE LOAN~~
13 ~~COMMITMENT.~~

14 ~~(J) THE AUTHORITY, THE DEPARTMENT, AND THE STATE SHALL HAVE THE~~
15 ~~IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-521 OF THE COURTS AND~~
16 ~~JUDICIAL PROCEEDINGS ARTICLE.~~

17 ~~(K) A DELAY IN PAYMENT OR DEFAULT BY AN ELIGIBLE BUSINESS DOES NOT~~
18 ~~AFFECT THE DEPOSIT AGREEMENT BETWEEN THE LENDER AND THE AUTHORITY.~~

19 (L) (1) A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT IS
20 NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

21 (2) THE AUTHORITY, THE DEPARTMENT, AND THE STATE ARE NOT
22 LIABLE TO ANY LENDER FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A FIXED
23 ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT.

24 5-928.

25 IN CONJUNCTION WITH ITS PROVISION OF FINANCIAL ASSISTANCE UNDER
26 THIS SUBTITLE, THE AUTHORITY MAY ACCEPT AN OPTION, TO BE EXERCISED AT THE
27 SOLE DISCRETION OF THE AUTHORITY, TO ACQUIRE AN EQUITY INTEREST IN A
28 BUSINESS ENTERPRISE. THE AUTHORITY MAY USE MONEYS FROM THE INDUSTRIAL
29 DEVELOPMENT FUND TO EXERCISE THE OPTION.

30 5-929.

31 THE AUTHORITY MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

32 [Part VII. Miscellaneous Provisions.]

33 [5-939.] 5-930.

34 Upon dissolution of the Authority, title to all property owned by the Authority
35 shall vest in the State.

1 [5-940.] 5-931.

2 (a) A person may not knowingly make or cause any false statement or report
3 to be made in any application or in any document furnished to the Authority.

4 (b) A person may not knowingly make or cause any false statement or report
5 to be made for the purpose of influencing the action of the Authority on an application
6 for financial assistance or for the purpose of influencing any action of the Authority
7 affecting financial assistance whether or not such assistance may have already been
8 extended.

9 (c) Any person, or any aider and abettor, who violates any provision of this
10 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
11 \$50,000 or imprisonment in the penitentiary not exceeding 5 years, or both.

12 5-932.

13 (A) ANY INSURANCE ON BONDS, OR INSURANCE ON AUTHORIZED PURPOSE
14 OBLIGATIONS PROVIDED BEFORE JULY 1, 2000, SHALL CONTINUE AS OBLIGATIONS
15 OF THE AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

16 (B) FINANCIAL ASSISTANCE APPROVED BY THE AUTHORITY, ~~INCLUDING~~
17 ~~TRANSACTIONS UNDER THE FORMER MARYLAND ENERGY FINANCING ACT~~, BUT NOT
18 CLOSED BEFORE JULY 1, 2000, SHALL BE DEEMED AUTHORIZED UNDER THIS
19 SUBTITLE.

20 (C) BONDS ISSUED BY THE ~~FORMER~~ MARYLAND ENERGY FINANCING
21 ADMINISTRATION SHALL CONTINUE AFTER DECEMBER 31, 2001 AS OBLIGATIONS OF
22 THE AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

23 (D) LOAN GUARANTEES PROVIDED BY THE DEPARTMENT FROM THE FORMER
24 DAY CARE LOAN GUARANTEE FUND SHALL CONTINUE AS OBLIGATIONS OF THE
25 AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

26 (E) DEPOSIT AGREEMENTS ENTERED INTO BETWEEN THE DEPARTMENT AND
27 A LENDER UNDER THE FORMER MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND
28 PROGRAM SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND SHALL BE
29 DEEMED AUTHORIZED UNDER THIS SUBTITLE.

30 [5-941.] 5-933.

31 This subtitle may be referred to as the Maryland Industrial Development
32 Financing Authority Act.

33 Subtitle 12. PenMar Development Corporation.

34 5-1202.

35 (b) The General Assembly further declares and finds that the establishment of
36 a State public corporation to develop Fort Ritchie would serve the public interest. It

1 would complement existing State marketing programs administered by the
2 Department of Business and Economic Development through its office of Business
3 Development and Resources and through financial assistance programs such as those
4 of the Maryland Industrial Development Financing Authority[, the Maryland
5 Industrial Land Act, and the Maryland Industrial and Commercial Redevelopment
6 Fund Act] AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
7 AND FUND.

8 Subtitle 14. Maryland Economic Development Assistance Authority and Fund.
9 5-1401.

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

11 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
12 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
13 THAT IS INTENDED TO:

- 14 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
15 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
16 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR
17 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

18 (C) "AQUACULTURE PROJECT" MEANS A PROJECT THAT ENCOURAGES
19 INNOVATION, EXPANSION, AND MODERNIZATION OF THE SEAFOOD PROCESSING
20 INDUSTRY OR THE AQUACULTURE INDUSTRY.

21 [(b)] (D) "Authority" means the Maryland Economic Development Assistance
22 Authority.

23 (E) "BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM" MEANS THE
24 PROGRAM WITHIN THE DEPARTMENT UNDER WHICH FINANCIAL ASSISTANCE FROM
25 THE FUND IS PROVIDED FOR THE REDEVELOPMENT OF QUALIFIED BROWNFIELDS
26 SITES, AS SET FORTH IN § 5-1408 OF THIS SUBTITLE.

27 (F) (1) "BROWNFIELDS SITE" MEANS:

28 (I) AN ELIGIBLE PROPERTY, AS DEFINED IN § 7-501 OF THE
29 ENVIRONMENT ARTICLE, THAT IS:

30 1. OWNED OR OPERATED BY AN INCULPABLE PERSON, AS
31 DEFINED IN § 7-501 OF THE ENVIRONMENT ARTICLE; AND

32 2. LOCATED IN A TAXING JURISDICTION THAT HAS ELECTED
33 TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN
34 ACCORDANCE WITH § 9-229 OF THE TAX - PROPERTY ARTICLE; OR

1 (II) PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR
 2 THREATENED RELEASE OF OIL, AS DEFINED IN § 4-401 OF THE ENVIRONMENT
 3 ARTICLE, THAT IS:

4 1. SUBJECT TO A CORRECTIVE ACTION PLAN APPROVED BY
 5 THE DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH TITLE 4 OF THE
 6 ENVIRONMENT ARTICLE; AND

7 2. LOCATED IN A TAXING JURISDICTION THAT HAS ELECTED
 8 TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN
 9 ACCORDANCE WITH § 9-229 OF THE TAX - PROPERTY ARTICLE.

10 (2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS
 11 OWNED OR OPERATED BY A RESPONSIBLE PERSON OR A PERSON RESPONSIBLE FOR
 12 THE DISCHARGE.

13 (G) "CHILD CARE FACILITY" MEANS A FACILITY ~~IN WHICH CARE IS OFFERED~~
 14 ~~FOR SEVEN OR MORE CHILDREN THAT IS REQUIRED TO BE LICENSED AS A CHILD~~
 15 CARE CENTER UNDER §§ 5-570 THROUGH 5-585 OF THE FAMILY LAW ARTICLE.

16 (H) "CHILD CARE SPECIAL LOAN" MEANS A DIRECT LOAN FOR THE EXPANSION
 17 OR IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES IN THE
 18 STATE, WHICH IS GOVERNED BY THE TERMS OF § 5-1409 OF THIS SUBTITLE.

19 [(c)] ~~(H)~~ (I) "Fund" means the Maryland Economic Development Assistance
 20 Fund.

21 ~~(H)~~ (J) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, OR INVESTMENT
 22 PROVIDED UNDER THIS SUBTITLE.

23 ~~(H)~~ (K) "LOCAL ECONOMIC DEVELOPMENT FUND" MEANS A REVOLVING,
 24 NONLAPSING FUND THAT ONE OR MORE LOCAL GOVERNMENTS ESTABLISH FOR
 25 PURPOSES OF ECONOMIC DEVELOPMENT WITHIN THE AREAS UNDER THEIR
 26 JURISDICTIONS.

27 ~~(K)~~ (L) "LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS A
 28 PROJECT THAT THE DEPARTMENT DETERMINES PROVIDES A VALUABLE ECONOMIC
 29 DEVELOPMENT OPPORTUNITY TO THE JURISDICTION IN WHICH THE PROJECT IS
 30 LOCATED AND WHICH IS A PRIORITY FOR AND ENDORSED BY THE GOVERNING BODY
 31 OF THAT JURISDICTION.

32 ~~(L)~~ (M) "LOCAL GOVERNMENT" MEANS A COUNTY OR MUNICIPALITY OR ITS
 33 DESIGNATED AGENCY OR INSTRUMENTALITY OR THE MARYLAND ECONOMIC
 34 DEVELOPMENT CORPORATION.

