
By: Delegates Barve, Frank, Walkup, and Crumlin

Introduced and read first time: February 13, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development - Business Financing Funds - Management**

3 FOR the purpose of authorizing the Department of Business and Economic Development
4 to contract for the management of certain business financing funds; authorizing
5 certain individuals to bid for a certain management contract; defining certain terms;
6 and generally relating to the management of business financing funds in Maryland.

7 BY repealing and reenacting, with amendments,
8 Article 83A - Department of Business and Economic Development
9 Section 5-101, 5-102, 5-501, and 5-502
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1996 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article 83A - Department of Business and Economic Development
14 Section 5-503
15 Annotated Code of Maryland
16 (1995 Replacement Volume and 1996 Supplement)

17 BY adding to
18 Article 83A - Department of Business and Economic Development
19 Section 5-504
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 5-101.

26 The Department shall administer OR, AS PROVIDED IN THIS ARTICLE, CONTRACT
27 FOR THE ADMINISTRATION OF the State's economic development and growth funds to
28 facilitate the attraction, creation, expansion, and retention of businesses and jobs in
29 Maryland.

2

1 5-102.

2 The Department shall administer OR, AS PROVIDED IN THIS ARTICLE, CONTRACT
3 FOR THE ADMINISTRATION OF economic development and financial assistance
4 programs and funds, including the following:

- 5 (1) Maryland Small Business Development Financing Authority;
- 6 (2) Maryland Industrial Development Financing Authority;
- 7 (3) Maryland Energy Financing Administration;
- 8 (4) Maryland Industrial and Commercial Redevelopment Fund;
- 9 (5) Maryland Industrial Land Act;
- 10 (6) Enterprise Fund;
- 11 (7) Maryland Enterprise Incentive Deposit Fund;
- 12 (8) Enterprise Zone Venture Capital Guarantee Fund;
- 13 (9) The Community Development Block Grant for Economic Development,
14 jointly with the Department of Housing and Community Development;
- 15 (10) Day Care Facilities Loan Guarantee Fund;
- 16 (11) Child Care Facilities Direct Loan Fund;
- 17 (12) Child Care Special Loan Fund;
- 18 (13) Defense Adjustment Loan Fund; and
- 19 (14) Other programs or funds designated in law or by the Governor or
20 Secretary.

21 5-501.

22 (a) (1) In this [section the term] SUBTITLE THE FOLLOWING WORDS HAVE
23 THE MEANINGS INDICATED.

24 (2) "Fund" means the Enterprise Fund established under this section.

25 (3) "DEPARTMENT STAFF" MEANS ANY INDIVIDUALS WHO:

26 (I) ARE EMPLOYED BY THE DEPARTMENT TO MANAGE OR
27 OPERATE ANY ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS;
28 AND

29 (II) HAVE FORMED THEMSELVES INTO A PRIVATE BUSINESS
30 ENTITY.

31 (4) "MANAGEMENT AND INVESTMENT GROUP" MEANS ANY PRIVATE
32 BUSINESS ENTITY WITH WHICH THE DEPARTMENT CONTRACTS UNDER § 5-504 OF
33 THIS SUBTITLE.

3

1 (b) Where the Department is otherwise authorized by law to make grants, the
2 Department may require repayment, with interest at a rate to be determined by the
3 Department, of all or a portion of a grant upon the occurrence of conditions specified by
4 the Department.

5 (c) (1) Where the Department is otherwise authorized by law to make grants,
6 including grants authorized under § 7-314 of the State Finance and Procurement Article,
7 the Department may use moneys appropriated for grants to provide equity investment
8 financing for a business enterprise.

9 (2) In providing equity investment financing under this subsection, the
10 Department may not acquire an ownership interest in the enterprise in which the equity
11 investment is made that exceeds 25 percent.

12 (3) The Department shall divest itself from any enterprise in which an
13 equity investment is made under this subsection within 15 years after making the
14 investment.

