

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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 4, 2000

CHAPTER _____

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

1 its provision of financial assistance; authorizing the Department to make grants
2 and investments from the Maryland Economic Development Assistance Fund;
3 authorizing the Department to use funds from the Maryland Economic
4 Development Assistance Fund to provide financial assistance for redevelopment
5 of brownfields sites, creation and expansion of day care facilities, expansion or
6 improvement of certain child care services, animal waste technology projects,
7 and aquaculture projects; specifying the dollar amount of the transactions that
8 may be approved by the Secretary of Business and Economic Development and
9 the Maryland Economic Development Assistance Authority; altering the terms
10 and conditions to be imposed on transactions from the Maryland Economic
11 Development Assistance Fund; repealing the termination of the Maryland
12 Economic Development Assistance Authority and Fund; repealing the statute
13 governing the Maryland Energy Financing Administration; repealing the
14 statute governing the Child Care Special Loan Fund; repealing the statute
15 governing the Maryland Workforce Training Fund; repealing the statute
16 governing the Animal Waste Technology Fund; correcting statutory cites to the
17 Brownfields Revitalization Incentive Program in the statute governing the
18 Maryland Department of the Environment; ~~authorizing an executive committee~~
19 ~~of the Legislative Policy Committee to approve the transfer of funds from the~~
20 ~~Economic Development Opportunities Program ("Sunny Day") Fund for certain~~
21 ~~projects~~; authorizing investments to be made from the Sunny Day Fund;
22 altering the due date for certain guidelines governing projects to receive support
23 from the Sunny Day Fund due from the Department of Business and Economic
24 Development to the Legislative Policy Committee; providing that an executive
25 agency may make certain changes to a transaction approved by the Legislative
26 Policy Committee or its executive committee; ~~transferring the Child Care~~
27 ~~Special Loan Fund within the Department of Business and Economic~~
28 ~~Development to the Department of Housing and Community Development~~;
29 validating bonds, notes, and other evidence of indebtedness and obligations
30 issued by the Department of Business and Economic Development or any of its
31 authorized bond issuers; requiring the Department of Legislative Services and
32 the publisher of the Annotated Code to propose and make certain revisions to
33 the Code; altering certain definitions; making technical corrections; providing
34 for the effective dates of this Act; and generally relating to the operation of the
35 Department of Business and Economic Development and the State's economic
36 development financing programs.

37 BY repealing

38 Article 83A - Department of Business and Economic Development
39 Section 3-401 and 3-402 and the subtitle "Subtitle 4. Commercial Revitalization
40 and Rehabilitation Programs"; 3-901 through 3-905, inclusive, and the
41 subtitle "Subtitle 9. Brownfields Revitalization Incentive Program"; 5-405;
42 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
43 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive;
44 5-801 through 5-808, inclusive, and the subtitle "Subtitle 8. Industrial
45 and Commercial Redevelopment"; 5-915 and 5-917 through 5-928,
46 inclusive, and the various parts; 6-101 through 6-113, inclusive, and the
47 subtitle "Subtitle 1. Day Care Facilities Loan Guarantee Fund"; 6-201

1 through 6-213, inclusive, and the subtitle "Subtitle 2. Child Care Facilities
2 Direct Loan Fund"; 6-301 through 6-312, inclusive, and the subtitle
3 "Subtitle 3. Child Care Special Loan Fund"; 6-401 through 6-421,
4 inclusive, and the subtitle "Subtitle 4. Maryland Energy Financing Act";
5 6-601 through 6-606, inclusive, and the subtitle "Subtitle 6. Maryland
6 Workforce Training Finance Fund"; and 6-801 through 6-807, inclusive,
7 and the subtitle "Subtitle 8. Animal Waste Technology Fund"
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 1999 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article 83A - Department of Business and Economic Development
12 Section 5-101 through 5-103, inclusive; 5-214(c); 5-401 and 5-404; 5-501 and
13 5-502; 5-719 to be under the amended subtitle "Subtitle 7. Smart Growth
14 Economic Development Infrastructure Fund"; 5-901, 5-902, 5-905, 5-906,
15 5-911, 5-914, 5-916, 5-929 through 5-941; 5-1202(b); 5-1401 through
16 5-1406, inclusive
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1999 Supplement)

19 BY adding to
20 Article 83A - Department of Business and Economic Development
21 Section 5-503(c) and (d); 5-920, 5-927, 5-928, 5-929, 5-932; 5-1406, 5-1407,
22 5-1408, ~~and 5-1410~~ 5-1409, and 5-1411
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 1999 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Environment
27 Section 7-507
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1999 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article - State Finance and Procurement
32 Section 5-7B-01(d)(1) and 7-314
33 Annotated Code of Maryland
34 (1995 Replacement Volume and 1999 Supplement)

35 BY repealing and reenacting, with amendments,
36 Article - Tax - Property
37 Section 9-229
38 Annotated Code of Maryland
39 (1994 Replacement Volume and 1999 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Chapter 301 of the Acts of the General Assembly of 1999
 3 Section 4

4 ~~BY transferring~~

5 ~~Article 83A - Department of Business and Economic Development~~
 6 ~~Section 6-301 through 6-312 and the subtitle "Subtitle 3. Child Care Special~~
 7 ~~Loan Fund", respectively~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(1998 Replacement Volume and 1999 Supplement)~~

10 ~~to be~~

11 ~~Article 83B - Department of Housing and Community Development~~
 12 ~~Section 4-301 through 4-312 and the subtitle "Subtitle 3. Child Care Special~~
 13 ~~Loan Fund", respectively~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(1998 Replacement Volume and 1999 Supplement)~~

