

HOUSE BILL 188

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C8

1999 Regular Session  
9lr0207  
CF 9lr0061

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By: **The Speaker (Administration)**

Introduced and read first time: February 1, 1999

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Economic Development Assistance Authority and Fund**

3 FOR the purpose of creating the Maryland Economic Development Assistance Fund  
4 as a nonlapsing fund in the Department of Business and Economic  
5 Development; providing for the management of the Fund; specifying what  
6 moneys may constitute the Fund; authorizing moneys from the Fund to be used  
7 for certain purposes, including making loans to eligible applicants subject to  
8 certain requirements and restrictions; creating the Maryland Economic  
9 Development Assistance Authority in the Department; providing for the  
10 membership of the Authority; specifying the powers and duties of the Authority;  
11 requiring the establishment of an annual list of eligible industry sectors;  
12 specifying the terms of the initial members of the Authority; requiring the  
13 Department to make certain reports; defining certain terms; and generally  
14 relating to the Maryland Economic Development Assistance Authority and  
15 Fund.

16 BY adding to  
17 Article 83A - Department of Business and Economic Development  
18 Section 5-1301 through 5-1306, inclusive, to be under the new subtitle "Subtitle  
19 13. Maryland Economic Development Assistance Authority and Fund"  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume)

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 **SUBTITLE 13. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND**  
26 **FUND.**

27 5-1301.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
29 INDICATED.

1 (B) "AUTHORITY" MEANS THE MARYLAND ECONOMIC DEVELOPMENT  
2 ASSISTANCE AUTHORITY.

3 (C) "FUND" MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
4 FUND.

5 (D) "PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5-7B-02 OF  
6 THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 (E) (1) "WORKING CAPITAL" MEANS FUNDS TO BE USED FOR CURRENT  
8 OPERATIONS OF A BUSINESS.

9 (2) "WORKING CAPITAL" INCLUDES FUNDS FOR SUPPLIES, MATERIALS,  
10 LABOR, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR PROFESSIONAL  
11 SERVICES.

12 5-1302.

13 THE PURPOSE OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
14 FUND IS TO EXPAND EMPLOYMENT OPPORTUNITIES IN THE STATE BY PROVIDING  
15 BELOW MARKET LONG-TERM FIXED RATE LOANS TO BUSINESSES THAT ARE  
16 ENGAGED IN ELIGIBLE INDUSTRY SECTORS AND WISH TO LOCATE OR EXPAND IN A  
17 PRIORITY FUNDING AREA.

18 5-1303.

19 (A) THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
20 AUTHORITY IN THE DEPARTMENT.

21 (B) THE AUTHORITY SHALL:

22 (1) EVALUATE REQUESTS FOR LOANS THAT HAVE BEEN FIRST  
23 EVALUATED BY STAFF OF THE DEPARTMENT;

24 (2) DETERMINE WHETHER TO APPROVE LOAN REQUESTS; AND

25 (3) SET THE TERMS AND CONDITIONS FOR LOANS.

26 (C) THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

27 (1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE  
28 OF THE SECRETARY; AND

29 (2) AS EX OFFICIO MEMBERS:

30 (I) THE SECRETARY OR THE SECRETARY'S DESIGNEE; AND

31 (II) THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION  
32 OR THE SECRETARY'S DESIGNEE.

1 (D) THE MEMBERS OF THE AUTHORITY APPOINTED BY THE GOVERNOR SHALL  
2 BE INDIVIDUALS WITH SUBSTANTIAL EXPERIENCE IN BUSINESS OR ECONOMIC  
3 DEVELOPMENT AND SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, AND  
4 GENDER MAKEUP OF THE STATE.

5 (E) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

6 (2) THE TERMS OF APPOINTED MEMBERS SHALL BE STAGGERED AS  
7 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON JULY 1,  
8 1999.

9 (3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO  
10 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

11 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
12 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
13 QUALIFIES.

