
By: Chairman, Economic Matters Committee (Departmental - Dept. Business & Economic Dev.)

Introduced and read first time: February 19, 1996

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 1996

CHAPTER ____

1 AN ACT concerning

2 **Maryland Business Financing Fund**

3 FOR the purpose of creating the Maryland Business Financing Fund; repealing the
4 Maryland Industrial Land Act; repealing the Industrial and Commercial
5 Redevelopment Fund; requiring certain moneys to be included in the Maryland
6 Business Financing Fund; providing for uses of the Fund; authorizing the Secretary
7 of Business and Economic Development to approve certain financial assistance
8 from the Fund under certain circumstances; authorizing the Secretary to enter into
9 certain loan agreements under certain circumstances; requiring that loan
10 agreements include certain provisions; authorizing a higher limit on financial
11 assistance for certain projects located in an Enterprise Zone; authorizing the
12 delegation of certain functions by a subdivision under certain circumstances;
13 providing for the repayment of certain financial assistance; authorizing subdivisions
14 to issue general obligation bonds or otherwise borrow money or guaranty a loan of
15 a certain amount for certain purposes; ~~declaring legislative intent providing that~~
16 certain agreements entered into under the Maryland Industrial Land Act and
17 certain provisions relating to industrial and commercial redevelopment remain
18 subject to those provisions of law as those provisions existed at the time of their
19 repeal, except under certain circumstances; defining certain terms; providing for a
20 delayed effective date for certain provisions of this Act; authorizing the Secretary to
21 modify the terms of financial assistance granted under the Maryland Industrial
22 Land Act and the Maryland Industrial and Commercial Redevelopment Fund under
23 certain circumstances; and generally relating to the creation of the Maryland
24 Business Financing Fund and the repeal of the Maryland Industrial Land Act and
25 the Industrial and Commercial Redevelopment Fund.

26 BY adding to

2

1 Article 83A - Department of Business and Economic Development
2 Section 5-1101 through ~~5-1108~~ 5-1107, inclusive, to be under the new subtitle
3 "Subtitle 11. Maryland Business Financing Act"
4 Annotated Code of Maryland
5 (1995 Replacement Volume)

6 BY repealing

7 Article 83A - Department of Business and Economic Development
8 Section 5-701 through 5-715, inclusive, and the subtitle "Subtitle 7. Maryland
9 Industrial Land Act"; and 5-801 through 5-807, inclusive, and the subtitle
10 "Subtitle 8. Industrial and Commercial Redevelopment"
11 Annotated Code of Maryland
12 (1995 Replacement Volume)

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

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

16 SUBTITLE 11. MARYLAND BUSINESS FINANCING ACT.

17 5-1101.

18 THIS SUBTITLE MAY BE CITED AS THE "MARYLAND BUSINESS FINANCING ACT".

19 5-1102.

20 ~~THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:~~

21 ~~(1) THERE HAS BEEN INCREASING EVIDENCE OF A SHORTAGE OF~~
22 ~~CAPITAL NECESSARY FOR THE DEVELOPMENT AND GROWTH OF INDUSTRY AND~~
23 ~~COMMERCE IN THE STATE THAT WILL RESULT IN INCREASED OPPORTUNITIES FOR~~
24 ~~GAINFUL EMPLOYMENT BY THE PEOPLE OF MARYLAND.~~

25 ~~(2) A COOPERATIVE PROGRAM BETWEEN THE STATE AND ITS~~
26 ~~POLITICAL SUBDIVISIONS AS SET FORTH IN THIS SUBTITLE IS THE MOST EFFECTIVE~~
27 ~~WAY TO ENSURE THE AVAILABILITY OF ADEQUATE CAPITAL FOR BUSINESS~~
28 ~~FINANCING IN THE STATE.~~

29 ~~5-1103.~~

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

32 (B) "COUNTY" INCLUDES THE CITY OF BALTIMORE.

33 ~~(C) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC~~
34 ~~DEVELOPMENT.~~

35 ~~(D)~~ (C) "FINANCIAL ASSISTANCE" MEANS LOANS, GRANTS, EQUITY
36 INVESTMENTS, AND ANY COMBINATION THEREOF.

3

1 ~~(E)~~ (D) "FUND" MEANS THE MARYLAND BUSINESS FINANCING FUND.