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 17 MARYLAND, That Section(s) 3-401 and 3-402 and the subtitle "Subtitle 4.
 18 Commercial Revitalization and Rehabilitation Programs"; 3-901 through 3-905,
 19 inclusive, and the subtitle "Subtitle 9. Brownfields Revitalization Incentive Program";
 20 5-405; 5-601 through 5-610, inclusive, and the subtitle "Subtitle 6. Maryland
 21 Enterprise Incentive Deposit Fund"; 5-701 through 5-718, inclusive; 5-801 through
 22 5-808, inclusive, and the subtitle "Subtitle 8. Industrial and Commercial
 23 Redevelopment"; 5-915 and 5-917 through 5-928, inclusive, and the various parts;
 24 6-101 through 6-113, inclusive, and the subtitle "Subtitle 1. Day Care Facilities Loan
 25 Guarantee Fund"; 6-201 through 6-213, inclusive, and the subtitle "Subtitle 2. Child
 26 Care Facilities Direct Loan Fund"; ~~6-401 through 6-421, inclusive, and the subtitle~~
 27 ~~"Subtitle 4. Maryland Energy Financing Act 6-301 through 6-312, inclusive, and the subtitle~~
 28 ~~subtitle "Subtitle 3. Child Care Special Loan Fund"; 6-601 through 6-606, inclusive,~~
 29 ~~and the subtitle "Subtitle 6. Maryland Workforce Training Finance Fund"; and 6-801~~
 30 ~~through 6-807, inclusive, and the subtitle "Subtitle 8. Animal Waste Technology~~
 31 ~~Fund" of Article 83A - Department of Business and Economic Development of the~~
 32 ~~Annotated Code of Maryland be repealed.~~

33 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-401 through
 34 6-421 and the subtitle "Subtitle 4. Maryland Energy Financing Act" of Article 83A -
 35 Department of Business and Economic Development of the Annotated Code of
 36 Maryland be repealed.

37 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That the Laws of Maryland
 38 read as follows:

Article 83A - Department of Business and Economic Development

Title 5. Economic Development and Financial Assistance Programs.

Subtitle 1. General Provisions.

4 5-101.

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

9 5-102.

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

- 12 (1) Maryland Small Business Development Financing Authority;
- 13 (2) Maryland Industrial Development Financing Authority;
- 14 (3) [Maryland Energy Financing Administration;
- 15 (4) Maryland Industrial and Commercial Redevelopment Fund;
- 16 (5) Maryland Industrial Land Act;
- 17 (6)] Enterprise Fund;
- 18 [(7) Maryland Enterprise Incentive Deposit Fund;
- 19 (8) Enterprise Zone Venture Capital Guarantee Fund;
- 20 (9)] (4) The Community Development Block Grant for Economic
21 Development, jointly with the Department of Housing and Community Development;
- 22 [(10) Day Care Facilities Loan Guarantee Fund;
- 23 (11) Child Care Facilities Direct Loan Fund;
- 24 (12) Child Care Special Loan Fund;
- 25 (13)] (5) Maryland Economic Adjustment Fund; [and]
- 26 (6) MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
27 AND FUND;
- 28 (7) MARYLAND COMPETITIVE ADVANTAGE FINANCING FUND;

1 (8) SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE
2 FUND; AND

3 [(14)] (9) Other programs or funds designated in law or by the Governor
4 or Secretary.

5 5-103.

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

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

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

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

20 Subtitle 2. Maryland Economic Development Corporation.

21 5-214.

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

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

27 (ii) A political subdivision within the meaning of the Maryland
28 Industrial Land Act and the Maryland Industrial and Commercial Redevelopment
29 Fund Act.

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

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

Subtitle 4. Enterprise Zones.

2 5-401.

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

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

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

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

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

14 (e) "Department" means the Department of Business and Economic
15 Development.

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

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

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

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

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

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

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

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

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

30 5-404.

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

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

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

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

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

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

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

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

17 (2) The business entity is certified by the respective political subdivision
18 that it is in compliance with the standards submitted by the subdivision under §
19 5-402(d)(4) of this subtitle; and

20 (3) (i) The business entity creates new or additional jobs or makes a
21 capital investment in order to qualify for the property tax credit under § 9-103 of the
22 Tax - Property Article and the income tax credits under § 10-702 of the Tax - General
23 Article; and

24 (ii) In considering whether the business entity qualifies for [loans
25 and grants under the Maryland Industrial Land Act and the Maryland Industrial and
26 Commercial Redevelopment Fund and for insurance under the Enterprise Zone
27 Venture Capital Guarantee Fund] FINANCIAL ASSISTANCE FROM THE PROGRAMS
28 SET FORTH IN § 5-102 OF THIS ARTICLE, the Secretary determines that the business
29 entity will create new or additional jobs.

30 (c) Any business entity located within an enterprise zone before the date on
31 which the enterprise zone is designated pursuant to § 5-402 of this subtitle may not
32 benefit from the incentives and initiatives set forth in this section except with respect
33 to any capital investment or any expansion of its labor force occurring after the date
34 on which the enterprise zone is designated.

35 (d) Except as provided in § 10-702 of the Tax - General Article and § 9-103 of
36 the Tax - Property Article, the incentives and initiatives set forth in this section shall
37 be available for a period of 10 years following the date on which the area is designated
38 an enterprise zone pursuant to § 5-402 of this subtitle. No law hereinafter enacted
39 that eliminates or reduces the benefits available to business entities under this

1 section shall be applicable to any business entity located in an enterprise zone prior to
2 the effective date of such law.

3 Subtitle 5. Enterprise Fund.

4 5-501.

5 (a) In this [section] SUBTITLE the term "Fund" means the Enterprise Fund
6 established under this [section] SUBTITLE.

7 (b) Where the Department is otherwise authorized by law to make grants, the
8 Department may require repayment, with interest at a rate to be determined by the
9 Department, of all or a portion of a grant upon the occurrence of conditions specified
10 by the Department.

11 (c) (1) Where the Department is otherwise authorized by law to make
12 grants, including grants authorized under § 7-314 of the State Finance and
13 Procurement Article, the Department may use moneys appropriated for grants to
14 provide equity investment financing for a business enterprise.

15 (2) In providing equity investment financing under this [subsection]
16 SUBTITLE, the Department may not acquire an ownership interest in the enterprise
17 in which the equity investment is made that exceeds 25 percent.

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

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

24 (5) The Department shall adopt regulations specifying:

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

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

31 5-502.