14 (5) AN APPOINTED MEMBER SERVES AT THE PLEASURE OF THE  
15 GOVERNOR.

16 (6) THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM AMONG THE  
17 MEMBERS.

18 (7) ATTENDANCE BY A MAJORITY OF THE VOTING MEMBERS SHALL  
19 CONSTITUTE A QUORUM.

20 (F) (1) THE AUTHORITY SHALL MEET AS OFTEN AS ITS DUTIES REQUIRE,  
21 BUT NO LESS THAN QUARTERLY.

22 (2) THE MEMBERS OF THE AUTHORITY ARE SUBJECT TO THE  
23 PROVISIONS OF THE MARYLAND PUBLIC ETHICS LAW.

24 (3) MEMBERS OF THE AUTHORITY APPOINTED BY THE SECRETARY ARE  
25 NOT ENTITLED TO ANY COMPENSATION OR OTHER EMOLUMENT, EXCEPT  
26 REASONABLE EXPENSES INCURRED IN CONNECTION WITH ATTENDANCE AT  
27 HEARINGS, MEETINGS, AND WORKING SESSIONS, FOR ANY SERVICES RENDERED AS  
28 A MEMBER OF THE AUTHORITY.

29 (G) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE AUTHORITY.

30 5-1304.

31 (A) THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND IN  
32 THE DEPARTMENT MANAGED AND SUPERVISED BY THE SECRETARY.

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

35 (2) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER  
36 SHALL ACCOUNT FOR THE FUND.

1 (3) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO  
2 THE FUND.

3 (C) THE FUND MAY CONSIST OF ANY OF THE FOLLOWING:

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

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

7 (3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES  
8 FROM MONEYS IN THE FUND;

9 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE  
10 FROM THE FUND;

11 (5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF  
12 COLLATERAL RELATED TO ANY LOAN PROVIDED BY THE DEPARTMENT UNDER THIS  
13 SUBTITLE;

14 (6) APPLICATION OR OTHER FEES PAID TO THE PROGRAM IN  
15 CONNECTION WITH THE PROCESSING OF REQUESTS FOR LOANS; AND

16 (7) ANY OTHER MONEYS MADE AVAILABLE TO THE FUND.

17 5-1305.

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

19 (1) PROVIDE LOANS TO ELIGIBLE APPLICANTS; AND

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

22 (B) LOANS FROM THE FUND MAY BE USED ONLY TO FINANCE COSTS  
23 INCURRED FOR:

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

25 (2) ACQUISITION, CONSTRUCTION, OR INSTALLATION OF MACHINERY,  
26 EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, OR SITE  
27 IMPROVEMENTS; OR

28 (3) WORKING CAPITAL.

29 (C) (1) LOANS FROM THE FUND:

30 (I) MAY NOT BE FOR AN AMOUNT LESS THAN:

31 1. \$500,000, IF THE FUND BALANCE IS LESS THAN \$10,000,000;

32 AND

1   2.             \$1,000,000, IF THE FUND BALANCE IS \$10,000,000 OR  
2 GREATER;

3                             (II)         MAY NOT EXCEED THE GREATER OF \$10,000,000 OR 20% OF THE  
4 FUND BALANCE;

5                             (III)         EXCEPT AS PROVIDED IN ITEM (IV) OF THIS PARAGRAPH, MAY  
6 NOT EXCEED 70% OF THE TOTAL COSTS OF THE PROJECT BEING FINANCED;

7                             (IV)         MAY CONSTITUTE 100% OF THE TOTAL COSTS OF THE PROJECT  
8 BEING FINANCED IF THE BORROWER IS THE MARYLAND ECONOMIC DEVELOPMENT  
9 CORPORATION;

10                            (V)         SHALL CARRY AN INTEREST RATE BELOW THE MARKET RATE  
11 OF INTEREST, AS DETERMINED BY THE DEPARTMENT; AND

12                            (VI)         MAY NOT BE USED TO REFINANCE EXISTING DEBT.