35 ~~(M)~~ (N) "PERSON RESPONSIBLE FOR THE DISCHARGE" HAS THE MEANING
 36 STATED IN § 4-401 OF THE ENVIRONMENT ARTICLE.

37 ~~(N)~~ (O) "QUALIFIED BROWNFIELDS SITE" MEANS A BROWNFIELDS SITE
 38 THAT HAS BEEN DETERMINED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC

1 DEVELOPMENT TO BE ELIGIBLE FOR FINANCIAL INCENTIVES UNDER THIS
2 SUBTITLE.

3 ~~(Q)~~ (P) "RESPONSIBLE PERSON" HAS THE MEANING STATED IN § 7-201 OF
4 THE ENVIRONMENT ARTICLE.

5 ~~(P)~~ (Q) "SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT
6 OPPORTUNITY" MEANS A PROJECT THAT THE DEPARTMENT DETERMINES PROVIDES
7 A VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY OF STATEWIDE, REGIONAL,
8 OR STRATEGIC INDUSTRY IMPACT.

9 ~~(Q)~~ (R) "SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS AN
10 ANIMAL WASTE TECHNOLOGY PROJECT, AN AQUACULTURE PROJECT,
11 REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE, OR A PROJECT TO CREATE
12 OR EXPAND A CHILD CARE FACILITY.

13 ~~[(d)]~~ ~~(R)~~ (S) "Working capital" means funds to be used for current operations
14 of a business.

15 5-1402.

16 The [purpose] PURPOSES of the Maryland Economic Development Assistance
17 Fund [is] ARE to:

18 (1) [expand] EXPAND employment opportunities in the state by
19 providing [loans with favorable terms] financial assistance to businesses that are
20 engaged in eligible industry sectors, INCLUDING FINANCIAL ASSISTANCE FOR
21 CREATION AND EXPANSION OF CHILD CARE FACILITIES, ANIMAL WASTE
22 TECHNOLOGY PROJECTS, AND AQUACULTURE PROJECTS;

23 (2) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
24 QUALIFIED BROWNFIELDS SITES; AND

25 (3) PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS FOR
26 ECONOMIC DEVELOPMENT PROJECTS AND GRANTS FOR LOCAL ECONOMIC
27 DEVELOPMENT FUNDS.

28 5-1403.

29 (a) There is a Maryland Economic Development Assistance Authority in the
30 Department.

31 (b) The Authority shall, WITH RESPECT TO FINANCIAL ASSISTANCE
32 EXCEEDING \$2,500,000:

33 (1) Evaluate requests for [loans] FINANCIAL ASSISTANCE that have
34 been first evaluated by staff of the Department;

35 (2) Determine whether to approve [loan] requests FOR FINANCIAL
36 ASSISTANCE; and

- 1 (3) Set the terms and conditions for [loans] FINANCIAL ASSISTANCE.
- 2 (c) The Authority consists of the following nine members:
- 3 (1) Seven members appointed by the Governor with the advice and
4 consent of the Senate; and
- 5 (2) As ex officio members:
- 6 (i) The Secretary or the Secretary's designee; and
- 7 (ii) The Secretary of the Department of Transportation or the
8 Secretary's designee.
- 9 (d) The members of the Authority appointed by the Governor shall be
10 individuals with substantial experience in business or economic development and
11 shall reflect the geographic, racial, ethnic, and gender makeup of the State.
- 12 (e) (1) The term of an appointed member is 3 years.
- 13 (2) The terms of appointed members shall be staggered as required by
14 the terms provided for members of the Authority on July 1, 1999.
- 15 (3) At the end of a term, an appointed member continues to serve until a
16 successor is appointed and qualifies.
- 17 (4) A member who is appointed after a term has begun serves only for
18 the rest of the term and until a successor is appointed and qualifies.
- 19 (5) An appointed member serves at the pleasure of the Governor.
- 20 (6) The Governor shall designate a chairman from among the members.
- 21 (7) Attendance by a majority of the voting members shall constitute a
22 quorum.
- 23 (f) (1) The Authority shall meet as often as its duties require, but no less
24 than quarterly.
- 25 (2) The members of the Authority are subject to the provisions of the
26 Maryland Public Ethics Law.
- 27 (3) Each member of the Authority appointed by the Governor may not
28 receive compensation as a member of the Authority but is entitled to reimbursement
29 for expenses under the Standard State Travel Regulations, as provided in the State
30 budget.
- 31 (g) The Department shall provide staff support to the Authority.

1 5-1404.

2 (a) There is a Maryland Economic Development Assistance Fund in the
3 Department managed and supervised by the Secretary.

4 (b) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
5 7-302 of the State Finance and Procurement Article.

6 (2) The Treasurer shall separately hold and the Comptroller shall
7 account for the Fund.

8 (3) Any investment earnings of the Fund shall be paid into the Fund.

9 (c) The Fund may consist of any of the following:

10 (1) Moneys appropriated by the State to the Fund;

11 (2) Moneys made available to the Fund through federal programs or
12 private contributions;

13 (3) Income from investments that the State Treasurer makes from
14 moneys in the Fund;

15 (4) Repayments of principal and interest from loans made from the
16 Fund;

17 (5) Proceeds from the sale, disposition, lease, or rental of collateral
18 related to any [loan] FINANCIAL ASSISTANCE provided by the Department under
19 this subtitle;

20 (6) Application or other fees paid to the program in connection with the
21 processing of requests for [loans] FINANCIAL ASSISTANCE; [and]

22 (7) RECOVERY OF ANY INVESTMENT MADE BY THE DEPARTMENT IN A
23 BUSINESS, INCLUDING ANY ARRANGEMENT UNDER WHICH ANY PART OF THE
24 DEPARTMENT'S INVESTMENT IS RECOVERED THROUGH:

25 (I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A
26 PROPORTION OF CASH FLOW, COMMISSIONS, ROYALTIES, OR LICENSE FEES;

27 (II) THE REPURCHASE FROM THE DEPARTMENT OF ANY OF ITS
28 INVESTMENT INTEREST; OR

29 (III) SALE OF AN APPRECIATED ASSET;

30 (8) REPAYMENTS RECEIVED FROM RECIPIENTS OF CONDITIONAL
31 GRANTS EXTENDED BY THE DEPARTMENT;

32 (9) MONEYS COLLECTED UNDER § 9-229 OF THE TAX PROPERTY
33 ARTICLE;

1 (10) REPAYMENTS ON OR RECOVERIES FROM ANY FINANCIAL
2 ASSISTANCE PROVIDED FROM THE FORMER BROWNFIELDS REVITALIZATION
3 INCENTIVE FUND, THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER
4 MARYLAND INDUSTRIAL LAND FUND, AND THE FORMER MARYLAND INDUSTRIAL
5 AND COMMERCIAL REDEVELOPMENT FUND;

6 (11) REPAYMENTS ON LOANS MADE FROM THE FORMER CHILD CARE
7 FACILITIES DIRECT LOAN FUND, THE FORMER CHILD CARE SPECIAL LOAN FUND,
8 AND THE FORMER MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND WITHIN
9 THE DEPARTMENT; AND

10 [(7)] (12) Any other moneys made available to the Fund.

11 5-1405.

12 (a) The Department may use moneys in the Fund to:

13 (1) Provide [loans] FINANCIAL ASSISTANCE to eligible applicants; and

14 (2) Pay expenses for administrative, actuarial, legal, and technical
15 services for the program.

16 (b) [Loans] FINANCIAL ASSISTANCE from the Fund may be used only to
17 finance costs incurred for:

18 (1) Acquisition or construction of a building or real estate;

19 (2) Acquisition, construction, or installation of machinery, equipment,
20 furnishings, fixtures, leasehold improvements, [or] site improvements, OR
21 INFRASTRUCTURE IMPROVEMENTS, INCLUDING RAIL LINE ENHANCEMENTS ON OR
22 TO THE SITE OF AN ECONOMIC DEVELOPMENT PROJECT; [or]

23 (3) Working capital FOR SIGNIFICANT STRATEGIC ECONOMIC
24 DEVELOPMENT OPPORTUNITIES;

25 (4) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

26 (5) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, UP TO
27 50% OF THE COSTS OF RENOVATIONS, CONSTRUCTION, OR PURCHASE OF REAL
28 PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO A CHILD CARE FACILITY, BUT
29 NOT FOR REFINANCING EXISTING LOANS, WORKING CAPITAL, SUPPLIES, OR
30 INVENTORY; OR

31 (II) A BUSINESS THAT HAS RECEIVED OR WILL RECEIVE A DAY
32 CARE LOAN INSURED BY THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING
33 AUTHORITY; SUCH BUSINESSES SHALL BE LIMITED TO FINANCIAL ASSISTANCE
34 FROM THE FUND OF NOT MORE THAN 20% OF THE COSTS DESCRIBED IN ITEM (I) OF
35 THIS PARAGRAPH;

1 (6) IF INCURRED BY A LOCAL GOVERNMENT, COSTS OF FEASIBILITY
2 STUDIES; AND

3 (7) UP TO 50% OF THE COSTS OF PREPARING A COUNTY'S OR
4 MUNICIPALITY'S STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT, NOT TO
5 EXCEED A TOTAL OF \$50,000 IN A 3-YEAR PERIOD.

