

HOUSE BILL 185

Unofficial Copy
C8

1999 Regular Session
9lr0212
CF 9lr0191

By: **The Speaker (Administration)**
Introduced and read first time: February 1, 1999
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 5, 1999

CHAPTER _____

1 AN ACT concerning

2 **Maryland Competitive Advantage Financing Fund**

3 FOR the purpose of creating the Maryland Competitive Advantage Financing Fund as
4 a nonlapsing fund within the Department of Business and Economic
5 Development; providing for the management of the Fund; specifying what
6 moneys may constitute the Fund; authorizing the Department to use moneys in
7 the Fund for certain purposes subject to certain requirements and restrictions;
8 authorizing the Department to set the terms and conditions for loan financing
9 assistance; providing that the Fund is a growth-related project; requiring
10 certain reports; defining certain terms; and generally relating to the Maryland
11 Competitive Advantage Financing Fund.

12 BY adding to
13 Article 83A - Department of Business and Economic Development
14 Section 5-1301 through 5-1305, inclusive, to be under the new subtitle "Subtitle
15 13. Maryland Competitive Advantage Financing Fund"
16 Annotated Code of Maryland
17 (1998 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article - State Finance and Procurement
20 Section 5-7B-01(d)(1)(iii)
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1998 Supplement)

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

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

2 SUBTITLE 13. MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND.

3 5-1301.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "FUND" MEANS THE MARYLAND COMPETITIVE ADVANTAGE FINANCING
7 FUND.8 ~~(C) "ECONOMICALLY DISADVANTAGED INDIVIDUAL" MEANS AN INDIVIDUAL~~
9 ~~WITH A NET WORTH EXCLUDING THE VALUE OF THE BUSINESS OF LESS THAN~~
10 ~~\$500,000.~~11 ~~(D)~~ (C) "FINANCIAL ASSISTANCE" MEANS:

12 (1) LOANS;

13 (2) LOAN GUARANTEES;

14 (3) INTEREST SUBSIDIES; AND

15 (4) INCENTIVES TO PRIVATE LENDERS OR ANY OTHER FINANCIAL
16 ASSISTANCE DESIGNED TO SECURE BUSINESS LOANS FROM FINANCIAL
17 INSTITUTIONS.18 ~~(E) "PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5-7B-02 OF~~
19 ~~THE STATE FINANCE AND PROCUREMENT ARTICLE.~~20 ~~(F)~~ (D) "SMALL BUSINESS" MEANS A BUSINESS THAT AT THE TIME OF
21 APPLICATION HAS:22 (1) NET ~~SALES~~ REVENUES OF LESS THAN \$1,000,000 PER YEAR; AND

23 (2) FEWER THAN 100 FULL-TIME EMPLOYEES.

24 ~~(G)~~ (E) (+) "WORKING CAPITAL" MEANS FUNDS TO BE USED FOR CURRENT
25 OPERATIONS OF A BUSINESS.26 ~~(2) "WORKING CAPITAL" INCLUDES FUNDS FOR SUPPLIES, MATERIALS,~~
27 ~~LABOR, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR PROFESSIONAL~~
28 ~~SERVICES.~~

29 5-1302.

30 (A) THERE IS A MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND IN
31 THE DEPARTMENT.

1 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR
2 THE DEVELOPMENT AND EXPANSION OF SMALL ~~AND ECONOMICALLY~~
3 ~~DISADVANTAGED INDIVIDUALS~~ BUSINESSES IN THE STATE.

4 (C) ~~(4)~~ THE SECRETARY SHALL MANAGE AND ADMINISTER THE FUND.

5 ~~(2)~~ ~~THE SECRETARY MAY DELEGATE THE AUTHORITY TO MAKE~~
6 ~~FINANCING DECISIONS TO ANY BOARD OR AUTHORITY IN THE DEPARTMENT.~~

7 (D) (1) THE FUND IS A CONTINUING, NONLAPSING FUND WHICH IS NOT
8 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

9 (2) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
10 SHALL ACCOUNT FOR THE FUND.

11 (3) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO
12 THE FUND.

