
By: Senators Amoss, Miller, Hoffman, Currie, Lawlah, Munson, Middleton, Boozer, and Hogan

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Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 18, 1997

CHAPTER ____

1 AN ACT concerning

2 **Economic Development - Loans Guaranteed by Political Subdivisions**

3 FOR the purpose of permitting a loan under the Maryland Industrial Land Act and a
 4 loan or grant from the Maryland Industrial and Commercial Redevelopment Fund
 5 to be made to an entity other than a political subdivision; requiring that a certain
 6 percentage of a loan to an entity other than a political subdivision be guaranteed by
 7 a political subdivision; allowing the Secretary to eliminate, under certain
 8 circumstances, the requirement that a loan under the Maryland Industrial and
 9 Commercial Redevelopment Fund be guaranteed by a political subdivision; altering
 10 certain requirements of certain subdivisions receiving certain financial assistance
 11 under the Maryland Industrial Land Act and from the Maryland Industrial and
 12 Commercial Redevelopment Fund; requiring that certain investment earnings from
 13 the Maryland Industrial Land Act and the Industrial and Commercial
 14 Redevelopment Fund be paid to the Maryland Industrial Land Act and the
 15 Industrial and Commercial Redevelopment Fund rather than the General Fund;
 16 making a stylistic change; altering the Secretary's authority to make certain
 17 transfers among certain accounts within the Department or subject to its control;
 18 altering the Secretary's authority to modify certain terms of certain financial
 19 assistance under certain circumstances under the Maryland Industrial Land Act and
 20 the Industrial and Commercial Redevelopment Fund; making stylistic changes; and
 21 generally relating to the Maryland Industrial Land Act and the Industrial and
 22 Commercial Redevelopment Fund.

23 BY repealing and reenacting, with amendments,

24 Article 83A - Department of Business and Economic Development

25 Section 5-103, 5-705(f), 5-708, 5-712, 5-715, 5-802, 5-803(e), and 5-806

26 Section 5-103, 5-703(b), (c), (d), and (e), 5-704(a) and (c), 5-705(a), (c), (d)(1),

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1 and (f), 5-706, 5-707, 5-708, 5-709(b), (c), and (f)(1), 5-710, 5-712, 5-715,
2 5-801, 5-802, 5-803(a) and (c), 5-804, 5-805, and 5-806
3 Annotated Code of Maryland
4 (1995 Replacement Volume and 1996 Supplement)

5 BY adding to
6 Article 83A - Department of Business and Economic Development
7 Section 5-716
8 Annotated Code of Maryland
9 (1995 Replacement Volume and 1996 Supplement)

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

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

13 5-103.

14 (a) Notwithstanding any other provision of law EXCEPT FOR §§ 5-715 AND 5-802
15 OF THIS ARTICLE, the Secretary may transfer funds among any of the various accounts
16 within the Department or subject to its control, that are used to provide financial support
17 of any kind.

18 (b) Notwithstanding any other provision of law EXCEPT FOR §§ 5-715 AND 5-802
19 OF THIS ARTICLE, the Secretary may transfer funds from any of the accounts described
20 in subsection (a) of this section to the Economic Development Opportunities Program
21 Fund established under § 7-314 of the State Finance and Procurement Article.

22 (c) Where applicable, transfers under this section must comply with the
23 provisions of §§ 5-930(g) and 5-932(h) of this article.

24 (d) The Secretary shall accomplish any transfer under this section in accordance
25 with the appropriation amendment process under § 7-209 of the State Finance and
26 Procurement Article.

27 5-703.

28 (b) "BORROWER" MEANS A POLITICAL SUBDIVISION OR PRIVATE ENTITY
29 THAT BORROWS FUNDS UNDER THIS SUBTITLE.

30 (C) "County" includes the City of Baltimore.

31 [(c)] (D) "Department" means the Department of Business and Economic
32 Development.

33 [(d)] (E) "Political subdivision" or "subdivision" means:

34 (1) A county; [or]

35 (2) A municipal corporation subject to the provisions of Article XI-E of the
36 Maryland Constitution; OR

1 (3) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION,
2 PROVIDING THE SECRETARY DETERMINES THAT:

3 (I) A COUNTY'S OR A MUNICIPAL CORPORATION'S PLEDGE OF
4 FULL FAITH AND CREDIT WOULD NOT BE FISCALLY PRUDENT DUE TO THE
5 COUNTY'S OR MUNICIPAL CORPORATION'S FINANCIAL SITUATION;

6 (II) THE PROJECT CONSTITUTES A SIGNIFICANT ECONOMIC
7 DEVELOPMENT OPPORTUNITY FOR THE STATE; AND

8 (III) THE PROJECT'S EXPECTED REVENUE SUPPORTS THE
9 REQUESTED FINANCING.

10 [(e)] (F) "Secretary" means the Secretary of Business and Economic
11 Development.

12 5-704.