6 (c) (1) [Loans] FINANCIAL ASSISTANCE from the Fund:

7 (i) [May not be for an amount less than \$250,000, if the Fund
8 balance is less than \$10,000,000;

9 (ii) May not exceed the lesser of \$10,000,000 or 20% of the Fund
10 balance;

11 [(iii)] (II) Except as provided in item [(iv)] (III) of this paragraph,
12 may not exceed 70% of the total costs of the project being financed;

13 [(iv)] (III) May constitute 100% of the total costs of the project
14 being financed if the [borrower] RECIPIENT is the Maryland Economic Development
15 Corporation;

16 [(v)] (IV) [Shall] IF A LOAN FOR A SIGNIFICANT STRATEGIC
17 ECONOMIC DEVELOPMENT OPPORTUNITY OR FOR A SPECIALIZED ECONOMIC
18 DEVELOPMENT OPPORTUNITY, SHALL carry an interest rate below the market rate of
19 interest, as determined by the Department; [and]

20 (V) IF A LOAN FOR A LOCAL ECONOMIC DEVELOPMENT
21 OPPORTUNITY OR TO A LOCAL GOVERNMENT, SHALL CARRY AN INTEREST RATE NOT
22 EXCEEDING ONE-EIGHTH OF ONE PERCENT PLUS THE NET INTEREST COST OF THE
23 MOST RECENT STATE GENERAL OBLIGATION BOND ISSUE PRECEDING THE
24 APPROVAL OF THE LOAN;

25 (VI) SHALL NOT BEAR A RATE OF INTEREST LESS THAN 3% UNLESS
26 THE PROJECT FUNDED BY A LOAN IS LOCATED IN AN AREA OF HIGH
27 UNEMPLOYMENT OR THE DEPARTMENT DETERMINES THAT THE BORROWER IS
28 CARRYING OUT A COMPELLING ECONOMIC DEVELOPMENT INITIATIVE; AND

29 [(vi)] (VII) May not be used to refinance existing debt.

30 (2) Loans from the Fund may not be for a term exceeding:

31 (i) For working capital - 3 years;

32 (ii) For financing machinery, equipment, furnishings, or fixtures -
33 [10 years] THE LESSER OF 15 YEARS OR THE USEFUL LIFE OF THE ASSET, AS
34 DETERMINED BY THE DEPARTMENT; [and]

35 (iii) For financing the construction or acquisition of buildings and
36 real estate - 25 years; AND

1 (IV) FOR FINANCING REDEVELOPMENT OF A QUALIFIED
2 BROWNFIELDS SITE - A TERM APPROVED BY THE DEPARTMENT OR THE AUTHORITY.

3 (3) FOR LOANS FROM THE FUND THE DEPARTMENT MAY:

4 (I) WAIVE INTEREST DURING THE FIRST 2 YEARS OF A LOAN TERM;
5 OR

6 (II) UPON A DEFAULT BY THE BORROWER, IMPOSE AN INTEREST
7 RATE THAT EXCEEDS THE LIMITS SET FORTH IN PARAGRAPH (1) OF THIS
8 SUBSECTION.

9 (4) INVESTMENTS FROM THE FUND MAY BE MADE ONLY IN
10 CONJUNCTION WITH A LOAN OR A GRANT FROM THE FUND.

11 (d) To be eligible for [a loan] FINANCIAL ASSISTANCE from the Fund, an
12 applicant must be:

13 (1) An individual [or a], private business, NOT FOR PROFIT entity, OR
14 LOCAL GOVERNMENT [who] WHICH:

15 (i) [Is primarily engaged in a business] UNLESS THE APPLICANT
16 IS A LOCAL GOVERNMENT INTENDING TO USE THE FINANCIAL ASSISTANCE TO
17 CARRY OUT A PROJECT THAT DOES NOT BENEFIT A PARTICULAR PRIVATE SECTOR
18 ENTITY, MUST USE THE REQUESTED FINANCIAL ASSISTANCE FOR A PROJECT in an
19 eligible industry sector;

20 (ii) Intends to use the requested [loan] FINANCIAL ASSISTANCE for
21 a project that has a strong potential for expanding or retaining employment
22 opportunities in the State; and

23 (iii) Submits to the Department an application containing any
24 information the Department or the Authority deems necessary in evaluating the
25 [loan] request FOR FINANCIAL ASSISTANCE; or

26 (2) [The Maryland Economic Development Corporation, provided that
27 the requirements specified in item (1) of this subsection are met] A LOCAL ECONOMIC
28 DEVELOPMENT FUND THAT MEETS THE CRITERIA SET FORTH IN § 5-1407 OF THIS
29 SUBTITLE.

30 (e) Subject to the restrictions of this subtitle, the Department [and] OR the
31 Authority shall impose such terms and conditions on [the loans] FINANCIAL
32 ASSISTANCE provided from the Fund as [they deem] EITHER DEEMS appropriate.

33 (F) FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE LOCAL
34 GOVERNMENT OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED MUST
35 PROVIDE:

1 (1) A FORMAL RESOLUTION OF THE GOVERNING BODY OF THE
2 JURISDICTION IN WHICH THE PROJECT IS LOCATED ENDORSING THE FINANCIAL
3 ASSISTANCE TO BE PROVIDED FROM THE FUND; AND

4 (2) EITHER OR BOTH OF THE FOLLOWING, AS DETERMINED BY THE
5 DEPARTMENT OR THE AUTHORITY, TO EVIDENCE ITS SUPPORT OF THE PROJECT:

6 (I) A GUARANTEE, SECURED BY THE FULL FAITH AND CREDIT OF
7 THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED, OF ALL OR A
8 PORTION OF THE AMOUNT OF THE FINANCIAL ASSISTANCE; OR

9 (II) THE FINANCING OF A PORTION OF THE COSTS OF THE PROJECT
10 EQUAL TO AT LEAST 10% OF THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM
11 THE FUND.

12 (G) (1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT MUST
13 BE APPROVED BY A FORMAL RESOLUTION OF:

14 (I) THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE
15 PROJECT IS LOCATED; OR

16 (II) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE
17 MARYLAND ECONOMIC DEVELOPMENT CORPORATION, ITS BOARD OF DIRECTORS.

18 (2) A PROJECT THAT IS FUNDED BY A GRANT FROM THE FUND TO A
19 LOCAL GOVERNMENT, AND CARRIED OUT BY THE LOCAL GOVERNMENT, MUST BE
20 CONSISTENT WITH THE STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT OF THE
21 COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED.

22 (H) (1) FINANCIAL ASSISTANCE FROM THE FUND NOT EXCEEDING \$2,500,000
23 MAY BE APPROVED BY THE SECRETARY.

24 (2) FINANCIAL ASSISTANCE FROM THE FUND EXCEEDING \$2,500,000
25 SHALL BE APPROVED BY THE AUTHORITY.

26 (I) THE DEPARTMENT SHALL PERIODICALLY REVIEW ITS PORTFOLIO IN AN
27 EFFORT TO ENSURE EQUITABLE FUNDS DISTRIBUTION AMONG MARYLAND'S
28 COUNTIES.

29 [(f)] (J) The Department shall report to the Governor and, subject to § 2-1246
30 of the State Government Article, to the General Assembly before January 1 of each
31 year on the number, amount, use, and economic benefits of [loans] FINANCIAL
32 ASSISTANCE awarded under this subtitle.

33 5-1406.

34 (A) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
35 DETERMINES TO BE A SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT
36 OPPORTUNITY, THE DEPARTMENT OR THE AUTHORITY MAY PROVIDE A LOAN FROM
37 THE FUND TO AN INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR

1 THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN AN AMOUNT NOT
2 EXCEEDING \$10,000,000.

3 (B) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
4 DETERMINES TO BE A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE
5 DEPARTMENT OR THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE FROM THE
6 FUND TO AN INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR THE
7 MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN THE FOLLOWING
8 AMOUNTS:

9 (1) IF A LOAN OR INVESTMENT, AN AMOUNT NOT EXCEEDING \$5,000,000;
10 AND

11 (2) IF A GRANT, AN AMOUNT NOT EXCEEDING \$2,000,000.