13 (E) THE FUND MAY CONSIST OF ANY OF THE FOLLOWING:

14 (1) MONEYS APPROPRIATED BY THE STATE TO THE FUND;

15 (2) MONEYS MADE AVAILABLE TO THE FUND THROUGH FEDERAL
16 PROGRAMS OR PRIVATE CONTRIBUTIONS;

17 (3) PREMIUMS, FEES, PENALTIES, INTEREST PAYMENTS, AND PRINCIPAL
18 PAYMENTS RELATED TO FINANCIAL ASSISTANCE PROVIDED FROM THE FUND;

19 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
20 COLLATERAL RELATED TO ANY FINANCIAL ASSISTANCE PROVIDED FROM THE FUND;

21 (5) APPLICATION OR OTHER FEES PAID TO THE PROGRAM IN
22 CONNECTION WITH THE PROCESSING OF REQUESTS FOR ASSISTANCE; AND

23 (6) ANY OTHER MONEYS MADE AVAILABLE TO THE FUND.

24 5-1303.

25 (A) THE DEPARTMENT MAY USE MONEYS IN THE FUND TO:

26 (1) PROVIDE FINANCIAL ASSISTANCE TO ELIGIBLE APPLICANTS; AND

27 (2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND
28 TECHNICAL SERVICES FOR THE PROGRAM.

29 (B) SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT
30 MAY PROVIDE FINANCIAL ASSISTANCE FROM THE FUND TO A BUSINESS THAT:

31 (1) IS A SMALL BUSINESS;

32 ~~(2) IS LOCATED IN A PRIORITY FUNDING AREA;~~

1 ~~(3)~~ ~~IS OWNED BY ECONOMICALLY DISADVANTAGED INDIVIDUALS;~~

2 ~~(4)~~ (2) HAS APPLIED FOR AND BEEN DENIED A LOAN BY A FINANCIAL
3 INSTITUTION; AND

4 ~~(5)~~ (3) MEETS THE QUALIFICATIONS REQUIRED BY THIS SUBTITLE.

5 (C) TO APPLY FOR FINANCIAL ASSISTANCE, AN APPLICANT SHALL SUBMIT AN
6 APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT
7 REQUIRES.

8 (D) THE APPLICATION SHALL INCLUDE:

9 (1) A DETAILED BUSINESS PLAN, INCLUDING:

10 (I) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;

11 (II) THE TOTAL AMOUNT OF INVESTMENT REQUIRED; AND

12 (III) THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM
13 THE DEPARTMENT;

14 (2) THE AMOUNT OF FUNDS AVAILABLE TO THE APPLICANT WITHOUT
15 FINANCIAL ASSISTANCE FROM THE DEPARTMENT;

16 (3) INFORMATION RELATING TO THE FINANCIAL STATUS OF THE
17 APPLICANT, INCLUDING:

18 (I) A CURRENT BALANCE SHEET;

19 (II) A PROFIT AND LOSS STATEMENT;

20 (III) CREDIT REFERENCES; AND

21 (IV) EVIDENCE THAT THE APPLICANT AND THE OWNERS ARE
22 FINANCIALLY RESPONSIBLE, INCLUDING A STATEMENT OR EVIDENCE THAT
23 NEITHER THE APPLICANT NOR ANY OF ITS OWNERS:

24 1. HAVE FILED FOR BANKRUPTCY IN THE 7 YEARS
25 PRECEDING THE APPLICATION;

26 2. HAVE ANY EXISTING LIENS OR JUDGMENTS; AND

27 3. CURRENTLY OWE ANY STATE OR FEDERAL TAXES THAT
28 WERE NOT PAID WHEN DUE;

29 (4) IF THE APPLICANT IS NOT AN INDIVIDUAL, INFORMATION SHOWING
30 THE FINANCIAL STATUS OF EACH OWNER OF THE APPLICANT, INCLUDING:

31 (I) A CURRENT BALANCE SHEET;

1 (II) AN INCOME STATEMENT; AND

2 (III) CREDIT REFERENCES;

3 (5) EVIDENCE THAT THE APPLICANT HAS REQUESTED A LOAN FOR THE
4 SAME PURPOSE FROM A FINANCIAL INSTITUTION AND THE REQUEST HAS BEEN
5 DECLINED; AND

6 (6) ANY OTHER RELEVANT INFORMATION THAT THE DEPARTMENT
7 REQUESTS.