13 (a) Any [political subdivision of the State] BORROWER desiring to acquire land
14 under this section shall make application for each project to the Secretary. The
15 application shall describe the project in such manner and detail as the Secretary may, by
16 regulation, determine, and shall include, without limitation:

17 (1) A full description of the land and its characteristics;

18 (2) A complete statement as to why the land is particularly suited to
19 industry, and what particular industry or industries it is best suited to;

20 (3) A statement of the likelihood of any particular industry or industrial
21 concern being interested in the land in the near future;

22 (4) A description of the zoning, sanitary and other appropriate laws and
23 regulations applicable to the land, and whether any changes therein are contemplated by
24 the applicant;

25 (5) Whether the applicant has adopted or developed a general industrial
26 land acquisition plan, and, if so, a complete description of the plan and how the project
27 applied for relates to the plan;

28 (6) Appraisals by two qualified appraisers approved by the Secretary of the
29 current market value of the land;

30 (7) A description of employment and unemployment conditions in the
31 subdivision and in the particular area in which the land is located, including the rate of
32 unemployment, if available, and any anticipated developments which may affect the rate
33 of unemployment in the near future; and

34 (8) Whether there is a shortage of industrial land in the subdivision and in
35 the particular area in which the land is located.

36 (c) (1) Upon approval of a loan, the Secretary shall enter into a loan agreement
37 with the [borrowing subdivision] BORROWER.

38 (2) Each loan agreement shall include:

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1 (i) A provision for payments of interest only for a period not to exceed
2 5 years from the date of the loan;

3 (ii) A provision for payments of principal and interest, in accordance
4 with an amortization schedule that the Secretary approves, for not more than a 40-year
5 period from the end of the interest only payment period;

6 (iii) A provision for an interest rate that equals:

7 1. The net interest cost of the most recent sale of State general
8 obligation bonds before the date of the loan plus 1/8 of 1 percent, for a loan made from
9 sources other than State general obligation bond proceeds;

10 2. For a loan made from the proceeds of a State general
11 obligation bond issue either:

12 A. The net interest cost of the sale of State general obligation
13 bonds out of which the loan is made plus 1/8 of 1 percent; or

14 B. The maximum interest rate permitted under applicable
15 federal tax law or required pursuant to resolutions of the Board of Public Works adopted
16 in connection with the issuance of the State general obligation bonds out of which the
17 loan is made;

18 (iv) A provision that requires the [borrowing subdivision]
19 BORROWER to give the Secretary at least 30 days prior written notice of any proposed
20 sale, lease, or conveyance and that requires that prior written approval of the Secretary
21 before the sale, lease, or conveyance, which approval the Secretary shall grant unless the
22 sale, lease, or conveyance violates a provision of the loan agreement or is clearly
23 inconsistent with the purposes of this subtitle; and

24 (v) A provision that requires, on sale of any portion of the land,
25 prepayment of the principal of the loan from the sale proceeds in an amount that equals
26 the amount of the original loan multiplied by the proportion of the land sold to the
27 amount of land which remains when any land reserved for use by an entire industrial park
28 is subtracted from the total land for which the loan was made originally and a provision
29 for reducing the amortization payments accordingly.

30 (3) The loan agreement may contain regulatory and security provisions.

31 5-705.

32 (a) Any [political subdivision of the State] BORROWER may apply to the
33 Secretary for a loan to finance, with respect to an industrial park project described in the
34 application, any one or more of the following industrial park project costs:

35 (1) Planning and/or engineering study costs;

36 (2) Land acquisition;

37 (3) Water distribution, sewer collection and other utility lines, unless and
38 except to the extent that any such costs are or will be borne by a public utility;

39 (4) Access and internal roads;

5

1 (5) Street lighting;

2 (6) Installation of rail spurs, unless and except to the extent that any such
 3 costs are or will be borne by a railroad;

4 (7) Costs unique to a specialized industrial park, including, without
 5 limitation, items such as bulkheading, docks and aircraft runways or aprons;

6 (8) Site preparation, such as clearing and grading;

7 (9) Rehabilitation of existing buildings to make them suitable for
 8 manufacturing, assembly, fabricating, processing, warehousing, research and
 9 development, or office use. Such buildings may be intended for multitenant or single
 10 tenant occupancy;

11 (10) Demolition, provided that it is done in conjunction with new
 12 construction financed under this subtitle; and

13 (11) For a vertical industrial park, which is a structure suited for multitenant,
 14 primarily industrial use, new construction.