12 (C) (1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT TO
13 FINANCE A PROJECT MAY BE IN THE FORM OF A GRANT, LOAN, OR INVESTMENT AND
14 MAY BE FOR AN AMOUNT NOT EXCEEDING \$3,000,000.

15 (2) A GRANT TO A LOCAL ECONOMIC DEVELOPMENT FUND IS SUBJECT
16 TO THE REQUIREMENTS SET FORTH IN § 5-1407 OF THIS SUBTITLE.

17 (D) FINANCIAL ASSISTANCE PROVIDED FOR A SPECIALIZED ECONOMIC
18 DEVELOPMENT OPPORTUNITY MAY BE:

19 (1) PROVIDED TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT FOR PROFIT
20 ENTITY, OR LOCAL GOVERNMENT;

21 (2) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND

22 (3) IN AN AMOUNT DETERMINED BY THE DEPARTMENT OR THE
23 AUTHORITY.

24 5-1407.

25 (A) (1) A LOCAL GOVERNMENT MAY APPLY FOR A GRANT FROM THE FUND
26 TO A LOCAL ECONOMIC DEVELOPMENT FUND.

27 (2) IN JUDGING WHETHER OR NOT TO APPROVE A GRANT TO A LOCAL
28 ECONOMIC DEVELOPMENT FUND, THE DEPARTMENT OR THE AUTHORITY SHALL
29 CONSIDER AND DETERMINE:

30 (I) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE LOCAL
31 JURISDICTION IN COMPARISON TO THE AVERAGE RATE OF UNEMPLOYMENT FOR
32 THE STATE;

33 (II) WHETHER THE LOCAL GOVERNMENT CURRENTLY
34 ADMINISTERS A LOCAL ECONOMIC DEVELOPMENT FUND;

35 (III) THE ABILITY OF THE LOCAL GOVERNMENT TO LEVERAGE
36 PRIVATE MONEYS;

1 (IV) THE LEVEL OF FINANCIAL COMMITMENT PROVIDED BY THE
2 LOCAL GOVERNMENT; AND

3 (V) ANY OTHER FACTORS THAT THE DEPARTMENT OR THE
4 AUTHORITY CONSIDERS RELEVANT.

5 (B) TO QUALIFY FOR A GRANT, A LOCAL GOVERNMENT SHALL PROVIDE AT
6 LEAST AN EQUAL AND MATCHING GRANT OF FUNDS TO THE LOCAL ECONOMIC
7 DEVELOPMENT FUND.

8 (C) (1) DURING A FISCAL YEAR:

9 (I) THE DEPARTMENT MAY NOT GRANT MORE THAN \$2,000,000
10 UNDER THIS SECTION; AND

11 (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A COUNTY
12 MAY NOT RECEIVE MORE THAN \$250,000 UNDER THIS SECTION.

13 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, DURING THE
14 PERIOD FROM OCTOBER 1, 1998 THROUGH JUNE 30, 2003, A COUNTY MAY NOT
15 RECEIVE A TOTAL OF MORE THAN \$500,000 UNDER THIS SECTION OR UNDER THE
16 FORMER MARYLAND INDUSTRIAL LAND ACT PROVISIONS GOVERNING GRANTS TO
17 LOCAL ECONOMIC DEVELOPMENT FUNDS.

18 (3) FOR PURPOSES OF THE LIMITATIONS UNDER PARAGRAPHS (1)(II)
19 AND (2) OF THIS SUBSECTION:

20 (I) ANY FUNDS RECEIVED UNDER THIS SECTION BY A MUNICIPAL
21 CORPORATION OR A DESIGNATED AGENCY OR INSTRUMENTALITY SHALL BE
22 DEEMED TO BE FUNDS GRANTED TO THE COUNTY WITHIN WHICH THE MUNICIPAL
23 CORPORATION, AGENCY, OR INSTRUMENTALITY IS LOCATED; AND

24 (II) IF MORE THAN ONE COUNTY ADMINISTERS OR CAPITALIZES A
25 LOCAL ECONOMIC DEVELOPMENT FUND, EACH COUNTY MAY RECEIVE THE
26 MAXIMUM PERMITTED FOR A COUNTY.

27 (D) (1) A LOCAL GOVERNMENT SHALL UTILIZE A GRANT OF FUNDS UNDER
28 THIS SECTION FOR THE PURPOSE OF PROVIDING LOANS OR LOAN GUARANTEES, OR
29 SUBSIDIZING THE INTEREST RATE ON LOANS, FOR FINANCING ECONOMIC
30 DEVELOPMENT PROJECTS OR LOANS TO SMALL BUSINESSES.

31 (2) AT THE DISCRETION OF THE DEPARTMENT, FUNDS GRANTED UNDER
32 THIS SECTION MAY REVERT TO THE DEPARTMENT IF THE LOCAL ECONOMIC
33 DEVELOPMENT FUND IS INACTIVE FOR MORE THAN 2 YEARS AFTER THE DATE ON
34 WHICH A GRANT OF FUNDS UNDER THIS SECTION IS MADE.

35 (E) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO §
36 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE
37 JANUARY 1 OF EACH YEAR ON THE NUMBER, AMOUNT, USE, AND ECONOMIC
38 BENEFITS OF GRANTS AWARDED UNDER THIS SECTION.

1 5-1408.

2 (A) (1) AT THE TIME A PERSON APPLIES TO PARTICIPATE IN THE
3 VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT
4 ARTICLE OR RECEIVES APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT
5 FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE
6 ENVIRONMENT ARTICLE, THE PERSON MAY SUBMIT A REQUEST TO THE
7 DEPARTMENT TO DETERMINE WHETHER THE PERSON QUALIFIES FOR FINANCIAL
8 ASSISTANCE FOR THE POTENTIAL REDEVELOPMENT OF A BROWNFIELDS SITE.

9 (2) (I) WITHIN 30 DAYS AFTER RECEIPT OF A REQUEST UNDER
10 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL NOTIFY AN
11 APPLICANT WHETHER, IF APPROVED TO PARTICIPATE IN THE VOLUNTARY CLEANUP
12 PROGRAM OR A CORRECTIVE ACTION PLAN, AND IF APPROVED BY THE AUTHORITY,
13 THE APPLICANT QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE REDEVELOPMENT
14 OF A BROWNFIELDS SITE.

15 (II) IN THE DEPARTMENT'S NOTICE OF AN APPLICANT'S
16 QUALIFICATION FOR FINANCIAL INCENTIVES UNDER SUBPARAGRAPH (I) OF THIS
17 PARAGRAPH, THE DEPARTMENT SHALL SPECIFY WHICH OF THE CRITERIA SET
18 FORTH IN PARAGRAPH (4) OF THIS SUBSECTION THE APPLICANT MET.

19 (3) THE DEPARTMENT SHALL DETERMINE THE ELIGIBILITY OF A SITE
20 AS A QUALIFIED BROWNFIELDS SITE BASED ON WHETHER:

21 (I) THE PROPERTY IS LOCATED IN A DENSELY POPULATED URBAN
22 CENTER AND IS SUBSTANTIALLY UNDERUTILIZED; OR

23 (II) THE PROPERTY IS AN EXISTING OR FORMER INDUSTRIAL OR
24 COMMERCIAL SITE THAT POSES A THREAT TO PUBLIC HEALTH OR THE
25 ENVIRONMENT.

26 (4) THE DEPARTMENT MAY CONSIDER THE FOLLOWING CRITERIA WHEN
27 SELECTING A QUALIFIED BROWNFIELDS SITE:

28 (I) THE FEASIBILITY OF REDEVELOPMENT;

29 (II) THE PUBLIC BENEFIT PROVIDED TO THE COMMUNITY AND THE
30 STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

31 (III) THE EXTENT OF RELEASES OR THREATENED RELEASES AT THE
32 SITE AND THE DEGREE TO WHICH THE CLEANUP AND REDEVELOPMENT OF THE SITE
33 WILL PROTECT PUBLIC HEALTH OR THE ENVIRONMENT;

34 (IV) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR
35 OTHER ECONOMIC BASE EMPLOYERS;

36 (V) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT
37 RESPONSIBLE PERSONS; OR

1 (VI) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO
2 ECONOMIC DEVELOPMENT.

3 (B) DURING THE COURSE OF EVALUATING POTENTIAL QUALIFIED
4 BROWNFIELDS SITES, THE DEPARTMENT SHALL CONSULT WITH:

5 (1) THE DEPARTMENT OF THE ENVIRONMENT, THE OFFICE OF
6 PLANNING, AND RELEVANT LOCAL OFFICIALS;

7 (2) THE NEIGHBORING COMMUNITY AND ANY CITIZENS GROUPS
8 LOCATED IN THE COMMUNITY;

9 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
10 ORGANIZATIONS;

11 (4) PUBLIC HEALTH EXPERTS; AND

12 (5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

13 (C) THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL
14 INCENTIVES, INCLUDING LOW-INTEREST LOANS AND GRANTS, TO ASSIST PERSONS
15 WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

16 (D) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
17 AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL
18 CORPORATION.