2 ~~(F)~~ (E) "POLITICAL SUBDIVISION" MEANS:

3 (1) A COUNTY; OR

4 (2) A MUNICIPAL CORPORATION SUBJECT TO THE PROVISIONS OF
5 ARTICLE XI-E OF THE MARYLAND CONSTITUTION.

6 ~~(G)~~ (F) "PROJECT COSTS" MEANS THE COSTS OF AN INDUSTRIAL,
7 COMMERCIAL, OR NONPROFIT DEVELOPMENT PROJECT AND MAY INCLUDE
8 PLANNING AND ENGINEERING STUDIES OR OTHER PROFESSIONAL SERVICES,
9 ACQUISITION OF ANY INTEREST IN REAL OR PERSONAL PROPERTY, SITE
10 PREPARATION, INSTALLATION OF MACHINERY OR EQUIPMENT, WORKING CAPITAL,
11 CONSTRUCTION AND REHABILITATION COSTS, AND ANY OTHER COSTS OF MAKING
12 THE PROJECT OPERABLE.

13 ~~(H) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC
14 DEVELOPMENT.~~

15 ~~5-1104. 5-1103.~~

16 (A) (1) THERE IS A MARYLAND BUSINESS FINANCING FUND WITHIN THE
17 DEPARTMENT.

18 (2) THE FUND IS A NONLAPSING, REVOLVING SPECIAL FUND MANAGED
19 BY THE SECRETARY.

20 (B) THE FUND SHALL CONSIST OF:

21 (1) MONEYS APPROPRIATED BY THE STATE TO THE FUND;

22 (2) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
23 FROM THE FUND;

24 (3) RETURN ON EQUITY INVESTMENTS;

25 (4) PROCEEDS FROM THE DISPOSITION OF ANY SECURITY RELATED TO
26 ANY LOAN MADE UNDER THIS SUBTITLE;

27 (5) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
28 FROM THE FORMER INDUSTRIAL LAND FUND AND THE FORMER INDUSTRIAL AND
29 COMMERCIAL REDEVELOPMENT FUND;

30 (6) PROCEEDS FROM THE DISPOSITION OF ANY SECURITY RELATED TO
31 ANY LOAN MADE FROM THE FORMER INDUSTRIAL LAND FUND AND THE FORMER
32 INDUSTRIAL AND COMMERCIAL REDEVELOPMENT FUND;

33 (7) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
34 FROM MONEYS IN THE FUND; AND

35 (8) ANY OTHER MONEYS MADE AVAILABLE TO THE DEPARTMENT.

36 (C) THE MONEYS IN THE FUND FROM TIME TO TIME MAY BE EXPENDED:

4

1 (1) FOR FINANCIAL ASSISTANCE APPROVED UNDER THIS SUBTITLE;
2 AND

3 (2) TO PAY ANY AND ALL EXPENSES IN CONNECTION WITH THE
4 ADMINISTRATION OF THIS SUBTITLE INCLUDING, BY WAY OF EXAMPLE, EXPENSES
5 FOR ADMINISTRATION, LEGAL, ACTUARIAL, MARKETING, AND OTHER SERVICES.

6 (D) (1) THE STATE TREASURER SHALL HOLD AND THE STATE
7 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

8 (2) ALL INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE
9 FUND.

10 ~~5-1105. 5-1104.~~

11 (A) ANY POLITICAL SUBDIVISION OF THE STATE OR OTHER ENTITY DESIRING
12 FUNDING FOR AN INDUSTRIAL, COMMERCIAL, OR NONPROFIT DEVELOPMENT
13 PROJECT UNDER THIS SUBTITLE SHALL APPLY FOR EACH PROJECT TO THE
14 SECRETARY. THE APPLICATION SHALL DESCRIBE THE PROJECT IN THE MANNER
15 AND DETAIL AS THE SECRETARY MAY, BY REGULATION, DETERMINE.

