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By: **Chairman, Economic Matters Committee (By Request - Departmental -  
Business and Economic Development)**

Introduced and read first time: February 13, 2004

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2004

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CHAPTER 216

1 AN ACT concerning

2 **Economic Development - Smart Growth Economic Development**  
3 **Infrastructure Fund - Maryland Economic Development Assistance**  
4 **Authority and Fund**

5 FOR the purpose of consolidating the financial assistance available from the former  
6 Smart Growth Economic Development Infrastructure Fund into the Maryland  
7 Economic Development Assistance Authority and Fund in the Department of  
8 Business and Economic Development; establishing eligibility, approval, and  
9 other requirements for assistance from the Maryland Economic Development  
10 Assistance Authority and Fund to fund qualified distressed county projects and  
11 feasibility studies; defining certain terms; providing for the transfer of certain  
12 funds; providing for the effective dates of this Act; and generally relating to the  
13 Maryland Economic Development Assistance Authority and Fund and the  
14 former Smart Growth Economic Development Infrastructure Fund.

15 BY renumbering

16 Article 83A - Department of Business and Economic Development  
17 Section 5-1401(m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w), respectively  
18 to be Section 5-1401(n), (o), (p), (q), (r), (s), (t), (w), (x), (y), and (z), respectively  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume)

21 BY adding to

22 Article 83A - Department of Business and Economic Development  
23 Section 5-1401(m), (u), and (v)  
24 Annotated Code of Maryland

1 (2003 Replacement Volume)

2 BY repealing and reenacting, with amendments,  
3 Article 83A - Department of Business and Economic Development  
4 Section 5-1404(c)(10), 5-1405(c), (d), (g), (h), and (i), 5-1406(c), 5-1410(d) and  
5 (e), and 5-1411  
6 Annotated Code of Maryland  
7 (2003 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That Section(s) 5-1401(m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w),  
10 respectively, of Article 83A - Department of Business and Economic Development of  
11 the Annotated Code of Maryland be renumbered to be Section(s) 5-1401(n), (o), (p),  
12 (q), (r), (s), (t), (w), (x), (y), and (z), respectively.

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

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

16 5-1401.

17 (M) "COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

18 (U) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY THAT HAS  
19 DEVELOPED IN CONSULTATION WITH THE MUNICIPAL CORPORATIONS LOCATED  
20 WITHIN THE COUNTY AND SUBMITTED TO THE SECRETARY A LOCAL STRATEGIC  
21 PLAN FOR ECONOMIC DEVELOPMENT THAT HAS BEEN APPROVED BY THE  
22 SECRETARY AND:

23 (1) FOR WHICH THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST  
24 RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE EXCEEDS 150% OF THE  
25 AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING THE SAME  
26 PERIOD; OR

27 (2) FOR WHICH THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE  
28 MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE DOES NOT  
29 EXCEED 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE  
30 STATE DURING THE SAME PERIOD.

31 (V) "QUALIFIED DISTRESSED COUNTY PROJECT" MEANS A PROJECT CARRIED  
32 OUT IN A QUALIFIED DISTRESSED COUNTY BY A LOCAL GOVERNMENT.

33 5-1404.

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

35 (10) Repayments on or recoveries from any financial assistance provided  
36 from the former Brownfields Revitalization Incentive Fund, the former Animal Waste

1 Technology Fund, the former Maryland Industrial Land Fund, [and] the former  
 2 Maryland Industrial and Commercial Redevelopment Fund, AND THE FORMER  
 3 SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE FUND;

4 5-1405.

5 (c) (1) Financial assistance from the Fund:

6 (i) May not exceed the lesser of \$10,000,000 or 20% of the Fund  
 7 balance;

8 (ii) Except as provided in item (iii) of this paragraph, may not  
 9 exceed 70% of the total costs of the project being financed;

10 (iii) May constitute 100% of the total costs of the project being  
 11 financed if:

12 1. The recipient is the Maryland Economic Development  
 13 Corporation; [or]

14 2. The financial assistance is for an arts and entertainment  
 15 enterprise or arts and entertainment project; OR

16 3. THE FINANCIAL ASSISTANCE IS FOR A QUALIFIED  
 17 DISTRESSED COUNTY PROJECT;

18 (iv) If a loan for a significant strategic economic development  
 19 opportunity or for a specialized economic development opportunity, shall carry an  
 20 interest rate below the market rate of interest, as determined by the Department;

21 (v) If a loan for a local economic development opportunity or to a  
 22 local government FOR A PROJECT THAT IS NOT IN A QUALIFIED DISTRESSED  
 23 COUNTY, shall carry an interest rate not exceeding one-eighth of one percent plus the  
 24 net interest cost of the most recent State general obligation bond issue preceding the  
 25 approval of the loan;

