

HOUSE BILL 1168

Unofficial Copy
M3

1998 Regular Session
(8r1821)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs and Budget and Taxation --

Introduced by **Delegates McHale, Guns, Hammen, Billings, Hubbard, Stup, Klausmeier, Morhaim, T. Murphy, and Oaks**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Small Business Pollution Compliance Loan Fund**

3 FOR the purpose of establishing a Small Business Pollution Compliance Loan Fund;
4 providing for the purposes and administration of the Fund; authorizing the
5 Board of Public Works to award certain loans to certain persons for certain
6 purposes from the Fund; requiring the Department of the Environment to adopt
7 certain regulations; providing certain standards for certain loans; requesting the
8 Governor to provide certain funding for the Fund; defining certain terms;
9 providing for a delayed effective date; and generally relating to the Small
10 Business Pollution Compliance Loan Fund.

11 BY adding to

12 Article - Environment

13 Section 2-801 through 2-806, to be under the new subtitle "Subtitle 8. Small

14 Business Pollution Compliance Loan Fund"

15 Annotated Code of Maryland

1 (1996 Replacement Volume and 1997 Supplement)

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

4 **Article - Environment**

5 SUBTITLE 8. SMALL BUSINESS POLLUTION COMPLIANCE LOAN FUND.

6 2-801.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "FUND" MEANS THE SMALL BUSINESS POLLUTION COMPLIANCE LOAN
10 FUND ESTABLISHED UNDER THIS SUBTITLE.

11 (C) "SMALL BUSINESS" MEANS AN ENTERPRISE THAT EMPLOYS 25 OR FEWER
12 FULL-TIME EMPLOYEES.

13 2-802.

14 (A) THERE IS A SMALL BUSINESS POLLUTION COMPLIANCE LOAN FUND.

15 (B) (1) THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE
16 DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND
17 REGULATIONS OF THE SECRETARY AND THE BOARD OF PUBLIC WORKS.

18 (2) THE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND WHICH IS
19 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND
20 WHICH SHALL BE AVAILABLE IN PERPETUITY FOR THE PURPOSE OF PROVIDING
21 FINANCIAL ASSISTANCE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

22 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE
23 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

24 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
25 MANNER AS OTHER STATE FUNDS.

26 (C) THE FUND CONSISTS OF:

27 (1) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR DEPOSIT
28 TO THE FUND;

29 (2) PAYMENTS RECEIVED FROM ANY BORROWER IN REPAYMENT OF A
30 LOAN;

31 (3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF
32 MONEYS IN THE FUND; AND

1 (4) ANY ADDITIONAL MONEYS MADE AVAILABLE FROM ANY SOURCES,
2 PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS BEEN
3 ESTABLISHED.

4 (D) THE FUND SHALL BE USED TO PROVIDE LOANS TO OWNERS OF SMALL
5 BUSINESSES TO FINANCE ELIGIBLE COSTS OF UPGRADING AND REPLACING CAPITAL
6 EQUIPMENT TO COMPLY WITH AIR EMISSION STANDARDS, INCLUDING THE
7 PURCHASE AND INSTALLATION OF AIR POLLUTION CONTROL EQUIPMENT AND THE
8 PURCHASE AND INSTALLATION OF EQUIPMENT TO MAKE OPERATIONAL CHANGES
9 RELATED TO AIR POLLUTION CONTROL AND TO MODIFY PRODUCTION PRACTICES
10 RELATED TO AIR POLLUTION CONTROL.

11 (E) TO THE EXTENT PROVIDED IN THE STATE BUDGET AND IN AN AMOUNT
12 NOT TO EXCEED 3% OF THE REVENUES IN THE FUND DURING THE FISCAL YEAR, THE
13 COSTS OF ADMINISTERING THE FUND SHALL BE PAID FROM STATE MONEYS
14 APPROPRIATED TO THE FUND.

15 2-803.

16 THE BOARD OF PUBLIC WORKS, UPON THE RECOMMENDATION OF THE
17 SECRETARY, MAY AWARD A LOAN FROM THE FUND TO AN OWNER OF A SMALL
18 BUSINESS TO COVER THE COSTS OF CAPITAL EQUIPMENT UPGRADE OR
19 REPLACEMENT COSTS NECESSARY TO MEET THE TECHNICAL REQUIREMENTS FOR
20 EMISSION STANDARDS UNDER REGULATIONS ADOPTED BY THE ENVIRONMENTAL
21 PROTECTION AGENCY UNDER THE FEDERAL CLEAN AIR ACT OR BY THE
22 DEPARTMENT UNDER THE STATE IMPLEMENTATION PLAN, INCLUDING THE
23 PURCHASE AND INSTALLATION OF AIR POLLUTION CONTROL EQUIPMENT AND THE
24 PURCHASE AND INSTALLATION OF EQUIPMENT TO MAKE OPERATIONAL CHANGES
25 RELATED TO AIR POLLUTION CONTROL AND TO MODIFY PRODUCTION PRACTICES
26 RELATED TO AIR POLLUTION CONTROL.

27 2-804.

28 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
29 PROVISIONS OF THIS SUBTITLE.

30 (B) (1) THE REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL
31 ESTABLISH APPLICATION PROCEDURES AND CRITERIA FOR THE AWARD OF A LOAN
32 UNDER THIS SUBTITLE.

