

HOUSE BILL 5

Unofficial Copy  
C8

1999 Regular Session  
(9lr0433)

**ENROLLED BILL**

-- *Economic Matters/Budget and Taxation* --

Introduced by **Delegates Taylor, Hixson, Arnick, Busch, Dewberry, Doory, Guns, Harrison, Howard, Hurson, Kopp, Menes, Montague, Owings, Rawlings, Rosenberg, Vallario, ~~and Wood Wood~~, Edwards, W. Baker, Bozman, Bronrott, Brown, Cadden, C. Davis, Donoghue, Eckardt, Finifter, Fulton, Giannetti, Goldwater, Gordon, Healey, Hecht, A. Jones, V. Jones, Kagan, Kirk, Krysiak, Love, Marriott, McIntosh, McClenahan, McHale, Nathan-Pulliam, Petzold, Rosso, Rudolph, Shriver, Slade, Turner, ~~and Walkup~~ Walkup, Schisler, and Cane**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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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 **One Maryland Economic Development Program for Distressed Counties**

3 FOR the purpose of establishing a Smart Growth Economic Development  
4 Infrastructure Fund as a nonlapsing fund within the Department of Business  
5 and Economic Development, to be used for ~~making certain loans~~ providing  
6 financial assistance to certain qualified economically distressed counties or the  
7 Maryland Economic Development Corporation for the purposes of financing  
8 certain economic development projects; providing that a municipal corporation  
9 may apply for financial assistance from the Fund under certain circumstances;  
10 authorizing the Department to develop certain economic development plans

1 under certain circumstances; providing for the termination of this Act; requiring  
 2 the Department of Business and Economic Development to submit an annual  
 3 written report to certain committees; and generally relating to establishment of  
 4 a Smart Growth Economic Development Infrastructure Fund to encourage  
 5 capital investment and job creation in certain qualified economically distressed  
 6 counties.

7 BY repealing and reenacting, with amendments,  
 8 Article 83A - Department of Business and Economic Development  
 9 Section 5-103(a) and (b) and 5-715  
 10 Annotated Code of Maryland  
 11 (1998 Replacement Volume)

12 BY adding to  
 13 Article 83A - Department of Business and Economic Development  
 14 Section 5-719  
 15 Annotated Code of Maryland  
 16 (1998 Replacement Volume)

17 BY repealing and reenacting, without amendments,  
 18 Article - State Finance and Procurement  
 19 Section 5-7B-01(d)(1)(iii)  
 20 Annotated Code of Maryland  
 21 (1995 Replacement Volume and 1998 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 5-103.

26 (a) Notwithstanding any other provision of law except for §§ [5-715] 5-715,  
 27 5-719, and 5-802 of this article, the Secretary may transfer funds among any of the  
 28 various accounts within the Department or subject to its control, that are used to  
 29 provide financial support of any kind.

30 (b) Notwithstanding any other provision of law except for §§ [5-715] 5-715,  
 31 5-719, and 5-802 of this article, the Secretary may transfer funds from any of the  
 32 accounts described in subsection (a) of this section to the Economic Development  
 33 Opportunities Program Fund established under § 7-314 of the State Finance and  
 34 Procurement Article.

35 5-715.

36 (a) [Any] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ANY  
 37 investment earnings of the Fund, and any moneys received in payment of interest and

1 repayment of principal under loan agreements provided for in this subtitle shall be  
 2 deposited in the treasury and shall constitute a permanent special fund to be known  
 3 as the "Industrial Land Fund". The moneys in the Industrial Land Fund from time to  
 4 time may be expended (1) for the same purposes as the proceeds of the loan  
 5 authorized by this subtitle, and (2) to pay any and all expenses in connection with the  
 6 administration of this subtitle including, by way of example, expenses for  
 7 administration, legal, actuarial, and other services, and such moneys shall be used for  
 8 no other purpose.

9 (b) (1) Except to the Industrial and Commercial Redevelopment Fund, the  
 10 Secretary may not transfer funds from the Fund to any of the various accounts within  
 11 the Department or subject to its control.

12 (2) The Secretary shall accomplish any transfer under this section in  
 13 accordance with the appropriation amendment process under § 7-209 of the State  
 14 Finance and Procurement Article.

15 (C) ANY MONEYS RECEIVED IN PAYMENT OF INTEREST AND REPAYMENT OF  
 16 PRINCIPAL FOR LOANS PROVIDED UNDER THE SMART GROWTH ECONOMIC  
 17 DEVELOPMENT INFRASTRUCTURE FUND ESTABLISHED UNDER § 5-719 OF THIS  
 18 SUBTITLE SHALL BE CREDITED TO THE SMART GROWTH ECONOMIC DEVELOPMENT  
 19 INFRASTRUCTURE FUND.

