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

Introduced and read first time: February 13, 1998

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Small Business Pollution Compliance Fund**

3 FOR the purpose of establishing a Small Business Pollution Compliance 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; and  
9 generally relating to the Small Business Pollution Compliance Fund.

10 BY adding to

11 Article - Environment

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

13 Business Pollution Compliance Fund"

14 Annotated Code of Maryland

15 (1996 Replacement Volume and 1997 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Environment**

19 **SUBTITLE 8. SMALL BUSINESS POLLUTION COMPLIANCE FUND.**

20 2-801.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "FUND" MEANS THE SMALL BUSINESS POLLUTION COMPLIANCE FUND  
24 ESTABLISHED UNDER THIS SUBTITLE.

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

1 2-802.

2 (A) THERE IS A SMALL BUSINESS POLLUTION COMPLIANCE FUND.

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

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

10 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE  
11 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

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

14 (C) THE FUND CONSISTS OF:

15 (1) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR DEPOSIT  
16 TO THE FUND;

17 (2) PAYMENTS RECEIVED FROM ANY BORROWER IN REPAYMENT OF A  
18 LOAN;

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

21 (4) ANY ADDITIONAL MONEYS MADE AVAILABLE FROM ANY SOURCES,  
22 PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS BEEN  
23 ESTABLISHED.

24 (D) THE FUND SHALL BE USED TO PROVIDE LOANS TO OWNERS OF SMALL  
25 BUSINESSES TO FINANCE ELIGIBLE COSTS OF UPGRADING AND REPLACING CAPITAL  
26 EQUIPMENT TO COMPLY WITH AIR EMISSION STANDARDS, INCLUDING THE  
27 PURCHASE AND INSTALLATION OF AIR POLLUTION CONTROL EQUIPMENT AND THE  
28 PURCHASE AND INSTALLATION OF EQUIPMENT TO MAKE OPERATIONAL CHANGES  
29 AND TO MODIFY PRODUCTION PRACTICES.

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

34 2-803.

35 THE BOARD OF PUBLIC WORKS, UPON THE RECOMMENDATION OF THE  
36 SECRETARY, MAY AWARD A LOAN FROM THE FUND TO AN OWNER OF A SMALL

1 BUSINESS TO COVER THE COSTS OF CAPITAL EQUIPMENT UPGRADE OR  
2 REPLACEMENT COSTS NECESSARY TO MEET THE TECHNICAL REQUIREMENTS FOR  
3 EMISSION STANDARDS UNDER REGULATIONS ADOPTED BY THE ENVIRONMENTAL  
4 PROTECTION AGENCY UNDER THE FEDERAL CLEAN AIR ACT OR BY THE  
5 DEPARTMENT UNDER THE STATE IMPLEMENTATION PLAN, INCLUDING THE  
6 PURCHASE AND INSTALLATION OF AIR POLLUTION CONTROL EQUIPMENT AND THE  
7 PURCHASE AND INSTALLATION OF EQUIPMENT TO MAKE OPERATIONAL CHANGES  
8 AND TO MODIFY PRODUCTION PRACTICES.

9 2-804.

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

12 (B) (1) THE REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL  
13 ESTABLISH APPLICATION PROCEDURES AND CRITERIA FOR THE AWARD OF A LOAN  
14 UNDER THIS SUBTITLE.

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

17 (I) THE FINANCIAL CAPACITY AND FISCAL ACCOUNTABILITY OF  
18 THE APPLICANT;

19 (II) THE LOCATION OF THE SMALL BUSINESS FACILITY AND THE  
20 DEGREE TO WHICH THE FACILITY CONTRIBUTES TO NONATTAINMENT OF AMBIENT  
21 AIR QUALITY STANDARDS IN THE AREA;

22 (III) PREVIOUS EFFORTS EXPENDED TO CORRECT ANY EXISTING  
23 ENVIRONMENTAL PROBLEM AND TO MAINTAIN COMPLIANCE WITH STATE AND  
24 FEDERAL REGULATIONS;

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

27 (V) ANY OTHER CRITERIA THAT THE SECRETARY CONSIDERS  
28 APPROPRIATE.

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

33 2-805.

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

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

6           (I)     THE RECIPIENT OF A LOAN UNDER THIS SUBTITLE FAILS TO  
7 REMAIN IN COMPLIANCE WITH ANY LAW OR REGULATION GOVERNING THE  
8 INSTALLATION, OPERATION, OR USE OF CAPITAL EQUIPMENT FINANCED BY THE  
9 LOAN AND SUBJECT TO A PERMIT TO OPERATE UNDER THIS TITLE; OR

10          (II)    THE PROCEEDS OF A LOAN PROVIDED UNDER THIS SUBTITLE  
11 HAVE BEEN USED FOR A PURPOSE OTHER THAN ONE AUTHORIZED UNDER THIS  
12 SUBTITLE.

13          (3)     ANY FUNDS RETURNED TO THE STATE UNDER THIS SUBSECTION  
14 SHALL BE CREDITED TO THE SMALL BUSINESS POLLUTION COMPLIANCE FUND.

15    (B)     A LOAN EXTENDED UNDER THIS SUBTITLE:

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

18          (2)     SHALL BEAR AT LEAST THE SAME RATE OF INTEREST AS THE MOST  
19 RECENT STATE GENERAL OBLIGATION BOND SALE PRECEDING THE DATE OF  
20 APPROVAL BY THE BOARD OF PUBLIC WORKS; AND

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

23    (C)     THE AGGREGATE AMOUNT OF ALL LOANS AWARDED UNDER THIS  
24 SUBTITLE TO A SINGLE APPLICANT IN ANY CALENDAR YEAR MAY NOT EXCEED  
25 \$100,000, UNLESS THE SECRETARY DETERMINES THAT EXTRAORDINARY  
26 CIRCUMSTANCES EXIST.

27    (D)     THE PROCEEDS OF A LOAN AWARDED UNDER THIS SUBTITLE MAY BE  
28 APPLIED TO THE COSTS OF DEVELOPING PLANS AND SPECIFICATIONS, EQUIPMENT,  
29 INSTALLATION, AND CONSTRUCTION RELATED TO THE UPGRADING AND REPLACING  
30 OF CAPITAL EQUIPMENT OF A SMALL BUSINESS FACILITY TO COMPLY WITH AIR  
31 EMISSION STANDARDS.

32 2-806.

33    TO BE ELIGIBLE FOR A LOAN UNDER THIS SUBTITLE, A SMALL BUSINESS  
34 OWNER SHALL:

35          (1)     SUBMIT A COMPLETED LOAN PROCESSING FORM TO THE  
36 DEPARTMENT; AND

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

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

7     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 June 1, 1998.