33 (2) THE CRITERIA SHALL PROVIDE A BASIS FOR THE PRIORITY RANKING
34 OF PROJECTS, AND SHALL INCLUDE:

35 (I) THE FINANCIAL CAPACITY AND FISCAL ACCOUNTABILITY OF
36 THE APPLICANT;

37 (II) THE LOCATION OF THE SMALL BUSINESS FACILITY AND THE
38 DEGREE TO WHICH THE FACILITY CONTRIBUTES TO NONATTAINMENT OF AMBIENT
39 AIR QUALITY STANDARDS IN THE AREA;

1 (III) PREVIOUS EFFORTS EXPENDED TO CORRECT ANY EXISTING
2 ~~ENVIRONMENTAL AIR POLLUTION~~ PROBLEM AND TO MAINTAIN COMPLIANCE WITH
3 STATE AND FEDERAL REGULATIONS RELATED TO AIR POLLUTION;

4 (IV) MEASURES TO ASSURE ACCOUNTABILITY FOR ALL FUNDS
5 AWARDED UNDER THIS SUBTITLE; AND

6 (V) ANY OTHER CRITERIA THAT THE SECRETARY CONSIDERS
7 APPROPRIATE.

8 (C) THE REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL REQUIRE THE
9 RECIPIENT OF A LOAN UNDER THIS SUBTITLE TO PROVIDE THE DEPARTMENT WITH
10 DOCUMENTATION THAT THE PROCEEDS OF THE LOAN WERE APPLIED IN
11 ACCORDANCE WITH § 2-803 OF THIS SUBTITLE AND THE LOAN AGREEMENT.

12 2-805.

13 (A) (1) A LOAN AGREEMENT UNDER THIS SUBTITLE SHALL CONTAIN THOSE
14 CONDITIONS THAT THE SECRETARY REQUIRES BY REGULATION TO ACHIEVE THE
15 PURPOSES OF THIS SUBTITLE AND TO PROTECT THE INTERESTS OF THE STATE.

16 (2) A LOAN AGREEMENT UNDER THIS SUBTITLE SHALL CONTAIN
17 PROVISIONS THAT AUTHORIZE THE SECRETARY TO RECALL THE LOAN AND REQUIRE
18 THAT ANY AMOUNT OF FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE
19 BE RETURNED TO THE STATE UNDER TERMS ESTABLISHED BY THE SECRETARY, IF
20 THE SECRETARY DETERMINES THAT:

21 (I) THE RECIPIENT OF A LOAN UNDER THIS SUBTITLE FAILS TO
22 REMAIN IN COMPLIANCE WITH ANY LAW OR REGULATION GOVERNING THE
23 INSTALLATION, OPERATION, OR USE OF CAPITAL EQUIPMENT FINANCED BY THE
24 LOAN AND SUBJECT TO ~~A PERMIT TO OPERATE~~ REQUIREMENTS UNDER THIS TITLE;
25 OR

26 (II) THE PROCEEDS OF A LOAN PROVIDED UNDER THIS SUBTITLE
27 HAVE BEEN USED FOR A PURPOSE OTHER THAN ONE AUTHORIZED UNDER THIS
28 SUBTITLE.

29 (3) ANY FUNDS RETURNED TO THE STATE UNDER THIS SUBSECTION
30 SHALL BE CREDITED TO THE SMALL BUSINESS POLLUTION COMPLIANCE LOAN
31 FUND.

32 (B) A LOAN EXTENDED UNDER THIS SUBTITLE:

33 (1) MAY NOT EXCEED \$50,000 FOR ANY ONE UPGRADE OR
34 REPLACEMENT;

35 (2) SHALL BEAR AT LEAST THE SAME RATE OF INTEREST AS THE MOST
36 RECENT STATE GENERAL OBLIGATORY BOND SALE PRECEDING THE DATE OF
37 APPROVAL BY THE BOARD OF PUBLIC WORKS; AND

1 (3) SHALL BE REPAYED IN FULL IN A TERM NOT TO EXCEED 15 YEARS IN
2 ACCORDANCE WITH THE PROVISIONS OF THE LOAN AGREEMENT.

3 (C) THE AGGREGATE AMOUNT OF ALL LOANS AWARDED UNDER THIS
4 SUBTITLE TO A SINGLE APPLICANT IN ANY CALENDAR YEAR MAY NOT EXCEED
5 \$100,000, UNLESS THE SECRETARY DETERMINES THAT EXTRAORDINARY
6 CIRCUMSTANCES EXIST.

7 (D) THE PROCEEDS OF A LOAN AWARDED UNDER THIS SUBTITLE MAY BE
8 APPLIED TO THE COSTS OF DEVELOPING PLANS AND SPECIFICATIONS, EQUIPMENT,
9 INSTALLATION, AND CONSTRUCTION RELATED TO THE UPGRADING AND REPLACING
10 OF CAPITAL EQUIPMENT OF A SMALL BUSINESS FACILITY TO COMPLY WITH AIR
11 EMISSION STANDARDS.

12 2-806.

13 TO BE ELIGIBLE FOR A LOAN UNDER THIS SUBTITLE, A SMALL BUSINESS
14 OWNER SHALL:

15 (1) SUBMIT A COMPLETED LOAN PROCESSING FORM TO THE
16 DEPARTMENT; AND

17 (2) MEET ELIGIBILITY CRITERIA ESTABLISHED BY THE DEPARTMENT
18 THROUGH REGULATION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor is
20 requested to include initial funding for the Small Business Pollution Compliance
21 Loan Fund established under this Act in the amount of \$750,000 in the State Budgets
22 ~~in each of the fiscal years 1999 and 2000.~~

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 ~~June 1, 1998~~ July 1, 1999.