20 5-719.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 22 INDICATED.

23 (2) "FUND" MEANS THE SMART GROWTH ECONOMIC DEVELOPMENT  
 24 INFRASTRUCTURE FUND ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.

25 (3) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY, INCLUDING  
 26 BALTIMORE CITY;

27 ~~(H)~~ THAT HAS DEVELOPED IN CONSULTATION WITH THE  
 28 MUNICIPAL CORPORATIONS LOCATED WITHIN THE COUNTY AND SUBMITTED TO THE  
 29 SECRETARY A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT THAT HAS  
 30 BEEN APPROVED BY THE SECRETARY; ~~AND~~ AND;

31 ~~(H)~~ (I) FOR WHICH THE AVERAGE RATE OF UNEMPLOYMENT FOR  
 32 THE MOST RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS  
 33 GREATER THAN 150% OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE  
 34 STATE DURING THAT SAME PERIOD; OR

35 (II) FOR WHICH THE AVERAGE PER CAPITA PERSONAL INCOME FOR  
 36 THE MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS EQUAL  
 37 TO OR LESS THAN 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE  
 38 ENTIRE STATE DURING THAT SAME PERIOD.

1 (B) (1) THERE IS A SMART GROWTH ECONOMIC DEVELOPMENT  
2 INFRASTRUCTURE FUND.

3 (2) THE FUND CONSISTS OF:

4 (I) APPROPRIATIONS TO THE FUND;

5 (II) ANY INVESTMENT EARNINGS OF THE FUND;

6 (III) MONEYS RECEIVED IN PAYMENT OF INTEREST AND  
7 REPAYMENT OF PRINCIPAL FOR LOANS PROVIDED FROM THE FUND; AND

8 (IV) MONEYS MADE AVAILABLE TO THE FUND FROM ANY OTHER  
9 SOURCE.

10 (3) THE FUND SHALL BE ADMINISTERED BY THE SECRETARY AND  
11 SHALL BE USED EXCLUSIVELY FOR THE PURPOSE OF ~~MAKING LOANS PROVIDING~~  
12 FINANCIAL ASSISTANCE IN THE MANNER PROVIDED UNDER SUBSECTION (C) OF THIS  
13 SECTION TO ~~QUALIFYING~~ QUALIFIED DISTRESSED COUNTIES, OR TO THE MARYLAND  
14 ECONOMIC DEVELOPMENT CORPORATION FOR PROJECTS LOCATED IN ~~QUALIFYING~~  
15 QUALIFIED DISTRESSED COUNTIES, UNDER THIS SECTION.

16 (4) THE SECRETARY MAY NOT TRANSFER FUNDS FROM THE FUND TO  
17 ANY OF THE VARIOUS ACCOUNTS WITHIN THE DEPARTMENT OR SUBJECT TO ITS  
18 CONTROL.

19 (5) THE FUND IS A CONTINUING, NONLAPSING FUND WHICH IS NOT  
20 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

21 (C) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE  
22 SECRETARY MAY APPROVE ~~LOANS~~ FINANCIAL ASSISTANCE FROM THE FUND TO  
23 ~~QUALIFYING A QUALIFIED~~ DISTRESSED COUNTIES COUNTY FOR THE PURPOSES OF  
24 FINANCING THE COSTS OF ACQUISITION, IMPROVEMENTS, AND REHABILITATION OF  
25 LAND FOR INDUSTRIAL SITES AND PARKS, DEVELOPMENT OF WATER AND SEWER  
26 LINES, SHELL BUILDINGS, INFRASTRUCTURE SERVING EXISTING RETAIL AND  
27 OFFICE ORIENTED CENTERS OCCUPYING AT LEAST 400,000 SQUARE FEET ON A  
28 LIMITED BASIS OF NO MORE THAN ONE PER JURISDICTION, AND OTHER NEEDED  
29 INFRASTRUCTURE PROJECTS, AS SET FORTH IN §§ 5-704 THROUGH 5-709 OF THIS  
30 SUBTITLE.

