
By: Delegates Barve, Frank, Walkup, and Crumlin

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Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 20, 1997

CHAPTER ____

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:

2

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

2 5-101.

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

7 5-102.

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

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

27 5-501.

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

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

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

32 (I) ARE EMPLOYED BY THE DEPARTMENT TO MANAGE OR
33 OPERATE ANY ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS;
34 AND

3

1 (II) HAVE FORMED THEMSELVES INTO A PRIVATE BUSINESS
2 ENTITY.

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

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

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

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

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

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

23 (5) The Department shall adopt regulations specifying:

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

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

30 5-502.

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

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

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

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

38 (3) Income from investments that the State Treasurer makes from moneys
39 in the Fund;

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

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

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

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

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

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

15 (8) Repayments received from conditional grants extended by the
16 Department; and

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

18 5-503.

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

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

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

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

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

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

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

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

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

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1 5-504.

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

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

10 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT
11 MAY ENTER INTO A CONTRACT WITH DEPARTMENT STAFF FOR THE MANAGEMENT
12 OF THE FUND.

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

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