26 (vi) Shall not bear a rate of interest less than 3% unless the project  
 27 funded by a loan is located in an area of high unemployment or the Department  
 28 determines that the borrower is carrying out a compelling economic development  
 29 initiative; [and]

30 (VII) IF A LOAN FOR A QUALIFIED DISTRESSED COUNTY PROJECT,  
 31 SHALL CARRY A RATE OF INTEREST DETERMINED BY THE DEPARTMENT OR THE  
 32 AUTHORITY; AND

33 [(vii)] (VIII) May not be used to refinance existing debt.

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

35 (i) For working capital - 3 years;

1 (ii) For financing machinery, equipment, furnishings, or fixtures -  
2 the lesser of 15 years or the useful life of the asset, as determined by the Department;

3 (iii) For financing the construction or acquisition of buildings and  
4 real estate - 25 years; and

5 (iv) For [financing] FINANCIAL ASSISTANCE FOR redevelopment of  
6 a qualified brownfields site OR A QUALIFIED DISTRESSED COUNTY PROJECT - a term  
7 approved by the Department or the Authority.

8 (3) For loans from the Fund the Department may:

9 (i) Waive interest during the first 2 years of a loan term; or

10 (ii) Upon a default by the borrower, impose an interest rate that  
11 exceeds the limits set forth in paragraph (1) of this subsection.

12 (4) Proceeds of investments from the Fund may be expended only on  
13 costs described in subsection (b) of this section.

14 (d) To be eligible for financial assistance from the Fund, an applicant must be:

15 (1) An individual, private business, not for profit entity, or local  
16 government which:

17 (i) [Unless] MUST USE THE REQUESTED FINANCIAL ASSISTANCE  
18 FOR A PROJECT IN AN ELIGIBLE INDUSTRY SECTOR, UNLESS the applicant is a local  
19 government intending to use the financial assistance to carry out a project that:

20 1. [does] DOES not benefit a particular private sector  
21 entity[, must use the requested financial assistance for a project in an eligible  
22 industry sector]; OR

23 2. IS LOCATED IN A QUALIFIED DISTRESSED COUNTY;

24 (ii) Intends to use the requested financial assistance for a project  
25 that has a strong potential for expanding or retaining employment opportunities in  
26 the State; and

27 (iii) Submits to the Department an application containing:

28 1. [any] ANY information the Department or the Authority  
29 deems necessary in evaluating the request for financial assistance; AND

30 2. FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE  
31 FOLLOWING, IN FORM AND CONTENT ACCEPTABLE TO THE DEPARTMENT;

32 A. A MARKETING PLAN DESIGNED TO MARKET THE PROJECT  
33 TO PROSPECTIVE BUSINESSES;

1 B. A STATEMENT OF PLANNED MARKETING EXPENDITURES  
2 AS A PERCENT OF THE TOTAL FINANCIAL ASSISTANCE AMOUNT REQUESTED; AND

3 C. A PLAN FOR THE PROJECT THAT IS CONSISTENT WITH  
4 THE COUNTY'S LOCAL STRATEGIC ECONOMIC DEVELOPMENT PLAN AS TO THE  
5 LOCATION AND TYPE OF PROJECT; or

6 (2) A local economic development fund that meets the criteria set forth in  
7 § 5-1407 of this subtitle.

8 (g) (1) Financial assistance provided to a local government must be  
9 approved by a formal resolution of:

10 (i) The governing body of the jurisdiction in which the project is  
11 located; or

12 (ii) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
13 SUBSECTION, IF the recipient of the financial assistance is the Maryland Economic  
14 Development Corporation, its board of directors.

15 (2) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE  
16 MARYLAND ECONOMIC DEVELOPMENT CORPORATION FOR A QUALIFIED  
17 DISTRESSED COUNTY PROJECT, THE FINANCIAL ASSISTANCE MUST BE APPROVED BY  
18 FORMAL RESOLUTIONS OF BOTH THE BOARD OF DIRECTORS OF THE MARYLAND  
19 ECONOMIC DEVELOPMENT CORPORATION AND THE GOVERNING BODY OF THE  
20 JURISDICTION IN WHICH THE PROJECT IS LOCATED.

21 [(2)] (3) A project that is funded by a grant from the Fund to a local  
22 government, and carried out by the local government, must be consistent with the  
23 strategy or plan for economic development of the county or municipality in which the  
24 project is located.

25 (h) (1) Financial assistance from the Fund not exceeding \$2,500,000 may be  
26 approved by the Secretary.