31 (2) (I) ~~A LOAN FINANCIAL ASSISTANCE UNDER THIS SECTION MAY BE~~  
32 ~~MADE ONLY FOR A PROJECT THAT IS LOCATED WITHIN A PRIORITY FUNDING AREA~~  
33 ~~UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

34 (II) ~~THE EXCEPTIONS UNDER §§ 5-7B-05 AND 5-7B-06 OF THE STATE~~  
35 ~~FINANCE AND PROCUREMENT ARTICLE ALLOWING FUNDING OUTSIDE OF PRIORITY~~  
36 ~~FUNDING AREAS UNDER CERTAIN CIRCUMSTANCES DO NOT APPLY TO LOANS~~  
37 ~~FINANCIAL ASSISTANCE UNDER THIS SECTION.~~

1           (3)    (2)    EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
2 ~~LOAN FINANCIAL ASSISTANCE~~ UNDER THIS SECTION;

3           (I)    IS SUBJECT TO THE APPLICABLE REQUIREMENTS, TERMS, AND  
4 CONDITIONS OF ~~LOANS FINANCIAL ASSISTANCE~~ LOANS UNDER §§ 5-704 THROUGH  
5 5-709 OF THIS SUBTITLE; AND

6           (II)   MAY BE IN THE FORM OF A LOAN, AN INVESTMENT, OR A LOAN  
7 CONVERTIBLE IN WHOLE OR IN PART TO A GRANT UPON THE SATISFACTION OF  
8 SPECIFIED CONDITIONS, ALL UPON TERMS SPECIFIED BY THE DEPARTMENT.

9           (4)    (3)    (I)    IN ADDITION TO ANY OTHER REQUIREMENTS FOR AN  
10 APPLICATION FOR ~~A LOAN FINANCIAL ASSISTANCE~~ UNDER THIS SUBTITLE, AN  
11 APPLICATION FOR ~~A LOAN FINANCIAL ASSISTANCE~~ UNDER THIS SECTION SHALL  
12 INCLUDE, FOR EACH PROJECT:

13                           1.    A MARKETING PLAN DESIGNED TO MARKET THE PROJECT  
14 TO PROSPECTIVE BUSINESSES AND A STATEMENT OF PLANNED MARKETING  
15 EXPENDITURES AS A PERCENT OF THE TOTAL ~~LOAN FINANCIAL ASSISTANCE~~  
16 AMOUNT REQUESTED; AND

17                           2.    A SITE PLAN FOR THE PROJECT THAT IS CONSISTENT  
18 WITH THE COUNTY'S LOCAL STRATEGIC ECONOMIC DEVELOPMENT PLAN AS TO THE  
19 LOCATION AND TYPE OF PROJECT.

20                           (II)    THE SECRETARY MAY NOT APPROVE ~~A LOAN FINANCIAL~~  
21 ASSISTANCE FOR A PROJECT UNDER THIS SECTION UNLESS THE SECRETARY  
22 APPROVES THE MARKETING PLAN AND SITE PLAN FOR THE PROJECT SUBMITTED  
23 WITH THE APPLICATION.

24           (5)    (4)    (I)    EACH LOAN AGREEMENT UNDER THIS SECTION SHALL  
25 INCLUDE A PROVISION FOR REPAYMENT OF PRINCIPAL TO BEGIN ONLY AFTER THE  
26 PROJECT IS INITIALLY OCCUPIED.

27                           (II)    THE SECRETARY MAY INCLUDE IN A LOAN AGREEMENT UNDER  
28 THIS SECTION A PROVISION FOR PAYMENT OF INTEREST TO BEGIN ONLY AFTER THE  
29 PROJECT IS INITIALLY OCCUPIED.

30           (6)    (5)    (I)    TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE UNDER THIS  
31 SECTION, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION SHALL ENLIST  
32 AS A CO-APPLICANT FOR THE FINANCIAL ASSISTANCE THE ~~QUALIFYING~~ QUALIFIED  
33 DISTRESSED COUNTY OR MUNICIPAL CORPORATION APPLYING UNDER SUBSECTION  
34 (E) OF THIS SECTION IN WHICH THE PROJECT TO BE FUNDED UNDER THIS SECTION  
35 IS LOCATED.

36                           (II)    AS THE CO-APPLICANT, THE ~~QUALIFYING~~ QUALIFIED  
37 DISTRESSED COUNTY OR MUNICIPAL CORPORATION APPLYING SHALL:

1                                    1. CERTIFY THAT IT SUPPORTS THE PROJECT AND THAT THE  
2 PROPOSED FINANCIAL ASSISTANCE IS CONSISTENT WITH THE ~~QUALIFYING~~  
3 ~~QUALIFIED~~ DISTRESSED COUNTY'S PLAN FOR ECONOMIC DEVELOPMENT; AND

4                                    2. PROVIDE TO THE DEPARTMENT DETAILS OF THE  
5 ~~QUALIFYING QUALIFIED~~ DISTRESSED COUNTY'S SUPPORT FOR AND PARTICIPATION  
6 IN THE PROJECT.