15 (c) The Secretary, upon receipt of an application and after such investigation as
 16 he deems advisable, may approve a loan of up to fifty percent of the anticipated project
 17 cost, as determined by the Secretary, but not exceeding \$1,500,000 for any one project. In
 18 judging whether or not to approve a loan and the amount of a loan, the Secretary shall
 19 consider and determine in addition to those factors set forth in § 5-704(b) of this subtitle,
 20 (i) whether the [subdivision] BORROWER has available and committed toward the
 21 project sufficient funds to finance its share of the anticipated project costs; provided,
 22 however, that the Secretary may consider in lieu of funds on hand official and
 23 noncontingent commitments of funds from federal agencies, financial institutions, or
 24 other reliable sources; and provided further that the Secretary may grant a conditional
 25 approval for a period not exceeding two years in any case where application for all or part
 26 of the balance of the required funds has been made to a federal agency, financial
 27 institution, or other reliable source and additional time is required for affirmative action
 28 on the application, and (ii) the [subdivision] BORROWER has presented evidence
 29 demonstrating its ability to carry out and complete the project as planned.

30 (d) (1) Upon approval of a loan, the Secretary shall enter into a loan agreement
 31 with the [borrowing subdivision] BORROWER.

32 (f) (1) The Secretary may, upon application and after investigation, approve a
 33 loan not exceeding \$25,000 and on [an equal] A 10 PERCENT matching basis with funds
 34 of the ~~borrowing subdivision~~ BORROWER, for the purpose of financing planning or
 35 engineering study costs of or for a project [situate] SITUATED or to be [situate]
 36 SITUATED on land owned by or under option to the ~~borrowing subdivision~~ BORROWER
 37 or owned by the federal government upon reasonable assurance that the site will be made
 38 available to the ~~subdivision~~ BORROWER.

39 (2) Upon approval of any such loan, the Secretary and the ~~subdivision~~
 40 BORROWER shall enter into a loan agreement requiring repayment within five years at an
 41 interest rate calculated pursuant to § 5-704(c)(2)(iii) of this subtitle and in accordance
 42 with an amortization schedule approved by the Secretary.

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1 5-706.

2 (a) (1) In this section, the following words have the meanings indicated.

3 (2) "Project costs" may include planning and engineering studies, land
4 acquisition, site preparation, and all construction costs.

5 (3) "Shell building" means a basic structure of flexible design or a
6 rehabilitated building, erected on land owned or controlled by the [political subdivision]
7 BORROWER, for eventual sale or lease to a purchaser or tenant requiring facilities for
8 manufacturing, assembling, fabricating, processing, warehousing, research and
9 development, or office use.

10 (b) Any [political subdivision] BORROWER may apply to the Secretary for a loan
11 to finance project costs of a shell building project. The application shall describe the
12 project in the manner and detail required by the Secretary and shall include the
13 information set forth in § 5-704(a) of this subtitle as it relates to the shell building
14 project, and a complete breakdown of the anticipated cost of the project.

15 (c) In determining whether or not to approve a loan and the amount of the loan,
16 the Secretary shall consider those factors set forth in § 5-704(b) of this subtitle as they
17 relate to the shell building project. After the investigation he considers necessary, the
18 Secretary may approve a loan of all or any part of the project costs, not to exceed
19 \$2,000,000.

20 (d) On approval of a loan, the Secretary shall enter into a loan agreement with the
21 [borrowing political subdivision] BORROWER providing for payment of interest only, at
22 a rate determined by the Secretary in accordance with § 5-704(c)(2)(iii) of this subtitle,
23 beginning on the date of the loan and continuing for a period not to exceed two years
24 after that date. On sale of the shell building, the [political subdivision] BORROWER
25 shall repay the entire amount of the loan. Subject to the required repayment in the event
26 of a sale, the principal balance of the loan remaining at the end of the interest only
27 payment period shall be amortized over a period not exceeding 25 years in accordance
28 with an amortization schedule approved by the Secretary. The [borrowing subdivision]
29 BORROWER shall give to the Secretary at least 30 days advance notice and obtain his
30 written approval of any sale or lease. The loan agreement may contain regulatory and
31 security provisions.

32 (e) (1) The loan agreement shall be recorded among the land records of the
33 political subdivision in which the project is located and shall constitute a lien on the land
34 and the improvements.

35 (2) Paragraph (1) of this subsection does not apply if a federally funded
36 contract, grant, loan, project, or reimbursement prohibits the placement of a lien on the
37 land or improvements that a [political subdivision] BORROWER includes in a loan
38 agreement made under this section.

39 5-707.

40 (a) (1) In this section, the following words have the meanings indicated.

7

1 (2) "Incubator" means any building of flexible design, owned or controlled
2 by a [political subdivision] BORROWER, for eventual lease to multiple new businesses
3 which share support services and facilities.

4 (3) "New businesses" are businesses which have been in existence for no
5 longer than 3 years.

6 (4) "Project costs" may include planning and engineering studies, design
7 and engineering services, and building acquisition and building rehabilitation.

8 (5) "State-financed research" means research financed in part with the
9 assistance of the State.

10 (b) Any [political subdivision] BORROWER may apply to the Secretary for a loan
11 to finance project costs of rehabilitation of existing buildings for incubators.

12 (c) The application shall describe the project in such manner and detail as the
13 Secretary may, by regulation, determine and shall include the information set forth in §
14 5-704(a) of this subtitle as it relates to the incubator project, and a complete breakdown
15 of the anticipated costs of the project.

