

SENATE BILL 783

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2000 Regular Session
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By: **Senators Middleton, McFadden, Ruben, Stoltzfus, and Madden**
Introduced and read first time: February 4, 2000
Assigned to: Budget and Taxation and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Business and Economic Development - Financing Programs Consolidation**
3 **Act of 2000**

4 FOR the purpose of consolidating the Department of Business and Economic
5 Development's programs for financial assistance; repealing the Department's
6 capacity to provide assistance for commercial rehabilitation; repealing the
7 statute governing the Brownfields Revitalization Incentive Program within the
8 Department; altering the list enumerating the Department's financial
9 assistance programs; repealing the statute governing the Enterprise Zone
10 Venture Capital Guarantee Fund; exempting the disposition of real or personal
11 property acquired by the Department of Business and Economic Development in
12 transactions funded from a certain fund; repealing the statute governing the
13 Maryland Enterprise Incentive Deposit Program; repealing the Maryland
14 Industrial Land Act, with the exception of the section governing the Smart
15 Growth Economic Development Infrastructure Fund; repealing references to the
16 Maryland Industrial Land Act in the statute governing the Smart Growth
17 Economic Development Infrastructure Fund; expanding the purposes of the
18 Maryland Industrial Development Financing Authority (MIDFA) to include
19 encouraging the creation and expansion of day care facilities; altering the
20 composition of MIDFA; creating the Industrial Development Fund to replace
21 MIDFA's Bond Insurance Fund and Authorized Purpose Insurance Fund, the
22 Department's Day Care Facilities Loan Guarantee Fund, and the Maryland
23 Enterprise Incentive Deposit Fund; repealing provisions governing the
24 Maryland Seafood and Aquaculture Loan Fund; authorizing MIDFA to provide
25 financial assistance for energy conservation projects and energy projects;
26 repealing the requirement for local governmental approval for bonds issued by
27 MIDFA; creating a Linked Deposit Program to be administered by MIDFA;
28 authorizing MIDFA to accept certain investment instruments in connection with
29 its provision of financial assistance; authorizing the Department to make grants
30 and investments from the Maryland Economic Development Assistance Fund;
31 authorizing the Department to use funds from the Maryland Economic
32 Development Assistance Fund to provide financial assistance for redevelopment
33 of brownfields sites, creation and expansion of day care facilities, animal waste
34 technology projects, and aquaculture projects; specifying the dollar amount of
35 the transactions that may be approved by the Secretary of Business and

1 Economic Development and the Maryland Economic Development Assistance
2 Authority; altering the terms and conditions to be imposed on transactions from
3 the Maryland Economic Development Assistance Fund; repealing the
4 termination of the Maryland Economic Development Assistance Authority and
5 Fund; repealing the statute governing the Maryland Energy Financing
6 Administration; repealing the statute governing the Maryland Workforce
7 Training Fund; repealing the statute governing the Animal Waste Technology
8 Fund; correcting statutory cites to the Brownfields Revitalization Incentive
9 Program in the statute governing the Maryland Department of the
10 Environment; authorizing an executive committee of the Legislative Policy
11 Committee to approve the transfer of funds from the Economic Development
12 Opportunities Program ("Sunny Day") Fund for certain projects; authorizing
13 investments to be made from the Sunny Day Fund; altering the due date for
14 certain guidelines governing projects to receive support from the Sunny Day
15 Fund due from the Department of Business and Economic Development to the
16 Legislative Policy Committee; providing that an executive agency may make
17 certain changes to a transaction approved by the Legislative Policy Committee
18 or its executive committee; transferring the Child Care Special Loan Fund
19 within the Department of Business and Economic Development to the
20 Department of Housing and Community Development; validating bonds, notes,
21 and other evidence of indebtedness and obligations issued by the Department of
22 Business and Economic Development or any of its authorized bond issuers;
23 requiring the Department of Legislative Services and the publisher of the
24 Annotated Code to propose and make certain revisions to the Code; altering
25 certain definitions; making technical corrections; and generally relating to the
26 operation of the Department of Business and Economic Development and the
27 State's economic development financing programs.

28 BY repealing

29 Article 83A - Department of Business and Economic Development
30 Section 3-401 and 3-402 and the subtitle "Subtitle 4. Commercial Revitalization
31 and Rehabilitation Programs"; 3-901 through 3-905, inclusive, and the
32 subtitle "Subtitle 9. Brownfields Revitalization Incentive Program"; 5-405;
33 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
34 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive;
35 5-801 through 5-808, inclusive, and the subtitle "Subtitle 8. Industrial
36 and Commercial Redevelopment"; 5-915 and 5-917 through 5-928,
37 inclusive, and the various parts; 6-101 through 6-113, inclusive, and the
38 subtitle "Subtitle 1. Day Care Facilities Loan Guarantee Fund"; 6-201
39 through 6-213, inclusive, and the subtitle "Subtitle 2. Child Care Facilities
40 Direct Loan Fund"; 6-401 through 6-421, inclusive, and the subtitle
41 "Subtitle 4. Maryland Energy Financing Act"; 6-601 through 6-606,
42 inclusive, and the subtitle "Subtitle 6. Maryland Workforce Training
43 Finance Fund"; and 6-801 through 6-807, inclusive, and the subtitle
44 "Subtitle 8. Animal Waste Technology Fund"
45 Annotated Code of Maryland
46 (1998 Replacement Volume and 1999 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article 83A - Department of Business and Economic Development
3 Section 5-101 through 5-103, inclusive; 5-214(c); 5-401 and 5-404; 5-501 and
4 5-502; 5-719 to be under the amended subtitle "Subtitle 7. Smart Growth
5 Economic Development Infrastructure Fund"; 5-901, 5-902, 5-905, 5-906,
6 5-911, 5-914, 5-916, 5-929 through 5-941; 5-1202(b); 5-1401 through
7 5-1406, inclusive
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 1999 Supplement)

10 BY adding to
11 Article 83A - Department of Business and Economic Development
12 Section 5-503(c) and (d); 5-920, 5-927, 5-928, 5-929, 5-932; 5-1406, 5-1407,
13 5-1408, and 5-1410
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 1999 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Environment
18 Section 7-507
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1999 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - State Finance and Procurement
23 Section 5-7B-01(d)(1) and 7-314
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1999 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Tax - Property
28 Section 9-229
29 Annotated Code of Maryland
30 (1994 Replacement Volume and 1999 Supplement)

31 BY repealing and reenacting, with amendments,
32 Chapter 301 of the Acts of the General Assembly of 1999
33 Section 4

34 BY transferring
35 Article 83A - Department of Business and Economic Development
36 Section 6-301 through 6-312 and the subtitle "Subtitle 3. Child Care Special
37 Loan Fund", respectively
38 Annotated Code of Maryland

1 (1998 Replacement Volume and 1999 Supplement)
 2 to be
 3 Article 83B - Department of Housing and Community Development
 4 Section 4-301 through 4-312 and the subtitle "Subtitle 3. Child Care Special
 5 Loan Fund", respectively
 6 Annotated Code of Maryland
 7 (1998 Replacement Volume and 1999 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 9 MARYLAND, That Section(s) 3-401 and 3-402 and the subtitle "Subtitle 4.
 10 Commercial Revitalization and Rehabilitation Programs"; 3-901 through 3-905,
 11 inclusive, and the subtitle "Subtitle 9. Brownfields Revitalization Incentive Program";
 12 5-405; 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
 13 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive; 5-801 through
 14 5-808, inclusive, and the subtitle "Subtitle 8. Industrial and Commercial
 15 Redevelopment"; 5-915 and 5-917 through 5-928, inclusive, and the various parts;
 16 6-101 through 6-113, inclusive, and the subtitle "Subtitle 1. Day Care Facilities Loan
 17 Guarantee Fund"; 6-201 through 6-213, inclusive, and the subtitle "Subtitle 2. Child
 18 Care Facilities Direct Loan Fund"; 6-401 through 6-421, inclusive, and the subtitle
 19 "Subtitle 4. Maryland Energy Financing Act"; 6-601 through 6-606, inclusive, and
 20 the subtitle "Subtitle 6. Maryland Workforce Training Finance Fund"; and 6-801
 21 through 6-807, inclusive, and the subtitle "Subtitle 8. Animal Waste Technology
 22 Fund" of Article 83A - Department of Business and Economic Development of the
 23 Annotated Code of Maryland be repealed.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 25 read as follows:

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

27 Title 5. Economic Development and Financial Assistance Programs.

28 Subtitle 1. General Provisions.

29 5-101.

30 The Department shall administer the State's economic development and growth
 31 funds to facilitate the attraction, creation, expansion, and retention of businesses and
 32 jobs in Maryland. THE DEPARTMENT SHALL ASSIST AND ENCOURAGE LOCAL
 33 GOVERNMENTS TO DEVELOP STRATEGIC PLANS FOR ECONOMIC DEVELOPMENT.

34 5-102.

35 The Department shall administer economic development and financial
 36 assistance programs and funds, including the following:

37 (1) Maryland Small Business Development Financing Authority;

- 1 (2) Maryland Industrial Development Financing Authority;
- 2 (3) [Maryland Energy Financing Administration;
- 3 (4) Maryland Industrial and Commercial Redevelopment Fund;
- 4 (5) Maryland Industrial Land Act;
- 5 (6)] Enterprise Fund;
- 6 [(7) Maryland Enterprise Incentive Deposit Fund;
- 7 (8) Enterprise Zone Venture Capital Guarantee Fund;
- 8 (9)] (4) The Community Development Block Grant for Economic
9 Development, jointly with the Department of Housing and Community Development;
- 10 [(10) Day Care Facilities Loan Guarantee Fund;
- 11 (11) Child Care Facilities Direct Loan Fund;
- 12 (12) Child Care Special Loan Fund;
- 13 (13)] (5) Maryland Economic Adjustment Fund; [and]
- 14 (6) MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
15 AND FUND;
- 16 (7) MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND;
- 17 (8) SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE
18 FUND; AND
- 19 [(14)] (9) Other programs or funds designated in law or by the Governor
20 or Secretary.

21 5-103.

22 (a) Notwithstanding any other provision of law except for [§§ 5-715, 5-719,
23 and 5-802] § 5-701 of this article, the Secretary may transfer funds among any of the
24 various accounts within the Department or subject to its control, that are used to
25 provide financial support of any kind.

26 (b) Notwithstanding any other provision of law except for [§§ 5-715, 5-719,
27 and 5-802] § 5-701 of this article, the Secretary may transfer funds from any of the
28 accounts described in subsection (a) of this section to the Economic Development
29 Opportunities Program Fund established under § 7-314 of the State Finance and
30 Procurement Article.

31 (c) Where applicable, transfers under this section must comply with the
32 provisions of §§ 5-917(g) and 5-919(h) of this article.

1 (d) The Secretary shall accomplish any transfer under this section in
2 accordance with the appropriation amendment process under § 7-209 of the State
3 Finance and Procurement Article.

4 Subtitle 2. Maryland Economic Development Corporation.

5 5-214.

6 (c) [(1)] For purposes of applying for, receiving, and entering into agreements
7 in connection with loans, grants, insurance, or other forms of financial assistance, the
8 Corporation is[:

9 (i) A] A public body within the meaning of the Maryland Industrial
10 Development Financing Authority Act[; and

11 (ii) A political subdivision within the meaning of the Maryland
12 Industrial Land Act and the Maryland Industrial and Commercial Redevelopment
13 Fund Act.

14 (2) (i) Article 83A, §§ 5-712 and 5-803(c)(3) of the Code do not apply
15 to loans to the Corporation when it is receiving financial assistance as authorized
16 under paragraph (1).

17 (ii) Article 83A, § 5-713 does not apply to the Corporation].

18 Subtitle 4. Enterprise Zones.

19 5-401.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Area" means a geographic area within one or more political subdivisions
22 within the State described by a closed perimeter boundary.

23 (c) (1) "Business entity" means a person operating or conducting a trade or
24 business.

25 (2) Except as provided in § 9-103 of the Tax - Property Article, "business
26 entity" does not include a person owning, operating, developing, constructing, or
27 rehabilitating property intended for use primarily as single or multifamily residential
28 property located within the enterprise zone.

29 (d) "County" means a county of this State and includes the Mayor and City
30 Council of Baltimore.

31 (e) "Department" means the Department of Business and Economic
32 Development.

33 (f) "Enterprise zone" means an area:

1 (1) Meeting the requirements of § 5-403 of this subtitle and so
2 designated by the Secretary pursuant to § 5-402 of this subtitle;

3 (2) So designated by the United States government; or

4 (3) Designated as an empowerment zone by the United States
5 government pursuant to 26 U.S.C. § 1391 et seq.

6 (g) "Focus area" means an area meeting the requirements of § 5-402(k) of this
7 subtitle and so designated by the Secretary pursuant to § 5-402 of this subtitle.

8 (h) ["Fund" means the Enterprise Zone Venture Capital Guarantee Fund.

9 (i) "Political subdivision" means any county or municipal corporation.

10 [(j)] (I) "Secretary" means the Secretary of Business and Economic
11 Development.

12 [(k)] (J) "Submission date" means April 15 and October 15 of any calendar
13 year.

14 5-404.

15 (a) The following incentives and initiatives shall be available to business
16 entities to the extent provided for in this section:

17 (1) The special property tax credit set forth in § 9-103 of the Tax -
18 Property Article;

19 (2) The income tax credits set forth in § 10-702 of the Tax - General
20 Article;

21 (3) The consideration for [loans under the Maryland Industrial Land Act
22 set forth in § 5-710 of this article;

23 (4) The consideration for grants and loans from the Maryland Industrial
24 and Commercial Redevelopment Fund set forth in § 5-803(c) of this article; and

25 (5) Insurance by the Enterprise Zone Venture Capital Guarantee Fund
26 established in § 5-405 of this article.] FINANCIAL ASSISTANCE FROM THE PROGRAMS
27 SET FORTH IN § 5-102 OF THIS ARTICLE.

28 (b) Any business entity moving into or locating within an enterprise zone on or
29 after the date on which the enterprise zone is designated pursuant to § 5-402 of this
30 subtitle may benefit from the incentives and initiatives set forth in this section, if:

31 (1) The business entity meets the requirements and conditions of the
32 Code section applicable to each incentive or initiative;

1 (3) The Department shall divest itself from any enterprise in which an
2 equity investment is made under this [subsection] SUBTITLE within 15 years after
3 making the investment.

4 (4) The liability of the State and of the Department in providing equity
5 investment financing under this [subsection] SUBTITLE is limited to its investments
6 under this [subsection] SUBTITLE.

7 (5) The Department shall adopt regulations specifying:

8 (i) The types of business enterprises in which investments may be
9 made under this [subsection] SUBTITLE and the basic standards an enterprise is
10 required to meet to qualify for investments under this [subsection] SUBTITLE; and

11 (ii) The amount of funds available for investments under this
12 [subsection] SUBTITLE and the criteria upon which investment decisions will be
13 made by the Department.

14 5-502.

15 (a) There is an Enterprise Fund in the Department established as a
16 nonlapsing, revolving special fund managed and supervised by the Secretary.

17 (b) The Fund may consist of any of the following:

18 (1) Moneys appropriated by the State to the Fund;

19 (2) Moneys made available to the Fund through appropriate federal
20 programs or private contributions;

21 (3) Income from investments that the State Treasurer makes from
22 moneys in the Fund;

23 (4) Repayments of principal and interest from loans made from the
24 Fund;

25 (5) Proceeds from the sale, disposition, lease or rental by the
26 Department of collateral related to any financing provided by the Department under
27 this [section] SUBTITLE;

28 (6) Premiums, fees, royalties, and repayments of principal, interest and
29 investment paid to the Department by or on behalf of a business enterprise in which
30 the Department has made an equity investment, or by or on behalf of an investor
31 providing an investment guaranteed by the Department under this [section]
32 SUBTITLE;

33 (7) Recovery of any equity investment made by the Department in a
34 business enterprise, including any arrangement under which the Department's
35 investment in the business enterprise is recovered through:

1 (i) A requirement that the Department receive a proportion of cash
2 flow, commissions, royalties, or payments on a patent; or

3 (ii) The repurchase from the Department of any evidence of equity
4 participation, such as notes, stocks, bonds or debentures;

5 (8) Repayments received from conditional grants extended by the
6 Department; and

7 (9) Any other moneys made available to the Department.

8 5-503.

9 (C) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
10 DOES NOT APPLY TO ANY SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER
11 DISPOSITION OF ANY REAL OR PERSONAL PROPERTY ACQUIRED BY THE
12 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE,
13 INCLUDING SHARES OF STOCK IN A BUSINESS ENTITY. THE DEPARTMENT SHALL
14 CONSULT WITH THE OFFICE OF THE TREASURER IN CONNECTION WITH ANY
15 PROPOSED DISPOSITION OF PROPERTY ACQUIRED BY THE DEPARTMENT UNDER
16 THIS SUBTITLE.