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

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

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

1 (2) Moneys made available to the Fund through appropriate federal
2 programs or 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 by the
8 Department of collateral related to any financing provided by the Department under
9 this [section] SUBTITLE;

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

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

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

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

22 (8) Repayments received from conditional grants extended by the
23 Department; and

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

25 5-503.

26 (C) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
27 DOES NOT APPLY TO ANY SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER
28 DISPOSITION OF ANY REAL OR PERSONAL PROPERTY ACQUIRED BY THE
29 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE,
30 INCLUDING SHARES OF STOCK IN A BUSINESS ENTITY. THE DEPARTMENT SHALL
31 CONSULT WITH THE OFFICE OF THE TREASURER IN CONNECTION WITH ANY
32 PROPOSED DISPOSITION OF PROPERTY ACQUIRED BY THE DEPARTMENT UNDER
33 THIS SUBTITLE.

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

1 Subtitle 7. [Maryland Industrial Land Act.] SMART GROWTH ECONOMIC
2 DEVELOPMENT INFRASTRUCTURE FUND.

3 [5-719.] 5-701.

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

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

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

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

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

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

19 (2) The Fund consists of:

20 (i) Appropriations to the Fund;

21 (ii) Any investment earnings of the Fund;

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

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

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

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

32 (5) The Fund is a continuing, nonlapsing fund which is not subject to §
33 7-302 of the State Finance and Procurement Article.

34 (c) (1) Except as otherwise provided in this section, the Secretary may
35 approve financial assistance from the Fund to a qualified distressed county for the

1 purposes of financing the costs of acquisition, improvements, and rehabilitation of
2 land for industrial sites and parks, development of water and sewer lines, shell
3 buildings, infrastructure serving existing retail and office oriented centers occupying
4 at least 400,000 square feet on a limited basis of no more than one per jurisdiction,
5 and other needed infrastructure projects[, as set forth in §§ 5-704 through 5-709 of
6 this subtitle].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Subtitle 9. Maryland Industrial Development Financing Authority.

29 [Part I. Definitions; General Provisions.]

30 5-901.

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

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

35 (c) "Authority" means the Maryland Industrial Development Financing
36 Authority.

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

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

7 [(f) "Bond Insurance Fund" means the Bond Insurance Fund created by §
8 5-914 of this subtitle.

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

16 (F) "COGENERATION" MEANS THE COMBINED GENERATION BY ANY FACILITY
17 OF:

18 (1) ELECTRICAL OR MECHANICAL POWER; AND

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

21 (G) "COMMERCIAL BUILDING" MEANS, FOR THE PURPOSE OF PROVIDING
22 FINANCIAL ASSISTANCE FOR AN ENERGY CONSERVATION PROJECT OR A SOLAR
23 ENERGY PROJECT IN A COMMERCIAL BUILDING, ANY BUILDING, OTHER THAN A
24 RESIDENTIAL BUILDING, THAT IS USED PRIMARILY TO CARRY ON A BUSINESS,
25 INCLUDING ANY NONPROFIT BUSINESS, AND IS NOT USED PRIMARILY FOR THE
26 MANUFACTURE OR PRODUCTION OF RAW MATERIALS, PRODUCTS, OR
27 AGRICULTURAL COMMODITIES.

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

30 (i) "Department" means the Department of Business and Economic
31 Development of the State.

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

34 (J) "ENERGY AUDIT" MEANS:

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

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

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

6 (II) APPROPRIATE ENERGY CONSERVING MAINTENANCE AND
7 OPERATION PROCEDURES THAT MAY BE EMPLOYED TO REDUCE THE ENERGY
8 CONSUMPTION OF THE BUILDING OR PROCESS; AND

9 (III) THE COST OF IMPLEMENTING APPROPRIATE ENERGY
10 CONSERVATION PROJECTS OR SOLAR ENERGY PROJECTS AND THE SAVINGS IN
11 ENERGY COSTS THAT ARE LIKELY TO RESULT FROM THE IMPLEMENTATION OF THE
12 PROJECTS.

13 (K) "ENERGY CONSERVATION PROJECT" MEANS:

14 (1) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
15 BUILDING, OR AN INDUSTRIAL PROCESS, THE PURCHASE OR INSTALLATION OR
16 MODIFICATION OF AN INSTALLATION WHICH IS DESIGNED PRIMARILY TO REDUCE
17 THE CONSUMPTION OF ENERGY, INCLUDING:

18 (I) CAULKING AND WEATHER STRIPPING;

19 (II) THE INSULATION OF THE BUILDING STRUCTURE AND ANY
20 SYSTEM WITHIN THE BUILDING;

21 (III) A STORM WINDOW OR DOOR, A MULTIGLAZED WINDOW OR
22 DOOR, HEAT-ABSORBING OR HEAT-REFLECTING WINDOW OR DOOR SYSTEM,
23 GLAZING, REDUCTION IN GLASS AREA, OR OTHER WINDOW OR DOOR SYSTEM
24 MODIFICATION;

25 (IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;

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

29 (VI) A MODIFICATION OF A FURNACE OR A UTILITY PLANT AND
30 DISTRIBUTION SYSTEM INCLUDING:

31 1. A REPLACEMENT BURNER, FURNACE, OR BOILER, OR ANY
32 COMBINATION OF THESE ITEMS, THAT INCREASES THE ENERGY EFFICIENCY OF THE
33 HEATING SYSTEM;

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

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

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

5 (VIII) AN ENERGY RECOVERY SYSTEM;

6 (IX) A COGENERATION SYSTEM;

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

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

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

15 (2) WITH RESPECT TO A COMMERCIAL BUILDING, AN INDUSTRIAL
16 BUILDING, OR AN INDUSTRIAL PROCESS, ANY PLANNING OR TECHNICAL SERVICE,
17 AND ANY ENERGY AUDIT, IF THE SERVICE OR AUDIT IS RELATED TO OR
18 UNDERTAKEN WITH THE INSTALLATION, OR THE MODIFICATION OF THE
19 INSTALLATION, THAT INCLUDES ANY OF THE ITEMS SPECIFIED IN PARAGRAPH (1) OF
20 THIS SUBSECTION.