16 (d) In determining whether or not to approve a loan and the amount of the loan,
17 the Secretary shall consider those factors set forth in § 5-704(b) of this subtitle as they
18 relate to the incubator project.

19 (e) After the investigation the Secretary considers necessary, the Secretary may
20 approve a loan of all or any part of the project costs, not to exceed \$1,500,000 for any 1
21 incubator, except that in the case of an incubator for which the [political subdivision]
22 BORROWER has an executed lease agreement acceptable to the Secretary with at least 1
23 new business which will be conducting State-financed research as a tenant of the
24 incubator, the loan amount under this subsection shall not exceed \$2,500,000.

25 (f) On approval of the loan, the Secretary shall enter into a loan agreement with
26 the [borrowing political subdivision] BORROWER providing for:

27 (1) Payment of interest only, at a rate determined by the Secretary in
28 accordance with § 5-704(c)(2)(iii) of this subtitle, beginning on the date of the loan and
29 continuing for a period not to exceed 2 years after that date;

30 (2) Payments of principal and interest, in accordance with an amortization
31 schedule approved by the Secretary, for a period not to exceed 25 years from the end of
32 the interest only payment period;

33 (3) Repayment of the entire amount due under the loan in the event of sale
34 of the incubator;

35 (4) At least 30 days' advance notice to the Secretary by the [political
36 subdivision] BORROWER of any proposed sale or lease of the incubator;

37 (5) The [political subdivision] BORROWER obtaining the Secretary's
38 written approval of any such sale or lease; and

39 (6) Regulatory or security provisions, as the Secretary deems appropriate.

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1 (g) The loan agreement shall be recorded among the land records of the political
 2 subdivision IN WHICH THE PROJECT IS LOCATED and shall constitute a lien on the land
 3 and improvements.

4 5-708.

5 (a) On application and upon complying with the requirements of § 5-704(a) after
 6 investigation, the Secretary may approve a loan, not exceeding \$50,000 and on [an equal]
 7 A 10 PERCENT matching basis with funds of the ~~borrowing subdivision~~ BORROWER, for
 8 the purpose of acquiring options to purchase prospective industrial land sites or industrial
 9 park sites.

10 (b) On approval of a loan under this section, the Secretary and the ~~borrowing~~
 11 ~~subdivision~~ BORROWER shall enter into a loan agreement requiring repayment within
 12 seven years at an interest rate calculated pursuant to § 5-704(c)(2)(iii) of this subtitle,
 13 and in accordance with an amortization schedule approved by the Secretary. The loan
 14 agreement may require repayment from the proceeds of any loan made under § 5-704 or
 15 § 5-705 of this subtitle.

16 5-709.

17 (b) Subject to the provisions of this section, any [political subdivision]
 18 BORROWER may apply for and the Secretary may approve a loan to finance any portion
 19 of the project costs of an access road, a utility line, or both.

20 (c) (1) To apply for assistance, a [political subdivision] BORROWER shall
 21 submit an application to the Department.

22 (2) In the manner and detail required by the Secretary, the application
 23 shall:

24 (i) Explain the need for the project for which assistance is requested;
 25 and

26 (ii) State the amount and type of assistance requested for the project.

27 (3) The application also shall include a certification by the [political
 28 subdivision] BORROWER that the project for which assistance is requested would serve a
 29 manufacturing, processing, or other industrial establishment that has been constructed or
 30 will be constructed.

31 (f) (1) Before making a loan that has been approved by the Secretary under this
 32 section, the Department shall enter into a loan agreement with the [borrowing political
 33 subdivision] BORROWER.

34 5-710.

35 Notwithstanding any other provision of this subtitle, the Secretary may approve
 36 loans in the following amounts for projects within an enterprise zone designated under §
 37 5-402 of this article:

38 (1) For any loan to acquire land under § 5-704 OF THIS SUBTITLE, up to
 39 100 percent of the current market value of the land, as determined by [him] THE
 40 SECRETARY, but not exceeding \$1,000,000 for any one project;

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1 (2) For any loan to finance industrial park project costs under § 5-705 OF
 2 THIS SUBTITLE, up to 50 percent of the anticipated project costs, as determined by the
 3 Secretary, but not exceeding \$2,000,000 for any one project;

4 (3) For any loan to finance project costs of a shell building project under §
 5 5-706 OF THIS SUBTITLE, all or any part of the project costs, not to exceed \$2,500,000;

6 (4) For any loan for the purpose of acquiring options to purchase
 7 prospective industrial land sites or industrial park sites under § 5-708 OF THIS SUBTITLE,
 8 a loan not exceeding \$100,000 and on [an equal] A TEN PERCENT matching basis with
 9 funds of the [borrowing subdivision] BORROWER.

10 5-712.

