

HOUSE BILL 188

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C8

1999 Regular Session  
9r0207  
CF 9r0061

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

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

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CHAPTER \_\_\_\_\_

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; providing that the Fund is a  
14 growth-related project; defining certain terms; and generally relating to the  
15 Maryland Economic Development Assistance Authority and 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 BY repealing and reenacting, with amendments,  
23 Article - State Finance and Procurement  
24 Section 5-7B-01(d)(1)(iii)  
25 Annotated Code of Maryland

1 (1995 Replacement Volume and 1998 Supplement)

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

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

5 SUBTITLE 13. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND  
6 FUND.

7 5-1301.

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

10 (B) "AUTHORITY" MEANS THE MARYLAND ECONOMIC DEVELOPMENT  
11 ASSISTANCE AUTHORITY.

12 (C) "FUND" MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
13 FUND.

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

16 ~~(E)~~ (D) ~~(F)~~ "WORKING CAPITAL" MEANS FUNDS TO BE USED FOR CURRENT  
17 OPERATIONS OF A BUSINESS.

18 ~~(2) "WORKING CAPITAL" INCLUDES FUNDS FOR SUPPLIES, MATERIALS,~~  
19 ~~LABOR, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR PROFESSIONAL~~  
20 ~~SERVICES.~~

21 5-1302.

22 THE PURPOSE OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
23 FUND IS TO EXPAND EMPLOYMENT OPPORTUNITIES IN THE STATE BY PROVIDING  
24 BELOW MARKET LONG-TERM FIXED RATE LOANS TO BUSINESSES THAT ARE  
25 ENGAGED IN ELIGIBLE INDUSTRY SECTORS ~~AND WISH TO LOCATE OR EXPAND IN A~~  
26 ~~PRIORITY FUNDING AREA.~~

27 5-1303.

28 (A) THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
29 AUTHORITY IN THE DEPARTMENT.

30 (B) THE AUTHORITY SHALL:

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

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

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

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

3 (1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE  
4 OF THE SECRETARY; AND

5 (2) AS EX OFFICIO MEMBERS:

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

7 (II) THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION  
8 OR THE SECRETARY'S DESIGNEE.

9 (D) THE MEMBERS OF THE AUTHORITY APPOINTED BY THE GOVERNOR SHALL  
10 BE INDIVIDUALS WITH SUBSTANTIAL EXPERIENCE IN BUSINESS OR ECONOMIC  
11 DEVELOPMENT AND SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, AND  
12 GENDER MAKEUP OF THE STATE.

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

14 (2) THE TERMS OF APPOINTED MEMBERS SHALL BE STAGGERED AS  
15 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON JULY 1,  
16 1999.

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

19 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
20 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
21 QUALIFIES.

22 (5) AN APPOINTED MEMBER SERVES AT THE PLEASURE OF THE  
23 GOVERNOR.

24 (6) THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM AMONG THE  
25 MEMBERS.

26 (7) ATTENDANCE BY A MAJORITY OF THE VOTING MEMBERS SHALL  
27 CONSTITUTE A QUORUM.

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

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

32 (3) MEMBERS OF THE AUTHORITY APPOINTED BY THE SECRETARY ARE  
33 NOT ENTITLED TO ANY COMPENSATION OR OTHER EMOLUMENT, EXCEPT  
34 REASONABLE EXPENSES INCURRED IN CONNECTION WITH ATTENDANCE AT

1 HEARINGS, MEETINGS, AND WORKING SESSIONS, FOR ANY SERVICES RENDERED AS  
2 A MEMBER OF THE AUTHORITY.

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

4 5-1304.

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

7 (B) (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 (C) 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) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES  
18 FROM MONEYS IN THE FUND;

19 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE  
20 FROM THE FUND;

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

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

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

27 5-1305.

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

29 (1) PROVIDE LOANS TO ELIGIBLE APPLICANTS; AND

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

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

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

4 (2) ACQUISITION, CONSTRUCTION, OR INSTALLATION OF MACHINERY,  
5 EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, OR SITE  
6 IMPROVEMENTS; OR

7 (3) WORKING CAPITAL.

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

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

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

12 2. \$1,000,000, IF THE FUND BALANCE IS \$10,000,000 OR  
13 GREATER;

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

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

18 (IV) MAY CONSTITUTE 100% OF THE TOTAL COSTS OF THE PROJECT  
19 BEING FINANCED IF THE BORROWER IS THE MARYLAND ECONOMIC DEVELOPMENT  
20 CORPORATION;

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

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

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

25 (I) FOR WORKING CAPITAL - 3 YEARS;

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

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

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

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

1 (I) IS PRIMARILY ENGAGED IN A BUSINESS IN AN ELIGIBLE  
2 INDUSTRY SECTOR ~~LOCATED IN A PRIORITY FUNDING AREA;~~

3 (II) IS NOT PRIMARILY ENGAGED IN RETAIL OR ENTERTAINMENT  
4 ACTIVITIES;

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

8 (IV) SUBMITS TO THE DEPARTMENT AN APPLICATION CONTAINING  
9 ANY INFORMATION THE DEPARTMENT OR THE AUTHORITY DEEMS NECESSARY IN  
10 EVALUATING THE LOAN REQUEST; OR

11 (2) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION,  
12 PROVIDED THAT THE REQUIREMENTS SPECIFIED IN ITEM (1) OF THIS SUBSECTION  
13 ARE MET.

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

17 (F) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO §  
18 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE  
19 JANUARY 1 OF EACH YEAR ON THE NUMBER, AMOUNT, USE, AND ECONOMIC  
20 BENEFITS OF LOANS AWARDED UNDER THIS SUBTITLE.

21 5-1306.

22 (A) ANNUALLY, AFTER CONSIDERING THE RECOMMENDATION OF THE  
23 MARYLAND ECONOMIC DEVELOPMENT COMMISSION, THE AUTHORITY SHALL  
24 ESTABLISH A LIST OF INDUSTRY SECTORS THAT WILL BE ELIGIBLE FOR LOANS FROM  
25 THE FUND.

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

28 (1) CONSULT WITH THE DEPARTMENT AND THE DEPARTMENT OF  
29 LABOR, LICENSING, AND REGULATION; AND

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

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

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; AND

18 7. THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE  
19 AUTHORITY AND FUND, AUTHORIZED UNDER ARTICLE 83A, TITLE 5, SUBTITLE 13 OF  
20 THE CODE;

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

24 (1) three members in 2002;

25 (2) two members in 2001; and

26 (3) two members in 2000.

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