8 5-1304.

9 (A) EXCEPT AS PROVIDED IN THIS SUBTITLE, THE DEPARTMENT MAY SET THE
10 TERMS AND CONDITIONS FOR LOANS, LOAN GUARANTEES, AND ANY OTHER
11 FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE.

12 (B) THE DEPARTMENT MAY REQUIRE ANY SECURITY OR GUARANTEE FOR
13 FINANCIAL ASSISTANCE AS IT DEEMS APPROPRIATE.

14 (C) THE AMOUNT OF ANY FINANCIAL ASSISTANCE SHALL NOT BE LESS THAN
15 \$10,000 AND SHALL NOT EXCEED \$100,000.

16 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
17 TERM OF ANY LOAN OR OTHER FINANCIAL ASSISTANCE MAY NOT EXCEED 10 YEARS.

18 (2) IF MORE THAN 50% OF THE PROCEEDS OF A LOAN MADE FROM THE
19 FUND ARE USED FOR WORKING CAPITAL, THE TERM OF THE LOAN MAY NOT EXCEED
20 1 YEAR, UNLESS:

21 (I) AT THE END OF 1 YEAR, THE DEPARTMENT REVIEWS THE
22 BORROWER'S PERFORMANCE AND FINANCIAL CONDITION AND DETERMINES THAT A
23 1-YEAR EXTENSION OF THE TERM IS APPROPRIATE; AND

24 (II) IN THE CASE OF A LOAN TERM THAT IS EXTENDED FOR AN
25 ADDITIONAL YEAR, AT THE END OF THE ADDITIONAL YEAR, THE DEPARTMENT
26 REPEATS THE REVIEW AND DETERMINES THAT AN ADDITIONAL 1-YEAR EXTENSION
27 IS APPROPRIATE.

28 (E) THE APPLICANT MUST PROVIDE AT LEAST 10% OF THE TOTAL PROJECT
29 COSTS OR CAPITAL NEEDED.

30 (F) FUNDS MADE AVAILABLE WITH FINANCIAL ASSISTANCE MAY BE USED
31 ONLY TO FINANCE COSTS INCURRED FOR:

32 (1) ACQUISITION OR CONSTRUCTION OF A BUILDING OR REAL ESTATE;

33 (2) ACQUISITION, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
34 EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, OR SITE
35 IMPROVEMENTS; OR

1 (3) WORKING CAPITAL.

2 (G) IF AN APPLICANT VIOLATES ANY PROVISION OF THE FINANCIAL
3 ASSISTANCE DOCUMENTS OR CEASES TO MEET THE REQUIREMENTS OF THIS
4 SUBTITLE, THE DEPARTMENT MAY:

5 (1) WITHHOLD FROM THE APPLICANT FURTHER ADVANCES OF
6 FINANCIAL ASSISTANCE UNTIL THE APPLICANT COMPLIES WITH THE AGREEMENT
7 OR REQUIREMENTS; AND

8 (2) EXERCISE ANY OTHER REMEDY FOR WHICH THE FINANCIAL
9 ASSISTANCE DOCUMENTS PROVIDE.

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

12 5-1305.

13 (A) THE STATE TREASURER SHALL REPORT ANNUALLY TO THE DEPARTMENT
14 AS TO:

15 (1) THE STATUS OF THE MONEY INVESTED UNDER THIS SUBTITLE;

16 (2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE
17 OF THE REPORT; AND

18 (3) THE INTEREST RECEIVED FROM INVESTMENTS FOR THE FUND
19 DURING THE PERIOD COVERED BY THE REPORT.

20 (B) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO §
21 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE
22 JANUARY 1 OF EACH YEAR ON THE NUMBER, AMOUNT, USE, AND ECONOMIC
23 BENEFITS OF FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE.

24 **Article - State Finance and Procurement**

25 5-7B-01.

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

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

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

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

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