17 (D) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES
18 NOT APPLY TO THE DEPARTMENT FOR SERVICES RELATED TO THE INVESTMENT,
19 MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE DEPARTMENT IN
20 ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING COMMISSIONS
21 RELATED TO THE TRANSFER OF SHARES OF STOCK IN A BUSINESS ENTITY.

22 Subtitle 7. [Maryland Industrial Land Act.] SMART GROWTH ECONOMIC
23 DEVELOPMENT INFRASTRUCTURE FUND.

24 [5-719.] 5-701.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) "Fund" means the Smart Growth Economic Development
27 Infrastructure Fund established under subsection (b) of this section.

28 (3) "Qualified distressed county" means a county, including Baltimore
29 City, that has developed in consultation with the municipal corporations located
30 within the county and submitted to the Secretary a local strategic plan for economic
31 development that has been approved by the Secretary and:

32 (i) For which the average rate of unemployment for the most
33 recent 18-month period for which data are available is greater than 150% of the
34 average rate of unemployment for the entire State during that same period; or

35 (ii) For which the average per capita personal income for the most
36 recent 24-month period for which data are available is equal to or less than 67% of
37 the average personal per capita income for the entire State during that same period.

1 (b) (1) There is a Smart Growth Economic Development Infrastructure
2 Fund.

3 (2) The Fund consists of:

4 (i) Appropriations to the Fund;

5 (ii) Any investment earnings of the Fund;

6 (iii) Moneys received in payment of interest and repayment of
7 principal for loans provided from the Fund; and

8 (iv) Moneys made available to the Fund from any other source.

9 (3) The Fund shall be administered by the Secretary and shall be used
10 exclusively for the purpose of providing financial assistance in the manner provided
11 under subsection (c) of this section to qualified distressed counties, or to the Maryland
12 Economic Development Corporation for projects located in qualified distressed
13 counties, under this section.

14 (4) The Secretary may not transfer funds from the Fund to any of the
15 various accounts within the Department or subject to its control.

16 (5) The Fund is a continuing, nonlapsing fund which is not subject to §
17 7-302 of the State Finance and Procurement Article.

18 (c) (1) Except as otherwise provided in this section, the Secretary may
19 approve financial assistance from the Fund to a qualified distressed county for the
20 purposes of financing the costs of acquisition, improvements, and rehabilitation of
21 land for industrial sites and parks, development of water and sewer lines, shell
22 buildings, infrastructure serving existing retail and office oriented centers occupying
23 at least 400,000 square feet on a limited basis of no more than one per jurisdiction,
24 and other needed infrastructure projects[, as set forth in §§ 5-704 through 5-709 of
25 this subtitle].

26 (2) Except as otherwise provided in this subsection, financial assistance
27 under this section[:

28 (i) Is subject to the applicable requirements, terms, and conditions
29 of loans under §§ 5-704 through 5-709 of this subtitle; and

30 (ii) May] MAY be in the form of a loan, an investment, or a loan
31 convertible in whole or in part to a grant upon the satisfaction of specified conditions,
32 all upon terms specified by the Department.

33 (3) (i) In addition to any other requirements for an application for
34 financial assistance under this subtitle, an application for financial assistance under
35 this section shall include, for each project:

1 1. A marketing plan designed to market the project to
2 prospective businesses and a statement of planned marketing expenditures as a
3 percent of the total financial assistance amount requested; and

4 2. A site plan for the project that is consistent with the
5 county's local strategic economic development plan as to the location and type of
6 project.

7 (ii) The Secretary may not approve financial assistance for a project
8 under this section unless the Secretary approves the marketing plan and site plan for
9 the project submitted with the application.

10 (4) (i) Each loan agreement under this section shall include a
11 provision for repayment of principal to begin only after the project is initially
12 occupied.

13 (ii) The Secretary may include in a loan agreement under this
14 section a provision for payment of interest to begin only after the project is initially
15 occupied.

16 (5) (i) To be eligible for financial assistance under this section, the
17 Maryland Economic Development Corporation shall enlist as a co-applicant for the
18 financial assistance the qualified distressed county or municipal corporation applying
19 under subsection (e) of this section in which the project to be funded under this
20 section is located.

21 (ii) As the co-applicant, the qualified distressed county or
22 municipal corporation applying shall:

23 1. Certify that it supports the project and that the proposed
24 financial assistance is consistent with the qualified distressed county's plan for
25 economic development; and

26 2. Provide to the Department details of the qualified
27 distressed county's support for and participation in the project.

28 (6) In approving financial assistance, the Secretary shall consider the
29 aggregate amount of financial assistance that may already have been provided for a
30 particular qualified distressed county under this section and under any other State
31 economic development program to ensure that no particular qualified distressed
32 county benefits disproportionately from financial assistance under this section.

33 (d) The Department may develop a local strategic plan for economic
34 development in a qualified distressed county in consultation with a municipal
35 corporation in that county if:

36 (1) The qualified distressed county has not developed a local strategic
37 plan for economic development; or

1 (2) The qualified distressed county has developed a local strategic plan
2 for economic development but is not actively pursuing financial assistance from the
3 Fund.

4 (e) A municipal corporation located in a qualified distressed county may:

5 (1) Apply for financial assistance from the Fund in a manner consistent
6 with the plan developed by the Department in consultation with the municipal
7 corporation if the qualified distressed county has not developed a local strategic plan
8 for economic development; or

9 (2) Apply for financial assistance from the Fund in a manner consistent
10 with the plan developed by the qualified distressed county if the qualified distressed
11 county has developed a local strategic plan for economic development but is not
12 actively pursuing financial assistance from the Fund.

13 Subtitle 9. Maryland Industrial Development Financing Authority.

14 [Part I. Definitions; General Provisions.]

15 5-901.

16 (a) In this subtitle, the following words have the meanings indicated.

17 (b) "Acquisition" means the acquisition, construction, reconstruction,
18 equipping, expansion, extension, improvement, rehabilitation, or remodeling of 1 or
19 more facilities OR ENERGY PROJECTS.

20 (c) "Authority" means the Maryland Industrial Development Financing
21 Authority.

22 (d) ["Authorized Purpose Insurance Fund" means the Authorized Purpose
23 Insurance Fund created by § 5-915 of this subtitle.

24 (e)] "Authorized purpose obligations" means bonds or notes, or other
25 instruments, certificates, or other evidences of obligation issued, offered for sale or
26 delivered by any person or public body for any purpose found and determined by the
27 Authority to accomplish the purposes of this subtitle.

28 [(f) "Bond Insurance Fund" means the Bond Insurance Fund created by §
29 5-914 of this subtitle.

30 (g)] (E) "Bonds" means bonds, notes, bond anticipation notes, notes in the
31 nature of commercial paper or other instruments, certificates, or evidences of
32 obligation issued and sold by any public body, agency or instrumentality of the State
33 to finance or refinance 1 or more facilities [or 1 or more energy projects], or to refund
34 outstanding bonds, including, by way of example, bonds within the meaning indicated
35 in the Maryland Economic Development Revenue Bond Act and bonds within the
36 meaning indicated in [§ 6-402 of] this [article] SUBTITLE.

1 (F) "COGENERATION" MEANS THE COMBINED GENERATION BY ANY FACILITY
2 OF:

3 (1) ELECTRICAL OR MECHANICAL POWER; AND

4 (2) STEAM OR OTHER FORMS OF USEFUL ENERGY, SUCH AS HEAT, THAT
5 ARE USED FOR INDUSTRIAL, COMMERCIAL, HEATING, OR COOLING PURPOSES.

6 (G) "COMMERCIAL BUILDING" MEANS, FOR THE PURPOSE OF PROVIDING
7 FINANCIAL ASSISTANCE FOR AN ENERGY CONSERVATION PROJECT OR A SOLAR
8 ENERGY PROJECT IN A COMMERCIAL BUILDING, ANY BUILDING, OTHER THAN A
9 RESIDENTIAL BUILDING, THAT IS USED PRIMARILY TO CARRY ON A BUSINESS,
10 INCLUDING ANY NONPROFIT BUSINESS, AND IS NOT USED PRIMARILY FOR THE
11 MANUFACTURE OR PRODUCTION OF RAW MATERIALS, PRODUCTS, OR
12 AGRICULTURAL COMMODITIES.

13 (h) "County" means any of the 23 counties of Maryland, and the Mayor and
14 City Council of Baltimore.

15 (i) "Department" means the Department of Business and Economic
16 Development of the State.

17 [(j) "Energy project" means any energy project within the meaning indicated
18 in § 6-402 of this article.]

19 (J) "ENERGY AUDIT" MEANS:

20 (1) AN ENERGY AUDIT PERFORMED FOR PURPOSES OF THE NATIONAL
21 ENERGY CONSERVATION POLICY ACT, P.L. 95-619; OR

22 (2) AN ON-SITE INSPECTION OF A COMMERCIAL BUILDING, AN
23 INDUSTRIAL BUILDING, OR AN INDUSTRIAL PROCESS, WHICH INSPECTION INCLUDES
24 A DETERMINATION OF, AND PROVIDES INFORMATION ON:

25 (I) THE TYPE, QUANTITY, AND RATE OF ENERGY CONSUMPTION OF
26 THE BUILDING OR PROCESS;

27 (II) APPROPRIATE ENERGY CONSERVING MAINTENANCE AND
28 OPERATION PROCEDURES THAT MAY BE EMPLOYED TO REDUCE THE ENERGY
29 CONSUMPTION OF THE BUILDING OR PROCESS; AND

30 (III) THE COST OF IMPLEMENTING APPROPRIATE ENERGY
31 CONSERVATION PROJECTS OR SOLAR ENERGY PROJECTS AND THE SAVINGS IN
32 ENERGY COSTS THAT ARE LIKELY TO RESULT FROM THE IMPLEMENTATION OF THE
33 PROJECTS.

34 (K) "ENERGY CONSERVATION PROJECT" MEANS:

35 (1) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
36 BUILDING, OR AN INDUSTRIAL PROCESS, THE PURCHASE OR INSTALLATION OR

1 MODIFICATION OF AN INSTALLATION WHICH IS DESIGNED PRIMARILY TO REDUCE
2 THE CONSUMPTION OF ENERGY, INCLUDING:

3 (I) CAULKING AND WEATHER STRIPPING;

4 (II) THE INSULATION OF THE BUILDING STRUCTURE AND ANY
5 SYSTEM WITHIN THE BUILDING;

6 (III) A STORM WINDOW OR DOOR, A MULTIGLAZED WINDOW OR
7 DOOR, HEAT-ABSORBING OR HEAT-REFLECTING WINDOW OR DOOR SYSTEM,
8 GLAZING, REDUCTION IN GLASS AREA, OR OTHER WINDOW OR DOOR SYSTEM
9 MODIFICATION;

10 (IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;

11 (V) ANY EQUIPMENT ASSOCIATED WITH AN AUTOMATIC ENERGY
12 CONTROL SYSTEM WHICH IS REQUIRED TO OPERATE A VARIABLE STEAM,
13 HYDRAULIC, OR VENTILATION SYSTEM;

14 (VI) A MODIFICATION OF A FURNACE OR A UTILITY PLANT AND
15 DISTRIBUTION SYSTEM INCLUDING:

16 1. A REPLACEMENT BURNER, FURNACE, OR BOILER, OR ANY
17 COMBINATION OF THESE ITEMS, THAT INCREASES THE ENERGY EFFICIENCY OF THE
18 HEATING SYSTEM;

19 2. ANY DEVICE FOR MODIFYING A FLUE OPENING THAT
20 INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM; AND

21 3. AN ELECTRICAL OR MECHANICAL FURNACE IGNITION
22 SYSTEM THAT REPLACES A STANDING GAS PILOT LIGHT;

23 (VII) THE REPLACEMENT OR MODIFICATION OF A LIGHTING SYSTEM
24 THAT INCREASES THE ENERGY EFFICIENCY OF THE LIGHTING SYSTEM;

25 (VIII) AN ENERGY RECOVERY SYSTEM;

26 (IX) A COGENERATION SYSTEM;

27 (X) ANY SYSTEM FOR PROCESSING OR CONVERTING TO STEAM,
28 ELECTRICITY, HEAT, OR OTHER USEFUL FORM OF ENERGY, THE WASTE PRODUCTS
29 OF THE INDUSTRIAL PROCESS;

30 (XI) AN IMPROVEMENT TO THE INDUSTRIAL PROCESS THAT
31 REDUCES THE ENERGY REQUIREMENTS PER UNIT OF OUTPUT; AND

32 (XII) ANY OTHER ENERGY CONSERVATION IMPROVEMENT THAT THE
33 AUTHORITY DETERMINES BY RULE AND REGULATION AS APPROPRIATE AND
34 CONSISTENT WITH THE LEGISLATIVE PURPOSE OF THIS SUBTITLE; AND

1 (2) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
2 BUILDING, OR AN INDUSTRIAL PROCESS, ANY PLANNING OR TECHNICAL SERVICE,
3 AND ANY ENERGY AUDIT, IF THE SERVICE OR AUDIT IS RELATED TO OR
4 UNDERTAKEN WITH THE INSTALLATION, OR THE MODIFICATION OF THE
5 INSTALLATION, THAT INCLUDES ANY OF THE ITEMS SPECIFIED IN PARAGRAPH (1) OF
6 THIS SUBSECTION.

7 (L) "ENERGY PROJECT" MEANS:

8 (1) THE CONSTRUCTION OF A FACILITY FOR THE PRODUCTION OF
9 SOLAR ENERGY EQUIPMENT;

10 (2) AN ENERGY CONSERVATION PROJECT;

11 (3) A SOLAR ENERGY PROJECT;

12 (4) (I) THE CONSTRUCTION OF A FACILITY OR PORTION OF A FACILITY
13 FOR:

14 1. THE PRODUCTION OF GASEOUS, LIQUID, OR SOLID FUEL
15 AND BY-PRODUCTS FROM ANY ORGANIC MATTER, OTHER THAN A FOSSIL FUEL,
16 INCLUDING FROM AN AGRICULTURAL CROP OR AGRICULTURAL WASTE OR RESIDUE,
17 WOOD OR WOOD WASTE OR RESIDUE, ANIMAL WASTE, AQUATIC PLANT, SEWAGE,
18 SEWAGE SLUDGE, OR MUNICIPAL OR INDUSTRIAL OR COMMERCIAL WASTE, OR ANY
19 MIXTURE OF ONE OF THESE SUBSTANCES WITH INORGANIC REFUSE FROM ANY
20 PUBLICLY OR PRIVATELY OPERATED MUNICIPAL WASTE COLLECTION OR SIMILAR
21 DISPOSAL SYSTEM; AND

22 2. THE COMBUSTION OF ANY OF THE FUELS DELINEATED IN
23 ITEM 1 OF THIS ITEM OR OF A MIXTURE OF ANY OF THESE FUELS WITH ANY OTHER
24 MATERIALS, FOR THE PURPOSE OF GENERATING HEAT, MECHANICAL POWER,
25 ELECTRICITY, INCLUDING COGENERATION, OR OTHER USEFUL FORMS OF ENERGY;

26 (II) THE CONVERSION OF ANY FACILITY TO UTILIZE ANY OF THE
27 FUELS DELINEATED IN ITEM (I)1 OF THIS ITEM;

28 (III) THE EXPANSION OR IMPROVEMENT OF ANY FACILITY THAT
29 INCREASES THE CAPACITY OR EFFICIENCY OF THAT FACILITY TO USE ANY OF THE
30 FUELS DELINEATED IN ITEM (I)1 OF THIS ITEM;

31 (IV) THE ACQUISITION AND INSTALLATION OF MACHINERY AND
32 EQUIPMENT FOR USE IN ANY FACILITY DELINEATED IN ITEMS (I), (II), AND (III) OF
33 THIS ITEM; AND

34 (V) THE ACQUISITION OF LAND FOR ANY FACILITY DELINEATED IN
35 ITEMS (I), (II), AND (III) OF THIS ITEM;

36 (5) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
37 EQUIPMENT, OR A FACILITY FOR UTILIZING GROUNDWATER AS A HEAT SOURCE FOR
38 A HEATING SYSTEM OR AS A HEAT SINK FOR AN AIR CONDITIONING SYSTEM;

1 (6) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF MACHINERY,
2 EQUIPMENT, OR ANY FACILITY FOR THE DEVELOPMENT AND USE OF NATURAL HEAT
3 OF THE EARTH OR THE ENERGY IN WHATEVER FORM BELOW THE SURFACE OF THE
4 EARTH PRESENT IN, RESULTING FROM, OR CREATED BY OR WHICH MAY BE
5 EXTRACTED FROM THIS NATURAL HEAT TO PROVIDE USEFUL ENERGY IN THE FORM
6 OF HEAT FOR DIRECT USE OR FOR GENERATION OF ELECTRICITY;