19 5-1409.

20 (A) IN ADDITION TO PROVIDING MONEYS FROM THE FUND TO ASSIST IN
21 CREATING AND EXPANDING CHILD CARE FACILITIES IN THE STATE UNDER OTHER
22 PROVISIONS OF THIS SUBTITLE, THE DEPARTMENT MAY USE FEDERAL OR OTHER
23 FUNDS PROVIDED FOR THE PURPOSE TO MAKE CHILD CARE SPECIAL LOANS.

24 (B) CHILD CARE SPECIAL LOANS MAY BE PROVIDED TO FINANCE THE
25 EXPANSION OR IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES
26 IN THE STATE, IN ACCORDANCE WITH THE TERMS OF THIS SECTION.

27 (C) ALL MONEYS RECEIVED BY THE FUND FOR MAKING CHILD CARE SPECIAL
28 LOANS SHALL BE SEPARATELY ACCOUNTED FOR, INCLUDING:

29 (1) FEDERAL FUNDS ALLOCATED OR GRANTED FOR CHILD CARE
30 SPECIAL LOANS, INCLUDING CHILD CARE AND DEVELOPMENT BLOCK GRANT FUNDS;

31 (2) PRIVATE MONEYS DONATED OR GRANTED TO THE FUND FOR CHILD
32 CARE SPECIAL LOANS;

33 (3) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS
34 ON CHILD CARE SPECIAL LOANS MADE WITH FEDERAL FUNDS;

1 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
2 COLLATERAL RELATING TO CHILD CARE SPECIAL LOANS;

3 (5) ANY OTHER MONEYS MADE AVAILABLE FOR CHILD CARE SPECIAL
4 LOANS; AND

5 (6) ANY FEDERAL FUNDS FOR CHILD CARE SPECIAL LOANS THAT ARE
6 USED BY THE DEPARTMENT TO PAY COSTS OF ADMINISTERING THE LOANS.

7 (D) IN MAKING CHILD CARE SPECIAL LOANS, CONSIDERATION SHALL BE
8 GIVEN TO:

9 (1) COMMUNITY NEED;

10 (2) COMMUNITY INCOME, WITH PRIORITY GIVEN TO THOSE
11 COMMUNITIES WITH THE LOWEST MEDIAN FAMILY INCOME;

12 (3) CARE FOR CHILDREN WITH TEENAGE PARENTS IN SCHOOL OR
13 TRAINING;

14 (4) CARE FOR CHILDREN WITH SPECIAL NEEDS; AND

15 (5) INFANT CARE.

16 (E) THE DEPARTMENT MAY MAKE A CHILD CARE SPECIAL LOAN TO AN
17 APPLICANT ONLY IF:

18 (1) THE APPLICANT MEETS THE QUALIFICATIONS REQUIRED BY THIS
19 SECTION;

20 (2) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED
21 BY THE SOURCE OF THE FUNDS TO BE LOANED; AND

22 (3) THE LOAN WILL BE USED TO ASSIST APPLICANTS IN MEETING
23 APPLICABLE STATE AND LOCAL CHILD CARE STANDARDS.

24 (F) TO APPLY FOR FINANCIAL ASSISTANCE, AN APPLICANT SHALL SUBMIT TO
25 THE DEPARTMENT AN APPLICATION CONTAINING INFORMATION THAT THE
26 DEPARTMENT REQUIRES, WHICH SHALL INCLUDE:

27 (1) A DETAILED DESCRIPTION OF THE PROPOSED OR EXISTING CHILD
28 CARE FACILITY;

29 (2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;

30 (3) THE TOTAL AMOUNT OF FUNDS REQUIRED TO EXPAND OR IMPROVE
31 THE CHILD CARE SERVICES AT THE CHILD CARE FACILITY;

32 (4) THE FUNDS AVAILABLE TO THE APPLICANT WITHOUT FINANCIAL
33 ASSISTANCE FROM THE DEPARTMENT;

1 (5) THE AMOUNT OF FINANCIAL ASSISTANCE SOUGHT FROM THE
2 DEPARTMENT;

3 (6) EVIDENCE OF THE INABILITY OF THE APPLICANT TO OBTAIN THE
4 FINANCING NECESSARY FOR THE FACILITY ON AFFORDABLE TERMS THROUGH
5 NORMAL LENDING CHANNELS;

6 (7) INFORMATION THAT RELATES TO THE FINANCIAL STATUS OF THE
7 APPLICANT, INCLUDING, IF APPLICABLE:

8 (I) A CURRENT BALANCE SHEET;

9 (II) A PROFIT AND LOSS STATEMENT; AND

10 (III) CREDIT REFERENCES; AND

11 (8) EVIDENCE, SUCH AS A LEASE, OPTION TO BUY, OR DEED, THAT THE
12 APPLICANT SHALL BE LEGALLY ENTITLED TO REMAIN AT THE CHILD CARE FACILITY
13 FOR AT LEAST THE TERM OF THE LOAN.

14 (G) EXCEPT AS PROVIDED IN THIS SECTION, THE DEPARTMENT MAY SET THE
15 TERMS AND CONDITIONS FOR CHILD CARE SPECIAL LOANS.

16 (H) IF THE DEPARTMENT DECIDES TO LEND MONEY TO AN APPLICANT, THE
17 DEPARTMENT SHALL PREPARE LOAN DOCUMENTS, WHICH SHALL INCLUDE:

18 (1) THE RATE OF INTEREST ON THE LOAN;

19 (2) THE AMOUNT OF THE LOAN;

20 (3) A REQUIREMENT THAT BEFORE EACH DISBURSEMENT OF LOAN
21 PROCEEDS IS RELEASED TO THE APPLICANT, THE APPLICANT AND THE
22 DEPARTMENT COSIGN THE REQUEST FOR THE FUNDS;

23 (4) PROVISIONS FOR REPAYMENT OF THE LOAN; AND

24 (5) ANY OTHER PROVISIONS THAT THE DEPARTMENT DETERMINES ARE
25 NECESSARY, INCLUDING THE TAKING OF LIENS AND SECURITY INTERESTS IN REAL
26 AND PERSONAL PROPERTY.

27 (I) (1) MORTGAGES OR DEEDS OF TRUST HELD AS SECURITY FOR LOANS
28 MADE UNDER THIS SECTION WHICH ARE IN DEFAULT MAY BE FORECLOSED BY THE
29 DEPARTMENT IN THE SAME MANNER AS PROVIDED BY THE MARYLAND RULES FOR
30 FORECLOSURES IN PRIVATE TRANSACTIONS.

31 (2) THE DEPARTMENT MAY TAKE TITLE IN ITS NAME TO ANY PROPERTY
32 FORECLOSED UNDER THIS SECTION AS WELL AS TO CONVEY TITLE TO SUCH
33 PROPERTY TO BONA FIDE PURCHASERS OF THE PROPERTY.

34 (J) THE TERM OF THE CHILD CARE SPECIAL LOAN MAY NOT EXCEED 10
35 YEARS.

1 (K) (1) THE APPLICANT FOR A CHILD CARE SPECIAL LOAN TO FINANCE A
2 CHILD CARE FACILITY MUST AGREE TO OPERATE THE CHILD CARE FACILITY FOR AT
3 LEAST THE TERM OF THE LOAN AND TO REPAY THE OUTSTANDING LOAN IN FULL
4 UPON THE LOSS OF LICENSE, TERMINATION OF LEASE, OR TRANSFER, SALE, OR
5 REFINANCING OF THE CHILD CARE FACILITY, AS APPLICABLE, BEFORE THE END OF
6 THE LOAN TERM.

7 (2) THE CHILD CARE SPECIAL LOAN DOCUMENTS MAY PROVIDE FOR
8 PENALTIES FOR ANY APPLICANT WHO FAILS TO OPERATE THE CHILD CARE FACILITY
9 FOR THE ENTIRE TERM OF THE LOAN.

10 (L) THE MINIMUM AMOUNT OF A SPECIAL LOAN FOR A FACILITY SHALL BE
11 \$1,000 AND THE MAXIMUM AMOUNT SHALL BE \$10,000.