7                                    ~~(7)~~ (6) IN APPROVING FINANCIAL ASSISTANCE, THE SECRETARY  
8 SHALL CONSIDER THE AGGREGATE AMOUNT OF FINANCIAL ASSISTANCE THAT MAY  
9 ALREADY HAVE BEEN PROVIDED FOR A PARTICULAR ~~QUALIFYING QUALIFIED~~  
10 DISTRESSED COUNTY UNDER THIS SECTION AND UNDER ANY OTHER STATE  
11 ECONOMIC DEVELOPMENT PROGRAM TO ENSURE THAT NO PARTICULAR  
12 ~~QUALIFYING QUALIFIED~~ DISTRESSED COUNTY BENEFITS DISPROPORTIONATELY  
13 FROM FINANCIAL ASSISTANCE UNDER THIS SECTION.

14                                    (D) THE DEPARTMENT MAY DEVELOP A LOCAL STRATEGIC PLAN FOR  
15 ECONOMIC DEVELOPMENT IN A ~~QUALIFYING QUALIFIED~~ DISTRESSED COUNTY IN  
16 CONSULTATION WITH A MUNICIPAL CORPORATION IN THAT COUNTY IF:

17                                    (1) THE ~~QUALIFYING QUALIFIED~~ DISTRESSED COUNTY HAS NOT  
18 DEVELOPED A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT; OR

19                                    (2) THE ~~QUALIFYING QUALIFIED~~ DISTRESSED COUNTY HAS DEVELOPED  
20 A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT BUT IS NOT ACTIVELY  
21 PURSUING FINANCIAL ASSISTANCE FROM THE FUND.

22                                    ~~(E) IF A QUALIFIED DISTRESSED COUNTY HAS DEVELOPED A LOCAL~~  
23 ~~STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT BUT IS NOT ACTIVELY PURSUING~~  
24 ~~FINANCIAL ASSISTANCE FROM THE FUND, A MUNICIPAL CORPORATION MAY APPLY~~  
25 ~~FOR FINANCIAL ASSISTANCE FROM THE FUND IN A MANNER CONSISTENT WITH THE~~  
26 ~~PLAN DEVELOPED BY THE QUALIFIED DISTRESSED COUNTY.~~

27                                    (E) A MUNICIPAL CORPORATION LOCATED IN A QUALIFIED DISTRESSED  
28 COUNTY MAY:

29                                    (1) APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND IN A MANNER  
30 CONSISTENT WITH THE PLAN DEVELOPED BY THE DEPARTMENT IN CONSULTATION  
31 WITH THE MUNICIPAL CORPORATION IF THE QUALIFIED DISTRESSED COUNTY HAS  
32 NOT DEVELOPED A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT; OR

33                                    (2) APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND IN A MANNER  
34 CONSISTENT WITH THE PLAN DEVELOPED BY THE QUALIFIED DISTRESSED COUNTY  
35 IF THE QUALIFIED DISTRESSED COUNTY HAS DEVELOPED A LOCAL STRATEGIC PLAN  
36 FOR ECONOMIC DEVELOPMENT BUT IS NOT ACTIVELY PURSUING FINANCIAL  
37 ASSISTANCE FROM THE FUND.

1 Article - State Finance and Procurement

2 5-7B-01.

3 (d) (1) "Growth-related project" means only the items set forth below:

4 (iii) funding by the Department of Business and Economic  
5 Development under any of the following:

6 1. the Maryland Industrial Land Act, authorized under  
7 Article 83A, Title 5, Subtitle 7 of the Code;

8 2. the Maryland Industrial and Commercial Redevelopment  
9 Fund, authorized under Article 83A, Title 5, Subtitle 8 of the Code;

10 3. the Maryland Industrial Development Financing  
11 Authority, authorized under Article 83A, Title 5, Subtitle 9 of the Code;

12 4. the Maryland Small Business Development Financing  
13 Authority, authorized under Article 83A, Title 5, Subtitle 10 of the Code;

14 5. the Maryland Energy Financing Act, authorized under  
15 Article 83A, Title 6, Subtitle 4 of the Code; and

16 6. the Economic Development Opportunities Program Fund,  
17 authorized under § 7-314 of this article;

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of  
19 Business and Economic Development shall submit a written report annually, in  
20 accordance with § 2-1246 of the State Government Article, to the House Economic  
21 Matters Committee and the Senate Budget and Taxation Committee of the Maryland  
22 General Assembly on the status of the Smart Growth Economic Development  
23 Infrastructure Fund. The Department's report shall be made by December 1 of each  
24 year, beginning in 1999.

25 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect July 1, 1999. It shall remain effective for a period of 5 years and, at the end of  
27 June 30, 2004, with no further action required by the General Assembly, this Act shall  
28 be abrogated and of no further force and effect.