7 (7) THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF A
8 HYDROELECTRIC FACILITY THAT IS LOCATED AT THE SITE OF AN EXISTING DAM,
9 WHICH FACILITY USES THE WATER POWER POTENTIAL OF THE DAM AND WHICH
10 FACILITY HAS NOT MORE THAN 30,000 KILOWATTS OF INSTALLED CAPACITY;

11 (8) (I) THE CONSTRUCTION OF ANY FUEL PRODUCTION FACILITY FOR
12 THE PURPOSE OF COMMERCIAL PRODUCTION OF A GASEOUS, LIQUID, OR SOLID
13 FUEL, OR OF A COMBINATION OF THESE FUELS, WHICH CAN BE USED AS A
14 SUBSTITUTE FOR PETROLEUM OR NATURAL GAS, OR ANY DERIVATIVES THEREOF,
15 INCLUDING CHEMICAL FEEDSTOCKS, AND WHICH IS PRODUCED BY CHEMICAL OR
16 PHYSICAL TRANSFORMATION OF COAL OR MIXTURES OF COAL AND OTHER
17 MATERIALS. THE PROJECT MAY INCLUDE ONLY:

18 1. THE FUEL PRODUCTION FACILITY, INCLUDING THE
19 EQUIPMENT, PLANT, MACHINERY, SUPPLIES, AND OTHER MATERIALS ASSOCIATED
20 WITH THE FUEL PRODUCTION FACILITY;

21 2. THE LAND AND MINERAL RIGHTS REQUIRED DIRECTLY
22 FOR USE IN CONNECTION WITH THE FUEL PRODUCTION FACILITY;

23 3. ANY OTHER FACILITY OR EQUIPMENT TO BE USED IN THE
24 EXTRACTION OF A MINERAL FOR USE DIRECTLY AND EXCLUSIVELY IN THE FUEL
25 PRODUCTION FACILITY:

26 A. WHICH IS COLOCATED WITH THE FUEL PRODUCTION
27 FACILITY OR IS LOCATED IN THE IMMEDIATE VICINITY OF THE FUEL PRODUCTION
28 FACILITY OR, IF NOT COLOCATED OR LOCATED IN THE IMMEDIATE VICINITY, IS
29 INCIDENTAL TO THE PROJECT, EXCEPT IN THE EVENT OF A COAL MINE WHERE NO
30 OTHER REASONABLE SOURCE OF COAL IS AVAILABLE TO THE PROJECT; AND

31 B. WHICH IS NECESSARY TO THE PROJECT; AND

32 4. ANY TRANSPORTATION FACILITY, ELECTRIC POWER
33 PLANT, ELECTRIC TRANSMISSION LINE, OR OTHER FACILITY:

34 A. THAT IS FOR THE EXCLUSIVE USE OF THE PROJECT;

35 B. THAT IS INCIDENTAL TO THE PROJECT; AND

36 C. THAT IS NECESSARY TO THE PROJECT, EXCEPT THAT A
37 TRANSPORTATION FACILITY USED TO TRANSPORT FUEL PRODUCED BY THE
38 FACILITY AWAY FROM THE PROJECT SHALL BE USED EXCLUSIVELY TO TRANSPORT
39 THE FUEL TO A STORAGE FACILITY OR PIPELINE CONNECTION TO AN EXISTING

1 PIPELINE OR PROCESSING FACILITY OR TO AN AREA WITHIN CLOSE PROXIMITY OF
2 THE PROJECT;

3 (II) THE CONVERSION OF ANY FACILITY FROM THE USE OF
4 PETROLEUM-BASED FUEL TO THE USE OF COAL OR TO THE USE OF A MIXTURE OF
5 COAL AND OTHER MATERIALS AS A FUEL; OR

6 (III) THE CONSTRUCTION OF A FACILITY FOR THE COMBUSTION OF
7 COAL UTILIZING INNOVATIVE TECHNOLOGY FOR INCREASING THE EFFICIENCY OF
8 THE COMBUSTION PROCESS.

9 [(k)] (M) "Export-related financing transaction" means financing provided to
10 a [Maryland] STATE manufacturer of goods, or a [Maryland] STATE seller of goods or
11 services, where the goods or services are intended for sale to a foreign entity.

12 [(l)] (N) "Facility" or "facilities" means any facility or facilities within the
13 meaning indicated in the Maryland Economic Development Revenue Bond Act AND
14 ANY ENERGY PROJECT.

15 [(m)] (O) "Facility applicant" means any facility applicant within the meaning
16 indicated in the Maryland Economic Development Revenue Bond Act.

17 [(n)] (P) "Facility user" means any facility user within the meaning indicated
18 in the Maryland Economic Development Revenue Bond Act.

19 [(o)] (Q) "Financial assistance" means any financial assistance provided by
20 the Authority under [§ 5-929, § 5-931, or § 5-938 of] this subtitle.

21 [(p)] (R) "Foreign entity" means a person, business association, or corporation
22 located outside the United States, or a governmental unit of a country other than the
23 United States.

24 (S) "INDUSTRIAL BUILDING" MEANS ANY BUILDING, OTHER THAN A
25 COMMERCIAL BUILDING OR A RESIDENTIAL BUILDING, THAT:

26 (1) IS USED PRIMARILY TO CARRY ON A BUSINESS, INCLUDING ANY
27 NONPROFIT BUSINESS;

28 (2) IS USED PRIMARILY FOR AN INDUSTRIAL PROCESS; AND

29 (3) PROVIDES A METHOD OF CONTROLLING ENERGY USAGE WITHIN ITS
30 EXTERIOR ENVELOPE BUT, AS DESIGNED, DOES NOT HAVE A PEAK DESIGN RATE OF
31 ENERGY USAGE OF LESS THAN 3.5 B.T.U. PER HOUR PER SQUARE FOOT OR 1 WATT
32 PER SQUARE FOOT OF FLOOR AREA.

33 (T) "INDUSTRIAL DEVELOPMENT FUND" MEANS THE FUND CREATED BY §
34 5-914 OF THIS SUBTITLE.

35 (U) "INDUSTRIAL PROCESS" MEANS:

1 (1) A PROCESS USED TO PRODUCE OR MANUFACTURE GOODS OR
2 PRODUCTS; OR

3 (2) THE STORAGE OR SHIPMENT OF MATERIALS, GOODS, OR PRODUCTS.

4 (V) "LINKED DEPOSIT PROGRAM" MEANS THE PROGRAM CREATED BY § 5-927
5 OF THIS SUBTITLE.

6 [(q)] (W) "Municipality" means a municipal corporation subject to the
7 provisions of Article XI-E of the Constitution of the State.

8 [(r)] (X) "Property" means any real property or personal property.

9 [(s)] (Y) "Public body" means any public body within the meaning indicated in
10 the Maryland Economic Development Revenue Bond Act [or the Maryland Energy
11 Financing Administration].

12 [(t)] (Z) "Public port" means any public port within the meaning indicated in
13 the Maryland Economic Development Revenue Bond Act.

14 [(u)] (AA) "Retail establishment" means any establishment selling goods or
15 services to the ultimate user or consumer of those goods or services, not for the
16 purpose of resale, but for that user's or consumer's personal rather than business use.

17 [(v)] (BB) "Secretary" means the Secretary of Business and Economic
18 Development.

19 (CC) (1) "SOLAR ENERGY PROJECT" MEANS, WITH RESPECT TO ANY
20 COMMERCIAL OR INDUSTRIAL BUILDING, ANY ADDITION, ALTERATION, OR
21 IMPROVEMENT THAT IS DESIGNED TO USE WIND ENERGY, ENERGY PRODUCED BY A
22 WOOD-BURNING APPLIANCE, OR SOLAR ENERGY, EITHER OF THE ACTIVE TYPE
23 BASED ON MECHANICALLY FORCED ENERGY TRANSFER OR OF THE PASSIVE TYPE
24 BASED ON CONVECTIVE, CONDUCTIVE, OR RADIANT ENERGY TRANSFER, OR SOME
25 COMBINATION OF THESE TYPES, TO REDUCE THE ENERGY REQUIREMENTS OF THE
26 BUILDING.

27 (2) "SOLAR ENERGY PROJECT" INCLUDES A SOLAR PROCESS HEAT
28 DEVICE, SOLAR ELECTRIC DEVICE, OR ANY EARTH SHELTERED BUILDING IN WHICH
29 THE SHELTERING SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY
30 THE BUILDING.

31 [(w)] (DD) "Transaction" means any transaction with respect to which
32 financial assistance is or will be provided by the Authority under § 5-918 OF this
33 subtitle.

34 5-902.

35 (a) The General Assembly makes the following findings:

36 (1) Conditions of unemployment exist in many areas of the State;

1 (2) The acquisition of new facilities and existing facilities is essential to
2 relieve this unemployment and to establish a balanced economy within the State;

3 (3) The present and prospective health, happiness, safety, right of
4 gainful employment, and general welfare of the citizens of each of the counties and
5 municipalities of the State will be promoted by the acquisition of facilities;

6 (4) The control or abatement of pollution of the environment of the State,
7 including that by noise, is necessary to retain existing industry and commercial
8 enterprises in, and attract new industry and commercial enterprises to, the State and
9 to protect the health, welfare, and safety of the citizens of the State, to protect the
10 natural resources of the State, and to encourage the economic development of the
11 State;

12 (5) The public ports of the State are assets of value to the entire State;
13 the residents of all parts of the State benefit directly from the waterborne commerce
14 that they attract and service; and any improvement to these ports that increases their
15 export and import commerce will benefit the people of the entire State;

16 (6) Businesses need greater access to capital markets; and

17 (7) The availability of financial assistance will promote the economic
18 development of the State.

19 (b) The General Assembly declares its legislative purpose to:

20 (1) Relieve conditions of unemployment in the State;

21 (2) Encourage the increase of industry and commerce and a balanced
22 economy in the State;

23 (3) Assist in the retention of existing industry and commerce and in the
24 attraction of new industry and commerce in the State through, among other things,
25 port development and the control, reduction, or abatement of pollution of the
26 environment and the utilization and disposal of wastes;

27 (4) Promote economic development;

28 (5) Protect natural resources and encourage resource recovery; and

29 (6) Generally promote the health, welfare, and safety of the residents of
30 each of the counties and municipalities of the State, **INCLUDING ENCOURAGING THE**
31 **CREATION AND EXPANSION OF DAY CARE FACILITIES IN THE STATE.**

32 (c) This subtitle shall be liberally construed to effect its purposes.

[Part II. Establishment and Organization of Authority.]

2 5-905.

3 (a) The Authority consists of the following 9 members:

4 (1) 7 members appointed by the Secretary with the approval of the
5 Governor; and

6 (2) As ex officio members:

7 (i) The Secretary or the Secretary's designee; and

8 (ii) The State Treasurer or the State Comptroller, as designated by
9 the Governor. If designated by the Governor to serve on the Board, the State
10 Treasurer or State Comptroller may designate a [deputy treasurer or the deputy
11 comptroller, as applicable] REPRESENTATIVE TO SERVE ON THE BOARD.

12 (b) (1) The term of an appointed member is 5 years.

13 (2) The terms of appointed members are staggered as required by the
14 terms provided for members of the Authority on July 1, 1980.

15 (3) At the end of a term, an appointed member continues to serve until a
16 successor is appointed and qualifies.

17 (4) A member who is appointed after a term has begun serves only for
18 the rest of the term and until a successor is appointed and qualifies.

19 (c) The Governor may remove an appointed member at the Governor's
20 pleasure.

21 5-906.

22 (a) From among its members, the Authority shall elect a chairman, AND A vice
23 chairman[, and treasurer].

24 (b) The manner of election of officers and their terms of office shall be as the
25 Authority determines.

26 5-911.

27 In addition to any other powers set forth in this subtitle, the Authority may:

28 (1) Adopt bylaws to regulate its affairs and the conduct of its business;

29 (2) Adopt and use an official seal;

30 (3) Maintain offices at the places in this State that it designates;

31 (4) Sue and be sued in its own name;

- 1 (5) Contract for and engage the services of consultants;
- 2 (6) Use the services of other governmental agencies;
- 3 (7) Contract for and accept, for use in carrying out the provisions of this
4 subtitle, loans and grants from the federal, State, or any local government and any of
5 their respective agencies and instrumentalities;
- 6 (8) Acquire, manage, operate, dispose of, or otherwise deal with property,
7 take assignments of rentals and leases, and make contracts, leases, agreements, and
8 arrangements that are necessary or incidental to the performance of its duties, upon
9 such terms and conditions that it may deem advisable;
- 10 (9) Acquire or take assignments of documents executed, obtained, or
11 delivered in connection with financial assistance provided by the Authority under this
12 subtitle;
- 13 (10) Subject to the provisions of any outstanding agreements entered into
14 by the Authority under this subtitle, enter into covenants or agreements with respect
15 to the Authority's insurance funds, and establish accounts within the Authority's
16 insurance funds which may be used to implement the purposes of this subtitle. If the
17 Authority elects to establish separate accounts, the Authority may allocate its
18 revenues and receipts among the respective accounts in any manner the Authority
19 considers appropriate;
- 20 (11) Fix, determine, charge, and collect any premiums, fees, charges,
21 costs, and expenses, including, by way of example, any application fees, commitment
22 fees, program fees, financing charges, or publication fees in connection with financial
23 assistance provided by the Authority under this subtitle;
- 24 (12) Adopt rules and regulations necessary to carry out the purposes of
25 this subtitle;
- 26 (13) Authorize the chairman, vice chairman, or executive director of the
27 Authority, on behalf of the Authority, to perform any duty, and specify, prescribe,
28 determine, provide for or approve such matters, details, forms, documents, or
29 procedures as the Authority, in its sole and absolute discretion, deems appropriate to
30 accomplish the purposes of this subtitle; AND
- 31 (14) [With the approval of the Secretary, exercise any or all of the powers,
32 duties and authority of the Secretary, in accordance with Title 6, Subtitle 4 of this
33 article, relating to the Maryland Energy Financing Administration; and
- 34 (15)] Do anything necessary or convenient to carry out its powers and the
35 purposes of this subtitle.

[Part III. Insurance Funds.]

1
2 5-914.

3 (a) There is [a] AN [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund
4 which replaces the Authority's [Industrial Project Insurance] BOND INSURANCE
5 Fund, THE AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE
6 DEPARTMENT'S DAY CARE FACILITIES LOAN GUARANTEE FUND, AND THE
7 MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND. Moneys on deposit in the
8 Authority's [Industrial Project Insurance] BOND INSURANCE Fund, THE
9 AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE DEPARTMENT'S DAY
10 CARE FACILITIES LOAN GUARANTEE FUND, AND THE MARYLAND ENTERPRISE
11 INCENTIVE DEPOSIT FUND shall be transferred to the [Bond Insurance] INDUSTRIAL
12 DEVELOPMENT Fund on July 1, [1983] 2000.

13 (b) The [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund is a continuing,
14 nonlapsing, revolving fund that consists of:

15 (1) Moneys appropriated by the State to the [Bond Insurance]
16 INDUSTRIAL DEVELOPMENT Fund;

17 (2) Premiums, fees, and any other amounts received by the Authority
18 with respect to financial assistance provided by the Authority from the [Bond
19 Insurance] INDUSTRIAL DEVELOPMENT Fund;

20 (3) Proceeds as designated by the Authority from the sale, lease, or other
21 disposition of property held or acquired by the Authority;

22 (4) INTEREST RECEIVED FROM LINKED DEPOSITS MADE FROM THE
23 LINKED DEPOSIT FUND;

24 [(4)] (5) Income from investments that the State Treasurer, on
25 instruction of the Authority, makes from moneys in the [Bond Insurance]
26 INDUSTRIAL DEVELOPMENT Fund; and

27 [(5)] (6) Any other moneys made available under this subtitle.

28 (c) The [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund shall be used:

29 (1) For the purposes described in [§ 5-929] §§ 5-916, 5-918, 5-927, AND
30 5-928 of this subtitle; and

31 (2) To pay any and all expenses of the Authority, including, by way of
32 example:

33 (i) Any and all expenses for administrative, legal, actuarial, and
34 other services; [and]

35 (ii) All costs, charges, fees, and expenses of the Authority related to
36 the authorizing, preparing, printing, selling, issuing, and insuring of bonds AND

1 AUTHORIZED PURPOSE OBLIGATIONS (including, by way of example, bonds OR
 2 AUTHORIZED PURPOSE OBLIGATIONS, the proceeds of which are used to refinance or
 3 refund outstanding bonds OR AUTHORIZED PURPOSE OBLIGATIONS), and the funding
 4 of reserves; AND

5 (III) ALL COSTS OF PROVIDING ANY OTHER FINANCIAL ASSISTANCE
 6 AUTHORIZED UNDER THIS SUBTITLE.