16 ~~(B) THE SECRETARY, UPON RECEIPT OF AN APPLICATION AND AFTER ANY~~
17 ~~INVESTIGATION THE SECRETARY DEEMS ADVISABLE, MAY APPROVE FINANCIAL~~
18 ~~ASSISTANCE TO A POLITICAL SUBDIVISION OR OTHER ENTITY FOR A PROJECT.~~

19 (B) THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE TO A POLITICAL
20 SUBDIVISION OR OTHER ENTITY FOR A PROJECT:

21 (1) UPON RECEIPT OF AN APPLICATION;

22 (2) AFTER ANY INVESTIGATION THAT THE SECRETARY DEEMS
23 ADVISABLE; AND

24 (3) AFTER NOTICE TO AND CONSULTATION WITH THE POLITICAL
25 SUBDIVISION.

26 (C) THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE OF UP TO 100%
27 OF THE TOTAL PROJECT COSTS.

28 (D) THE TOTAL FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE
29 FOR ANY ONE PROJECT LOCATED IN AN ~~ENTERPRIZE~~ ENTERPRISE ZONE
30 DESIGNATED UNDER § 5-402 OF THIS ARTICLE MAY NOT EXCEED \$4,500,000.

31 (E) THE TOTAL FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE
32 FOR ANY ONE PROJECT LOCATED OUTSIDE AN ~~ENTERPRIZE~~ ENTERPRISE ZONE MAY
33 NOT EXCEED \$4,000,000.

34 (F) IN JUDGING WHETHER OR NOT TO APPROVE FINANCIAL ASSISTANCE AND
35 THE AMOUNT OF THE FINANCIAL ASSISTANCE, THE SECRETARY SHALL CONSIDER
36 AND DETERMINE:

37 (1) WHETHER THE PROJECT MAY REASONABLY BE EXPECTED TO
38 CREATE NEW EMPLOYMENT OPPORTUNITIES AND THE TYPES AND QUALITY OF
39 JOBS TO BE CREATED;

5

1 (2) THE AMOUNT OF BENEFIT, IN TERMS OF ECONOMIC DEVELOPMENT
2 AND EMPLOYMENT OPPORTUNITIES, THAT THE PROJECT MAY REASONABLY BE
3 EXPECTED TO GENERATE:

4 (I) WHEN COMPARED WITH THE BENEFITS THAT OTHER
5 PROJECTS UNDER CONSIDERATION MAY REASONABLY BE EXPECTED TO
6 GENERATE; AND

7 (II) IN RELATION TO THE TOTAL FUNDS AVAILABLE FOR
8 FINANCIAL ASSISTANCE;

9 (3) WHETHER THE PROJECT, AS PLANNED, WILL COMPLY WITH ALL
10 LAWS AND REGULATIONS APPLICABLE TO THE PROJECT;

11 (4) THE AMOUNT OF OTHER FUNDS WHICH ARE AVAILABLE OR ARE
12 LIKELY TO BECOME AVAILABLE FOR THE PROJECT;

13 (5) THE EXTENT OF UNEMPLOYMENT AND UNDEREMPLOYMENT IN THE
14 PROJECT AREA AND THE DEGREE TO WHICH THE PROJECT WILL IMPROVE
15 EMPLOYMENT PROSPECTS;

16 (6) THE DEGREE TO WHICH THE PROJECT WILL ADVANCE THE
17 ECONOMIC DEVELOPMENT STRATEGIES AND OBJECTIVES OF THE STATE AND
18 POLITICAL SUBDIVISION;

19 (7) THE GEOGRAPHIC DISTRIBUTION OF PROJECTS RECEIVING
20 FINANCIAL ASSISTANCE;

21 (8) THE DEGREE TO WHICH THE AFFECTED POLITICAL SUBDIVISION
22 DESIRES TO PARTICIPATE IN THE PROJECT AND HAS DEMONSTRATED ITS
23 COMMITMENT TO THE PROJECT;

24 (9) THE VALUE OF THE COLLATERAL OFFERED TO SECURE A LOAN;

25 (10) THE FINANCIAL CAPACITY OF THE BORROWER TO REPAY THE
26 FINANCIAL ASSISTANCE; AND

27 (11) SUCH OTHER FACTORS AS THE SECRETARY DEEMS RELEVANT.

28 (G) (1) UPON APPROVAL OF A LOAN, THE DEPARTMENT SHALL ~~ENTER INTO~~
29 EXECUTE LOAN DOCUMENTS WITH THE POLITICAL SUBDIVISION OR OTHER ENTITY
30 RECEIVING THE FINANCIAL ASSISTANCE.