11 [A] (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBSECTION, THE
 12 FIRST 40 PERCENT OF THE INITIAL PRINCIPAL BALANCE OF A loan under this subtitle
 13 is a general obligation of the ~~borrowing~~ POLITICAL subdivision IN WHICH THE PROJECT
 14 IS LOCATED, to the repayment of which the subdivision's full faith and credit are pledged
 15 or an obligation of Baltimore City repayable from assets and revenues as provided
 16 EITHER in the loan ~~agreement~~ DOCUMENT BETWEEN THE DEPARTMENT AND A
 17 BORROWING POLITICAL SUBDIVISION OR, WHEN THE POLITICAL SUBDIVISION IS
 18 NOT THE BORROWER, IN A GUARANTEE AGREEMENT BETWEEN THE DEPARTMENT
 19 AND A POLITICAL SUBDIVISION. However, notwithstanding any other provision of law, a
 20 loan to OR GUARANTEE BY Baltimore City, Baltimore County, Prince George's County,
 21 or any municipal corporations, under this subtitle may be undertaken or entered into by
 22 the counties, municipal corporations, or Baltimore City pursuant to and within the
 23 limitations of this subtitle without regard to any limitations set forth in its charter or other
 24 applicable public local or public general law that would otherwise apply, and without
 25 complying with any procedures set forth in its charter or other applicable public local or
 26 public general law that would otherwise be required. The Secretary, upon the sale of any
 27 part of the land subject to the lien of a loan agreement and prepayment of principal as
 28 provided in this subtitle, or where land subject to the lien of a loan agreement as provided
 29 in this subtitle is reserved for use for an entire industrial park, shall execute a partial
 30 release of such land from the lien of the loan agreement.

31 (B) THE SECRETARY MAY INCREASE THE PERCENT OF THE INITIAL
 32 PRINCIPAL BALANCE OF A LOAN MADE UNDER THIS SUBTITLE THAT CONSTITUTES A
 33 GENERAL OBLIGATION OF THE SUBDIVISION IN WHICH THE PROJECT IS LOCATED IF
 34 THE SECRETARY DETERMINES THAT THE REQUESTED FINANCING IS NOT
 35 SUFFICIENTLY SUPPORTED BY:

36 (1) THE QUALITY OF THE BORROWER'S CREDIT; OR

37 (2) THE EXPECTED REVENUE OF THE PROJECT.

38 5-715.

39 (A) Any INVESTMENT EARNINGS OF THE FUND, AND ANY moneys received in
 40 payment of interest and repayment of principal under loan agreements provided for in
 41 this subtitle shall be deposited in the Treasury and shall constitute a permanent special
 42 fund to be known as the "Industrial Land Fund". The moneys in the Industrial Land
 43 Fund from time to time may be expended (1) for the same purposes as the proceeds of

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1 the loan authorized by this subtitle, and (2) to pay any and all expenses in connection with
2 the administration of this subtitle including, by way of example, expenses for
3 administration, legal, actuarial, and other services, and such moneys shall be used for no
4 other purpose.

5 (B) (1) EXCEPT TO THE INDUSTRIAL AND COMMERCIAL REDEVELOPMENT
6 FUND, THE SECRETARY MAY NOT TRANSFER FUNDS FROM THE FUND TO ANY OF
7 THE VARIOUS ACCOUNTS WITHIN THE DEPARTMENT OR SUBJECT TO ITS CONTROL.

8 (2) THE SECRETARY SHALL ACCOMPLISH ANY TRANSFER UNDER THIS
9 SECTION IN ACCORDANCE WITH THE APPROPRIATION AMENDMENT PROCESS
10 UNDER § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 5-716.

12 THE SECRETARY MAY MODIFY THE TERMS OF ANY FINANCIAL ASSISTANCE
13 PROVIDED UNDER THIS SUBTITLE, INCLUDING THE RATE OF INTEREST, THE TIMING
14 OR AMOUNT OF REPAYMENT, FORGIVENESS OF PRINCIPAL AND INTEREST, OR ANY
15 OTHER TERM, IF THE SECRETARY OBTAINS THE PRIOR APPROVAL OF THE BOARD
16 OF PUBLIC WORKS AND THE POLITICAL SUBDIVISION ~~THAT RECEIVED THE~~
17 ~~FINANCIAL ASSISTANCE IN WHICH THE PROJECT IS LOCATED.~~

18 5-801.

19 (a) In this subtitle the following words have the meanings indicated.

20 (B) "APPLICANT" MEANS A POLITICAL SUBDIVISION OR PRIVATE ENTITY
21 THAT IS APPLYING FOR A LOAN OR GRANT UNDER THIS SUBTITLE.

22 [(b)] (C) "Department" means the Department of Business and Economic
23 Development.

24 [(c)] (D) (1) "Eligible project cost" means the cost of planning, developing,
25 executing, and making operative an industrial or commercial redevelopment project.