7 (d) Moneys in the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund, to the
 8 extent that such moneys exceed the amount that the Authority considers necessary to
 9 meet its current expenses and obligations, shall be deposited with the State Treasurer
 10 and invested and reinvested in the same manner as other State funds, and any
 11 investment earnings shall be paid into the [Bond Insurance] INDUSTRIAL
 12 DEVELOPMENT Fund. Any net earnings of the [Bond Insurance] INDUSTRIAL
 13 DEVELOPMENT Fund, beyond those necessary to further or implement the purposes
 14 of this subtitle, may not inure to the benefit of any person other than the State.

15 (e) If the Authority and the Secretary find that more money is needed to keep
 16 the reserves of the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund at an
 17 adequate level, the Authority, with the consent of the Secretary, shall send a written
 18 request to the Board of Public Works for additional money. The Board of Public Works
 19 may pay the requested amount from its emergency fund.

20 (f) If at any time the amount of money credited to the [Bond Insurance]
 21 INDUSTRIAL DEVELOPMENT Fund exceeds the amount that the Authority considers
 22 necessary to meet its obligations under this subtitle, and to meet the requirements of
 23 this subtitle, the Authority may determine, with the consent of the Secretary, to[:

24 (1) Deposit the excess moneys into the Authorized Purpose Insurance
 25 Fund to be used for the purposes described in § 5-915(c) of this subtitle;

26 (2) Deposit the excess moneys into the Maryland Seafood and
 27 Aquaculture Loan Fund to be used for the purposes described in § 5-919(a) of this
 28 subtitle; or

29 (3) Pay] PAY the excess moneys to the State Treasurer.

30 [5-916.] 5-915.

31 The State Treasurer shall report annually to the Authority as to:

32 (1) The status of the [Bond Insurance] INDUSTRIAL DEVELOPMENT
 33 Fund [and the Authorized Purpose Insurance Fund];

34 (2) The market value of the assets in the [Bond Insurance] INDUSTRIAL
 35 DEVELOPMENT Fund [and the Authorized Purpose Insurance Fund] as of the date of
 36 the report; and

37 (3) The earnings received from investments authorized under this [Part
 38 III] SUBTITLE during the period covered by the report.

1 [Part IIIA. Maryland Seafood and Aquaculture Loan Fund.]

2 [Part IV. Use of Insurance Funds.]

3 [5-929.] 5-916.

4 Subject to the provisions of [this Part IV] § 5-917 OF THIS SUBTITLE, the
5 Authority may, from the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund:

6 (1) Insure the payment or repayment of all or any part of the principal of,
7 redemption or prepayment premiums or penalties on, and interest on bonds;

8 (2) Insure the payment or repayment of all or any part of the principal of,
9 redemption or prepayment premiums or penalties on, and interest on any instrument
10 executed, obtained, or delivered in connection with the issuance and sale of bonds;
11 and

12 (3) Pay or insure the payment of any fees or premiums necessary to
13 obtain insurance, guarantees, or other credit support from any person in connection
14 with financial assistance provided by the Authority under this subtitle.

15 [5-930.] 5-917.

16 (a) The Authority may use the [Bond Insurance] INDUSTRIAL DEVELOPMENT
17 Fund for the purposes described in [§ 5-929] § 5-916 of this subtitle only if the
18 requirements of this section are satisfied.

19 (b) The Authority shall determine, in its sole and absolute discretion, that the
20 economic impact of the transaction will be substantial. To determine the economic
21 impact of a transaction, the Authority may consider any factor it considers relevant.

22 (c) (1) The Authority shall determine that the acquisition of a facility will
23 not result in:

24 (i) The removal of the business operations of the facility user from
25 one county to another county; or

26 (ii) The abandonment of a facility in the State; or

27 (2) If the acquisition of a facility will result in the occurrence of either of
28 these events, the Authority shall determine that the acquisition of the facility will:

29 (i) Discourage the facility user from leaving the State; or

30 (ii) Preserve the competitive position of the facility user in its
31 industry.

32 (d) The Authority shall determine that the Authority will not be required,
33 except on default, to operate, service, or maintain the facility [or energy project].

1 (e) The bonds or instruments with respect to which financial assistance is
2 provided by the Authority shall be secured in a manner approved by the Authority.

3 (f) Financial assistance provided by the Authority from the [Bond Insurance]
4 INDUSTRIAL DEVELOPMENT Fund UNDER § 5-916 OF THIS SUBTITLE with respect to
5 any one facility may not exceed the total aggregate amount of [\$5,000,000] \$7,500,000.

6 (g) The total aggregate amount of insurance from the [Bond Insurance]
7 INDUSTRIAL DEVELOPMENT Fund with respect to the insured portions of principal of
8 bonds or other instruments may not exceed at any time an amount equal to 5 times
9 the balance in the [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund.

10 [5-931.] 5-918.

11 Subject to the provisions of [this Part IV] § 5-919 OF THIS SUBTITLE, the
12 Authority may, from the [Authorized Purpose Insurance] INDUSTRIAL
13 DEVELOPMENT Fund:

14 (1) Insure the payment or repayment of the principal of, redemption or
15 prepayment premiums or penalties on, and interest on authorized purpose
16 obligations; and

17 (2) Pay or insure the payment of any fees or premiums necessary to
18 obtain insurance, guarantees, or other credit support from any person in connection
19 with financial assistance provided by the Authority under this subtitle.

20 [5-932.] 5-919.

21 (a) The Authority may use the [Authorized Purpose Insurance] INDUSTRIAL
22 DEVELOPMENT Fund for the purposes described in [§ 5-931] § 5-918 of this subtitle
23 only if the requirements of this section are satisfied.

24 (b) The Authority shall determine, in its sole and absolute discretion, that the
25 economic impact of the transaction will be substantial. To determine the economic
26 impact of a transaction, the Authority may consider any factor it considers relevant.

27 (c) (1) The Authority shall determine that the transaction will not result in:

28 (i) The removal of the business operations of any person benefiting
29 from the transaction, from one county to another county; or

30 (ii) The abandonment of the business operations of any person
31 benefiting from the transaction, in the State; or

32 (2) If the transaction will result in the occurrence of either of these
33 events, the Authority shall determine that the transaction will:

34 (i) Discourage the business from leaving the State; or

35 (ii) Preserve the competitive position of the business in its industry.

1 (d) The financial assistance to be provided by the Authority may not be used
2 in connection with a retail establishment unless the Authority determines, in its sole
3 and absolute discretion, that financial assistance in connection with a retail
4 establishment will accomplish the purposes of this subtitle.

5 (e) The Authority shall determine that the Authority will not be required,
6 except on default, to operate, service, or maintain any business.

7 (f) The authorized purpose obligations with respect to which financial
8 assistance is provided by the Authority shall be secured in a manner approved by the
9 Authority.

10 (g) Financial assistance provided by the Authority from the [Authorized
11 Purpose Insurance] INDUSTRIAL DEVELOPMENT Fund UNDER § 5-918 OF THIS
12 SUBTITLE with respect to any one transaction may not exceed the total aggregate
13 amount of [\$1,000,000] § 2,500,000.

14 (h) The total aggregate amount of insurance from the [Authorized Purpose
15 Insurance] INDUSTRIAL DEVELOPMENT Fund may not exceed at any time an amount
16 equal to 5 times the balance in the [Authorized Purpose Insurance] INDUSTRIAL
17 DEVELOPMENT Fund.

18 (i) The total aggregate amount of insurance from the [Authorized Purpose
19 Insurance] INDUSTRIAL DEVELOPMENT Fund of any one authorized purpose
20 obligation UNDER § 5-918 OF THIS SUBTITLE may not exceed:

21 (1) For an export-related financing transaction, 90 percent of the total of
22 the principal of, redemption or prepayment premiums or penalties on, and interest
23 on, the authorized purpose obligation; or

24 (2) For a transaction other than an export-related financing transaction,
25 80 percent of the total of the principal of, redemption or prepayment premiums or
26 penalties on, and interest on, the authorized purpose obligation.

27 5-920.

28 (A) IN AWARDING FINANCIAL ASSISTANCE FOR AN ENERGY PROJECT, THE
29 AUTHORITY SHALL CONSIDER THE EXTENT TO WHICH ANY ENERGY PROJECT FOR
30 WHICH FINANCIAL ASSISTANCE IS AWARDED WOULD:

31 (1) RESULT IN A REDUCTION IN THE CONSUMPTION OF ENERGY,
32 PARTICULARLY THE CONSUMPTION OF PETROLEUM;

33 (2) RESULT IN AN INCREASE IN ENERGY SUPPLY AVAILABLE TO
34 CITIZENS OF THE STATE;

35 (3) RESULT IN INCREASES IN EMPLOYMENT AND ECONOMIC ACTIVITY
36 IN THE STATE;

37 (4) EMBODY SOUND TECHNOLOGY AND ECONOMIC FEASIBILITY;

1 (5) MINIMIZE ANY ADVERSE IMPACT ON ENVIRONMENTAL QUALITY;
2 AND

3 (6) MAXIMIZE THE UTILIZATION OF FEDERAL PROGRAMS THAT PROVIDE
4 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

5 (B) THE AUTHORITY SHALL PROMOTE THE VARIOUS PROGRAMS OF
6 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS ESTABLISHED UNDER THIS
7 SUBTITLE BY INFORMING CONSUMERS, THE PRIVATE SECTOR, AND FINANCIAL
8 INSTITUTIONS OF THE BENEFITS OF THESE PROGRAMS, AND BY ACTIVELY SEEKING
9 THEIR PARTICIPATION. IN PARTICULAR, THE AUTHORITY SHALL:

10 (1) DEVELOP AND DISSEMINATE CLEAR AND CONCISE DESCRIPTIONS
11 OF ITS VARIOUS PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS;
12 AND

13 (2) SERVE AS A CLEARINGHOUSE FOR INFORMATION ON FEDERAL AND
14 STATE PROGRAMS THAT PROVIDE FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

15 (C) THE AUTHORITY SHALL TAKE ALL ACTIONS NECESSARY TO QUALIFY FOR
16 AND TO PARTICIPATE IN THE VARIOUS PROGRAMS OF FINANCIAL ASSISTANCE FOR
17 ENERGY PROJECTS ESTABLISHED UNDER THE ENERGY SECURITY ACT, P.L. 96-294. IN
18 FURTHERANCE THEREOF, THE AUTHORITY SHALL BE SPECIFICALLY DEEMED TO BE,
19 FOR PURPOSES OF THAT ACT:

20 (1) A "PERSON", AS DEFINED IN TITLE II, § 203(17), CONCERNING THE
21 FINANCING OF BIOMASS ENERGY, MUNICIPAL SOLID WASTE, AND ALCOHOL FUELS
22 PROJECTS;

23 (2) A "GOVERNMENT CORPORATION", AS USED IN TITLE II, SUBTITLE C, §
24 252, CONCERNING THE FINANCING OF OTHER BIOMASS ENERGY PROJECTS; AND

25 (3) A "PERSON", AS USED IN TITLE VI, SUBTITLE A, § 611, CONCERNING
26 THE FINANCING OF GEOTHERMAL ENERGY PROJECTS.

27 (D) THE AUTHORITY IS CONSIDERED TO BE A "NONPROFIT ORGANIZATION",
28 AS USED IN §§ 402 AND 403 OF TITLE IV OF THE PUBLIC UTILITY REGULATORY
29 POLICIES ACT OF 1978, P.L. 95-617, CONCERNING SMALL-SCALE HYDROPOWER
30 PROJECTS.

31 [5-933.] 5-921.

32 The Authority may authorize the executive director of the Authority to approve,
33 on behalf of the Authority, any financial assistance to be provided from the
34 [Authorized Purpose Insurance] INDUSTRIAL DEVELOPMENT Fund UNDER § 5-918
35 OF THIS SUBTITLE which does not exceed, with respect to any one transaction, the
36 total aggregate amount of \$50,000. Any such approval by the executive director shall:

37 (1) Be subject to the concurrence of the Secretary or the chairman of the
38 Authority;

1 (2) Comply with the requirements of this subtitle; and

2 (3) Be binding upon the Authority.

3 [5-934.] 5-922.

4 The Authority may itself approve the form of any agreement entered into by the
5 Authority under this subtitle or may authorize the executive director of the Authority
6 to approve the form of any agreement entered into by the Authority under this
7 subtitle. Any payment by the Authority under an agreement entered into by the
8 Authority under this subtitle shall be made at the time and in the manner that the
9 Authority, in its sole and absolute discretion, determines.

10 [5-935.] 5-923.

11 [Transactions are] FINANCIAL ASSISTANCE AWARDED BY THE AUTHORITY
12 UNDER THIS SUBTITLE IS:

13 (1) Subject to the provisions of Article 49B of the Code concerning
14 discrimination and unlawful practices; and

15 (2) Not subject to the provisions of Title 17, Subtitle 1 of the State
16 Finance and Procurement Article.

17 [Part V. Premiums and Fees.]

18 [5-936.] 5-924.

19 (a) The Authority may, in its sole and absolute discretion, set the premiums
20 and fees to be paid to it for providing financial assistance under this subtitle.

21 (b) The premiums and fees set by the Authority shall be payable in the
22 amounts, at the time and in the manner that the Authority, in its sole and absolute
23 discretion, requires.

24 (c) The premiums and fees need not be uniform among [transactions]
25 APPROVALS FOR FINANCIAL ASSISTANCE, and may vary in amount:

26 (1) Among [transactions] APPROVALS FOR FINANCIAL ASSISTANCE;
27 and

28 (2) At different stages during the terms of [transactions] THE
29 FINANCIAL ASSISTANCE.

30 (d) A determination by the Authority, in accordance with [this Part V] § 5-925
31 of this subtitle, shall remain effective throughout the period during which the
32 financial assistance provided by the Authority is in effect.

1 [5-937.] 5-925.

2 (a) The Authority may not charge any premium for insurance if the Authority
3 determines that, at the time of approval of insurance, the facility[, energy project,] or
4 business with respect to which insurance is provided by the Authority is located in a
5 county where the average unemployment rate is at least 1 percent greater than the
6 average unemployment rate for the United States, as determined in accordance with
7 this section.

8 (b) (1) Average unemployment rates for a county shall be those established
9 by the State Employment Security Administration or any other agency or
10 instrumentality responsible for establishing the rates.

11 (2) Average unemployment rates for the United States shall be those
12 established by the United States Department of Labor or any other agency or
13 department responsible for establishing the rates.

14 (c) The Authority shall:

15 (1) Annually review the unemployment rates; and

16 (2) Only consider annual unemployment rates established not more than
17 12 months before the date of the Authority's review.

18 [Part VI. Issuance of Bonds by Authority.]

19 [5-938.] 5-926.

20 (a) In order to accomplish the purposes of this subtitle, in addition to any
21 other powers it may have and notwithstanding any limitation of law, the Authority, on
22 behalf of the State, may issue and sell bonds as provided in and in accordance with
23 the Maryland Economic Development Revenue Bond Act AND THIS SUBTITLE.

24 (b) The Authority may accomplish the acquisition of 1 or more facilities from
25 the proceeds of the sale of its bonds by 1 or more of the methods described in the
26 Maryland Economic Development Revenue Bond Act.

27 (c) The Authority may issue its bonds without obtaining the consent of any
28 other unit of State government, and without any proceedings, or the occurrence of any
29 conditions, other than those expressly required by this subtitle. Prior to the issuance
30 of any bonds by the Authority, the Authority shall notify the State Board of Public
31 Works of its intention to issue the bonds up to a stated amount and the Board of
32 Public Works may coordinate the issuance of the bonds with any intended issuance of
33 bonds of the State, its agencies, and public instrumentalities; however, the failure to
34 notify the Board of Public Works shall not affect in any way:

35 (1) The validity or enforceability of any bonds issued by the Authority;

36 (2) The validity of any finding or determination by the Authority under
37 this subtitle; or

1 (3) The validity or enforceability of any agreement entered into by the
2 Authority under this subtitle.

3 (d) (1) When bonds are issued by the Authority, it is in the interest of the
4 public welfare and purpose that the Authority attempt to achieve a goal that 10
5 percent of the facility users are minority business enterprises as defined under §
6 14-301 of the State Finance and Procurement Article.

7 (2) The failure to achieve the goal set out under paragraph (1) of this
8 subsection shall not affect in any way:

9 (i) The validity or enforceability of any bonds issued by the
10 Authority;

11 (ii) The validity of any finding or determination by the Authority
12 under this subtitle; or

13 (iii) The validity or enforceability of any agreement entered into by
14 the Authority under this subtitle.