31 (2) THE LOAN DOCUMENTS SHALL INCLUDE:

32 (I) AN INTEREST RATE THAT THE SECRETARY APPROVES;

33 (II) A TERM LASTING NOT MORE THAN THE FOLLOWING PERIOD,
34 UNLESS THE SECRETARY DETERMINES THERE IS GOOD CAUSE TO EXTEND THESE
35 PERIODS:

36 1. 25 YEARS, IF THE LOAN PROCEEDS ARE USED PRIMARILY
37 TO ACQUIRE AN INTEREST IN OR IMPROVE REAL PROPERTY;

7

1 UNDER ANY LOAN, GRANT, INVESTMENT, OR OTHER AGREEMENT EXECUTED
2 UNDER THIS SUBTITLE.

3 ~~5-1107~~ 5-1106.

4 (A) ~~A~~ IF A POLITICAL SUBDIVISION AGREES TO BORROW OR TO GUARANTEE
5 A LOAN UNDER THIS SUBTITLE, THE LOAN TO OR GUARANTY BY A POLITICAL
6 SUBDIVISION UNDER THIS SUBTITLE IS A GENERAL OBLIGATION OF THE
7 BORROWING POLITICAL SUBDIVISION, TO THE REPAYMENT OF WHICH THE
8 POLITICAL SUBDIVISION'S FULL FAITH AND CREDIT ARE PLEDGED OR AN
9 OBLIGATION OF BALTIMORE CITY REPAYABLE FROM REVENUES OF THE PROJECT.

10 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LOAN TO OR
11 GUARANTY FROM A POLITICAL SUBDIVISION UNDER THIS SUBTITLE MAY BE
12 UNDERTAKEN OR ENTERED INTO BY THE POLITICAL SUBDIVISIONS PURSUANT TO
13 THIS SUBTITLE WITHOUT REGARD TO ANY LIMITATIONS OR PROCEDURES SET
14 FORTH IN THE POLITICAL SUBDIVISION'S CHARTER OR OTHER APPLICABLE PUBLIC
15 LOCAL OR PUBLIC GENERAL LAW THAT WOULD OTHERWISE APPLY.

16 ~~5-1108~~ 5-1107.

17 EACH POLITICAL SUBDIVISION MAY ISSUE GENERAL OBLIGATION BONDS OR
18 OTHERWISE BORROW MONEY OR GUARANTY A LOAN IN AN AMOUNT NOT
19 EXCEEDING 0.5% OF THE TOTAL ASSESSED VALUE OF PROPERTY LOCATED WITHIN
20 THE POLITICAL SUBDIVISION SUBJECT TO TAXATION AT THE FULL TAX RATE OF
21 THE POLITICAL SUBDIVISION IN ORDER TO OBTAIN FUNDS TO FINANCE ITS SHARE
22 OF PROJECT COSTS FOR PROJECTS IN WHICH THE STATE PARTICIPATES UNDER THIS
23 SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-701
25 through 5-715, inclusive, and the subtitle "Subtitle 7. Maryland Industrial Land Act"; and
26 5-801 through 5-807, inclusive, and the subtitle "Subtitle 8. Industrial and Commercial
27 Redevelopment" of Article 83A - Department of Business and Economic Development
28 of the Annotated Code of Maryland be repealed.

29 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any
30 provision of Title 5, Subtitle 7 or Title 5, Subtitle 8 of Article 83A of the Code, the
31 Secretary of Business and Economic Development, ~~without any other approval~~, may
32 modify the terms of any financial assistance provided under those subtitles, including the
33 rate of interest, the time or amount of payment, forgiveness of principal and interest, or
34 any other term, with the sole approval of the political subdivision that received financial
35 assistance.

36 SECTION 4. AND BE IT FURTHER ENACTED, That any agreements entered
37 into under Title 5, Subtitle 7 or Title 5, Subtitle 8 of Article 83A of the Code, remain
38 subject to the provisions of those subtitles as those provisions existed at the time of their
39 repeal, except as those agreements may be modified under Section 3 of this Act.

40 SECTION 4. 5. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of
41 this Act shall take effect July 1, 1996.

1 SECTION ~~5-~~ 6. AND BE IT FURTHER ENACTED, That ~~Section 2~~ Sections 2
2 and 4 of this Act shall take effect July 1, 1997.