26 (2) "Eligible project cost" includes:

27 (i) The cost of purchasing, leasing, condemning, or otherwise
28 acquiring land or other property, or an interest in them, in the designated project area or
29 as necessary for a right-of-way or other easement to or from the project area;

30 (ii) The cost incurred in connection with or incidental to acquisition
31 and management of the land, property, or interest;

32 (iii) The cost incurred for or in connection with the relocation and
33 moving of persons or other legal entities displaced by the acquisition;

34 (iv) The cost of development or redevelopment, including:

35 1. The comprehensive renovation or rehabilitation of the land,
36 property, or interest in them; and

37 2. The disposition of land or other property for these purposes;

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1 (v) The cost of demolishing, removing, relocating, renovating, altering,
2 constructing, reconstructing, installing, or repairing any land or any building, street,
3 highway, alley, utility, service, or other structure or improvement;

4 (vi) The cost incurred for or incidental to doing anything enumerated
5 in this paragraph, including the cost and expense of securing:

6 1. Administrative, appraisal, economic, and environmental
7 analysis;

8 2. Engineering service;

9 3. Planning service;

10 4. Design service;

11 5. Architectural service;

12 6. Surveying service; and

13 7. Other professional service.

14 [(d)] (E) "Fund" means the Industrial and Commercial Redevelopment Fund.

15 [(e)] (F) "Political subdivision" includes:

16 (1) [a] A county or municipal corporation and its designated agency or
17 instrumentality; AND

18 (2) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION,
19 PROVIDING THE SECRETARY DETERMINES THAT:

20 (I) A COUNTY'S OR A MUNICIPAL CORPORATION'S PLEDGE OF
21 FULL FAITH AND CREDIT WOULD NOT BE FISCALLY PRUDENT DUE TO THE
22 COUNTY'S OR MUNICIPAL CORPORATION'S FINANCIAL SITUATION;

23 (II) THE PROJECT CONSTITUTES A SIGNIFICANT ECONOMIC
24 DEVELOPMENT OPPORTUNITY FOR THE STATE; AND

25 (III) THE PROJECT'S EXPECTED REVENUE SUPPORTS THE
26 REQUESTED FINANCING.

27 [(f)] (G) "Secretary" means the Secretary of Business and Economic
28 Development.

29 5-802.

30 (a) There is an Industrial and Commercial Redevelopment Fund.

31 (b) The Fund is a continuing, nonlapsing special fund that consists of moneys
32 appropriated by the State to the Fund and of any repayment of principal or interest on a
33 loan made from the Fund.

34 (c) The Department shall manage and supervise the Fund.

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1 (d) The State Treasurer shall hold, and the State Comptroller shall account for
2 the Fund.

3 (e) The Fund shall be invested and reinvested in the same manner as other State
4 funds. Any investment earnings of the Fund [shall be paid into the General Fund of the
5 State.]MAY NOT BE TRANSFERRED OR REVERT BACK TO THE GENERAL FUND, BUT
6 SHALL REMAIN IN THE FUND TO BE USED FOR PURPOSES SPECIFIED IN THIS
7 SUBTITLE.

8 (f) On July 1 of each year, moneys in the Fund in excess of \$15,000,000 shall be
9 paid over to the General Fund of the State.

10 (g) The moneys in the Fund may be expended to pay all expenses in connection
11 with the administration of this subtitle, including expenses for administrative, legal,
12 actuarial, and other services.

13 (H) (1) EXCEPT TO THE INDUSTRIAL LAND FUND, THE SECRETARY MAY
14 NOT TRANSFER FUNDS FROM THE FUND TO ANY OF THE VARIOUS ACCOUNTS
15 WITHIN THE DEPARTMENT OR SUBJECT TO ITS CONTROL.

16 (2) THE SECRETARY SHALL ACCOMPLISH ANY TRANSFER UNDER THIS
17 SECTION IN ACCORDANCE WITH THE APPROPRIATION AMENDMENT PROCESS
18 UNDER § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19 5-803.

20 (a) The Department may make a loan or grant to [a political subdivision] AN
21 APPLICANT to cover part of the eligible project costs of an industrial or commercial
22 redevelopment project. Proceeds of a loan or grant may be:

23 (1) Expended directly by the [political subdivision] APPLICANT;

24 (2) Loaned or granted by [the] A BORROWING political subdivision; or

25 (3) Used by [the] A BORROWING political subdivision to guarantee loans,
26 to a private entity which has made a firm commitment to carry out part or all of an
27 industrial or commercial redevelopment project.

28 (c) (1) A loan or grant may be for up to 90 percent of the nonfederal and
29 nonprivate portion of the eligible project costs. However, a loan that, as to principal, is to
30 be repaid in full may not exceed \$3,000,000. Any other loan or grant may not exceed
31 \$2,000,000. The aggregate cumulative total of grants and outstanding principal balance of
32 loans, made to or within any one county or, Baltimore City, may not exceed 40 percent of
33 the aggregate cumulative total of appropriations and payments to the Fund, except that
34 the aggregate cumulative total of grants and outstanding principal balance of loans may
35 exceed the 40 percent limitation by an additional sum not to exceed 25 percent of such
36 amount, if the additional sum is restricted to loans made to ~~a political subdivision~~ AN
37 APPLICANT exclusively for use within an area designated an enterprise zone pursuant to
38 § 5-402 of this article. Not more than 50 percent of the cumulative total of appropriations
39 and payments to the Fund may be made available as grants or loans to all of the
40 designated enterprise zones in the State.