12 (M) (1) THE PROCEEDS OF THE CHILD CARE SPECIAL LOANS MAY BE USED:

13 (I) TO ASSIST APPLICANTS IN MEETING APPLICABLE STATE AND
14 LOCAL CHILD CARE STANDARDS;

15 (II) TO PAY FOR MINOR RENOVATIONS, AND FOR UPGRADING
16 CHILD CARE FACILITIES TO ASSURE THAT APPLICANTS MEET STATE AND LOCAL
17 CHILD CARE STANDARDS; OR

18 (III) FOR THE PURCHASE AND INSTALLATION OF EQUIPMENT,
19 MACHINERY, AND FURNITURE, INCLUDING EQUIPMENT NEEDED TO ACCOMMODATE
20 CHILDREN WITH SPECIAL NEEDS.

21 (2) THE LOAN PROCEEDS MAY NOT BE USED FOR THE PURCHASE OR
22 IMPROVEMENT OF LAND OR FOR THE PURCHASE, CONSTRUCTION, OR
23 IMPROVEMENT OF ANY BUILDING OR FACILITY.

24 [5-1406.] ~~5-1409.~~ 5-1410.

25 (a) Annually, after considering the recommendation of the Maryland
26 Economic Development Commission, the Authority shall establish a list of industry
27 sectors that will be eligible for loans from the Fund.

28 (b) Before making its recommendation to the Authority, the Maryland
29 Economic Development Commission shall:

30 (1) Consult with the Department and the Department of Labor,
31 Licensing, and Regulation; and

32 (2) Evaluate the potential employment and economic growth of
33 Maryland's industry sectors.

34 (c) In determining whether an applicant is engaged in an eligible industry
35 sector, the Department shall consider the definitions set forth in the standard
36 industrial classification manual.

1 (D) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO FINANCIAL
2 ASSISTANCE TO A LOCAL GOVERNMENT THAT USES THE FINANCIAL ASSISTANCE
3 PROVIDED UNDER THIS SUBTITLE TO CARRY OUT A PROJECT THAT DOES NOT
4 BENEFIT A PARTICULAR PRIVATE SECTOR ENTITY.

5 (E) FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE UNDER THIS
6 SUBTITLE, THE FOLLOWING SHALL BE DEEMED TO BE IN ELIGIBLE INDUSTRY
7 SECTORS AND ARE NOT SUBJECT TO THE REQUIREMENTS SPECIFICALLY IMPOSED
8 ON SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITIES AND
9 LOCAL ECONOMIC DEVELOPMENT OPPORTUNITIES:

- 10 (1) ANIMAL WASTE TECHNOLOGY PROJECTS;
- 11 (2) AQUACULTURE PROJECTS;
- 12 (3) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES; AND
- 13 (4) CREATION OR EXPANSION OF CHILD CARE FACILITIES.

14 ~~5-1410.~~ 5-1411.

15 (A) FINANCIAL ASSISTANCE PROVIDED, OR APPROVED TO BE PROVIDED,
16 FROM THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER MARYLAND
17 SEAFOOD AND AQUACULTURE LOAN FUND, THE FORMER BROWNFIELDS
18 REVITALIZATION INCENTIVE FUND, THE FORMER CHILD CARE FACILITIES DIRECT
19 LOAN FUND, THE FORMER CHILD CARE SPECIAL LOAN FUND, THE FORMER
20 MARYLAND INDUSTRIAL LAND ACT, OR THE FORMER MARYLAND INDUSTRIAL AND
21 COMMERCIAL REDEVELOPMENT FUND SHALL BE DEEMED AUTHORIZED UNDER THIS
22 SUBTITLE.

23 (B) MONEYS ON DEPOSIT IN THE FORMER ANIMAL WASTE TECHNOLOGY
24 FUND, THE FORMER MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND, THE
25 FORMER BROWNFIELDS REVITALIZATION INCENTIVE FUND, THE FORMER CHILD
26 CARE FACILITIES DIRECT LOAN FUND, THE FORMER CHILD CARE SPECIAL LOAN
27 FUND, THE FORMER MARYLAND INDUSTRIAL LAND FUND, AND THE FORMER
28 MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT FUND SHALL BE
29 TRANSFERRED TO THE FUND ON JULY 1, 2000.

30 **Article - Environment**

31 7-507.

32 When an applicant submits an application under § 7-506 of this subtitle, the
33 applicant also may submit a request to the Department of Business and Economic
34 Development to determine the applicant's eligibility to qualify for financial incentives
35 for the redevelopment of a brownfields site in accordance with Article 83A, Title [3]
36 5, Subtitle [9] 14 of the Code.

1 **Article - State Finance and Procurement**

2 Subtitle 7B. Priority Funding Areas.

3 5-7B-01.

4 (d) (1) "Growth-related project" means only the items set forth below:

5 (i) any major capital project as defined in § 2-103.1(a)(4) of the
6 Transportation Article, except existing transportation facilities projects as defined in
7 § 4-101(i) of the Transportation Article, project planning as defined in § 8-610(g) of
8 the Transportation Article, or initial project planning as defined in § 8-610(h) of the
9 Transportation Article;

10 (ii) funding by the Department of Housing and Community
11 Development for:

12 1. construction or purchase of newly constructed single
13 family homes or purchase of loans for newly constructed single family homes under
14 Article 83B, §§ 2-201 through 2-208, §§ 2-601 through 2-614, or §§ 2-1001 through
15 2-1007 of the Code;

16 2. acquisition or construction of newly constructed
17 multifamily rental housing under Article 83B, §§ 2-201 through 2-208, §§ 2-501
18 through 2-510, or §§ 2-801 through 2-810 of the Code; or

19 3. State-funded neighborhood revitalization projects under
20 Article 83B, Title 4 of the Code;

21 (iii) funding by the Department of Business and Economic
22 Development under any of the following:

23 1. [the Maryland Industrial Land Act, authorized under
24 Article 83A, Title 5, Subtitle 7 of the Code;

25 2. the Maryland Industrial and Commercial Redevelopment
26 Fund, authorized under Article 83A, Title 5, Subtitle 8 of the Code;

27 3.] the Maryland Industrial Development Financing
28 Authority, authorized under Article 83A, Title 5, Subtitle 9 of the Code;

29 [4.] 2. the Maryland Small Business Development
30 Financing Authority, authorized under Article 83A, Title 5, Subtitle 10 of the Code;

31 ~~{5-3.}~~ the Maryland Energy Financing Act, authorized under
32 Article 83A, Title 6, Subtitle 4 of the Code;}

33 [6.] ~~3-4.~~ the Economic Development Opportunities Program
34 Fund, authorized under § 7-314 of this article;

1 [7.] ~~4. 5.~~ the Maryland Competitive Advantage Financing
2 Fund, authorized under Article 83A, Title 5, Subtitle 13 of the Code; and

3 [8.] ~~5. 6.~~ the Maryland Economic Development Assistance
4 Authority and Fund, authorized under Article 83A, Title 5, Subtitle 14 of the Code;

5 (iv) funding by the Department of the Environment, for any project
6 under:

7 1. §§ 9-1601 through 9-1605 (Water Quality Revolving Loan
8 Fund) of the Environment Article except for funding nonpoint source pollution
9 projects;

10 2. §§ 9-420 through 9-426 (Water Supply Financial
11 Assistance Program) of the Environment Article; and

12 3. the supplemental assistance program authorized under
13 Title 9, Subtitle 3, Part VI of the Environment Article; and

14 (v) except as provided in paragraph (2) of this subsection,
15 procurement or funding of projects by the Department of General Services for:

16 1. leases of property by the State governed by §§ 4-318
17 through 4-321 of this article;

18 2. public improvements governed by §§ 4-410 and 4-410.1 of
19 this article; and

20 3. land acquisition governed by §§ 4-411 through 4-416 of
21 this article.

22 Subtitle 3. Unspent Balances.

23 7-314.

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

25 (2) "Fund" means the Economic Development Opportunities Program
26 Fund.

27 (3) (i) "Performance requirement" means a contractual agreement
28 between an executive agency and a Fund recipient that requires the Fund recipient to
29 meet minimum economic development outcomes in exchange for a grant or a loan
30 under this section.

31 (ii) "Performance requirement" includes claw-back, penalty,
32 rescission, and recalibration clauses that utilize job creation, capital investment, and
33 other measures of economic development.

1 (4) "Private sector enterprise" means any commercial, industrial,
2 educational, or research organization which is not a part of or controlled by a federal,
3 State, or local government agency.

4 (5) "Executive agency" means an executive department or agency in the
5 Executive Branch of State government, including all offices of the Executive
6 Department or agency directly responsible to the Governor.