15 (e) [Prior to the issuance and sale of bonds by the Authority, the legislative
16 body of the county or municipality in which the facility to be financed with the
17 proceeds of the bonds is to be located, shall adopt a resolution which shall:

18 (1) Be administrative in nature, not subject to the procedures required
19 for legislative acts and not subject to referendum;

20 (2) Specify and describe the facility; and

21 (3) Generally describe the public purpose to be served by the facility.

22 (f)] Except for the Authority's insurance (if any), bonds issued by the Authority
23 and the interest on them are limited obligations of the Authority, the principal of,
24 premium, if any, and interest on which are payable solely (except for bond
25 anticipation notes and notes in the nature of commercial paper) from revenues or
26 moneys to be received in connection with the financing or refinancing of a facility [or]
27 AND from any other moneys made available to the Authority for such purpose.
28 Neither the bonds issued by the Authority nor the interest thereon shall ever
29 constitute an indebtedness or a charge against the general credit or taxing powers of
30 the State, the Department, the Authority or any other public body within the meaning
31 of any constitutional or charter provision or statutory limitation and neither shall
32 ever constitute or give rise to any pecuniary liability of the State, the Department, the
33 Authority or any other public body. Each bond issued by the Authority, on its face,
34 may plainly state that it has been issued under the provisions of the Maryland
35 Economic Development Revenue Bond Act AND THIS SUBTITLE and that it does not
36 constitute an indebtedness to which the faith and credit of the State, the Department,
37 the Authority or any other public body is pledged.

1 [(g)] (F) Bonds issued by the Authority shall be exempt from taxation by the
2 State and by its several counties and municipalities as provided in the Maryland
3 Economic Development Revenue Bond Act.

4 [(h)] (G) Facilities financed with the proceeds of bonds issued by the Authority
5 are not subject to the requirements of any law regarding competitive bidding.

6 5-927.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "APPLICANT" MEANS THE ELIGIBLE BUSINESS APPLYING FOR THE
10 LOAN AND THE LINKED DEPOSIT.

11 (3) "ELIGIBLE BUSINESS" MEANS A FOR-PROFIT BUSINESS THAT:

12 (I) IS LOCATED IN A COUNTY THAT HAS AN UNEMPLOYMENT RATE
13 OF 130 PERCENT OF THE UNEMPLOYMENT RATE FOR THE STATE DURING THE MOST
14 RECENT 4 CONSECUTIVE QUARTERS FOR WHICH DATA ARE AVAILABLE AND HAS A
15 POPULATION UNDER 200,000;

16 (II) IS IN GOOD STANDING WITH EACH STATE REGULATORY
17 AUTHORITY WITH JURISDICTION OVER THE BUSINESS OF THE APPLICANT,
18 INCLUDING THE STATE WORKERS' COMPENSATION COMMISSION, THE DEPARTMENT
19 OF ASSESSMENTS AND TAXATION, AND THE DEPARTMENT OF LABOR, LICENSING
20 AND REGULATION; AND

21 (III) EMPLOYS 500 OR FEWER EMPLOYEES.

22 (4) (I) "FIXED ASSET FINANCING" MEANS THE USE OF A COMMERCIAL
23 LOAN TO FINANCE:

24 1. THE ACQUISITION OR CONSTRUCTION OF A BUILDING, IN
25 WHOLE OR IN PART;

26 2. THE ACQUISITION OF THE LAND UPON WHICH THE
27 BUILDING IS LOCATED OR IS TO BE LOCATED IF THE LAND IS NOT ALREADY OWNED
28 BY THE APPLICANT; OR

29 3. THE ACQUISITION OF MACHINERY AND EQUIPMENT.

30 (II) "FIXED ASSET FINANCING" DOES NOT INCLUDE THE
31 REFINANCING OF AN EXISTING DEBT.

32 (5) "LENDER" MEANS A FINANCIAL INSTITUTION THAT:

33 (I) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;

34 (II) IS A PUBLIC DEPOSITORY OF STATE FUNDS;

1 (III) AGREES TO RECEIVE LINKED DEPOSITS UNDER THE
2 PROVISIONS OF THIS SUBTITLE; AND

3 (IV) IS INSURED BY:

- 4 1. THE FEDERAL DEPOSIT INSURANCE CORPORATION; OR
- 5 2. THE FEDERAL SAVINGS AND LOAN INSURANCE
6 CORPORATION.

7 (6) "LINKED DEPOSIT" MEANS A CERTIFICATE OF DEPOSIT PLACED BY
8 THE AUTHORITY WITH A LENDER AT 3 PERCENT BELOW THE PREVAILING MARKET
9 RATE AT THE TIME OF THE DEPOSIT.

10 (B) (1) THERE IS A LINKED DEPOSIT PROGRAM IN THE DEPARTMENT,
11 WHICH REPLACES THE DEPARTMENT'S MARYLAND ENTERPRISE INCENTIVE DEPOSIT
12 FUND PROGRAM.

13 (2) THE PURPOSE OF THE LINKED DEPOSIT PROGRAM IS TO STIMULATE
14 ECONOMIC AND EMPLOYMENT GROWTH IN RURAL AREAS OF THE STATE THAT HAVE
15 HIGH UNEMPLOYMENT.

16 (3) THE PROGRAM WILL ASSIST ELIGIBLE BUSINESSES IN OBTAINING
17 LOANS AT LOWER THAN MARKET RATES.

18 (4) THE ELIGIBLE BUSINESS MAY USE THE LOAN FOR THE ACQUISITION
19 OF LAND, BUILDINGS, MACHINERY, AND EQUIPMENT.

20 (5) THE ACQUISITIONS MADE BY THE ELIGIBLE BUSINESS SHALL BE
21 USED TO CREATE OR RETAIN EMPLOYMENT OPPORTUNITIES IN THE RURAL AREA.

22 (C) THE AUTHORITY MAY MAKE A LINKED DEPOSIT IN ACCORDANCE WITH
23 THE PROVISIONS OF THIS SUBTITLE.

24 (D) (1) TO OBTAIN FIXED ASSET FINANCING ASSISTED BY A LINKED
25 DEPOSIT UNDER THE PROVISIONS OF THIS SUBTITLE, AN ELIGIBLE BUSINESS SHALL
26 APPLY TO A LENDER FOR FIXED ASSET FINANCING OF NOT MORE THAN \$500,000.

27 (2) IN ADDITION TO THE INFORMATION REQUIRED BY THE LENDER AS
28 PART OF ITS STANDARD LOAN APPLICATION PROCEDURE, THE APPLICANT SHALL
29 PROVIDE TO THE LENDER, IN A FORM PRESCRIBED BY THE AUTHORITY:

30 (I) A CERTIFICATION, WITH SUPPORTING DOCUMENTATION, THAT
31 THE APPLICANT IS AN ELIGIBLE BUSINESS; AND

32 (II) A DESCRIPTION OF THE NUMBER AND KINDS OF JOBS TO BE
33 CREATED OR RETAINED AS A RESULT OF PROVIDING THE LINKED DEPOSIT.

34 (E) (1) ON APPROVAL OF A LOAN APPLICATION THE LENDER SHALL
35 FORWARD TO THE AUTHORITY A LINKED DEPOSIT LOAN PACKAGE WITH THE

1 INFORMATION REQUIRED UNDER THIS SUBTITLE AND IN A FORM PRESCRIBED BY
2 THE AUTHORITY.

3 (2) IN ADDITION TO ANY OTHER INFORMATION REASONABLY REQUIRED
4 BY THE AUTHORITY TO CARRY OUT THE PURPOSES OF THIS SECTION, THE LINKED
5 DEPOSIT LOAN PACKAGE SHALL INCLUDE THE INFORMATION REQUIRED OF THE
6 APPLICANT UNDER SUBSECTION (D)(2) OF THIS SECTION.

7 (F) IN DETERMINING WHETHER TO ACCEPT A LINKED DEPOSIT LOAN
8 PACKAGE, THE AUTHORITY SHALL:

9 (1) CONFIRM THE ELIGIBILITY OF THE APPLICANT; AND

10 (2) CONSIDER:

11 (I) THE NUMBER AND KIND OF JOBS TO BE CREATED OR RETAINED
12 AS A RESULT OF PROVIDING THE LINKED DEPOSIT;

13 (II) THE AMOUNT OF THE LOAN;

14 (III) THE AMOUNT OF MONEY IN THE INDUSTRIAL DEVELOPMENT
15 FUND AND THE AMOUNT COMMITTED TO LINKED DEPOSITS;

16 (IV) WHETHER THE AVAILABILITY OF LINKED DEPOSIT FINANCING
17 IS ESSENTIAL FOR THE ECONOMIC FEASIBILITY OF THE ACQUISITION TO BE MADE;

18 (V) THE ECONOMIC NEEDS OF THE AREA IN WHICH THE ELIGIBLE
19 BUSINESS IS LOCATED;

20 (VI) THE FINANCIAL FEASIBILITY OF THE LOAN TO BE MADE; AND

21 (VII) ANY OTHER FACTORS THAT THE AUTHORITY CONSIDERS
22 RELEVANT.

23 (G) IF THE AUTHORITY ACCEPTS A LINKED DEPOSIT LOAN PACKAGE FROM A
24 LENDER, THE AUTHORITY AND THE LENDER SHALL ENTER INTO A DEPOSIT
25 AGREEMENT UNDER WHICH:

26 (1) THE AUTHORITY SHALL PLACE WITH THE LENDER A 5-YEAR
27 CERTIFICATE OF DEPOSIT IN THE AMOUNT OF THE LOAN, AT A RATE 3 PERCENT
28 BELOW THE LENDER'S PREVAILING RATE FOR EQUIVALENT DEPOSITS AT THE TIME
29 OF THE DEPOSIT; AND

30 (2) THE LENDER WILL AGREE TO APPROVE THE APPLICANT'S LOAN
31 APPLICATION AT A FIXED INTEREST RATE WHICH SHALL BE AT LEAST 3 PERCENT
32 BELOW ITS THEN CUSTOMARY RATE FOR SIMILAR LOANS, FOR A TERM OF AT LEAST
33 5 YEARS, AND UPON SUCH OTHER TERMS AND CONDITIONS AS THE AUTHORITY
34 SHALL APPROVE. THE LENDER MUST ALSO AGREE NOT TO ASSIGN OR SELL THE
35 LOAN TO ANY OTHER LENDER SO LONG AS THE LINKED DEPOSIT IS IN EFFECT. THE
36 LENDER MUST ALSO AGREE NOT TO CHARGE THE ELIGIBLE BUSINESS MORE THAN A

1 TOTAL OF 1 PERCENT OF THE PRINCIPAL AMOUNT OF THE LOAN FOR ORIGINATION,
2 PLACEMENT, OR DISCOUNT FEES OR OTHER CHARGES AS ADDITIONAL
3 COMPENSATION FOR THE LOAN.

4 (H) ON RECEIVING A LINKED DEPOSIT FROM THE AUTHORITY, THE LENDER
5 SHALL CARRY OUT THE LOAN COMMITMENT TO THE APPLICANT.

6 (I) AT THE CONCLUSION OF THE DEPOSIT TERM OR AT AN EARLIER TIME AS
7 THE LOAN TO THE APPLICANT IS REPAYED OR OTHERWISE TERMINATED, THE DEPOSIT
8 SHALL REVERT TO THE INDUSTRIAL DEVELOPMENT FUND, AND THE RATE OF THE
9 LOAN SHALL RETURN TO THE PREVAILING RATE, AS PROVIDED IN THE LOAN
10 COMMITMENT.

11 (J) THE AUTHORITY, THE DEPARTMENT, AND THE STATE SHALL HAVE THE
12 IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-521 OF THE COURTS AND
13 JUDICIAL PROCEEDINGS ARTICLE.

14 (K) A DELAY IN PAYMENT OR DEFAULT BY AN ELIGIBLE BUSINESS DOES NOT
15 AFFECT THE DEPOSIT AGREEMENT BETWEEN THE LENDER AND THE AUTHORITY.

16 5-928.

17 IN CONJUNCTION WITH ITS PROVISION OF FINANCIAL ASSISTANCE UNDER
18 THIS SUBTITLE, THE AUTHORITY MAY ACCEPT AN OPTION, TO BE EXERCISED AT THE
19 SOLE DISCRETION OF THE AUTHORITY, TO ACQUIRE AN EQUITY INTEREST IN A
20 BUSINESS ENTERPRISE. THE AUTHORITY MAY USE MONEYS FROM THE INDUSTRIAL
21 DEVELOPMENT FUND TO EXERCISE THE OPTION.

22 5-929.

23 THE AUTHORITY MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

24 [Part VII. Miscellaneous Provisions.]

25 [5-939.] 5-930.

26 Upon dissolution of the Authority, title to all property owned by the Authority
27 shall vest in the State.

28 [5-940.] 5-931.

29 (a) A person may not knowingly make or cause any false statement or report
30 to be made in any application or in any document furnished to the Authority.

31 (b) A person may not knowingly make or cause any false statement or report
32 to be made for the purpose of influencing the action of the Authority on an application
33 for financial assistance or for the purpose of influencing any action of the Authority
34 affecting financial assistance whether or not such assistance may have already been
35 extended.

1 (c) Any person, or any aider and abettor, who violates any provision of this
2 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
3 \$50,000 or imprisonment in the penitentiary not exceeding 5 years, or both.

4 5-932.

5 (A) ANY INSURANCE ON BONDS, OR INSURANCE ON AUTHORIZED PURPOSE
6 OBLIGATIONS PROVIDED BEFORE JULY 1, 2000, SHALL CONTINUE AS OBLIGATIONS
7 OF THE AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

8 (B) FINANCIAL ASSISTANCE APPROVED BY THE AUTHORITY, INCLUDING
9 TRANSACTIONS UNDER THE FORMER MARYLAND ENERGY FINANCING ACT, BUT NOT
10 CLOSED BEFORE JULY 1, 2000, SHALL BE DEEMED AUTHORIZED UNDER THIS
11 SUBTITLE.

12 (C) BONDS ISSUED BY THE FORMER MARYLAND ENERGY FINANCING
13 ADMINISTRATION SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND
14 SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

15 (D) LOAN GUARANTEES PROVIDED BY THE DEPARTMENT FROM THE FORMER
16 DAY CARE LOAN GUARANTEE FUND SHALL CONTINUE AS OBLIGATIONS OF THE
17 AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

18 (E) DEPOSIT AGREEMENTS ENTERED INTO BETWEEN THE DEPARTMENT AND
19 A LENDER UNDER THE FORMER MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND
20 PROGRAM SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND SHALL BE
21 DEEMED AUTHORIZED UNDER THIS SUBTITLE.

22 [5-941.] 5-933.

23 This subtitle may be referred to as the Maryland Industrial Development
24 Financing Authority Act.

25 Subtitle 12. PenMar Development Corporation.

26 5-1202.

27 (b) The General Assembly further declares and finds that the establishment of
28 a State public corporation to develop Fort Ritchie would serve the public interest. It
29 would complement existing State marketing programs administered by the
30 Department of Business and Economic Development through its office of Business
31 Development and Resources and through financial assistance programs such as those
32 of the Maryland Industrial Development Financing Authority[, the Maryland
33 Industrial Land Act, and the Maryland Industrial and Commercial Redevelopment
34 Fund Act] AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
35 AND FUND.

1 Subtitle 14. Maryland Economic Development Assistance Authority and Fund.

2 5-1401.

3 (a) In this subtitle the following words have the meanings indicated.

4 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
5 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
6 THAT IS INTENDED TO:

- 7 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
- 8 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
- 9 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR
- 10 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

11 (C) "AQUACULTURE PROJECT" MEANS A PROJECT THAT ENCOURAGES
12 INNOVATION, EXPANSION, AND MODERNIZATION OF THE SEAFOOD PROCESSING
13 INDUSTRY OR THE AQUACULTURE INDUSTRY.

14 [(b)] (D) "Authority" means the Maryland Economic Development Assistance
15 Authority.

16 (E) "BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM" MEANS THE
17 PROGRAM WITHIN THE DEPARTMENT UNDER WHICH FINANCIAL ASSISTANCE FROM
18 THE FUND IS PROVIDED FOR THE REDEVELOPMENT OF QUALIFIED BROWNFIELDS
19 SITES, AS SET FORTH IN § 5-1408 OF THIS SUBTITLE.

