

SENATE BILL 1072

P1

3lr3439

By: **Senator Middleton**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 21, 2013

Assigned to: Rules

Re-referred to: Finance, March 23, 2013

Committee Report: Favorable

Senate action: Adopted

Read second time: March 29, 2013

CHAPTER _____

1 AN ACT concerning

2 **Linked Deposit Programs for Small Businesses and Minority Business**
3 **Enterprises**

4 FOR the purpose of altering the minimum interest rate that a loan may have in order
5 to qualify under certain linked deposit programs; altering the interest rate that
6 the State Treasurer may accept in making certain interest bearing deposits;
7 authorizing the State Treasurer to make certain interest bearing deposits in
8 any financial institution without certain security under certain circumstances;
9 providing for the termination of certain provisions of this Act; and generally
10 relating to the Linked Deposit Programs for Small Businesses and Minority
11 Business Enterprises.

12 BY repealing and reenacting, with amendments,
13 Article – State Finance and Procurement
14 Section 6–211 and 6–212
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

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

19 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 6–211.

2 (a) (1) There is a Linked Deposit Program in the Department of Housing
3 and Community Development.

4 (2) The purpose of the Linked Deposit Program is to stimulate
5 opportunities for minority business enterprises to have access to credit by assisting
6 these businesses in obtaining loans at lower than market interest rates.

7 (b) A loan qualifies under the Linked Deposit Program if the loan:

8 (1) satisfies the financial institution's lending criteria;

9 (2) has a term not exceeding 10 years;

10 (3) is made to a minority business enterprise certified under Title 14,
11 Subtitle 3 of this article;

12 (4) has an interest rate that [is 2 percentage points below the interest
13 rate] the financial institution [would charge for] **CHARGES ON** a loan for a similar
14 purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

15 **(I) 2 PERCENTAGE POINTS; OR**

16 **(II) THE DIFFERENCE BETWEEN THE FINANCIAL**
17 **INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE**
18 **INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; and**

19 (5) has points or fees charged at loan closing not exceeding 1 percent
20 of the loan amount.

21 (c) The Department of Housing and Community Development shall:

22 (1) confirm with the certification agency designated under Title 14,
23 Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a
24 business that is certified as a minority business enterprise;

25 (2) establish procedures for notification by the certification agency
26 designated under Title 14, Subtitle 3 of this article if a business that has an
27 outstanding balance of a loan under the Linked Deposit Program is no longer certified;

28 (3) require minority business enterprises and lenders to notify the
29 Department concerning final loan disposition; and

1 (4) report annually to the Governor, the Treasurer, and, in accordance
2 with § 2-1246 of the State Government Article, the General Assembly on overall
3 performance of the Linked Deposit Program.

4 (d) The Treasurer may establish the Linked Deposit Program for investment
5 of deposits in any financial institution that:

6 (1) the Treasurer has designated as a depository for State money; and

7 (2) makes a loan in accordance with subsection (b) of this section.

8 (e) (1) The Treasurer may make one or more interest bearing deposits
9 that are equal to:

10 (i) the amount of the loan made by the financial institution in
11 accordance with subsection (b) of this section; or

12 (ii) the aggregate amount of two or more loans made by one or
13 more financial institutions in accordance with subsection (b) of this section.

14 (2) In making an interest bearing deposit under this subsection, the
15 Treasurer may accept a rate that is UP TO 2 percentage points below current market
16 rates or an index selected by the Treasurer.

17 (3) The Treasurer may use up to \$50,000,000 to make interest bearing
18 deposits in an amount equivalent to the amount financial institutions loan to certified
19 minority business enterprises.

20 **(4) NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS**
21 **SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER**
22 **THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY**
23 **REQUIRED IN § 6-202 OF THIS SUBTITLE IF:**

24 **(I) THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH**
25 **A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;**

26 **(II) THE FINANCIAL INSTITUTION SELECTED BY THE**
27 **TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE**
28 **OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN**
29 **THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM**
30 **INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR**
31 **THE ACCOUNT OF THE TREASURER;**

32 **(III) AT THE SAME TIME THE MONEY IS DEPOSITED AND THE**
33 **CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER**

1 BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED
2 BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF
3 OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF
4 MONEY INITIALLY DEPOSITED BY THE TREASURER;

5 (IV) EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE
6 TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE
7 CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE
8 CERTIFICATE OF DEPOSIT; AND

9 (V) THE FINANCIAL INSTITUTION SELECTED BY THE
10 TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE
11 CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.

12 (f) (1) Subject to paragraph (2) of this subsection, on notification by the
13 Department of Housing and Community Development that a minority business
14 enterprise participating in the Linked Deposit Program is no longer certified under
15 Title 14, Subtitle 3 of this article, the Treasurer shall reduce the amount of the
16 interest bearing deposit with the participating financial institution by the outstanding
17 balance of the loan made under this section to the decertified minority business
18 enterprise.

19 (2) A minority business enterprise that loses its certification due to
20 revenue or employee growth may not be considered decertified for purposes of
21 paragraph (1) of this subsection.

22 (g) (1) A loan assisted by a linked deposit is not a debt of the State or a
23 pledge of the credit of the State.