21 (L) "ENERGY PROJECT" MEANS:

22 (1) THE CONSTRUCTION OF A FACILITY FOR THE PRODUCTION OF
23 SOLAR ENERGY EQUIPMENT;

24 (2) AN ENERGY CONSERVATION PROJECT;

25 (3) A SOLAR ENERGY PROJECT;

26 (4) (I) THE CONSTRUCTION OF A FACILITY OR PORTION OF A FACILITY
27 FOR:

28 1. THE PRODUCTION OF GASEOUS, LIQUID, OR SOLID FUEL
29 AND BY-PRODUCTS FROM ANY ORGANIC MATTER, OTHER THAN A FOSSIL FUEL,
30 INCLUDING FROM AN AGRICULTURAL CROP OR AGRICULTURAL WASTE OR RESIDUE,
31 WOOD OR WOOD WASTE OR RESIDUE, ANIMAL WASTE, AQUATIC PLANT, SEWAGE,
32 SEWAGE SLUDGE, OR MUNICIPAL OR INDUSTRIAL OR COMMERCIAL WASTE, OR ANY
33 MIXTURE OF ONE OF THESE SUBSTANCES WITH INORGANIC REFUSE FROM ANY
34 PUBLICLY OR PRIVATELY OPERATED MUNICIPAL WASTE COLLECTION OR SIMILAR
35 DISPOSAL SYSTEM; AND

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

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

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

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

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

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

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

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

28 (8) (I) THE CONSTRUCTION OF ANY FUEL PRODUCTION FACILITY FOR
29 THE PURPOSE OF COMMERCIAL PRODUCTION OF A GASEOUS, LIQUID, OR SOLID
30 FUEL, OR OF A COMBINATION OF THESE FUELS, WHICH CAN BE USED AS A
31 SUBSTITUTE FOR PETROLEUM OR NATURAL GAS, OR ANY DERIVATIVES THEREOF,
32 INCLUDING CHEMICAL FEEDSTOCKS, AND WHICH IS PRODUCED BY CHEMICAL OR
33 PHYSICAL TRANSFORMATION OF COAL OR MIXTURES OF COAL AND OTHER
34 MATERIALS. THE PROJECT MAY INCLUDE ONLY:

35 1. THE FUEL PRODUCTION FACILITY, INCLUDING THE
36 EQUIPMENT, PLANT, MACHINERY, SUPPLIES, AND OTHER MATERIALS ASSOCIATED
37 WITH THE FUEL PRODUCTION FACILITY;

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

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

4 A. WHICH IS COLOCATED WITH THE FUEL PRODUCTION
5 FACILITY OR IS LOCATED IN THE IMMEDIATE VICINITY OF THE FUEL PRODUCTION
6 FACILITY OR, IF NOT COLOCATED OR LOCATED IN THE IMMEDIATE VICINITY, IS
7 INCIDENTAL TO THE PROJECT, EXCEPT IN THE EVENT OF A COAL MINE WHERE NO
8 OTHER REASONABLE SOURCE OF COAL IS AVAILABLE TO THE PROJECT; AND

9 B. WHICH IS NECESSARY TO THE PROJECT; AND

10 4. ANY TRANSPORTATION FACILITY, ELECTRIC POWER
11 PLANT, ELECTRIC TRANSMISSION LINE, OR OTHER FACILITY:

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

13 B. THAT IS INCIDENTAL TO THE PROJECT; AND

14 C. THAT IS NECESSARY TO THE PROJECT, EXCEPT THAT A
15 TRANSPORTATION FACILITY USED TO TRANSPORT FUEL PRODUCED BY THE
16 FACILITY AWAY FROM THE PROJECT SHALL BE USED EXCLUSIVELY TO TRANSPORT
17 THE FUEL TO A STORAGE FACILITY OR PIPELINE CONNECTION TO AN EXISTING
18 PIPELINE OR PROCESSING FACILITY OR TO AN AREA WITHIN CLOSE PROXIMITY OF
19 THE PROJECT;

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

23 (III) THE CONSTRUCTION OF A FACILITY FOR THE COMBUSTION OF
24 COAL UTILIZING INNOVATIVE TECHNOLOGY FOR INCREASING THE EFFICIENCY OF
25 THE COMBUSTION PROCESS.

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

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

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

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

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

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

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

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

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

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

13 (T) "INDUSTRIAL DEVELOPMENT FUND" MEANS THE FUND CREATED BY §
14 5-914 OF THIS SUBTITLE.

15 (U) "INDUSTRIAL PROCESS" MEANS:

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

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

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

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

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

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

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

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

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

34 (CC) (1) "SOLAR ENERGY PROJECT" MEANS, WITH RESPECT TO ANY
35 COMMERCIAL OR INDUSTRIAL BUILDING, ANY ADDITION, ALTERATION, OR

1 IMPROVEMENT THAT IS DESIGNED TO USE WIND ENERGY, ENERGY PRODUCED BY A
2 WOOD-BURNING APPLIANCE, OR SOLAR ENERGY, EITHER OF THE ACTIVE TYPE
3 BASED ON MECHANICALLY FORCED ENERGY TRANSFER OR OF THE PASSIVE TYPE
4 BASED ON CONVECTIVE, CONDUCTIVE, OR RADIANT ENERGY TRANSFER, OR SOME
5 COMBINATION OF THESE TYPES, TO REDUCE THE ENERGY REQUIREMENTS OF THE
6 BUILDING.

7 (2) "SOLAR ENERGY PROJECT" INCLUDES A SOLAR PROCESS HEAT
8 DEVICE, SOLAR ELECTRIC DEVICE, OR ANY EARTH SHELTERED BUILDING IN WHICH
9 THE SHELTERING SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY
10 THE BUILDING.

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

14 5-902.