20 (F) (1) "BROWNFIELDS SITE" MEANS:

21 (I) AN ELIGIBLE PROPERTY, AS DEFINED IN § 7-501 OF THE
22 ENVIRONMENT ARTICLE, THAT IS:

23 1. OWNED OR OPERATED BY AN INCULPABLE PERSON, AS
24 DEFINED IN § 7-501 OF THE ENVIRONMENT ARTICLE; AND

25 2. LOCATED IN A TAXING JURISDICTION THAT HAS ELECTED
26 TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN
27 ACCORDANCE WITH § 9-229 OF THE TAX - PROPERTY ARTICLE; OR

28 (II) PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR
29 THREATENED RELEASE OF OIL, AS DEFINED IN § 4-401 OF THE ENVIRONMENT
30 ARTICLE, THAT IS:

31 1. SUBJECT TO A CORRECTIVE ACTION PLAN APPROVED BY
32 THE DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH TITLE 4 OF THE
33 ENVIRONMENT ARTICLE; AND

1 2. LOCATED IN A TAXING JURISDICTION THAT HAS ELECTED
2 TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN
3 ACCORDANCE WITH § 9-229 OF THE TAX - PROPERTY ARTICLE.

4 (2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS
5 OWNED OR OPERATED BY A RESPONSIBLE PERSON OR A PERSON RESPONSIBLE FOR
6 THE DISCHARGE.

7 (G) "CHILD CARE FACILITY" MEANS A FACILITY IN WHICH CARE IS OFFERED
8 FOR SEVEN OR MORE CHILDREN.

9 [(c)] (H) "Fund" means the Maryland Economic Development Assistance
10 Fund.

11 (I) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, OR INVESTMENT
12 PROVIDED UNDER THIS SUBTITLE.

13 (J) "LOCAL ECONOMIC DEVELOPMENT FUND" MEANS A REVOLVING,
14 NONLAPSING FUND THAT ONE OR MORE LOCAL GOVERNMENTS ESTABLISH FOR
15 PURPOSES OF ECONOMIC DEVELOPMENT WITHIN THE AREAS UNDER THEIR
16 JURISDICTIONS.

17 (K) "LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS A PROJECT
18 THAT THE DEPARTMENT DETERMINES PROVIDES A VALUABLE ECONOMIC
19 DEVELOPMENT OPPORTUNITY TO THE JURISDICTION IN WHICH THE PROJECT IS
20 LOCATED AND WHICH IS A PRIORITY FOR AND ENDORSED BY THE GOVERNING BODY
21 OF THAT JURISDICTION.

22 (L) "LOCAL GOVERNMENT" MEANS A COUNTY OR MUNICIPALITY OR ITS
23 DESIGNATED AGENCY OR INSTRUMENTALITY OR THE MARYLAND ECONOMIC
24 DEVELOPMENT CORPORATION.

25 (M) "PERSON RESPONSIBLE FOR THE DISCHARGE" HAS THE MEANING STATED
26 IN § 4-401 OF THE ENVIRONMENT ARTICLE.

27 (N) "QUALIFIED BROWNFIELDS SITE" MEANS A BROWNFIELDS SITE THAT HAS
28 BEEN DETERMINED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC
29 DEVELOPMENT TO BE ELIGIBLE FOR FINANCIAL INCENTIVES UNDER THIS
30 SUBTITLE.

31 (O) "RESPONSIBLE PERSON" HAS THE MEANING STATED IN § 7-201 OF THE
32 ENVIRONMENT ARTICLE.

33 (P) "SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY"
34 MEANS A PROJECT THAT THE DEPARTMENT DETERMINES PROVIDES A VALUABLE
35 ECONOMIC DEVELOPMENT OPPORTUNITY OF STATEWIDE, REGIONAL, OR STRATEGIC
36 INDUSTRY IMPACT.

37 (Q) "SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS AN
38 ANIMAL WASTE TECHNOLOGY PROJECT, AN AQUACULTURE PROJECT,

1 REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE, OR A PROJECT TO CREATE
2 OR EXPAND A CHILD CARE FACILITY.

3 [(d)] (R) "Working capital" means funds to be used for current operations of a
4 business.

5 5-1402.

6 The [purpose] PURPOSES of the Maryland Economic Development Assistance
7 Fund [is] ARE to:

8 (1) [expand] EXPAND employment opportunities in the state by
9 providing [loans with favorable terms] financial assistance to businesses that are
10 engaged in eligible industry sectors, INCLUDING FINANCIAL ASSISTANCE FOR
11 CREATION AND EXPANSION OF CHILD CARE FACILITIES, ANIMAL WASTE
12 TECHNOLOGY PROJECTS, AND AQUACULTURE PROJECTS;

13 (2) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
14 QUALIFIED BROWNFIELDS SITES; AND

15 (3) PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS FOR
16 ECONOMIC DEVELOPMENT PROJECTS AND GRANTS FOR LOCAL ECONOMIC
17 DEVELOPMENT FUNDS.

18 5-1403.

19 (a) There is a Maryland Economic Development Assistance Authority in the
20 Department.

21 (b) The Authority shall, WITH RESPECT TO FINANCIAL ASSISTANCE
22 EXCEEDING \$2,500,000:

23 (1) Evaluate requests for [loans] FINANCIAL ASSISTANCE that have
24 been first evaluated by staff of the Department;

25 (2) Determine whether to approve [loan] requests FOR FINANCIAL
26 ASSISTANCE; and

27 (3) Set the terms and conditions for [loans] FINANCIAL ASSISTANCE.

28 (c) The Authority consists of the following nine members:

29 (1) Seven members appointed by the Governor with the advice and
30 consent of the Senate; and

31 (2) As ex officio members:

32 (i) The Secretary or the Secretary's designee; and

33 (ii) The Secretary of the Department of Transportation or the
34 Secretary's designee.

1 (d) The members of the Authority appointed by the Governor shall be
2 individuals with substantial experience in business or economic development and
3 shall reflect the geographic, racial, ethnic, and gender makeup of the State.

4 (e) (1) The term of an appointed member is 3 years.

5 (2) The terms of appointed members shall be staggered as required by
6 the terms provided for members of the Authority on July 1, 1999.

7 (3) At the end of a term, an appointed member continues to serve until a
8 successor is appointed and qualifies.

9 (4) A member who is appointed after a term has begun serves only for
10 the rest of the term and until a successor is appointed and qualifies.

11 (5) An appointed member serves at the pleasure of the Governor.

12 (6) The Governor shall designate a chairman from among the members.

13 (7) Attendance by a majority of the voting members shall constitute a
14 quorum.

15 (f) (1) The Authority shall meet as often as its duties require, but no less
16 than quarterly.

17 (2) The members of the Authority are subject to the provisions of the
18 Maryland Public Ethics Law.

19 (3) Each member of the Authority appointed by the Governor may not
20 receive compensation as a member of the Authority but is entitled to reimbursement
21 for expenses under the Standard State Travel Regulations, as provided in the State
22 budget.

23 (g) The Department shall provide staff support to the Authority.

24 5-1404.

25 (a) There is a Maryland Economic Development Assistance Fund in the
26 Department managed and supervised by the Secretary.

27 (b) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
28 7-302 of the State Finance and Procurement Article.

29 (2) The Treasurer shall separately hold and the Comptroller shall
30 account for the Fund.

31 (3) Any investment earnings of the Fund shall be paid into the Fund.

32 (c) The Fund may consist of any of the following:

33 (1) Moneys appropriated by the State to the Fund;

1 (2) Moneys made available to the Fund through federal programs or
2 private contributions;

3 (3) Income from investments that the State Treasurer makes from
4 moneys in the Fund;

5 (4) Repayments of principal and interest from loans made from the
6 Fund;

7 (5) Proceeds from the sale, disposition, lease, or rental of collateral
8 related to any [loan] FINANCIAL ASSISTANCE provided by the Department under
9 this subtitle;

10 (6) Application or other fees paid to the program in connection with the
11 processing of requests for [loans] FINANCIAL ASSISTANCE; [and]

12 (7) RECOVERY OF ANY INVESTMENT MADE BY THE DEPARTMENT IN A
13 BUSINESS, INCLUDING ANY ARRANGEMENT UNDER WHICH ANY PART OF THE
14 DEPARTMENT'S INVESTMENT IS RECOVERED THROUGH:

15 (I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A
16 PROPORTION OF CASH FLOW, COMMISSIONS, ROYALTIES, OR LICENSE FEES;

17 (II) THE REPURCHASE FROM THE DEPARTMENT OF ANY OF ITS
18 INVESTMENT INTEREST; OR

19 (III) SALE OF AN APPRECIATED ASSET;

20 (8) REPAYMENTS RECEIVED FROM RECIPIENTS OF CONDITIONAL
21 GRANTS EXTENDED BY THE DEPARTMENT;

22 (9) MONEYS COLLECTED UNDER § 9-229 OF THE TAX PROPERTY
23 ARTICLE;

24 (10) REPAYMENTS ON OR RECOVERIES FROM ANY FINANCIAL
25 ASSISTANCE PROVIDED FROM THE FORMER BROWNFIELDS REVITALIZATION
26 INCENTIVE FUND, THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER
27 MARYLAND INDUSTRIAL LAND FUND, AND THE FORMER MARYLAND INDUSTRIAL
28 AND COMMERCIAL REDEVELOPMENT FUND;

29 (11) REPAYMENTS ON LOANS MADE FROM THE FORMER CHILD CARE
30 FACILITIES DIRECT LOAN FUND AND THE FORMER MARYLAND SEAFOOD AND
31 AQUACULTURE LOAN FUND WITHIN THE DEPARTMENT; AND

32 [(7)] (12) Any other moneys made available to the Fund.

33 5-1405.

34 (a) The Department may use moneys in the Fund to:

35 (1) Provide [loans] FINANCIAL ASSISTANCE to eligible applicants; and

1 (2) Pay expenses for administrative, actuarial, legal, and technical
2 services for the program.

3 (b) [Loans] FINANCIAL ASSISTANCE from the Fund may be used only to
4 finance costs incurred for:

5 (1) Acquisition or construction of a building or real estate;

6 (2) Acquisition, construction, or installation of machinery, equipment,
7 furnishings, fixtures, leasehold improvements, [or] site improvements, OR
8 INFRASTRUCTURE IMPROVEMENTS, INCLUDING RAIL LINE ENHANCEMENTS ON OR
9 TO THE SITE OF AN ECONOMIC DEVELOPMENT PROJECT; [or]

10 (3) Working capital FOR SIGNIFICANT STRATEGIC ECONOMIC
11 DEVELOPMENT OPPORTUNITIES;

12 (4) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

13 (5) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, UP TO
14 50% OF THE COSTS OF RENOVATIONS, CONSTRUCTION, OR PURCHASE OF REAL
15 PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO A CHILD CARE FACILITY, BUT
16 NOT FOR REFINANCING EXISTING LOANS, WORKING CAPITAL, SUPPLIES, OR
17 INVENTORY; OR

18 (II) A BUSINESS THAT HAS RECEIVED OR WILL RECEIVE A DAY
19 CARE LOAN INSURED BY THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING
20 AUTHORITY; SUCH BUSINESSES SHALL BE LIMITED TO FINANCIAL ASSISTANCE
21 FROM THE FUND OF NOT MORE THAN 20% OF THE COSTS DESCRIBED IN ITEM (I) OF
22 THIS PARAGRAPH;

23 (6) IF INCURRED BY A LOCAL GOVERNMENT, COSTS OF FEASIBILITY
24 STUDIES; AND

25 (7) UP TO 50% OF THE COSTS OF PREPARING A COUNTY'S OR
26 MUNICIPALITY'S STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT, NOT TO
27 EXCEED A TOTAL OF \$50,000 IN A 3-YEAR PERIOD.

28 (c) (1) [Loans] FINANCIAL ASSISTANCE from the Fund:

29 (i) [May not be for an amount less than \$250,000, if the Fund
30 balance is less than \$10,000,000;

31 (ii) May not exceed the lesser of \$10,000,000 or 20% of the Fund
32 balance;

33 [(iii)] (II) Except as provided in item [(iv)] (III) of this paragraph,
34 may not exceed 70% of the total costs of the project being financed;

1 [(iv)] (III) May constitute 100% of the total costs of the project
2 being financed if the [borrower] RECIPIENT is the Maryland Economic Development
3 Corporation;

4 [(v)] (IV) [Shall] IF A LOAN FOR A STRATEGIC ECONOMIC
5 DEVELOPMENT OPPORTUNITY OR FOR A SPECIALIZED ECONOMIC DEVELOPMENT
6 OPPORTUNITY, SHALL carry an interest rate below the market rate of interest, as
7 determined by the Department; [and]

8 (V) IF A LOAN FOR A LOCAL ECONOMIC DEVELOPMENT
9 OPPORTUNITY OR TO A LOCAL GOVERNMENT, SHALL CARRY AN INTEREST RATE NOT
10 EXCEEDING ONE-EIGHTH OF ONE PERCENT PLUS THE NET INTEREST COST OF THE
11 MOST RECENT STATE GENERAL OBLIGATION BOND ISSUE PRECEDING THE
12 APPROVAL OF THE LOAN;

13 (VI) SHALL NOT BEAR A RATE OF INTEREST LESS THAN 3% UNLESS
14 THE PROJECT FUNDED BY A LOAN IS LOCATED IN AN AREA OF HIGH
15 UNEMPLOYMENT OR THE DEPARTMENT DETERMINES THAT THE BORROWER IS
16 CARRYING OUT A COMPELLING ECONOMIC DEVELOPMENT INITIATIVE; AND

17 [(vi)] (VII) May not be used to refinance existing debt.

18 (2) Loans from the Fund may not be for a term exceeding:

19 (i) For working capital - 3 years;

20 (ii) For financing machinery, equipment, furnishings, or fixtures -
21 [10 years] THE LESSER OF 15 YEARS OR THE USEFUL LIFE OF THE ASSET, AS
22 DETERMINED BY THE DEPARTMENT; [and]

23 (iii) For financing the construction or acquisition of buildings and
24 real estate - 25 years; AND

25 (IV) FOR FINANCING REDEVELOPMENT OF A QUALIFIED
26 BROWNFIELDS SITE - A TERM APPROVED BY THE DEPARTMENT OR THE AUTHORITY.

27 (3) FOR LOANS FROM THE FUND THE DEPARTMENT MAY:

28 (I) WAIVE INTEREST DURING THE FIRST 2 YEARS OF A LOAN TERM;
29 OR

30 (II) UPON A DEFAULT BY THE BORROWER, IMPOSE AN INTEREST
31 RATE THAT EXCEEDS THE LIMITS SET FORTH IN PARAGRAPH (1) OF THIS
32 SUBSECTION.

33 (4) INVESTMENTS FROM THE FUND MAY BE MADE ONLY IN
34 CONJUNCTION WITH A LOAN OR A GRANT FROM THE FUND.

35 (d) To be eligible for [a loan] FINANCIAL ASSISTANCE from the Fund, an
36 applicant must be:

1 (1) An individual [or a], private business, NOT FOR PROFIT entity, OR
2 LOCAL GOVERNMENT [who] WHICH:

3 (i) [Is primarily engaged in a business] UNLESS THE APPLICANT
4 IS A LOCAL GOVERNMENT INTENDING TO USE THE FINANCIAL ASSISTANCE TO
5 CARRY OUT A PROJECT THAT DOES NOT BENEFIT A PARTICULAR PRIVATE SECTOR
6 ENTITY, MUST USE THE REQUESTED FINANCIAL ASSISTANCE FOR A PROJECT in an
7 eligible industry sector;

8 (ii) Intends to use the requested [loan] FINANCIAL ASSISTANCE for
9 a project that has a strong potential for expanding or retaining employment
10 opportunities in the State; and

11 (iii) Submits to the Department an application containing any
12 information the Department or the Authority deems necessary in evaluating the
13 [loan] request FOR FINANCIAL ASSISTANCE; or

14 (2) [The Maryland Economic Development Corporation, provided that
15 the requirements specified in item (1) of this subsection are met] A LOCAL ECONOMIC
16 DEVELOPMENT FUND THAT MEETS THE CRITERIA SET FORTH IN § 5-1407 OF THIS
17 SUBTITLE.

18 (e) Subject to the restrictions of this subtitle, the Department [and] OR the
19 Authority shall impose such terms and conditions on [the loans] FINANCIAL
20 ASSISTANCE provided from the Fund as [they deem] EITHER DEEMS appropriate.

