

HOUSE BILL 464

Unofficial Copy
C8

2001 Regular Session
(11r1892)

ENROLLED BILL

-- *Economic Matters/Budget and Taxation* --

Introduced by **Delegates V. Jones, Hill, Benson, Branch, Brown, Cane, D. Davis, Dobson, Fulton, Hubers, Kirk, Kopp, Marriott, Moe, Montague, Paige, Patterson, Proctor, Swain, and ~~Valderrama~~ Valderrama, Barve, Gordon, Harrison, Hurson, Krysiak, Love, and McHale**

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 664

1 AN ACT concerning

2 **Business and Economic Development - Maryland Competitive Advantage**
3 **Financing Fund**

4 FOR the purpose of repealing the termination ~~provision that applies~~ *date of certain*
5 *provisions of law related* to the Maryland Competitive Advantage Financing
6 Fund; ~~altering the application requirements for loans from the Fund; altering~~
7 ~~the length of the initial loan term and the maximum loan term for certain loans~~
8 ~~from the Fund under certain circumstances~~ *eliminating the requirement that an*
9 *application for financial assistance from the Fund must include certain*
10 *information related to bankruptcy and existing liens or judgments; requiring*
11 *that, if the applicant or any of the owners of the applicant currently owe any*
12 *State or federal taxes that were not paid when due, the application include*
13 *certain evidence regarding the payment or dispute of taxes; extending the*
14 *maximum duration for certain loans; removing a defined period of extension for*

1 the extension of the terms of certain loans, subject to certain limitations; making
 2 technical changes; and generally relating to the Maryland Competitive
 3 Advantage Financing Fund in the Department of Business and Economic
 4 Development.

5 ~~BY repealing and reenacting, without amendments,~~
 6 ~~Article 83A - Department of Business and Economic Development~~
 7 ~~Section 5-1303(e)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(1998 Replacement Volume and 2000 Supplement)~~

10 BY repealing and reenacting, with amendments,
 11 Article 83A - Department of Business and Economic Development
 12 ~~Section 5-1303(d) and 5-1304(d)~~ 5-1303 and 5-1304
 13 Annotated Code of Maryland
 14 (1998 Replacement Volume and 2000 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Chapter 299 of the Acts of the General Assembly of 1999
 17 Section 3

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

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

21 5-1303.

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

23 (1) Provide financial assistance to eligible applicants; and

24 (2) Pay expenses for administrative, actuarial, legal, and technical
 25 services for the Fund.

26 (b) Subject to the restrictions of this subtitle, the Department may provide
 27 financial assistance from the Fund to a business that:

28 (1) Is a small business;

29 (2) Has made reasonable efforts to obtain financial assistance on
 30 reasonable terms from other sources; and

31 (3) Meets the qualifications required by this subtitle.

32 (c) To apply for financial assistance, an applicant shall submit an application
 33 to the Department on the form that the Department requires.

1 (d) The application shall include:

2 (1) A detailed business plan, including:

3 (i) An itemization of known and estimated costs;

4 (ii) The total amount of investment required; and

5 (iii) The amount of financial assistance requested from the
6 Department;

7 (2) The amount of funds available to the applicant without financial
8 assistance from the Department;

9 (3) Information relating to the financial status of the applicant,
10 including:

11 (i) A current balance sheet;

12 (ii) A profit and loss statement;

13 (iii) Credit references; and

14 (iv) Evidence that the applicant and the owners are financially
15 responsible, including a:

16 1. A statement or evidence that neither ~~WHETHER THAT~~
17 ~~NEITHER~~ the applicant nor ~~OR NOR~~ any of its owners:

18 1. Has filed for bankruptcy in the 7 years preceding the
19 application;

20 2. Has any existing liens or judgments; and

21 3. Currently ~~CURRENTLY~~ owes any State or federal taxes
22 that were not paid when due; ~~AND EVIDENCE WHETHER THE TAXPAYER:~~

23 1. ~~WILL HAVE PAID THE TAXES IN FULL BEFORE THE~~
24 ~~ANTICIPATED TIME OF CLOSING OF ANY FINANCIAL ASSISTANCE TO BE PROVIDED~~
25 ~~UNDER THIS SUBTITLE;~~