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

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

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

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

22 (4) The control or abatement of pollution of the environment of the State,
23 including that by noise, is necessary to retain existing industry and commercial
24 enterprises in, and attract new industry and commercial enterprises to, the State and
25 to protect the health, welfare, and safety of the citizens of the State, to protect the
26 natural resources of the State, and to encourage the economic development of the
27 State;

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

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

33 (7) The availability of financial assistance will promote the economic
34 development of the State.

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

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

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

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

7 (4) Promote economic development;

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

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

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

13 [Part II. Establishment and Organization of Authority.]

14 5-905.

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

16 (1) 7 members appointed by the Secretary with the approval of the
17 Governor; and

18 (2) As ex officio members:

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

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

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

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

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

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

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

1 5-906.

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

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

6 5-911.

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

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

9 (2) Adopt and use an official seal;

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

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

12 (5) Contract for and engage the services of consultants;

13 (6) Use the services of other governmental agencies;

14 (7) Contract for and accept, for use in carrying out the provisions of this
15 subtitle, loans and grants from the federal, State, or any local government and any of
16 their respective agencies and instrumentalities;

17 (8) Acquire, manage, operate, dispose of, or otherwise deal with property,
18 take assignments of rentals and leases, and make contracts, leases, agreements, and
19 arrangements that are necessary or incidental to the performance of its duties, upon
20 such terms and conditions that it may deem advisable;

21 (9) Acquire or take assignments of documents executed, obtained, or
22 delivered in connection with financial assistance provided by the Authority under this
23 subtitle;

24 (10) Subject to the provisions of any outstanding agreements entered into
25 by the Authority under this subtitle, enter into covenants or agreements with respect
26 to the Authority's insurance funds, and establish accounts within the Authority's
27 insurance funds which may be used to implement the purposes of this subtitle. If the
28 Authority elects to establish separate accounts, the Authority may allocate its
29 revenues and receipts among the respective accounts in any manner the Authority
30 considers appropriate;

31 (11) Fix, determine, charge, and collect any premiums, fees, charges,
32 costs, and expenses, including, by way of example, any application fees, commitment
33 fees, program fees, financing charges, or publication fees in connection with financial
34 assistance provided by the Authority under this subtitle;

1 (12) Adopt rules and regulations necessary to carry out the purposes of
2 this subtitle;

3 (13) Authorize the chairman, vice chairman, or executive director of the
4 Authority, on behalf of the Authority, to perform any duty, and specify, prescribe,
5 determine, provide for or approve such matters, details, forms, documents, or
6 procedures as the Authority, in its sole and absolute discretion, deems appropriate to
7 accomplish the purposes of this subtitle; AND

8 (14) [With the approval of the Secretary, exercise any or all of the powers,
9 duties and authority of the Secretary, in accordance with Title 6, Subtitle 4 of this
10 article, relating to the Maryland Energy Financing Administration; and

11 (15)] Do anything necessary or convenient to carry out its powers and the
12 purposes of this subtitle.

13 [Part III. Insurance Funds.]

14 5-914.

15 (a) There is [a] AN [Bond Insurance] INDUSTRIAL DEVELOPMENT Fund
16 which replaces the Authority's [Industrial Project Insurance] BOND INSURANCE
17 Fund, THE AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE
18 DEPARTMENT'S DAY CARE FACILITIES LOAN GUARANTEE FUND, AND THE
19 MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND. Moneys on deposit in the
20 Authority's [Industrial Project Insurance] BOND INSURANCE Fund, THE
21 AUTHORITY'S AUTHORIZED PURPOSE INSURANCE FUND, THE DEPARTMENT'S DAY
22 CARE FACILITIES LOAN GUARANTEE FUND, AND THE MARYLAND ENTERPRISE
23 INCENTIVE DEPOSIT FUND shall be transferred to the [Bond Insurance] INDUSTRIAL
24 DEVELOPMENT Fund on July 1, [1983] 2000.

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

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

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

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

34 (4) INTEREST RECEIVED FROM LINKED DEPOSITS MADE FROM THE
35 LINKED DEPOSIT FUND;

36 [(4)] (5) Income from investments that the State Treasurer, on
37 instruction of the Authority, makes from moneys in the [Bond Insurance]
38 INDUSTRIAL DEVELOPMENT Fund; and

1 [(5)] (6) Any other moneys made available under this subtitle.

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

3 (1) For the purposes described in [§ 5-929] §§ 5-916, 5-918, 5-927, AND
4 5-928 of this subtitle; and

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

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

9 (ii) All costs, charges, fees, and expenses of the Authority related to
10 the authorizing, preparing, printing, selling, issuing, and insuring of bonds AND
11 AUTHORIZED PURPOSE OBLIGATIONS (including, by way of example, bonds OR
12 AUTHORIZED PURPOSE OBLIGATIONS, the proceeds of which are used to refinance or
13 refund outstanding bonds OR AUTHORIZED PURPOSE OBLIGATIONS), and the funding
14 of reserves; AND

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

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

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

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

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

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

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

2 [5-916.] 5-915.

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

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

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

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

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

12 [Part IV. Use of Insurance Funds.]

13 [5-929.] 5-916.

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

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

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

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

25 [5-930.] 5-917.

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

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

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

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

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

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

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

7 (ii) Preserve the competitive position of the facility user in its
8 industry.

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

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

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

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

20 [5-931.] 5-918.

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

24 (1) Insure the payment or repayment of the principal of, redemption or
25 prepayment premiums or penalties on, and interest on authorized purpose
26 obligations; and

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

30 [5-932.] 5-919.