21 (F) FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE LOCAL
22 GOVERNMENT OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED MUST
23 PROVIDE:

24 (1) A FORMAL RESOLUTION OF THE GOVERNING BODY OF THE
25 JURISDICTION IN WHICH THE PROJECT IS LOCATED ENDORSING THE FINANCIAL
26 ASSISTANCE TO BE PROVIDED FROM THE FUND; AND

27 (2) EITHER OR BOTH OF THE FOLLOWING, AS DETERMINED BY THE
28 DEPARTMENT OR THE AUTHORITY, TO EVIDENCE ITS SUPPORT OF THE PROJECT:

29 (I) A GUARANTEE, SECURED BY THE FULL FAITH AND CREDIT OF
30 THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED, OF ALL OR A
31 PORTION OF THE AMOUNT OF THE FINANCIAL ASSISTANCE; OR

32 (II) THE FINANCING OF A PORTION OF THE COSTS OF THE PROJECT
33 EQUAL TO AT LEAST 10% OF THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM
34 THE FUND.

35 (G) (1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT MUST
36 BE APPROVED BY A FORMAL RESOLUTION OF:

37 (I) THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE
38 PROJECT IS LOCATED; OR

1 (II) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE
2 MARYLAND ECONOMIC DEVELOPMENT CORPORATION, ITS BOARD OF DIRECTORS.

3 (2) A PROJECT THAT IS FUNDED BY A GRANT FROM THE FUND TO A
4 LOCAL GOVERNMENT, AND CARRIED OUT BY THE LOCAL GOVERNMENT, MUST BE
5 CONSISTENT WITH THE STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT OF THE
6 COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED.

7 (H) (1) FINANCIAL ASSISTANCE FROM THE FUND NOT EXCEEDING \$2,500,000
8 MAY BE APPROVED BY THE SECRETARY.

9 (2) FINANCIAL ASSISTANCE FROM THE FUND EXCEEDING \$2,500,000
10 SHALL BE APPROVED BY THE AUTHORITY.

11 (I) THE DEPARTMENT SHALL PERIODICALLY REVIEW ITS PORTFOLIO IN AN
12 EFFORT TO ENSURE EQUITABLE FUNDS DISTRIBUTION AMONG MARYLAND'S
13 COUNTIES.

14 [(f)] (J) The Department shall report to the Governor and, subject to § 2-1246
15 of the State Government Article, to the General Assembly before January 1 of each
16 year on the number, amount, use, and economic benefits of [loans] FINANCIAL
17 ASSISTANCE awarded under this subtitle.

18 5-1406.

19 (A) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
20 DETERMINES TO BE A SIGNIFICANT ECONOMIC DEVELOPMENT OPPORTUNITY, THE
21 DEPARTMENT OR THE AUTHORITY MAY PROVIDE A LOAN FROM THE FUND TO AN
22 INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR THE MARYLAND
23 ECONOMIC DEVELOPMENT CORPORATION IN AN AMOUNT NOT EXCEEDING
24 \$10,000,000.

25 (B) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
26 DETERMINES TO BE A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE
27 DEPARTMENT OR THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE FROM THE
28 FUND TO AN INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR THE
29 MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN THE FOLLOWING
30 AMOUNTS:

31 (1) IF A LOAN OR INVESTMENT, AN AMOUNT NOT EXCEEDING \$5,000,000;
32 AND

33 (2) IF A GRANT, AN AMOUNT NOT EXCEEDING \$2,000,000.

34 (C) (1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT TO
35 FINANCE A PROJECT MAY BE IN THE FORM OF A GRANT, LOAN, OR INVESTMENT AND
36 MAY BE FOR AN AMOUNT NOT EXCEEDING \$3,000,000.

37 (2) A GRANT TO A LOCAL ECONOMIC DEVELOPMENT FUND IS SUBJECT
38 TO THE REQUIREMENTS SET FORTH IN § 5-1407 OF THIS SUBTITLE.

1 (D) FINANCIAL ASSISTANCE PROVIDED FOR A SPECIALIZED ECONOMIC
2 DEVELOPMENT OPPORTUNITY MAY BE:

3 (1) PROVIDED TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT FOR PROFIT
4 ENTITY, OR LOCAL GOVERNMENT;

5 (2) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND

6 (3) IN AN AMOUNT DETERMINED BY THE DEPARTMENT OR THE
7 AUTHORITY.

8 5-1407.

9 (A) (1) A LOCAL GOVERNMENT MAY APPLY FOR A GRANT FROM THE FUND
10 TO A LOCAL ECONOMIC DEVELOPMENT FUND.

11 (2) IN JUDGING WHETHER OR NOT TO APPROVE A GRANT TO A LOCAL
12 ECONOMIC DEVELOPMENT FUND, THE DEPARTMENT OR THE AUTHORITY SHALL
13 CONSIDER AND DETERMINE:

14 (I) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE LOCAL
15 JURISDICTION IN COMPARISON TO THE AVERAGE RATE OF UNEMPLOYMENT FOR
16 THE STATE;

17 (II) WHETHER THE LOCAL GOVERNMENT CURRENTLY
18 ADMINISTERS A LOCAL ECONOMIC DEVELOPMENT FUND;

19 (III) THE ABILITY OF THE LOCAL GOVERNMENT TO LEVERAGE
20 PRIVATE MONEYS;

21 (IV) THE LEVEL OF FINANCIAL COMMITMENT PROVIDED BY THE
22 LOCAL GOVERNMENT; AND

23 (V) ANY OTHER FACTORS THAT THE DEPARTMENT OR THE
24 AUTHORITY CONSIDERS RELEVANT.

25 (B) TO QUALIFY FOR A GRANT, A LOCAL GOVERNMENT SHALL PROVIDE AT
26 LEAST AN EQUAL AND MATCHING GRANT OF FUNDS TO THE LOCAL ECONOMIC
27 DEVELOPMENT FUND.

28 (C) (1) DURING A FISCAL YEAR:

29 (I) THE DEPARTMENT MAY NOT GRANT MORE THAN \$2,000,000
30 UNDER THIS SECTION; AND

31 (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A COUNTY
32 MAY NOT RECEIVE MORE THAN \$250,000 UNDER THIS SECTION.

33 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, DURING THE
34 PERIOD FROM OCTOBER 1, 1998 THROUGH JUNE 30, 2003, A COUNTY MAY NOT
35 RECEIVE A TOTAL OF MORE THAN \$500,000 UNDER THIS SECTION OR UNDER THE

1 FORMER MARYLAND INDUSTRIAL LAND ACT PROVISIONS GOVERNING GRANTS TO
2 LOCAL ECONOMIC DEVELOPMENT FUNDS.

3 (3) FOR PURPOSES OF THE LIMITATIONS UNDER PARAGRAPHS (1)(II)
4 AND (2) OF THIS SUBSECTION:

5 (I) ANY FUNDS RECEIVED UNDER THIS SECTION BY A MUNICIPAL
6 CORPORATION OR A DESIGNATED AGENCY OR INSTRUMENTALITY SHALL BE
7 DEEMED TO BE FUNDS GRANTED TO THE COUNTY WITHIN WHICH THE MUNICIPAL
8 CORPORATION, AGENCY, OR INSTRUMENTALITY IS LOCATED; AND

9 (II) IF MORE THAN ONE COUNTY ADMINISTERS OR CAPITALIZES A
10 LOCAL ECONOMIC DEVELOPMENT FUND, EACH COUNTY MAY RECEIVE THE
11 MAXIMUM PERMITTED FOR A COUNTY.

12 (D) (1) A LOCAL GOVERNMENT SHALL UTILIZE A GRANT OF FUNDS UNDER
13 THIS SECTION FOR THE PURPOSE OF PROVIDING LOANS OR LOAN GUARANTEES, OR
14 SUBSIDIZING THE INTEREST RATE ON LOANS, FOR FINANCING ECONOMIC
15 DEVELOPMENT PROJECTS OR LOANS TO SMALL BUSINESSES.

16 (2) AT THE DISCRETION OF THE DEPARTMENT, FUNDS GRANTED UNDER
17 THIS SECTION MAY REVERT TO THE DEPARTMENT IF THE LOCAL ECONOMIC
18 DEVELOPMENT FUND IS INACTIVE FOR MORE THAN 2 YEARS AFTER THE DATE ON
19 WHICH A GRANT OF FUNDS UNDER THIS SECTION IS MADE.

20 (E) 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 GRANTS AWARDED UNDER THIS SECTION.

24 5-1408.

25 (A) (1) AT THE TIME A PERSON APPLIES TO PARTICIPATE IN THE
26 VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT
27 ARTICLE OR RECEIVES APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT
28 FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE
29 ENVIRONMENT ARTICLE, THE PERSON MAY SUBMIT A REQUEST TO THE
30 DEPARTMENT TO DETERMINE WHETHER THE PERSON QUALIFIES FOR FINANCIAL
31 ASSISTANCE FOR THE POTENTIAL REDEVELOPMENT OF A BROWNFIELDS SITE.

32 (2) (I) WITHIN 30 DAYS AFTER RECEIPT OF A REQUEST UNDER
33 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL NOTIFY AN
34 APPLICANT WHETHER, IF APPROVED TO PARTICIPATE IN THE VOLUNTARY CLEANUP
35 PROGRAM OR A CORRECTIVE ACTION PLAN, AND IF APPROVED BY THE AUTHORITY,
36 THE APPLICANT QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE REDEVELOPMENT
37 OF A BROWNFIELDS SITE.

38 (II) IN THE DEPARTMENT'S NOTICE OF AN APPLICANT'S
39 QUALIFICATION FOR FINANCIAL INCENTIVES UNDER SUBPARAGRAPH (I) OF THIS

1 PARAGRAPH, THE DEPARTMENT SHALL SPECIFY WHICH OF THE CRITERIA SET
2 FORTH IN PARAGRAPH (4) OF THIS SUBSECTION THE APPLICANT MET.

3 (3) THE DEPARTMENT SHALL DETERMINE THE ELIGIBILITY OF A SITE
4 AS A QUALIFIED BROWNFIELDS SITE BASED ON WHETHER:

5 (I) THE PROPERTY IS LOCATED IN A DENSELY POPULATED URBAN
6 CENTER AND IS SUBSTANTIALLY UNDERUTILIZED; OR

7 (II) THE PROPERTY IS AN EXISTING OR FORMER INDUSTRIAL OR
8 COMMERCIAL SITE THAT POSES A THREAT TO PUBLIC HEALTH OR THE
9 ENVIRONMENT.

10 (4) THE DEPARTMENT MAY CONSIDER THE FOLLOWING CRITERIA WHEN
11 SELECTING A QUALIFIED BROWNFIELDS SITE:

12 (I) THE FEASIBILITY OF REDEVELOPMENT;

13 (II) THE PUBLIC BENEFIT PROVIDED TO THE COMMUNITY AND THE
14 STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

15 (III) THE EXTENT OF RELEASES OR THREATENED RELEASES AT THE
16 SITE AND THE DEGREE TO WHICH THE CLEANUP AND REDEVELOPMENT OF THE SITE
17 WILL PROTECT PUBLIC HEALTH OR THE ENVIRONMENT;

18 (IV) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR
19 OTHER ECONOMIC BASE EMPLOYERS;

20 (V) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT
21 RESPONSIBLE PERSONS; OR

22 (VI) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO
23 ECONOMIC DEVELOPMENT.

24 (B) DURING THE COURSE OF EVALUATING POTENTIAL QUALIFIED
25 BROWNFIELDS SITES, THE DEPARTMENT SHALL CONSULT WITH:

26 (1) THE DEPARTMENT OF THE ENVIRONMENT, THE OFFICE OF
27 PLANNING, AND RELEVANT LOCAL OFFICIALS;

28 (2) THE NEIGHBORING COMMUNITY AND ANY CITIZENS GROUPS
29 LOCATED IN THE COMMUNITY;

30 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
31 ORGANIZATIONS;

32 (4) PUBLIC HEALTH EXPERTS; AND

33 (5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

1 (C) THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL
2 INCENTIVES, INCLUDING LOW-INTEREST LOANS AND GRANTS, TO ASSIST PERSONS
3 WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

4 (D) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
5 AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL
6 CORPORATION.

7 [5-1406.] 5-1409.

8 (a) Annually, after considering the recommendation of the Maryland
9 Economic Development Commission, the Authority shall establish a list of industry
10 sectors that will be eligible for loans from the Fund.

11 (b) Before making its recommendation to the Authority, the Maryland
12 Economic Development Commission shall:

13 (1) Consult with the Department and the Department of Labor,
14 Licensing, and Regulation; and

15 (2) Evaluate the potential employment and economic growth of
16 Maryland's industry sectors.

17 (c) In determining whether an applicant is engaged in an eligible industry
18 sector, the Department shall consider the definitions set forth in the standard
19 industrial classification manual.

20 (D) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO FINANCIAL
21 ASSISTANCE TO A LOCAL GOVERNMENT THAT USES THE FINANCIAL ASSISTANCE
22 PROVIDED UNDER THIS SUBTITLE TO CARRY OUT A PROJECT THAT DOES NOT
23 BENEFIT A PARTICULAR PRIVATE SECTOR ENTITY.

24 (E) FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE UNDER THIS
25 SUBTITLE, THE FOLLOWING SHALL BE DEEMED TO BE IN ELIGIBLE INDUSTRY
26 SECTORS AND ARE NOT SUBJECT TO THE REQUIREMENTS SPECIFICALLY IMPOSED
27 ON SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITIES AND
28 LOCAL ECONOMIC DEVELOPMENT OPPORTUNITIES:

29 (1) ANIMAL WASTE TECHNOLOGY PROJECTS;

30 (2) AQUACULTURE PROJECTS;

31 (3) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES; AND

32 (4) CREATION OR EXPANSION OF CHILD CARE FACILITIES.

33 5-1410.

34 (A) FINANCIAL ASSISTANCE PROVIDED, OR APPROVED TO BE PROVIDED,
35 FROM THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER MARYLAND
36 SEAFOOD AND AQUACULTURE LOAN FUND, THE FORMER BROWNFIELDS

1 REVITALIZATION INCENTIVE FUND, THE FORMER CHILD CARE FACILITIES DIRECT
 2 LOAN FUND, THE FORMER MARYLAND INDUSTRIAL LAND ACT, OR THE FORMER
 3 MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT FUND SHALL BE
 4 DEEMED AUTHORIZED UNDER THIS SUBTITLE.

5 (B) MONEYS ON DEPOSIT IN THE FORMER ANIMAL WASTE TECHNOLOGY
 6 FUND, THE FORMER MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND, THE
 7 FORMER BROWNFIELDS REVITALIZATION INCENTIVE FUND, THE FORMER CHILD
 8 CARE FACILITIES DIRECT LOAN FUND, THE FORMER MARYLAND INDUSTRIAL LAND
 9 FUND, AND THE FORMER MARYLAND INDUSTRIAL AND COMMERCIAL
 10 REDEVELOPMENT FUND SHALL BE TRANSFERRED TO THE FUND ON JULY 1, 2000.

11 **Article - Environment**

12 7-507.

13 When an applicant submits an application under § 7-506 of this subtitle, the
 14 applicant also may submit a request to the Department of Business and Economic
 15 Development to determine the applicant's eligibility to qualify for financial incentives
 16 for the redevelopment of a brownfields site in accordance with Article 83A, Title [3]
 17 5, Subtitle [9] 14 of the Code.

18 **Article - State Finance and Procurement**

19 Subtitle 7B. Priority Funding Areas.

20 5-7B-01.

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

22 (i) any major capital project as defined in § 2-103.1(a)(4) of the
 23 Transportation Article, except existing transportation facilities projects as defined in
 24 § 4-101(i) of the Transportation Article, project planning as defined in § 8-610(g) of
 25 the Transportation Article, or initial project planning as defined in § 8-610(h) of the
 26 Transportation Article;

27 (ii) funding by the Department of Housing and Community
 28 Development for:

29 1. construction or purchase of newly constructed single
 30 family homes or purchase of loans for newly constructed single family homes under
 31 Article 83B, §§ 2-201 through 2-208, §§ 2-601 through 2-614, or §§ 2-1001 through
 32 2-1007 of the Code;

33 2. acquisition or construction of newly constructed
 34 multifamily rental housing under Article 83B, §§ 2-201 through 2-208, §§ 2-501
 35 through 2-510, or §§ 2-801 through 2-810 of the Code; or

36 3. State-funded neighborhood revitalization projects under
 37 Article 83B, Title 4 of the Code;

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

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

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

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

9 [4.] 2. the Maryland Small Business Development
10 Financing Authority, authorized under Article 83A, Title 5, Subtitle 10 of the Code;

11 [5. the Maryland Energy Financing Act, authorized under
12 Article 83A, Title 6, Subtitle 4 of the Code;]

13 [6.] 3. the Economic Development Opportunities Program
14 Fund, authorized under § 7-314 of this article;

15 [7.] 4. the Maryland Competitive Advantage Financing
16 Fund, authorized under Article 83A, Title 5, Subtitle 13 of the Code; and

17 [8.] 5. the Maryland Economic Development Assistance
18 Authority and Fund, authorized under Article 83A, Title 5, Subtitle 14 of the Code;

19 (iv) funding by the Department of the Environment, for any project
20 under:

21 1. §§ 9-1601 through 9-1605 (Water Quality Revolving Loan
22 Fund) of the Environment Article except for funding nonpoint source pollution
23 projects;

24 2. §§ 9-420 through 9-426 (Water Supply Financial
25 Assistance Program) of the Environment Article; and

26 3. the supplemental assistance program authorized under
27 Title 9, Subtitle 3, Part VI of the Environment Article; and

28 (v) except as provided in paragraph (2) of this subsection,
29 procurement or funding of projects by the Department of General Services for:

30 1. leases of property by the State governed by §§ 4-318
31 through 4-321 of this article;

32 2. public improvements governed by §§ 4-410 and 4-410.1 of
33 this article; and

34 3. land acquisition governed by §§ 4-411 through 4-416 of
35 this article.