24 (2) The Treasurer and the State are not liable to any financial
25 institution for payment of the principal or interest on a loan assisted by a linked
26 deposit.

27 (h) The Department of Housing and Community Development and the
28 Treasurer may adopt regulations to carry out this section.

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

31 **Article – State Finance and Procurement**

32 6–212.

33 (a) (1) There is a Linked Deposit Program for Small Businesses in the
34 Department of Housing and Community Development.

1 (2) The purpose of the Linked Deposit Program for Small Businesses
2 is to stimulate opportunities for small businesses to have access to credit by assisting
3 these businesses in obtaining loans at lower than market interest rates.

4 (b) A loan qualifies under the Linked Deposit Program for Small Businesses
5 if the loan:

6 (1) satisfies the lending criteria of the financial institution;

7 (2) has a term not exceeding 10 years;

8 (3) is made to a small business qualified under Title 14, Subtitle 5 of
9 this article;

10 (4) has an interest rate that [is 2 percentage points below the interest
11 rate] the financial institution [would charge for] **CHARGES ON** a loan for a similar
12 purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

13 **(I) 2 PERCENTAGE POINTS; OR**

14 **(II) THE DIFFERENCE BETWEEN THE FINANCIAL**
15 **INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE**
16 **INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; and**

17 (5) has points or fees charged at loan closing not exceeding 1 percent
18 of the loan amount.

19 (c) The Department of Housing and Community Development shall:

20 (1) confirm with the Department of General Services that each loan
21 under the Linked Deposit Program for Small Businesses is made to a business that
22 qualifies as a small business;

23 (2) establish procedures for notification by the Department of General
24 Services if a business that has an outstanding balance of a loan under the Linked
25 Deposit Program for Small Businesses no longer qualifies as a small business;

26 (3) require small businesses and lenders to notify the Department of
27 Housing and Community Development concerning final loan disposition; and

28 (4) report annually to the Governor, the Treasurer, and, in accordance
29 with § 2-1246 of the State Government Article, the General Assembly on overall
30 performance of the Linked Deposit Program for Small Businesses.

31 (d) The Treasurer may establish the Linked Deposit Program for Small
32 Businesses for investment of deposits in any financial institution that:

1 (1) the Treasurer has designated as a depository for State money; and

2 (2) makes a loan in accordance with subsection (b) of this section.

3 (e) (1) The Treasurer may make one or more interest bearing deposits
4 that are equal to:

5 (i) the amount of the loan made by the financial institution in
6 accordance with subsection (b) of this section; or

7 (ii) the aggregate amount of two or more loans made by one or
8 more financial institutions in accordance with subsection (b) of this section.

9 (2) In making an interest bearing deposit under this subsection, the
10 Treasurer may accept a rate that is **UP TO 2** percentage points below current market
11 rates or an index selected by the Treasurer.

12 (3) The Treasurer may use up to \$50,000,000 to make interest bearing
13 deposits in an amount equivalent to the amount financial institutions loan to qualified
14 small businesses.

15 **(4) NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS**
16 **SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER**
17 **THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY**
18 **REQUIRED IN § 6-202 OF THIS SUBTITLE IF:**

19 **(I) THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH**
20 **A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;**

21 **(II) THE FINANCIAL INSTITUTION SELECTED BY THE**
22 **TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE**
23 **OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN**
24 **THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM**
25 **INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR**
26 **THE ACCOUNT OF THE TREASURER;**

27 **(III) AT THE SAME TIME THE MONEY IS DEPOSITED AND THE**
28 **CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER**
29 **BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED**
30 **BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF**
31 **OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF**
32 **MONEY INITIALLY DEPOSITED BY THE TREASURER;**

1 **(IV) EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE**
2 **TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE**
3 **CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE**
4 **CERTIFICATE OF DEPOSIT; AND**

5 **(V) THE FINANCIAL INSTITUTION SELECTED BY THE**
6 **TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE**
7 **CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.**

8 (f) (1) Subject to paragraph (2) of this subsection, on notification by the
9 Department of Housing and Community Development that a small business
10 participating in the Linked Deposit Program for Small Businesses no longer qualifies
11 as a small business under Title 14, Subtitle 5 of this article, the Treasurer shall reduce
12 the amount of the interest bearing deposit with the participating financial institution
13 by the outstanding balance of the loan made under this section to the small business
14 that no longer qualifies under Title 14, Subtitle 5 of this article.

15 (2) A small business that loses its qualification due to revenue or
16 employee growth may not be considered unqualified for purposes of paragraph (1) of
17 this subsection.

18 (g) (1) A loan assisted by a linked deposit is not a debt of the State or a
19 pledge of the credit of the State.

20 (2) The Treasurer and the State are not liable to any financial
21 institution for payment of the principal or interest on a loan assisted by a linked
22 deposit.

23 (h) The Department of Housing and Community Development and the
24 Treasurer may adopt regulations to carry out this section.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the
27 termination provision specified in Section 3 of Chapter 396 of the Acts of the General
28 Assembly of 2006 and Section 2 of Chapter 740 of the Acts of the General Assembly of
29 2009. If those termination provisions take effect, with no further action required by
30 the General Assembly, Section 1 of this Act shall be abrogated and of no further force
31 and effect.