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

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

- 1 (c) (1) The Authority shall determine that the transaction will not result in:
- 2 (i) The removal of the business operations of any person benefiting
3 from the transaction, from one county to another county; or
- 4 (ii) The abandonment of the business operations of any person
5 benefiting from the transaction, in the State; or
- 6 (2) If the transaction will result in the occurrence of either of these
7 events, the Authority shall determine that the transaction will:
- 8 (i) Discourage the business from leaving the State; or
- 9 (ii) Preserve the competitive position of the business in its industry.
- 10 (d) The financial assistance to be provided by the Authority may not be used
11 in connection with a retail establishment unless the Authority determines, in its sole
12 and absolute discretion, that financial assistance in connection with a retail
13 establishment will accomplish the purposes of this subtitle.
- 14 (e) The Authority shall determine that the Authority will not be required,
15 except on default, to operate, service, or maintain any business.
- 16 (f) The authorized purpose obligations with respect to which financial
17 assistance is provided by the Authority shall be secured in a manner approved by the
18 Authority.
- 19 (g) Financial assistance provided by the Authority from the [Authorized
20 Purpose Insurance] INDUSTRIAL DEVELOPMENT Fund UNDER § 5-918 OF THIS
21 SUBTITLE with respect to any one transaction may not exceed the total aggregate
22 amount of [\$1,000,000] § 2,500,000.
- 23 (h) The total aggregate amount of insurance from the [Authorized Purpose
24 Insurance] INDUSTRIAL DEVELOPMENT Fund may not exceed at any time an amount
25 equal to 5 times the balance in the [Authorized Purpose Insurance] INDUSTRIAL
26 DEVELOPMENT Fund.
- 27 (i) The total aggregate amount of insurance from the [Authorized Purpose
28 Insurance] INDUSTRIAL DEVELOPMENT Fund of any one authorized purpose
29 obligation UNDER § 5-918 OF THIS SUBTITLE may not exceed:
- 30 (1) For an export-related financing transaction, 90 percent of the total of
31 the principal of, redemption or prepayment premiums or penalties on, and interest
32 on, the authorized purpose obligation; or
- 33 (2) For a transaction other than an export-related financing transaction,
34 80 percent of the total of the principal of, redemption or prepayment premiums or
35 penalties on, and interest on, the authorized purpose obligation.

1 5-920.

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

5 (1) RESULT IN A REDUCTION IN THE CONSUMPTION OF ENERGY,
6 PARTICULARLY THE CONSUMPTION OF PETROLEUM;

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

9 (3) RESULT IN INCREASES IN EMPLOYMENT AND ECONOMIC ACTIVITY
10 IN THE STATE;

11 (4) EMBODY SOUND TECHNOLOGY AND ECONOMIC FEASIBILITY;

12 (5) MINIMIZE ANY ADVERSE IMPACT ON ENVIRONMENTAL QUALITY;
13 AND

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

16 (B) THE AUTHORITY SHALL PROMOTE THE VARIOUS PROGRAMS OF
17 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS ESTABLISHED UNDER THIS
18 SUBTITLE BY INFORMING CONSUMERS, THE PRIVATE SECTOR, AND FINANCIAL
19 INSTITUTIONS OF THE BENEFITS OF THESE PROGRAMS, AND BY ACTIVELY SEEKING
20 THEIR PARTICIPATION. IN PARTICULAR, THE AUTHORITY SHALL:

21 (1) DEVELOP AND DISSEMINATE CLEAR AND CONCISE DESCRIPTIONS
22 OF ITS VARIOUS PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS;
23 AND

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

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

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

34 (2) A "GOVERNMENT CORPORATION", AS USED IN TITLE II, SUBTITLE C, §
35 252, CONCERNING THE FINANCING OF OTHER BIOMASS ENERGY PROJECTS; AND

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

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

7 [5-933.] 5-921.

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

13 (1) Be subject to the concurrence of the Secretary or the chairman of the
14 Authority;

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

16 (3) Be binding upon the Authority.

17 [5-934.] 5-922.

18 The Authority may itself approve the form of any agreement entered into by the
19 Authority under this subtitle or may authorize the executive director of the Authority
20 to approve the form of any agreement entered into by the Authority under this
21 subtitle. Any payment by the Authority under an agreement entered into by the
22 Authority under this subtitle shall be made at the time and in the manner that the
23 Authority, in its sole and absolute discretion, determines.

24 [5-935.] 5-923.

25 [Transactions are] FINANCIAL ASSISTANCE AWARDED BY THE AUTHORITY
26 UNDER THIS SUBTITLE IS:

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

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

31 [Part V. Premiums and Fees.]

32 [5-936.] 5-924.

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

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

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

6 (1) Among [transactions] APPROVALS FOR FINANCIAL ASSISTANCE;
7 and

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

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

13 [5-937.] 5-925.

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

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

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

26 (c) The Authority shall:

27 (1) Annually review the unemployment rates; and

28 (2) Only consider annual unemployment rates established not more than
29 12 months before the date of the Authority's review.

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

31 [5-938.] 5-926.

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

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

4 (c) The Authority may issue its bonds without obtaining the consent of any
5 other unit of State government, and without any proceedings, or the occurrence of any
6 conditions, other than those expressly required by this subtitle. Prior to the issuance
7 of any bonds by the Authority, the Authority shall notify the State Board of Public
8 Works of its intention to issue the bonds up to a stated amount and the Board of
9 Public Works may coordinate the issuance of the bonds with any intended issuance of
10 bonds of the State, its agencies, and public instrumentalities; however, the failure to
11 notify the Board of Public Works shall not affect in any way:

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

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

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

17 (d) (1) When bonds are issued by the Authority, it is in the interest of the
18 public welfare and purpose that the Authority attempt to achieve a goal that 10
19 percent of the facility users are minority business enterprises as defined under §
20 14-301 of the State Finance and Procurement Article.

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

23 (i) The validity or enforceability of any bonds issued by the
24 Authority;

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

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

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

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

34 (2) Specify and describe the facility; and

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

1 (f) Except for the Authority's insurance (if any), bonds issued by the Authority
 2 and the interest on them are limited obligations of the Authority, the principal of,
 3 premium, if any, and interest on which are payable solely (except for bond
 4 anticipation notes and notes in the nature of commercial paper) from revenues or
 5 moneys to be received in connection with the financing or refinancing of a facility [or]
 6 AND from any other moneys made available to the Authority for such purpose.
 7 Neither the bonds issued by the Authority nor the interest thereon shall ever
 8 constitute an indebtedness or a charge against the general credit or taxing powers of
 9 the State, the Department, the Authority or any other public body within the meaning
 10 of any constitutional or charter provision or statutory limitation and neither shall
 11 ever constitute or give rise to any pecuniary liability of the State, the Department, the
 12 Authority or any other public body. Each bond issued by the Authority, on its face,
 13 may plainly state that it has been issued under the provisions of the Maryland
 14 Economic Development Revenue Bond Act AND THIS SUBTITLE and that it does not
 15 constitute an indebtedness to which the faith and credit of the State, the Department,
 16 the Authority or any other public body is pledged.