13                         (2)         LOANS FROM THE FUND MAY NOT BE FOR A TERM EXCEEDING:

14                             (I)         FOR WORKING CAPITAL - 3 YEARS;

15                             (II)         FOR FINANCING MACHINERY, EQUIPMENT, FURNISHINGS, OR  
16 FIXTURES - 10 YEARS; AND

17                             (III)         FOR FINANCING THE CONSTRUCTION OR ACQUISITION OF  
18 BUILDINGS AND REAL ESTATE - 25 YEARS.

19         (D)         TO BE ELIGIBLE FOR A LOAN FROM THE FUND, AN APPLICANT MUST BE:

20                         (1)         AN INDIVIDUAL OR A PRIVATE BUSINESS ENTITY WHO:

21                             (I)         IS PRIMARILY ENGAGED IN A BUSINESS IN AN ELIGIBLE  
22 INDUSTRY SECTOR LOCATED IN A PRIORITY FUNDING AREA;

23                             (II)         IS NOT PRIMARILY ENGAGED IN RETAIL OR ENTERTAINMENT  
24 ACTIVITIES;

25                             (III)         INTENDS TO USE THE REQUESTED LOAN FOR A PROJECT THAT  
26 HAS A STRONG POTENTIAL FOR EXPANDING OR RETAINING EMPLOYMENT  
27 OPPORTUNITIES IN THE STATE; AND

28                             (IV)         SUBMITS TO THE DEPARTMENT AN APPLICATION CONTAINING  
29 ANY INFORMATION THE DEPARTMENT OR THE AUTHORITY DEEMS NECESSARY IN  
30 EVALUATING THE LOAN REQUEST; OR

31                         (2)         THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION,  
32 PROVIDED THAT THE REQUIREMENTS SPECIFIED IN ITEM (1) OF THIS SUBSECTION  
33 ARE MET.

1 (E) SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT  
2 AND THE AUTHORITY SHALL IMPOSE SUCH TERMS AND CONDITIONS ON THE LOANS  
3 PROVIDED FROM THE FUND AS THEY DEEM APPROPRIATE.

4 (F) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO §  
5 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE  
6 JANUARY 1 OF EACH YEAR ON THE NUMBER, AMOUNT, USE, AND ECONOMIC  
7 BENEFITS OF LOANS AWARDED UNDER THIS SUBTITLE.

8 5-1306.

9 (A) ANNUALLY, AFTER CONSIDERING THE RECOMMENDATION OF THE  
10 MARYLAND ECONOMIC DEVELOPMENT COMMISSION, THE AUTHORITY SHALL  
11 ESTABLISH A LIST OF INDUSTRY SECTORS THAT WILL BE ELIGIBLE FOR LOANS FROM  
12 THE FUND.

13 (B) BEFORE MAKING ITS RECOMMENDATION TO THE AUTHORITY, THE  
14 MARYLAND ECONOMIC DEVELOPMENT COMMISSION SHALL:

15 (1) CONSULT WITH THE DEPARTMENT AND THE DEPARTMENT OF  
16 LABOR, LICENSING, AND REGULATION; AND

17 (2) EVALUATE THE POTENTIAL EMPLOYMENT AND ECONOMIC GROWTH  
18 OF MARYLAND'S INDUSTRY SECTORS.

19 (C) IN DETERMINING WHETHER AN APPLICANT IS ENGAGED IN AN ELIGIBLE  
20 INDUSTRY SECTOR, THE DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET  
21 FORTH IN THE STANDARD INDUSTRIAL CLASSIFICATION MANUAL.

22 SECTION 2. AND BE IT FURTHER ENACTED, That terms of the initial  
23 members of the Maryland Economic Development Assistance Authority shall expire  
24 as follows:

25 (1) three members in 2002;

26 (2) two members in 2001; and

27 (3) two members in 2000.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 1999.