41 (2) As determined by the Secretary, the principal of a loan:

13

1 (i) May be repayable, in whole or in part, from specified revenues or
2 on a contingency;

3 (ii) May be noninterest bearing or bear interest at a rate of not more
4 than 1/8 of 1 percent plus the interest cost of the:

5 1. Most recent State general obligation bond issue preceding
6 approval by the Secretary of the application for the loan for a loan made from sources
7 other than State general obligation bond proceeds; or

8 2. State general obligation bond issue out of which the loan is
9 made for a loan made from the proceeds of a State general obligation bond issue; AND

10 (iii) To the extent that it is to be repaid, may be repayable in
11 accordance with any schedule, with maturity of up to 25 years; ~~and~~

12 ~~(iv) To the extent that it is to be repaid (3) EXCEPT AS PROVIDED IN~~
13 PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, THE FIRST 40 PERCENT OF THE
14 OBLIGATION INITIAL PRINCIPAL BALANCE OF A LOAN MADE UNDER THIS SUBTITLE
15 is a general obligation secured by the assets and revenues of the political subdivisions that
16 will assure repayment SUBDIVISION IN WHICH THE PROJECT IS LOCATED AS
17 PROVIDED EITHER IN THE LOAN DOCUMENT BETWEEN THE DEPARTMENT AND A
18 BORROWING POLITICAL SUBDIVISION OR, WHEN A POLITICAL SUBDIVISION IS NOT
19 THE BORROWER, IN A GUARANTEE AGREEMENT BETWEEN THE DEPARTMENT AND
20 A POLITICAL SUBDIVISION. However, notwithstanding any other provision of law, a loan
21 to OR GUARANTEE BY Baltimore City, Baltimore County, or Prince George's County,
22 under this subtitle may be undertaken or entered into by the counties or Baltimore City
23 pursuant to and within the limitations of this subtitle without regard to any limitations set
24 forth in its charter or other applicable public local or public general law that would
25 otherwise apply, and without complying with any procedures set forth in its charter or
26 other applicable public local or public general law that would otherwise be required.

27 (4) THE SECRETARY MAY INCREASE THE PERCENT OF THE INITIAL
28 PRINCIPAL BALANCE OF A LOAN MADE UNDER THIS SUBTITLE THAT CONSTITUTES A
29 GENERAL OBLIGATION OF THE SUBDIVISION IN WHICH THE PROJECT IS LOCATED IF
30 THE SECRETARY DETERMINES THAT THE REQUESTED FINANCING IS NOT
31 SUFFICIENTLY SUPPORTED BY:

32 (I) THE QUALITY OF THE APPLICANT'S CREDIT; OR

33 (II) THE EXPECTED REVENUE OF THE PROJECT.

34 (5) UPON APPROVAL OF THE SECRETARY, A LOAN MADE UNDER THIS
35 SUBTITLE DOES NOT CONSTITUTE A GENERAL OBLIGATION OF THE POLITICAL
36 SUBDIVISION IN WHICH THE PROJECT IS LOCATED IF:

37 (I) THE LOAN DOES NOT EXCEED \$100,000;

38 (II) THE POLITICAL SUBDIVISION IN WHICH THE PROJECT IS
39 LOCATED PROVIDES CASH FUNDS FOR THE PROJECT THAT EQUALS 40 PERCENT OF
40 THE LOAN MADE UNDER THIS SUBTITLE; AND

14

1 (III) THE SECRETARY DETERMINES THAT THE DEPARTMENT HAS
2 ADEQUATE COLLATERAL TO SECURE THE LOAN OR THAT THE PROJECT IS
3 EXPECTED TO GENERATE REVENUE SUFFICIENT TO REPAY THE LOAN.

4 5-804.

5 (a) For approval of a loan or grant by the Secretary, the [political subdivision or
6 its development agency] APPLICANT shall file with the Department a project plan that
7 includes:

8 (1) A legal description of the land within the project area;

9 (2) A description of the present condition and uses of the land;

10 (3) A description of the types and locations of land uses proposed for the
11 project area;

12 (4) A description of the types and locations of present and proposed streets,
13 sidewalks, and sanitary, utility and other facilities, and of other proposed site
14 improvements;

15 (5) Statements of the present and proposed zoning classification and
16 subdivision status of the project area and the areas adjacent to the project area;

17 (6) A financing plan, including a request for a loan or a grant, and an
18 explanation of the basis for the request that particularly explains the relationship of the
19 request to the factors that the Secretary is required to consider;

20 (7) An administrative plan;

21 (8) A marketability and proposed land-use study that appropriate appraisal
22 reports support;