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

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

22 5-927.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 24 INDICATED.

25 (2) "APPLICANT" MEANS THE ELIGIBLE BUSINESS APPLYING FOR ~~THE~~
 26 ~~LOAN AND THE~~ FIXED ASSET FINANCING ASSISTED BY A LINKED DEPOSIT.

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

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

32 (II) IS IN GOOD STANDING WITH EACH STATE REGULATORY
 33 AUTHORITY WITH JURISDICTION OVER THE BUSINESS OF THE APPLICANT,
 34 INCLUDING THE STATE WORKERS' COMPENSATION COMMISSION, THE DEPARTMENT
 35 OF ASSESSMENTS AND TAXATION, AND THE DEPARTMENT OF LABOR, LICENSING
 36 AND REGULATION; AND

37 (III) EMPLOYS 500 OR FEWER EMPLOYEES.

38 (4) (I) "FIXED ASSET FINANCING" MEANS ~~THE USE OF~~ A COMMERCIAL
 39 LOAN TO FINANCE:

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

3 2. THE ACQUISITION OF THE LAND UPON WHICH THE
4 BUILDING IS LOCATED OR IS TO BE LOCATED IF THE LAND IS NOT ALREADY OWNED
5 BY THE APPLICANT; OR

6 3. THE ACQUISITION OF MACHINERY AND EQUIPMENT.

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

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

10 (I) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;

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

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

14 (IV) IS INSURED BY:

15 1. THE FEDERAL DEPOSIT INSURANCE CORPORATION; ~~OR,~~

16 2. ~~THE FEDERAL SAVINGS AND LOAN INSURANCE~~
17 ~~CORPORATION.~~

18 (6) "LINKED DEPOSIT" MEANS A ~~CERTIFICATE OF DEPOSIT THAT IS~~
19 ~~PLACED BY THE AUTHORITY WITH A LENDER AT 3 PERCENT AND EARNS INCOME~~
20 ~~BELOW THE PREVAILING MARKET RATE FOR EQUIVALENT DEPOSITS MADE WITH~~
21 THE LENDER AT THE TIME OF THE DEPOSIT.

22 (B) (1) THERE IS A LINKED DEPOSIT PROGRAM IN THE DEPARTMENT,
23 WHICH REPLACES THE DEPARTMENT'S MARYLAND ENTERPRISE INCENTIVE DEPOSIT
24 FUND PROGRAM.

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

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

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

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

1 (C) THE AUTHORITY MAY ~~MAKE~~ PLACE A LINKED DEPOSIT WITH A LENDER IN
2 ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

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

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

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

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

13 (E) (1) ON CONDITIONAL APPROVAL OF A FIXED ASSET FINANCING LOAN
14 APPLICATION TO BE ASSISTED BY A LINKED DEPOSIT, THE LENDER SHALL FORWARD
15 THE LOAN PACKAGE TO THE AUTHORITY ~~A LINKED DEPOSIT LOAN PACKAGE WITH~~
16 ~~THE INFORMATION REQUIRED UNDER THIS SUBTITLE AND IN A FORM PRESCRIBED~~
17 ~~BY THE AUTHORITY.~~

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

22 (3) BY FORWARDING THE LOAN PACKAGE TO THE AUTHORITY, THE
23 LENDER IS NOT REPRESENTING TO THE AUTHORITY THE ACCURACY OR VALIDITY OF
24 ANY INFORMATION IN THE LOAN PACKAGE AS IT RELATES TO THE APPLICANT.

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

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

28 (2) CONSIDER:

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

31 (II) THE AMOUNT OF THE LOAN;

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

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

1 (V) THE ECONOMIC NEEDS OF THE AREA IN WHICH THE ELIGIBLE
2 BUSINESS IS LOCATED;

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

4 (VII) ANY OTHER FACTORS THAT THE AUTHORITY CONSIDERS
5 RELEVANT.

6 (G) IF THE AUTHORITY ACCEPTS A LINKED DEPOSIT LOAN PACKAGE
7 FORWARDED FROM A LENDER, THE AUTHORITY AND THE LENDER SHALL ENTER
8 INTO A DEPOSIT AGREEMENT UNDER WHICH:

9 (1) ~~THE AUTHORITY SHALL PLACE WITH THE LENDER A 5 YEAR~~
10 ~~CERTIFICATE OF DEPOSIT IN THE AMOUNT OF THE LOAN, AT A RATE 3 PERCENT~~
11 ~~BELOW THE LENDER'S PREVAILING RATE FOR EQUIVALENT DEPOSITS AT THE TIME~~
12 ~~OF THE DEPOSIT; AND~~

13 (2) ~~THE LENDER WILL AGREE TO APPROVE THE APPLICANT'S LOAN~~
14 ~~APPLICATION AT A FIXED INTEREST RATE WHICH SHALL BE AT LEAST 3 PERCENT~~
15 ~~BELOW ITS THEN CUSTOMARY RATE FOR SIMILAR LOANS, FOR A TERM OF AT LEAST~~
16 ~~5 YEARS, AND UPON SUCH OTHER TERMS AND CONDITIONS AS THE AUTHORITY~~
17 ~~SHALL APPROVE. THE LENDER MUST ALSO AGREE NOT TO ASSIGN OR SELL THE~~
18 ~~LOAN TO ANY OTHER LENDER SO LONG AS THE LINKED DEPOSIT IS IN EFFECT. THE~~
19 ~~LENDER MUST ALSO AGREE NOT TO CHARGE THE ELIGIBLE BUSINESS MORE THAN A~~
20 ~~TOTAL OF 1 PERCENT OF THE PRINCIPAL AMOUNT OF THE LOAN FOR ORIGINATION,~~
21 ~~PLACEMENT, OR DISCOUNT FEES OR OTHER CHARGES AS ADDITIONAL~~
22 ~~COMPENSATION FOR THE LOAN AN AGREEMENT UNDER WHICH THE AMOUNT AND~~
23 ~~TERM OF, AND SCHEDULE FOR PAYMENT OF PRINCIPAL AND INTEREST ON, THE~~
24 ~~LINKED DEPOSIT SHALL BE DETERMINED.~~

