

SENATE BILL 136

Unofficial Copy
C8

1999 Regular Session
9r0191
CF 9r0212

By: **The President (Administration)**

Introduced and read first time: January 22, 1999

Assigned to: Budget and Taxation

A BILL ENTITLED

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; requiring certain reports; defining certain terms; and generally
10 relating to the Maryland Competitive Advantage Financing Fund.

11 BY adding to

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

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

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

20 **SUBTITLE 13. MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND.**

21 5-1301.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (B) "FUND" MEANS THE MARYLAND COMPETITIVE ADVANTAGE FINANCING
25 FUND.

1 (C) "ECONOMICALLY DISADVANTAGED INDIVIDUAL" MEANS AN INDIVIDUAL
2 WITH A NET WORTH EXCLUDING THE VALUE OF THE BUSINESS OF LESS THAN
3 \$500,000.

4 (D) "FINANCIAL ASSISTANCE" MEANS:

5 (1) LOANS;

6 (2) LOAN GUARANTEES;

7 (3) INTEREST SUBSIDIES; AND

8 (4) INCENTIVES TO PRIVATE LENDERS OR ANY OTHER FINANCIAL
9 ASSISTANCE DESIGNED TO SECURE BUSINESS LOANS FROM FINANCIAL
10 INSTITUTIONS.

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

13 (F) "SMALL BUSINESS" MEANS A BUSINESS THAT AT THE TIME OF
14 APPLICATION HAS:

15 (1) NET SALES OF LESS THAN \$1,000,000 PER YEAR; AND

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

17 (G) (1) "WORKING CAPITAL" MEANS FUNDS TO BE USED FOR CURRENT
18 OPERATIONS OF A BUSINESS.

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

22 5-1302.

23 (A) THERE IS A MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND IN
24 THE DEPARTMENT.

25 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR
26 THE DEVELOPMENT AND EXPANSION OF SMALL AND ECONOMICALLY
27 DISADVANTAGED INDIVIDUALS IN THE STATE.

28 (C) (1) THE SECRETARY SHALL MANAGE AND ADMINISTER THE FUND.

29 (2) THE SECRETARY MAY DELEGATE THE AUTHORITY TO MAKE
30 FINANCING DECISIONS TO ANY BOARD OR AUTHORITY IN THE DEPARTMENT.

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

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

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

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

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

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

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

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

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

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

16 5-1303.

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

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

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

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

23 (1) IS A SMALL BUSINESS;

24 (2) IS LOCATED IN A PRIORITY FUNDING AREA;

25 (3) IS OWNED BY ECONOMICALLY DISADVANTAGED INDIVIDUALS;

26 (4) HAS APPLIED FOR AND BEEN DENIED A LOAN BY A FINANCIAL
27 INSTITUTION; AND

28 (5) MEETS THE QUALIFICATIONS REQUIRED BY THIS SUBTITLE.

29 (C) TO APPLY FOR FINANCIAL ASSISTANCE, AN APPLICANT SHALL SUBMIT AN
30 APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT
31 REQUIRES.

1 (D) THE APPLICATION SHALL INCLUDE:

2 (1) A DETAILED BUSINESS PLAN, INCLUDING:

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

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

5 (III) THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM
6 THE DEPARTMENT;

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

9 (3) INFORMATION RELATING TO THE FINANCIAL STATUS OF THE
10 APPLICANT, INCLUDING:

11 (I) A CURRENT BALANCE SHEET;

12 (II) A PROFIT AND LOSS STATEMENT;

13 (III) CREDIT REFERENCES; AND

14 (IV) EVIDENCE THAT THE APPLICANT AND THE OWNERS ARE
15 FINANCIALLY RESPONSIBLE, INCLUDING A STATEMENT OR EVIDENCE THAT
16 NEITHER THE APPLICANT NOR ANY OF ITS OWNERS:

17 1. HAVE FILED FOR BANKRUPTCY IN THE 7 YEARS
18 PRECEDING THE APPLICATION;

19 2. HAVE ANY EXISTING LIENS OR JUDGMENTS; AND

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

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

24 (I) A CURRENT BALANCE SHEET;

25 (II) AN INCOME STATEMENT; AND

26 (III) CREDIT REFERENCES;

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

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

1 5-1304.

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

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

7 (C) THE AMOUNT OF ANY FINANCIAL ASSISTANCE SHALL NOT BE LESS THAN
8 \$10,000 AND SHALL NOT EXCEED \$100,000.

9 (D) THE TERM OF ANY LOAN OR OTHER FINANCIAL ASSISTANCE MAY NOT
10 EXCEED 10 YEARS.

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

13 (F) FUNDS MADE AVAILABLE THROUGH FINANCIAL ASSISTANCE MAY BE
14 USED ONLY TO FINANCE COSTS INCURRED FOR:

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

16 (2) ACQUISITION, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
17 EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, OR SITE
18 IMPROVEMENTS; OR

19 (3) WORKING CAPITAL.

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

23 (1) WITHHOLD FROM THE APPLICANT FURTHER ADVANCES OF
24 FINANCIAL ASSISTANCE UNTIL THE APPLICANT COMPLIES WITH THE AGREEMENT
25 OR REQUIREMENTS; AND

26 (2) EXERCISE ANY OTHER REMEDY FOR WHICH THE FINANCIAL
27 ASSISTANCE DOCUMENTS PROVIDE.

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

30 5-1305.

31 (A) THE STATE TREASURER SHALL REPORT ANNUALLY TO THE DEPARTMENT
32 AS TO:

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

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 1999.