Subtitle 3. Unspent Balances.

1 7-314.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Fund" means the Economic Development Opportunities Program
4 Fund.

5 (3) (i) "Performance requirement" means a contractual agreement
6 between an executive agency and a Fund recipient that requires the Fund recipient to
7 meet minimum economic development outcomes in exchange for a grant or a loan
8 under this section.

9 (ii) "Performance requirement" includes claw-back, penalty,
10 rescission, and recalibration clauses that utilize job creation, capital investment, and
11 other measures of economic development.

12 (4) "Private sector enterprise" means any commercial, industrial,
13 educational, or research organization which is not a part of or controlled by a federal,
14 State, or local government agency.

15 (5) "Executive agency" means an executive department or agency in the
16 Executive Branch of State government, including all offices of the Executive
17 Department or agency directly responsible to the Governor.

18 (6) "Extraordinary economic development opportunity" means the:

19 (i) attraction of a new private sector enterprise to the State or
20 retention or expansion of an existing private sector enterprise in the State that:

21 1. maintains a strong financial condition and minimal credit
22 risk profile;

23 2. is capable of accessing alternative sources of financing
24 through financial institutions or capital markets;

25 3. is consistent with the strategic plan of the State for
26 economic development;

27 4. creates or retains substantial employment, particularly in
28 areas of high unemployment; and

29 5. invests in capital at a level equal to five times the value of
30 the incentive offered;

31 (ii) retention or expansion of an existing public institution, private
32 institution, or federal research and development institute that:

33 1. is consistent with the strategic plan of the State for
34 economic development; and
35

1 (2) Except as provided in paragraph (3) of this subsection, repayments of
2 principal or interest on any loan from the Fund shall be retained to the credit of the
3 Fund.

4 (3) Repayments of principal or interest on any loan made from moneys
5 transferred from the Fund to a second continuing, nonlapsing fund may be retained to
6 the credit of the second fund.

7 (g) (1) The Department of Business and Economic Development shall report
8 to the Governor and, subject to § 2-1246 of the State Government Article, to the
9 General Assembly before January 1 of each year:

10 (i) the financial status of the program and a summary of its
11 operations for the preceding fiscal year;

12 (ii) for the previous 3 fiscal years, the status of Fund disbursements
13 for economic development projects approved by the Legislative Policy Committee
14 under this section; and

15 (iii) for the previous 3 fiscal years, the status of job creation, capital
16 investment, and other measures of economic development for each economic
17 development project approved by the Legislative Policy Committee under this section.

18 (2) If the job creation, capital investment, and other measures of
19 economic development described in paragraph (1) of this subsection are lower than
20 negotiated according to subsection (h)(1) of this section, the report shall contain an
21 explanation.

22 (3) Upon receipt of the report, the Legislative Policy Committee shall
23 have 60 days to review and comment on the report, during which time the
24 Department of Business and Economic Development shall provide any additional
25 information regarding this Fund as requested by the Legislative Policy Committee.

26 (h) (1) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION AND IN
27 subsection (i) of this section, any funds transferred from the Economic Development
28 Opportunities Program Fund shall be used only for extraordinary economic
29 development opportunities that:

30 [(1)] (I) meet the criteria provided in this section;

31 [(2)] (II) include performance requirements; and

32 [(3)] (III) in addition to the performance requirements under [paragraph
33 (2)] ITEM (II) of this subsection, include a performance requirement that utilizes a
34 claw-back provision.

35 (2) THE FUND MAY PAY AN EXECUTIVE AGENCY FOR ADMINISTRATIVE,
36 LEGAL, OR ACTUARIAL EXPENSES INCURRED BY THE AGENCY IN CONNECTION WITH
37 TRANSACTIONS FUNDED BY TRANSFERS OF MONEYS TO THE AGENCY FROM THE
38 FUND.

1 (i) The Legislative Policy Committee may approve an economic development
2 opportunity that is not an extraordinary economic development opportunity if the
3 executive agency requesting the transfer of funds offers a detailed justification for the
4 exception. THE LEGISLATIVE POLICY COMMITTEE SHALL GIVE PARTICULAR
5 CONSIDERATION TO AN EXCEPTION THAT WOULD PROVIDE A SIGNIFICANT
6 ECONOMIC DEVELOPMENT OPPORTUNITY FOR AN AREA OF THE STATE THAT HAS A
7 RELATIVELY HIGH UNEMPLOYMENT RATE OR RELATIVELY LOW PER CAPITA
8 INCOME.

9 (j) (1) The Department of Business and Economic Development shall
10 submit to the Legislative Policy Committee by [July] JANUARY 1 of each year a list of
11 guidelines for the kinds of performance requirements that may be negotiated with a
12 loan or grant applicant.

13 (2) The Department of Business and Economic Development may modify
14 these guidelines as needed, upon approval of the Legislative Policy Committee.

15 (3) An executive agency may depart from these guidelines as needed,
16 upon approval of the Legislative Policy Committee.

17 (k) Subject to the provisions of this subtitle, funds transferred from the
18 Economic Development Opportunities Program Fund, to an executive agency, may be
19 loaned [or], granted, OR INVESTED for:

20 (1) assisting in the retention or expansion of existing private sector
21 enterprises, public or private institutions, or federal research and development
22 institutes;

23 (2) assisting in the establishment or attraction of private sector
24 enterprises, public or private institutions, or federal research and development
25 institutes new to this State; or

26 (3) providing assistance where existing State or local programs lack
27 sufficient resources or are constrained by timing or program design from being
28 utilized.

29 (l) Upon request for approval for the transfer of funds by budget amendment
30 from the Fund, the Governor shall provide, subject to § 2-1246 of the State
31 Government Article, to the Legislative Policy Committee, IF THE FUNDS REQUESTED
32 EXCEED \$2,500,000, OR TO AN EXECUTIVE COMMITTEE OF THE LEGISLATIVE POLICY
33 COMMITTEE, IF THE FUNDS REQUESTED ARE LESS THAN \$2,500,000:

34 (1) a detailed description of:

35 (i) the proposed use of the funds;

36 (ii) the manner in which the proposed use meets the criteria as set
37 forth in this section;

- 1 (iii) the degree to which the proposed use of funds will advance
2 statewide or local economic development strategies and objectives; and
- 3 (iv) the degree to which available sources of federal, State, local,
4 and private financial support has been sought and will be utilized;
- 5 (2) the terms, conditions, and performance requirements of any grant or
6 loan for which the funds are to be used;
- 7 (3) a comprehensive economic analysis of the proposed use of the funds
8 which estimates:
- 9 (i) the economic impact to the State and the local jurisdictions
10 affected;
- 11 (ii) a minimum level of net economic benefits to the public sector;
- 12 (iii) the number of jobs expected to be created as a result of the
13 proposed economic development project and the percentage of those jobs that are
14 expected to be held by Maryland residents;
- 15 (iv) the wage rates and benefit packages for the jobs expected to be
16 created as a result of the proposed economic development project; and
- 17 (v) any other appropriate financial or economic benefits;
- 18 (4) any other analysis or information that is requested by the Legislative
19 Policy Committee; and
- 20 (5) the date on which the executive agency expects to disburse the funds
21 to the proposed recipient.
- 22 (m) If an executive agency fails to disburse transferred funds to a recipient
23 within 1 year after the expected disbursement date presented to the Legislative
24 Policy Committee under subsection (l) of this section, the funds will revert back to the
25 Fund and the Governor shall:
- 26 (1) resubmit the request to the Legislative Policy Committee to transfer
27 funds by budget amendment to the Fund; and
- 28 (2) provide the Legislative Policy Committee with the information
29 required under subsection (l) of this section.
- 30 (n) Funds appropriated to the Economic Development Opportunities Program
31 Fund may not be loaned [or], granted, OR INVESTED for:
- 32 (1) substituting for funds from other State or local programs for which a
33 project may be eligible and sufficient resources exist;
- 34 (2) projects which are not likely to attract or retain employment
35 opportunities;

- 1 (3) funding projects located outside the State;
- 2 (4) construction or land acquisition by the Maryland Stadium Authority;
- 3 or
- 4 (5) funding for any sports activity or facility.

5 (o) In the case of an economic development opportunity located outside a
6 priority funding area as established under Title 5, Subtitle 7B of this article, the
7 Department shall first comply with the provisions of that subtitle before making a
8 request for approval by the Legislative Policy Committee under this section.

9 (P) AN EXECUTIVE AGENCY MAY APPROVE CHANGES TO A TRANSACTION
10 APPROVED BY THE LEGISLATIVE POLICY COMMITTEE, OR ITS EXECUTIVE
11 COMMITTEE, AS LONG AS THE CHANGES DO NOT MATERIALLY AND ADVERSELY
12 AFFECT THE OVERALL POSITION OF THE EXECUTIVE AGENCY IN THE TRANSACTION
13 OR THE ECONOMIC DEVELOPMENT BENEFITS TO BE DERIVED BY THE STATE IN THE
14 TRANSACTION.

15 **Article - Tax - Property**

16 9-229.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) "Property tax attributable to an increase in an assessment" means
19 the additional property tax required to be paid as a result of the increase in the
20 assessment, calculated before the application of the credit under this section but after
21 the application of any other credit allowed under this title.

22 (3) "Qualified brownfields site" has the meaning stated in Article 83A, §
23 [3-901(d)] 5-1401(N) of the Code.

24 (4) "Taxing jurisdiction" means:

25 (i) a county or Baltimore City; or

26 (ii) a municipal corporation.

27 (b) (1) A taxing jurisdiction may elect to participate in the Brownfields
28 Revitalization Incentive Program under Article 83A, Title [3] 5, Subtitle [9] 14 of the
29 Code.

30 (2) If a taxing jurisdiction elects to participate in the Brownfields
31 Revitalization Incentive Program, the taxing jurisdiction shall:

32 (i) enact the necessary legislation to grant the property tax credits
33 established under this section; and

34 (ii) notify the Department of Business and Economic Development.

1 (3) If a taxing jurisdiction elects to participate in the Brownfields
2 Revitalization Incentive Program, the property tax credits under this section shall
3 also apply to the State property tax in that jurisdiction in the same percentage and for
4 the same duration as provided for the property tax of the taxing jurisdiction.

5 (c) For each of the 5 taxable years immediately following the first revaluation
6 of the property after completion of a voluntary cleanup or corrective action plan of a
7 brownfields site, each taxing jurisdiction where a qualified brownfields site is located
8 shall:

9 (1) grant a property tax credit against the property tax imposed on the
10 qualified brownfields site in an amount equal to 50% of the property tax attributable
11 to the increase in the assessment of the qualified brownfields site, including
12 improvements added to the site within the 5-year period as provided under this
13 subsection, over the assessment of the qualified brownfields site before the voluntary
14 cleanup; and

15 (2) contribute to the [Brownfields Revitalization Incentive] MARYLAND
16 ECONOMIC DEVELOPMENT ASSISTANCE Fund under Article 83A, § [3-904] 5-1404 of
17 the Code, 30% of the property tax attributable to the increase in the assessment of the
18 brownfields site, including improvements added to the site within the 5-year period
19 as provided under this subsection, over the assessment of the qualified brownfields
20 site before the voluntary cleanup.

21 (d) (1) A taxing jurisdiction may grant a property tax credit against the
22 property tax imposed on a qualified brownfields site in addition to the credit granted
23 under section (c) of this section.

24 (2) Subject to the limitation in paragraph (3) of this subsection, a taxing
25 jurisdiction may:

26 (i) vary the percentage of the additional property tax credit
27 granted under this subsection; and

28 (ii) establish additional eligibility criteria for any additional
29 property tax credit granted.

30 (3) The total additional property tax credit granted under this subsection
31 may not exceed an additional 20% of the remaining property tax attributable to the
32 increase in the assessment of the qualified brownfields site including improvements
33 added to the site over the assessment of the qualified brownfields site before the
34 voluntary cleanup.

35 (e) (1) A credit under this section may not be calculated on an increase in
36 assessment due to the termination of a use value under §§ 8-209 through 8-217 or §§
37 8-220 through 8-225 of this article.

38 (2) If the qualified brownfields site on which the voluntary cleanup is
39 completed had a use value immediately before the cleanup, the credit shall be
40 calculated on an assessment as if the parcel had been valued at market value.

1 (f) In a designated enterprise zone, a taxing jurisdiction may extend the tax
2 credit authorized under this section up to an additional 5 years.

3 (g) A proportional share of a taxing jurisdiction's contribution for each
4 qualified brownfields site to the [Brownfields Revitalization Incentive] MARYLAND
5 ECONOMIC DEVELOPMENT ASSISTANCE Fund under subsection (c)(2) of this section
6 shall be designated for financial incentives to be provided for qualified brownfields
7 sites in the jurisdiction making that contribution.

8 (h) A taxing jurisdiction shall terminate any property tax credit under this
9 section if:

10 (1) a person receiving a credit under this section withdraws from the
11 Voluntary Cleanup Program under § 7-512(a) or (b) of the Environment Article; or

12 (2) the Department of the Environment withdraws approval of a
13 response action plan, or a certificate of completion under § 7-512(e) and (f) of the
14 Environment Article.

15 **Chapter 301 of the Acts of 1999**

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 1999. [It shall remain effective for a period of 2 years and, at the end of June
18 30, 2001, with no further action required by the General Assembly, this Act shall be
19 abrogated and of no further force and effect.]

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 6-301 through
21 6-312 and the subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of
22 Article 83A - Department of Business and Economic Development of the Annotated
23 Code of Maryland be transferred to be Section(s) 4-301 through 4-312 and the
24 subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of Article 83B -
25 Department of Housing and Community Development of the Annotated Code of
26 Maryland.

27 SECTION 4. AND BE IT FURTHER ENACTED, That moneys on deposit in the
28 Child Care Special Loan Fund within the Department of Business and Economic
29 Development shall be transferred to the Department of Housing and Community
30 Development on July 1, 2000.

31 SECTION 5. AND BE IT FURTHER ENACTED, That, except as expressly
32 provided to the contrary in this Act, any transaction affected by or flowing from any
33 statute here amended, repealed, or transferred, and validly entered into before the
34 effective date of this Act and every right, duty, or interest flowing from it remains
35 valid after the effective date of this Act and may be terminated, completed,
36 consummated, or enforced pursuant to law.

37 SECTION 6. AND BE IT FURTHER ENACTED, That all bonds, notes, bond
38 anticipation notes, notes in the nature of commercial paper, or other instruments,
39 certificates or evidence of indebtedness or obligation heretofore issued by the
40 Department of Business and Economic Development, or any division, agency,

1 authority, body corporate or politic, or public instrumentality within or under the
2 Department of Business and Economic Development, or issued on behalf of the
3 Department or the State by any of the foregoing, are hereby declared to be valid,
4 legal, binding, and enforceable obligations to the extent of the obligation as provided
5 in any such bonds, notes, instruments, certificates, or evidences of indebtedness and
6 the proceedings relating to the issuance thereof.

7 SECTION 7. AND BE IT FURTHER ENACTED, That if any provision of this
8 Act or the application thereof to any person or circumstance is held invalid for any
9 reason in a court of competent jurisdiction, the invalidity does not affect other
10 provisions or any other application of this Act which can be given effect without the
11 invalid provision or application, and for this purpose the provisions of this Act are
12 declared severable.

13 SECTION 8. AND BE IT FURTHER ENACTED, That:

14 (a) The publishers of the Annotated Code of Maryland, subject to the approval
15 of the Department of Legislative Services, shall propose the correction of any agency
16 names and titles throughout the Code that are rendered incorrect by this Act.

17 (b) The Department of Legislative Services, in conjunction with the publishers
18 of the Annotated Code of Maryland, shall revise the Code to conform it to the transfer
19 of the Child Care Special Loan Fund to the Department of Housing and Community
20 Development, and this statutory revision shall be ratified by passage of the Annual
21 Corrective Bill of 2001.

22 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2000.