26 2. ~~IS IN COMPLIANCE WITH A REPAYMENT SCHEDULE~~
27 ~~APPROVED BY THE TAXING AUTHORITY; OR~~

28 3. ~~IS DISPUTING THE UNPAID TAXES IN GOOD FAITH AND~~
29 ~~THROUGH APPROPRIATE CHANNELS OR~~

30 2. ~~IF THE APPLICANT OR ANY OF ITS OWNERS CURRENTLY~~
31 ~~OWE ANY STATE OR FEDERAL TAXES THAT WERE NOT PAID WHEN DUE, EVIDENCE~~
32 ~~THAT THE TAXPAYER:~~

1 A. WILL HAVE PAID THE TAXES IN FULL BEFORE THE
 2 ANTICIPATED TIME OF CLOSING FOR ANY FINANCIAL ASSISTANCE TO BE PROVIDED
 3 UNDER THIS SUBTITLE;

4 B. IS IN COMPLIANCE WITH A REPAYMENT SCHEDULE
 5 APPROVED BY THE TAXING AUTHORITY; OR

6 C. IS DISPUTING THE TAXES IN GOOD FAITH AND THROUGH
 7 APPROPRIATE CHANNELS;

8 (4) Information showing the financial status of each owner of the
 9 applicant, including:

10 (i) A current balance sheet;

11 (ii) An income statement; and

12 (iii) Credit references;

13 (5) Evidence that the applicant has made reasonable efforts to obtain
 14 financial assistance on reasonable terms from other sources; and

15 (6) Any other relevant information that the Department requests.

16 5-1304.

17 (a) Except as provided in this subtitle, the Department may set the terms and
 18 conditions for loans, loan guarantees, and any other financial assistance provided
 19 under this subtitle.

20 (b) The Department may require any security or guarantee for financial
 21 assistance as it deems appropriate.

22 (c) The amount of any financial assistance shall not be less than \$10,000 and
 23 shall not exceed \$100,000.

24 (d) (1) Except as provided in paragraph (2) of this subsection, the term of
 25 any loan or other financial assistance may not exceed 10 years.

26 (2) If more than 50% of the proceeds of a loan made from the Fund are
 27 used for working capital, the term of the loan may not exceed [1 year] 3 YEARS,
 28 unless[:

29 (i) At] AT the end of [1 year] 3 YEARS, the Department reviews
 30 the borrowers' BORROWER'S performance and financial condition and determines
 31 that, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, [a 1-year] AN extension of
 32 the term is appropriate[; and

33 (ii) In the case of a loan term that is extended for an additional
 34 year, at the end of the additional year, the Department repeats the review and
 35 determines that an additional 1-year extension is appropriate].

1 (3) The term of a loan made under paragraph (2) of this subsection may
2 not exceed [3] 5 years.

3 (e) The applicant must provide at least 10% of the total project costs or capital
4 needed.

5 (f) Funds made available through financial assistance may be used only to
6 finance costs incurred for:

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

8 (2) Acquisition, construction, or installation of machinery, equipment,
9 furnishings, fixtures, leasehold improvements, or site improvements; or

10 (3) Working capital.

11 (g) If an applicant violates any provision of the financial assistance documents
12 or ceases to meet the requirements of this subtitle, the Department may:

13 (1) Withhold from the applicant further advances of financial assistance
14 until the applicant complies with the agreement or requirements; and

15 (2) Exercise any other remedy for which the financial assistance
16 documents provide.

17 (h) The Department shall adopt regulations necessary to carry out the
18 provisions of this subtitle.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
20 read as follows:

21 **Chapter 299 of the Acts of 1999**

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 1999. [It shall remain effective for a period of 2 years and, at the end of June
24 30, 2001, with no further action required by the General Assembly, this Act shall be
25 abrogated and of no further force and effect.]

26 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
27 take effect July 1, 2001.

28 SECTION 2. 4. AND BE IT FURTHER ENACTED, That, except as provided in
29 Section 3 of this Act, this Act shall take effect ~~July 1, 2001~~ June 1, 2001.

