
By: Delegates Harrison and Rawlings

Introduced and read first time: January 16, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **MSBDF - Equity Participation Investment Program**

3 FOR the purpose of increasing the maximum dollar amount of the Maryland Small
4 Business Development Financing Authority's participation in franchises through the
5 Equity Participation Investment Program; removing a certain annual cap for total
6 financing under the Equity Participation Investment Program; removing a certain
7 net worth requirement necessary to apply for certain financing from the Equity
8 Participation Investment Program; altering the percentage of business ownership by
9 certain persons required to qualify for the Equity Participation Investment
10 Program; and generally relating to the Maryland Small Business Development
11 Financing Authority.

12 BY repealing and reenacting, without amendments,
13 Article 83A - Department of Business and Economic Development
14 Section 5-1025(b) and (c)
15 Annotated Code of Maryland
16 (1995 Replacement Volume and 1996 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article 83A - Department of Business and Economic Development
19 Section 5-1046
20 Annotated Code of Maryland
21 (1995 Replacement Volume and 1996 Supplement)

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

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

25 5-1025.

26 (b) If the applicant is an individual, the applicant shall satisfy the Authority that:

27 (1) The applicant is of good moral character;

28 (2) As determined from creditors, employers, and other individuals who
29 have personal knowledge of the applicant, the applicant has a reputation for financial
30 responsibility;

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1 (3) The applicant is a resident of Maryland or the applicant's principal place
2 of business is in Maryland; and

3 (4) The applicant is unable to obtain adequate business financing on
4 reasonable terms through normal lending channels because the applicant:

5 (i) Belongs to a group that historically has been deprived of access to
6 normal economic or financial resources because of race, color, creed, sex, religion, or
7 national origin;

8 (ii) Has an identifiable physical handicap that severely limits the
9 ability of the applicant to obtain financial assistance, but does not limit the ability of the
10 applicant to perform the contract or other activity for which the applicant would be
11 receiving financial assistance; or

12 (iii) Has any other social or economic impediment that is beyond the
13 personal control of the applicant, such as lack of formal education or financial capacity or
14 geographical or regional economic distress but that does not limit the ability of the
15 applicant to perform the contract or other activity for which the applicant would be
16 receiving financial assistance.

17 (c) If the applicant is other than a sole proprietorship, at least 70 percent of the
18 business enterprise shall be owned by individuals who meet the qualifications for
19 applicants under subsection (b) of this section.

20 5-1046.

21 (a) Under the Program, the Authority may provide equity participation financing,
22 including the purchase of qualified securities issued by a franchise, by a technology-based
23 business, or by an enterprise acquiring an existing business, only after the enterprise has
24 submitted an application that contains a business plan, including:

25 (1) A description of the franchisor, technology-based business, or existing
26 business and its management, product, and market;

27 (2) A statement of the amount, immediacy of need, and projected use of the
28 capital required;

29 (3) A statement of the potential economic impact of the purchase;

30 (4) Information that relates to the satisfaction of the applicant's
31 requirements of [§ 5-1025] SUBSECTIONS (F) AND (G) of this [subtitle] SECTION; and

32 (5) Any other information the Authority requires.

33 (b) Under the Program, any equity participation financing shall satisfy the
34 following requirements:

35 (1) The Authority may not:

36 (i) 1. Own securities representing more than 45 percent of the
37 voting stock of any franchise or technology-based business; or

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1 (1) The enterprise or its principals shall have a minimum net worth of at
2 least \$75,000 pledged as security; and

3 (2) The enterprise] or its principals shall have had 3 or more years of
4 successful experience with demonstrated achievements and management responsibilities.

5 (e) When being acquired, the existing business shall meet the following minimum
6 qualifications:

7 (1) The existing business shall have been in existence for at least 5 years;

8 (2) The existing business shall have been profitable for at least 2 of the
9 previous 3 years;

10 (3) The existing business shall have sufficient cash flow to service the debt
11 and ensure adequate return of the Authority's investment;

12 (4) The existing business shall have the capacity for growth and job creation;

13 (5) The existing business shall have its principal place of business in
14 Maryland; and

15 (6) The existing business shall have a strong customer base.

16 (F) IF THE APPLICANT ENTERPRISE IS AN INDIVIDUAL, THE APPLICANT
17 SHALL SATISFY THE AUTHORITY THAT:

18 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;

19 (2) AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER
20 INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE OF THE APPLICANT, THE
21 APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY;

22 (3) THE APPLICANT IS A RESIDENT OF MARYLAND OR THE APPLICANT'S
23 PRINCIPAL PLACE OF BUSINESS IS IN MARYLAND; AND

24 (4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS
25 FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS
26 BECAUSE THE APPLICANT:

27 (I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN
28 DEPRIVED OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE
29 OF RACE, COLOR, CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

30 (II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY
31 LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT
32 DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR
33 OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL
34 ASSISTANCE; OR

35 (III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS
36 BEYOND THE PERSONAL CONTROL OF THE APPLICANT, SUCH AS LACK OF FORMAL
37 EDUCATION OR FINANCIAL CAPACITY OR GEOGRAPHICAL OR REGIONAL
38 ECONOMIC DISTRESS BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT

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1 TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT
2 WOULD BE RECEIVING FINANCIAL ASSISTANCE.

3 (G) IF THE APPLICANT ENTERPRISE IS OTHER THAN A SOLE
4 PROPRIETORSHIP, AT LEAST 51 PERCENT OF THE ENTERPRISE SHALL BE OWNED BY
5 INDIVIDUALS WHO MEET THE QUALIFICATIONS FOR APPLICANTS UNDER
6 SUBSECTION (F) OF THIS SECTION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1997.