15 (4) The liability of the State and of the Department in providing equity
16 investment financing under this subsection is limited to its investments under this
17 subsection.

18 (5) The Department shall adopt regulations specifying:

19 (i) The types of business enterprises in which investments may be
20 made under this subsection and the basic standards an enterprise is required to meet to
21 qualify for investments under this subsection; and

22 (ii) The amount of funds available for investments under this
23 subsection and the criteria upon which investment decisions will be made by the
24 Department.

25 5-502.

26 (a) There is an Enterprise Fund in the Department established as a nonlapsing,
27 revolving special fund managed BY THE SECRETARY OR A MANAGEMENT AND
28 INVESTMENT GROUP and supervised by the Secretary.

29 (b) The Fund may consist of any of the following:

30 (1) Moneys appropriated by the State to the Fund;

31 (2) Moneys made available to the Fund through appropriate federal
32 programs or private contributions;

33 (3) Income from investments that the State Treasurer makes from moneys
34 in the Fund;

35 (4) Repayments of principal and interest from loans made from the Fund;

36 (5) Proceeds from the sale, disposition, lease or rental by the Department of
37 collateral related to any financing provided by the Department under this section;

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1 (6) Premiums, fees, royalties, and repayments of principal, interest and
2 investment paid to the Department by or on behalf of a business enterprise in which the
3 Department has made an equity investment, or by or on behalf of an investor providing an
4 investment guaranteed by the Department under this section;

5 (7) Recovery of any equity investment made by the Department in a
6 business enterprise, including any arrangement under which the Department's investment
7 in the business enterprise is recovered through:

8 (i) A requirement that the Department receive a proportion of cash
9 flow, commissions, royalties, or payments on a patent; or

10 (ii) The repurchase from the Department of any evidence of equity
11 participation, such as notes, stocks, bonds or debentures;

12 (8) Repayments received from conditional grants extended by the
13 Department; and

14 (9) Any other moneys made available to the Department.

15 5-503.

16 (a) (1) The Department may use the Fund for the following purposes:

17 (i) To make grants or loans, at a rate of interest to be determined by
18 the Department;

19 (ii) To provide equity investment financing for a business enterprise;

20 (iii) To provide guarantees of loans, equity, investment, or other
21 private financings to expand the capital resources of a business enterprise;

22 (iv) To purchase advisory services and technical assistance to enable
23 the Department to better support economic development; and

24 (v) To pay expenses for administrative, legal and actuarial services for
25 the Department.

26 (2) Unless otherwise determined by the Secretary, moneys in the Fund that
27 have been generated by a particular division within the Department shall be allocated for
28 the use of that division.

29 (b) (1) The State Treasurer shall hold and the State Comptroller shall account
30 for the Fund.

31 (2) Any investment earnings of the Fund shall be paid into the Fund.

32 5-504.

33 (A) FOR THE PURPOSE OF MANAGING THE FUND OR ANY OTHER FUND
34 ADMINISTERED IN ACCORDANCE WITH THIS SUBTITLE, THE DEPARTMENT MAY
35 CONTRACT FOR AND ENGAGE, FOR A PERIOD OF 3 YEARS, THE SERVICES OF A
36 PERSON THAT HAS PRIOR EXPERIENCE IN VENTURE CAPITAL MANAGEMENT AND
37 INVESTMENT BANKING.

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1 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, DEPARTMENT
2 STAFF MAY BID FOR THE MANAGEMENT CONTRACT DESCRIBED IN SUBSECTION (A)
3 OF THIS SECTION.

4 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT
5 MAY ENTER INTO A CONTRACT WITH DEPARTMENT STAFF FOR THE MANAGEMENT
6 OF THE FUND.

7 (D) AFTER THE INITIAL 3-YEAR CONTRACT, THE DEPARTMENT MAY RENEW
8 THE INITIAL CONTRACT FOR AN ADDITIONAL 2-YEAR TERM.

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