7 (6) "Extraordinary economic development opportunity" means the:

8 (i) attraction of a new private sector enterprise to the State or
9 retention or expansion of an existing private sector enterprise in the State that:

10 1. maintains a strong financial condition and minimal credit
11 risk profile;

12 2. is capable of accessing alternative sources of financing
13 through financial institutions or capital markets;

14 3. is consistent with the strategic plan of the State for
15 economic development;

16 4. creates or retains substantial employment, particularly in
17 areas of high unemployment; and

18 5. invests in capital at a level equal to five times the value of
19 the incentive offered;

20 (ii) retention or expansion of an existing public institution, private
21 institution, or federal research and development institute that:

22 1. is consistent with the strategic plan of the State for
23 economic development; and

24 2. creates or retains substantial employment, particularly in
25 areas of high unemployment; or

26 (iii) establishment or attraction of a public institution, a private
27 institution, or a federal research and development institute new to the State that:

28 1. is consistent with the strategic plan of the State for
29 economic development; and

30 2. creates or retains substantial employment, particularly in
31 areas of high unemployment.

32 (b) Subject to the provisions of this section, the Economic Development
33 Opportunities Program Fund is established to maximize extraordinary economic
34 development opportunities.

1 (c) The Governor may provide an appropriation in the budget bill to the Fund
2 for a specific or general purpose or purposes.

3 (d) ~~{After notice to and approval by the Legislative Policy Committee, the}~~
4 ~~THE~~ Governor may transfer funds by budget amendment from the Economic
5 Development Opportunities Program Fund to the expenditure account of the
6 appropriate executive agency ~~IN THE FOLLOWING CIRCUMSTANCES:~~

7 ~~(1) FOR PROJECTS IN WHICH FUNDING FROM THE FUND EXCEEDS~~
8 ~~\$2,500,000, THE GOVERNOR MUST PROVIDE NOTICE TO, AND OBTAIN APPROVAL~~
9 ~~FROM, THE LEGISLATIVE POLICY COMMITTEE; AND~~

10 ~~(2) FOR PROJECTS IN WHICH FUNDING FROM THE FUND DOES NOT~~
11 ~~EXCEED \$2,500,000, THE GOVERNOR MUST PROVIDE NOTICE TO, AND OBTAIN~~
12 ~~APPROVAL FROM, THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE POLICY~~
13 ~~COMMITTEE.~~

14 (e) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
15 7-302 of this subtitle.

16 (2) The Treasurer shall separately hold, and the Comptroller shall
17 account for, the Fund.

18 (3) The Fund shall be invested and reinvested in the same manner as
19 other State funds.

20 (4) Except as provided in paragraph (5) of this subsection, any
21 investment earnings shall be subject to § 7-311(d) of this subtitle.

22 (5) Any investment earnings on moneys transferred from the Fund to a
23 second continuing, nonlapsing fund may be retained to the credit of the second fund.

24 (f) (1) Moneys appropriated or credited to the Fund do not revert to the
25 Revenue Stabilization Fund.

26 (2) Except as provided in paragraph (3) of this subsection, repayments of
27 principal or interest on any loan from the Fund shall be retained to the credit of the
28 Fund.

29 (3) Repayments of principal or interest on any loan made from moneys
30 transferred from the Fund to a second continuing, nonlapsing fund may be retained to
31 the credit of the second fund.

32 (g) (1) The Department of Business and Economic Development shall report
33 to the Governor and, subject to § 2-1246 of the State Government Article, to the
34 General Assembly before January 1 of each year:

35 (i) the financial status of the program and a summary of its
36 operations for the preceding fiscal year;

1 (ii) for the previous 3 fiscal years, the status of Fund disbursements
2 for economic development projects approved by the Legislative Policy Committee
3 under this section; and

4 (iii) for the previous 3 fiscal years, the status of job creation, capital
5 investment, and other measures of economic development for each economic
6 development project approved by the Legislative Policy Committee under this section.

7 (2) If the job creation, capital investment, and other measures of
8 economic development described in paragraph (1) of this subsection are lower than
9 negotiated according to subsection (h)(1) of this section, the report shall contain an
10 explanation.

11 (3) Upon receipt of the report, the Legislative Policy Committee shall
12 have 60 days to review and comment on the report, during which time the
13 Department of Business and Economic Development shall provide any additional
14 information regarding this Fund as requested by the Legislative Policy Committee.

15 (h) (1) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION AND IN
16 subsection (i) of this section, any funds transferred from the Economic Development
17 Opportunities Program Fund shall be used only for extraordinary economic
18 development opportunities that:

19 [(1)] (I) meet the criteria provided in this section;

20 [(2)] (II) include performance requirements; and

21 [(3)] (III) in addition to the performance requirements under [paragraph
22 (2)] ITEM (II) of this subsection, include a performance requirement that utilizes a
23 claw-back provision.

24 (2) THE FUND MAY PAY AN EXECUTIVE AGENCY FOR ADMINISTRATIVE,
25 LEGAL, OR ACTUARIAL EXPENSES INCURRED BY THE AGENCY IN CONNECTION WITH
26 TRANSACTIONS FUNDED BY TRANSFERS OF MONEYS TO THE AGENCY FROM THE
27 FUND.

28 (i) The Legislative Policy Committee may approve an economic development
29 opportunity that is not an extraordinary economic development opportunity if the
30 executive agency requesting the transfer of funds offers a detailed justification for the
31 exception. THE LEGISLATIVE POLICY COMMITTEE SHALL GIVE PARTICULAR
32 CONSIDERATION TO AN EXCEPTION THAT WOULD PROVIDE A SIGNIFICANT
33 ECONOMIC DEVELOPMENT OPPORTUNITY FOR AN AREA OF THE STATE THAT HAS A
34 RELATIVELY HIGH UNEMPLOYMENT RATE OR RELATIVELY LOW PER CAPITA
35 INCOME.

36 (j) (1) The Department of Business and Economic Development shall
37 submit to the Legislative Policy Committee by [July] JANUARY 1 of each year a list of
38 guidelines for the kinds of performance requirements that may be negotiated with a
39 loan or grant applicant.

1 (2) The Department of Business and Economic Development may modify
2 these guidelines as needed, upon approval of the Legislative Policy Committee.

3 (3) An executive agency may depart from these guidelines as needed,
4 upon approval of the Legislative Policy Committee.

5 (k) Subject to the provisions of this subtitle, funds transferred from the
6 Economic Development Opportunities Program Fund, to an executive agency, may be
7 loaned [or], granted, OR INVESTED for:

8 (1) assisting in the retention or expansion of existing private sector
9 enterprises, public or private institutions, or federal research and development
10 institutes;

11 (2) assisting in the establishment or attraction of private sector
12 enterprises, public or private institutions, or federal research and development
13 institutes new to this State; or

14 (3) providing assistance where existing State or local programs lack
15 sufficient resources or are constrained by timing or program design from being
16 utilized.

17 (l) Upon request for approval for the transfer of funds by budget amendment
18 from the Fund, the Governor shall provide, subject to § 2-1246 of the State
19 Government Article, to the Legislative Policy Committee, ~~IF THE FUNDS REQUESTED
20 EXCEED \$2,500,000, OR TO AN EXECUTIVE COMMITTEE OF THE LEGISLATIVE POLICY
21 COMMITTEE, IF THE FUNDS REQUESTED ARE LESS THAN \$2,500,000:~~

22 (1) a detailed description of:

23 (i) the proposed use of the funds;

24 (ii) the manner in which the proposed use meets the criteria as set
25 forth in this section;

26 (iii) the degree to which the proposed use of funds will advance
27 statewide or local economic development strategies and objectives; and

28 (iv) the degree to which available sources of federal, State, local,
29 and private financial support has been sought and will be utilized;

30 (2) the terms, conditions, and performance requirements of any grant or
31 loan for which the funds are to be used;

32 (3) a comprehensive economic analysis of the proposed use of the funds
33 which estimates:

34 (i) the economic impact to the State and the local jurisdictions
35 affected;

36 (ii) a minimum level of net economic benefits to the public sector;

1 (iii) the number of jobs expected to be created as a result of the
2 proposed economic development project and the percentage of those jobs that are
3 expected to be held by Maryland residents;

4 (iv) the wage rates and benefit packages for the jobs expected to be
5 created as a result of the proposed economic development project; and

6 (v) any other appropriate financial or economic benefits;

7 (4) any other analysis or information that is requested by the Legislative
8 Policy Committee; and

9 (5) the date on which the executive agency expects to disburse the funds
10 to the proposed recipient.

11 (m) If an executive agency fails to disburse transferred funds to a recipient
12 within 1 year after the expected disbursement date presented to the Legislative
13 Policy Committee under subsection (l) of this section, the funds will revert back to the
14 Fund and the Governor shall:

15 (1) resubmit the request to the Legislative Policy Committee to transfer
16 funds by budget amendment to the Fund; and

17 (2) provide the Legislative Policy Committee with the information
18 required under subsection (l) of this section.