27 (2) Financial assistance from the Fund exceeding \$2,500,000 shall be  
28 approved by the Authority.

29 (3) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,  
30 THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE EXCEEDING \$2,500,000 FOR A  
31 QUALIFIED DISTRESSED COUNTY PROJECT.

32 (i) The Department shall periodically review its portfolio in an effort to  
33 ensure:

34 (1) [equitable] EQUITABLE funds distribution among Maryland's  
35 counties;

36 (2) ADEQUATE FUNDING FOR QUALIFIED DISTRESSED COUNTY  
37 PROJECTS; AND

1 (3) THAT NO PARTICULAR QUALIFIED DISTRESSED COUNTY BENEFITS  
2 DISPROPORTIONALLY FROM FINANCIAL ASSISTANCE TO QUALIFIED DISTRESSED  
3 COUNTIES UNDER THIS SUBTITLE.

4 5-1406.

5 (c) (1) Financial assistance provided to a local government to finance a  
6 project may be in the form of a grant, loan, or investment and, EXCEPT AS PROVIDED  
7 IN PARAGRAPH (2) OF THIS SUBSECTION, may be for an amount not exceeding  
8 \$3,000,000.

9 (2) SUBJECT TO § 5-1405(C)(1)(I) OF THIS SUBTITLE, FINANCIAL  
10 ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT MAY BE IN AN  
11 AMOUNT DETERMINED BY THE DEPARTMENT.

12 [(2)] (3) A grant to a local economic development fund is subject to the  
13 requirements set forth in § 5-1407 of this subtitle.

14 5-1410.

15 (d) The provisions of this section do not apply to financial assistance to a local  
16 government that uses the financial assistance provided under this subtitle to carry  
17 out a project that:

18 (1) [does] DOES not benefit a particular private sector entity; OR

19 (2) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY.

20 (e) For the purpose of providing financial assistance under this subtitle, the  
21 following shall be deemed to be in eligible industry sectors and are not subject to the  
22 requirements specifically imposed on significant strategic economic development  
23 opportunities and local economic development opportunities:

24 (1) Animal waste technology projects;

25 (2) Aquaculture projects;

26 (3) Redevelopment of qualified brownfields sites;

27 (4) Creation or expansion of child care facilities;

28 (5) Arts and entertainment enterprises and arts and entertainment  
29 projects; [and]

30 (6) Projects in areas declared to be federal disaster areas within 1 year  
31 before the Department receives an application for financial assistance under this  
32 subtitle; AND

33 (7) FEASIBILITY STUDIES.

1 5-1411.

2 (a) Financial assistance provided, or approved to be provided, from the former  
3 Animal Waste Technology Fund, the former Maryland Seafood and Aquaculture Loan  
4 Fund, the former Brownfields Revitalization Incentive Fund, the former Child Care  
5 Facilities Direct Loan Fund, the former Child Care Special Loan Fund, the former  
6 Maryland Industrial Land Act, [or] the former Maryland Industrial and Commercial  
7 Redevelopment Fund, OR THE FORMER SMART GROWTH ECONOMIC DEVELOPMENT  
8 INFRASTRUCTURE FUND shall be deemed authorized under this subtitle.

9 (b) Moneys on deposit in the former Animal Waste Technology Fund, the  
10 former Maryland Seafood and Aquaculture Loan Fund, the former Brownfields  
11 Revitalization Incentive Fund, the former Child Care Facilities Direct Loan Fund, the  
12 former Child Care Special Loan Fund, the former Maryland Industrial Land Fund,  
13 and the former Maryland Industrial and Commercial Redevelopment Fund shall be  
14 transferred to the Fund on July 1, 2000.

15 (C) MONEYS ON DEPOSIT IN THE FORMER SMART GROWTH ECONOMIC  
16 DEVELOPMENT INFRASTRUCTURE FUND SHALL BE TRANSFERRED TO THE FUND ON  
17 JULY 1, 2004.

18 SECTION 3. AND BE IT FURTHER ENACTED, That any moneys on deposit in  
19 the Smart Growth Economic Development Infrastructure Fund under Article 83A, §  
20 5-701 of the Code at the end of June 30, 2004, which terminates on June 30, 2004, in  
21 accordance with Section 3 of Chapter 304 of the Acts of the General Assembly of 1999,  
22 shall be transferred to the Maryland Economic Development Assistance Fund under  
23 Article 83A, § 5-1404 of the Code.

24 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this  
25 Act shall take effect July 1, 2004.

26 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
27 Section 4 of this Act, this Act shall take effect June 30, 2004.