23 (9) Findings that:

24 (i) The land within the project area will be used principally for
25 industrial or business purposes;

26 (ii) The plan is in accordance with the plan of development, including
27 any comprehensive or general plan, for the political subdivision IN WHICH THE PROJECT
28 IS LOCATED that its planning commission adopted and with the plan of development of
29 the regional planning agency, if any, for the region within which the political subdivision
30 is located or, if the political subdivision within a county does not have a planning
31 commission, the plan is in accordance with the plan of development that the county
32 within which the political subdivision is situated adopted;

33 (iii) The plan is not inimical to any statewide planning program
34 objectives of the State or any of its agencies; and

35 (iv) The project will contribute to the economic welfare of the political
36 subdivision IN WHICH THE PROJECT IS LOCATED;

37 (10) The type of public action necessary to carry out and administer the
38 project;

15

1 (11) An action plan and schedule for actual reuse after acquisition and
2 clearance has been accomplished;

3 (12) A plan for the utilization of minority contractors and assurance of equal
4 opportunity in employment in connection with the project;

5 (13) A statement of the impact of the project on the natural, historic, and
6 social environment;

7 (14) Where applicable, a plan for relocating project-area occupants; and

8 (15) Any additional information, drawings, plans, reports, or estimates that
9 the Department requires.

10 (b) As a further step towards and condition of approval of a grant OR LOAN TO
11 AN APPLICANT by the Secretary, the general concept of the project plan, including a
12 designation of the project area, shall be the subject of a public hearing on adequate notice
13 and publicity and shall be endorsed by the chief executive officer of the political
14 subdivision IN WHICH THE PROJECT IS LOCATED or, if there is no chief executive
15 officer, by the governing body of the political subdivision.

16 5-805.

17 (a) In approving an application for a loan or grant, the Secretary shall use as the
18 governing criterion, the degree of desirable economic and social benefit expected to be
19 derived per dollar of State expenditure. In applying this criterion, the Secretary shall
20 consider at least the following factors:

21 (1) The population of the [applying] political subdivision IN WHICH THE
22 PROJECT IS LOCATED and of the area affected by the project;

23 (2) The extent of economic and related social distress, underemployment,
24 and unemployment in the political subdivision IN WHICH THE PROJECT IS LOCATED and
25 of the area affected by the project and the degree to which it will be relieved by the
26 carrying out of the project;

27 (3) The degree of revitalization, renovation, rehabilitation, and physical
28 improvement to be accomplished by the project;

29 (4) The degree to which the project will advance statewide and/or local
30 economic development strategies and objectives;

31 (5) The degree to which available sources of federal financial support have
32 been sought and will be utilized;

33 (6) The degree to which local governmental sources of funding are
34 committed to the project;

35 (7) The degree to which private financial resources are committed to the
36 project;

37 (8) The degree to which the community directly impacted has demonstrated
38 their commitment to the project;

16

1 (9) The likelihood of recoupment of project costs through sale or lease of
2 redeveloped property or increased assessable base, although this factor does not preclude
3 the use of write-downs or favorable property tax treatment for the purpose of stimulating
4 economic and commercial activity; and

5 (10) The degree of assurance that the project will be completed on time and
6 within its budget.

7 (b) In determining whether the expenditure of State funds shall be in the form of
8 a loan or grant and in determining the terms of a loan, the Secretary shall consider, as
9 additional factors:

10 (1) The fiscal situation of the [applying political subdivision] APPLICANT;

11 (2) The funds available in the Industrial and Commercial Redevelopment
12 Fund; and

13 (3) The degree of State assistance needed for the project, with the objective
14 of conserving the State's limited financial resources.

15 5-806.

16 (A) If an application for a grant or loan meets the general criterion and supporting
17 factors and is justified in relation to competing applications and the amount of funds
18 available, the Secretary shall make a preliminary finding of feasibility and communicate
19 to the ~~political subdivision~~ APPLICANT any recommended changes in the project plan and
20 any conditions to the loan or grant, not inconsistent with this subtitle or other law. The
21 project plan, including the terms of the loan or grant, as revised by the process of
22 consultation between the ~~political subdivision~~ APPLICANT and the Department, shall be
23 submitted to the local governing body in its final form. On approval of the final plan, by
24 ordinance or resolution, the Secretary shall recommend to the Board of Public Works
25 approval of the loan or grant. The Board of Public Works may approve the loan or grant
26 conditional on modifying its terms.

27 (B) ~~THE SECRETARY MAY EXTEND THE TERM OF A LOAN OR GRANT MADE IN~~
28 ~~ACCORDANCE WITH THIS SUBTITLE WITH THE PRIOR APPROVAL OF THE BOARD OF~~
29 ~~PUBLIC WORKS AND THE POLITICAL SUBDIVISION THAT RECEIVED THE FINANCIAL~~
30 ~~ASSISTANCE IN WHICH THE PROJECT IS LOCATED.~~

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