19 (n) Funds appropriated to the Economic Development Opportunities Program
20 Fund may not be loaned [or], granted, OR INVESTED for:

21 (1) substituting for funds from other State or local programs for which a
22 project may be eligible and sufficient resources exist;

23 (2) projects which are not likely to attract or retain employment
24 opportunities;

25 (3) funding projects located outside the State;

26 (4) construction or land acquisition by the Maryland Stadium Authority;
27 or

28 (5) funding for any sports activity or facility.

29 (o) In the case of an economic development opportunity located outside a
30 priority funding area as established under Title 5, Subtitle 7B of this article, the
31 Department shall first comply with the provisions of that subtitle before making a
32 request for approval by the Legislative Policy Committee under this section.

33 (P) AN EXECUTIVE AGENCY MAY APPROVE CHANGES TO A TRANSACTION
34 APPROVED BY THE LEGISLATIVE POLICY COMMITTEE, ~~OR ITS EXECUTIVE~~
35 ~~COMMITTEE~~, AS LONG AS THE CHANGES DO NOT MATERIALLY AND ADVERSELY
36 AFFECT THE OVERALL POSITION OF THE EXECUTIVE AGENCY IN THE TRANSACTION

1 OR THE ECONOMIC DEVELOPMENT BENEFITS TO BE DERIVED BY THE STATE IN THE
2 TRANSACTION.

3

Article - Tax - Property

4 9-229.

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

6 (2) "Property tax attributable to an increase in an assessment" means
7 the additional property tax required to be paid as a result of the increase in the
8 assessment, calculated before the application of the credit under this section but after
9 the application of any other credit allowed under this title.

10 (3) "Qualified brownfields site" has the meaning stated in Article 83A, §
11 [3-901(d)] 5-1401(N) of the Code.

12 (4) "Taxing jurisdiction" means:

13 (i) a county or Baltimore City; or

14 (ii) a municipal corporation.

15 (b) (1) A taxing jurisdiction may elect to participate in the Brownfields
16 Revitalization Incentive Program under Article 83A, Title [3] 5, Subtitle [9] 14 of the
17 Code.

18 (2) If a taxing jurisdiction elects to participate in the Brownfields
19 Revitalization Incentive Program, the taxing jurisdiction shall:

20 (i) enact the necessary legislation to grant the property tax credits
21 established under this section; and

22 (ii) notify the Department of Business and Economic Development.

23 (3) If a taxing jurisdiction elects to participate in the Brownfields
24 Revitalization Incentive Program, the property tax credits under this section shall
25 also apply to the State property tax in that jurisdiction in the same percentage and for
26 the same duration as provided for the property tax of the taxing jurisdiction.

27 (c) For each of the 5 taxable years immediately following the first revaluation
28 of the property after completion of a voluntary cleanup or corrective action plan of a
29 brownfields site, each taxing jurisdiction where a qualified brownfields site is located
30 shall:

31 (1) grant a property tax credit against the property tax imposed on the
32 qualified brownfields site in an amount equal to 50% of the property tax attributable
33 to the increase in the assessment of the qualified brownfields site, including
34 improvements added to the site within the 5-year period as provided under this

1 subsection, over the assessment of the qualified brownfields site before the voluntary
2 cleanup; and

3 (2) contribute to the [Brownfields Revitalization Incentive] MARYLAND
4 ECONOMIC DEVELOPMENT ASSISTANCE Fund under Article 83A, § [3-904] 5-1404 of
5 the Code, 30% of the property tax attributable to the increase in the assessment of the
6 brownfields site, including improvements added to the site within the 5-year period
7 as provided under this subsection, over the assessment of the qualified brownfields
8 site before the voluntary cleanup.

9 (d) (1) A taxing jurisdiction may grant a property tax credit against the
10 property tax imposed on a qualified brownfields site in addition to the credit granted
11 under section (c) of this section.

12 (2) Subject to the limitation in paragraph (3) of this subsection, a taxing
13 jurisdiction may:

14 (i) vary the percentage of the additional property tax credit
15 granted under this subsection; and

16 (ii) establish additional eligibility criteria for any additional
17 property tax credit granted.

18 (3) The total additional property tax credit granted under this subsection
19 may not exceed an additional 20% of the remaining property tax attributable to the
20 increase in the assessment of the qualified brownfields site including improvements
21 added to the site over the assessment of the qualified brownfields site before the
22 voluntary cleanup.

23 (e) (1) A credit under this section may not be calculated on an increase in
24 assessment due to the termination of a use value under §§ 8-209 through 8-217 or §§
25 8-220 through 8-225 of this article.

26 (2) If the qualified brownfields site on which the voluntary cleanup is
27 completed had a use value immediately before the cleanup, the credit shall be
28 calculated on an assessment as if the parcel had been valued at market value.

29 (f) In a designated enterprise zone, a taxing jurisdiction may extend the tax
30 credit authorized under this section up to an additional 5 years.

31 (g) A proportional share of a taxing jurisdiction's contribution for each
32 qualified brownfields site to the [Brownfields Revitalization Incentive] MARYLAND
33 ECONOMIC DEVELOPMENT ASSISTANCE Fund under subsection (c)(2) of this section
34 shall be designated for financial incentives to be provided for qualified brownfields
35 sites in the jurisdiction making that contribution.

36 (h) A taxing jurisdiction shall terminate any property tax credit under this
37 section if:

1 (1) a person receiving a credit under this section withdraws from the
2 Voluntary Cleanup Program under § 7-512(a) or (b) of the Environment Article; or

3 (2) the Department of the Environment withdraws approval of a
4 response action plan, or a certificate of completion under § 7-512(e) and (f) of the
5 Environment Article.

6 **Chapter 301 of the Acts of 1999**

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 1999. [It shall remain effective for a period of 2 years and, at the end of June
9 30, 2001, with no further action required by the General Assembly, this Act shall be
10 abrogated and of no further force and effect.]

11 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 6-301 through~~
12 ~~6-312 and the subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of~~
13 ~~Article 83A—Department of Business and Economic Development of the Annotated~~
14 ~~Code of Maryland be transferred to be Section(s) 4-301 through 4-312 and the~~
15 ~~subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of Article 83B—~~
16 ~~Department of Housing and Community Development of the Annotated Code of~~
17 ~~Maryland.~~

18 ~~SECTION 4. AND BE IT FURTHER ENACTED, That moneys on deposit in the~~
19 ~~Child Care Special Loan Fund within the Department of Business and Economic~~
20 ~~Development shall be transferred to the Department of Housing and Community~~
21 ~~Development on July 1, 2000.~~

22 SECTION 5: 4. AND BE IT FURTHER ENACTED, That, except as expressly
23 provided to the contrary in this Act, any transaction affected by or flowing from any
24 statute here amended, repealed, or transferred, and validly entered into before the
25 effective date of this Act and every right, duty, or interest flowing from it remains
26 valid after the effective date of this Act and may be terminated, completed,
27 consummated, or enforced pursuant to law.

28 SECTION 6: 5. AND BE IT FURTHER ENACTED, That all bonds, notes, bond
29 anticipation notes, notes in the nature of commercial paper, or other instruments,
30 certificates or evidence of indebtedness or obligation heretofore issued by the
31 Department of Business and Economic Development, or any division, agency,
32 authority, body corporate or politic, or public instrumentality within or under the
33 Department of Business and Economic Development, or issued on behalf of the
34 Department or the State by any of the foregoing, are hereby declared to be valid,
35 legal, binding, and enforceable obligations to the extent of the obligation as provided
36 in any such bonds, notes, instruments, certificates, or evidences of indebtedness and
37 the proceedings relating to the issuance thereof.

38 SECTION 7: 6. AND BE IT FURTHER ENACTED, That if any provision of
39 this Act or the application thereof to any person or circumstance is held invalid for
40 any reason in a court of competent jurisdiction, the invalidity does not affect other
41 provisions or any other application of this Act which can be given effect without the

1 invalid provision or application, and for this purpose the provisions of this Act are
2 declared severable.

3 SECTION ~~8~~. 7. AND BE IT FURTHER ENACTED, That:

4 (a) ~~The~~ the publishers of the Annotated Code of Maryland, subject to the
5 approval of the Department of Legislative Services, shall propose the correction of any
6 agency names and titles throughout the Code that are rendered incorrect by this Act.

7 (b) ~~The Department of Legislative Services, in conjunction with the publishers~~
8 ~~of the Annotated Code of Maryland, shall revise the Code to conform it to the transfer~~
9 ~~of the Child Care Special Loan Fund to the Department of Housing and Community~~
10 ~~Development, and this statutory revision shall be ratified by passage of the Annual~~
11 ~~Corrective Bill of 2001.~~

12 SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act
13 shall take effect January 1, 2002.

14 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in
15 Section 8 of this Act, this Act shall take effect July 1, 2000.