

SENATE BILL 134

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C8

1999 Regular Session
9lr0061
CF 9lr0207

By: **The President (Administration)**
Introduced and read first time: January 22, 1999
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 1999

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 convene a certain study panel; requiring the Department to
14 make certain reports; providing that the Fund is a growth-related project for
15 purposes of determining the priority of State funding of capital projects;
16 defining certain terms; providing for the termination of this Act; and generally
17 relating to the Maryland Economic Development Assistance Authority and
18 Fund.

19 BY adding to
20 Article 83A - Department of Business and Economic Development
21 Section 5-1301 through 5-1306, inclusive, to be under the new subtitle "Subtitle
22 13. Maryland Economic Development Assistance Authority and Fund"
23 Annotated Code of Maryland
24 (1998 Replacement Volume)

25 BY repealing and reenacting, with amendments,

1 Article - State Finance and Procurement
 2 Section 5-7B-01(d)(1)(iii)
 3 Annotated Code of Maryland
 4 (1995 Replacement Volume and 1998 Supplement)

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

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

8 SUBTITLE 13. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND
 9 FUND.

10 5-1301.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 12 INDICATED.

13 (B) "AUTHORITY" MEANS THE MARYLAND ECONOMIC DEVELOPMENT
 14 ASSISTANCE AUTHORITY.

15 (C) "FUND" MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE
 16 FUND.

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

19 ~~(E)~~ (D) (1) "WORKING CAPITAL" MEANS FUNDS TO BE USED FOR CURRENT
 20 OPERATIONS OF A BUSINESS.

21 (2) "WORKING CAPITAL" INCLUDES FUNDS FOR SUPPLIES, MATERIALS,
 22 LABOR, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR PROFESSIONAL
 23 SERVICES.

24 5-1302.

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

30 5-1303.

31 (A) THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE
 32 AUTHORITY IN THE DEPARTMENT.

33 (B) THE AUTHORITY SHALL:

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

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

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

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

6 (1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE
7 ~~OF THE SECRETARY~~ AND CONSENT OF THE SENATE; AND

8 (2) AS EX OFFICIO MEMBERS:

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

10 (II) THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION
11 OR THE SECRETARY'S DESIGNEE.

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

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

17 (2) THE TERMS OF APPOINTED MEMBERS SHALL BE STAGGERED AS
18 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON JULY 1,
19 1999.

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

22 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
23 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
24 QUALIFIES.

25 (5) AN APPOINTED MEMBER SERVES AT THE PLEASURE OF THE
26 GOVERNOR.

27 (6) THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM AMONG THE
28 MEMBERS.

29 (7) ATTENDANCE BY A MAJORITY OF THE VOTING MEMBERS SHALL
30 CONSTITUTE A QUORUM.

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

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

1 (3) ~~MEMBERS EACH MEMBER~~ OF THE AUTHORITY APPOINTED BY THE
2 ~~SECRETARY ARE NOT ENTITLED TO ANY COMPENSATION OR OTHER EMOLUMENT,~~
3 ~~EXCEPT REASONABLE EXPENSES INCURRED IN CONNECTION WITH ATTENDANCE AT~~
4 ~~HEARINGS, MEETINGS, AND WORKING SESSIONS, FOR ANY SERVICES RENDERED AS~~
5 ~~A MEMBER OF THE AUTHORITY~~ GOVERNOR MAY NOT RECEIVE COMPENSATION AS A
6 MEMBER OF THE AUTHORITY BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES
7 UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
8 BUDGET.

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

10 5-1304.

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

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

15 (2) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
16 SHALL ACCOUNT FOR THE FUND.

17 (3) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO
18 THE FUND.

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

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

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

23 (3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
24 FROM MONEYS IN THE FUND;

25 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
26 FROM THE FUND;

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

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

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

33 5-1305.

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

1 (1) PROVIDE LOANS TO ELIGIBLE APPLICANTS; AND

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

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

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

7 (2) ACQUISITION, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
8 EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, OR SITE
9 IMPROVEMENTS; OR

10 (3) WORKING CAPITAL.

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

12 (I) MAY NOT BE FOR AN AMOUNT ~~LESS~~ MORE THAN:

13 1- \$500,000, IF THE FUND BALANCE IS LESS THAN \$10,000,000;
14 ~~AND~~

15 2- \$1,000,000, ~~IF THE FUND BALANCE IS \$10,000,000 OR~~
16 ~~GREATER;~~

17 (II) MAY NOT EXCEED THE ~~GREATER~~ LESSER OF \$10,000,000 OR 20%
18 OF THE FUND BALANCE;

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

21 (IV) MAY CONSTITUTE 100% OF THE TOTAL COSTS OF THE PROJECT
22 BEING FINANCED IF THE BORROWER IS THE MARYLAND ECONOMIC DEVELOPMENT
23 CORPORATION;

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

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

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

28 (I) FOR WORKING CAPITAL - 3 YEARS;

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

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

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

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

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

5 ~~(II) IS NOT PRIMARILY ENGAGED IN RETAIL OR ENTERTAINMENT~~
6 ~~ACTIVITIES;~~

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

10 ~~(IV)~~ (III) SUBMITS TO THE DEPARTMENT AN APPLICATION
11 CONTAINING ANY INFORMATION THE DEPARTMENT OR THE AUTHORITY DEEMS
12 NECESSARY IN EVALUATING THE LOAN REQUEST; OR

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

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

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

23 5-1306.

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

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

30 (1) CONSULT WITH THE DEPARTMENT AND THE DEPARTMENT OF
31 LABOR, LICENSING, AND REGULATION; AND

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

34 (C) IN DETERMINING WHETHER AN APPLICANT IS ENGAGED IN AN ELIGIBLE
35 INDUSTRY SECTOR, THE DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET
36 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 the Department of
28 Business and Economic Development shall convene a study panel during the 1999
29 interim, to be staffed by the Department, which includes members of the Senate of
30 Maryland, appointed by the President of the Senate, members of the House of
31 Delegates, appointed by the Speaker of the House, representatives of the Maryland
32 Economic Development Commission, and representatives of the business community.
33 The study panel shall review the consolidation of its current financing funds and
34 financing funding models. The Department shall report on the study panel's
35 recommendations and provide draft legislation, as necessary, by December 1, 1999, to
36 allow for consideration during the 2000 legislative session.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 1999. It shall remain effective for a period of 1 year and, at the end of June 30,
3 2000, with no further action required by the General Assembly, this Act shall be
4 abrogated and of no further force and effect.