25 (H) ON RECEIVING A LINKED DEPOSIT FROM THE AUTHORITY, THE LENDER
26 ~~SHALL CARRY OUT THE ISSUE A LOAN COMMITMENT TO THE APPLICANT THAT~~
27 ~~SHALL PROVIDE, AMONG OTHER TERMS, THAT THE INTEREST RATE ON THE~~
28 ~~FINANCING WILL BE BELOW THE PREVAILING MARKET RATE TO THE SAME EXTENT~~
29 ~~AND FOR AS LONG AS INCOME EARNED ON THE LINKED DEPOSIT IS BELOW INCOME~~
30 ~~PAID ON EQUIVALENT DEPOSITS WITH THE LENDER.~~

31 (I) ~~AT THE CONCLUSION OF THE DEPOSIT TERM OR AT AN EARLIER TIME AS~~
32 ~~THE LOAN TO THE APPLICANT IS REPAYED OR OTHERWISE TERMINATED, THE DEPOSIT~~
33 ~~SHALL REVERT TO THE INDUSTRIAL DEVELOPMENT FUND, AND THE RATE OF THE~~
34 ~~LOAN SHALL RETURN TO THE PREVAILING RATE, AS PROVIDED IN THE LOAN~~
35 ~~COMMITMENT.~~

36 (J) ~~THE AUTHORITY, THE DEPARTMENT, AND THE STATE SHALL HAVE THE~~
37 ~~IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-521 OF THE COURTS AND~~
38 ~~JUDICIAL PROCEEDINGS ARTICLE.~~

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

1 (1) (1) A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT IS
2 NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

3 (2) THE AUTHORITY, THE DEPARTMENT, AND THE STATE ARE NOT
4 LIABLE TO ANY LENDER FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A FIXED
5 ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT.

6 5-928.

7 IN CONJUNCTION WITH ITS PROVISION OF FINANCIAL ASSISTANCE UNDER
8 THIS SUBTITLE, THE AUTHORITY MAY ACCEPT AN OPTION, TO BE EXERCISED AT THE
9 SOLE DISCRETION OF THE AUTHORITY, TO ACQUIRE AN EQUITY INTEREST IN A
10 BUSINESS ENTERPRISE. THE AUTHORITY MAY USE MONEYS FROM THE INDUSTRIAL
11 DEVELOPMENT FUND TO EXERCISE THE OPTION.

12 5-929.

13 THE AUTHORITY MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

14 [Part VII. Miscellaneous Provisions.]

15 [5-939.] 5-930.

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

18 [5-940.] 5-931.

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

21 (b) A person may not knowingly make or cause any false statement or report
22 to be made for the purpose of influencing the action of the Authority on an application
23 for financial assistance or for the purpose of influencing any action of the Authority
24 affecting financial assistance whether or not such assistance may have already been
25 extended.

26 (c) Any person, or any aider and abettor, who violates any provision of this
27 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
28 \$50,000 or imprisonment in the penitentiary not exceeding 5 years, or both.

29 5-932.

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

33 (B) FINANCIAL ASSISTANCE APPROVED BY THE AUTHORITY, ~~INCLUDING~~
34 ~~TRANSACTIONS UNDER THE FORMER MARYLAND ENERGY FINANCING ACT, BUT NOT~~

1 CLOSED BEFORE JULY 1, 2000, SHALL BE DEEMED AUTHORIZED UNDER THIS
2 SUBTITLE.

3 (C) BONDS ISSUED BY THE ~~FORMER~~ MARYLAND ENERGY FINANCING
4 ADMINISTRATION SHALL CONTINUE AFTER DECEMBER 31, 2001 AS OBLIGATIONS OF
5 THE AUTHORITY AND SHALL BE DEEMED AUTHORIZED UNDER THIS SUBTITLE.

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

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

13 [5-941.] 5-933.

14 This subtitle may be referred to as the Maryland Industrial Development
15 Financing Authority Act.

16 Subtitle 12. PenMar Development Corporation.

17 5-1202.

18 (b) The General Assembly further declares and finds that the establishment of
19 a State public corporation to develop Fort Ritchie would serve the public interest. It
20 would complement existing State marketing programs administered by the
21 Department of Business and Economic Development through its office of Business
22 Development and Resources and through financial assistance programs such as those
23 of the Maryland Industrial Development Financing Authority[, the Maryland
24 Industrial Land Act, and the Maryland Industrial and Commercial Redevelopment
25 Fund Act] AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
26 AND FUND.

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

28 5-1401.

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

30 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
31 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
32 THAT IS INTENDED TO:

33 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;

34 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;

35 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR

1 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

2 (C) "AQUACULTURE PROJECT" MEANS A PROJECT THAT ENCOURAGES
3 INNOVATION, EXPANSION, AND MODERNIZATION OF THE SEAFOOD PROCESSING
4 INDUSTRY OR THE AQUACULTURE INDUSTRY.

5 [(b)] (D) "Authority" means the Maryland Economic Development Assistance
6 Authority.

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

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

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

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

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

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

22 1. SUBJECT TO A CORRECTIVE ACTION PLAN APPROVED BY
23 THE DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH TITLE 4 OF THE
24 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.

28 (2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS
29 OWNED OR OPERATED BY A RESPONSIBLE PERSON OR A PERSON RESPONSIBLE FOR
30 THE DISCHARGE.

31 (G) "CHILD CARE FACILITY" MEANS A FACILITY ~~IN WHICH CARE IS OFFERED~~
32 ~~FOR SEVEN OR MORE CHILDREN THAT IS REQUIRED TO BE LICENSED AS A CHILD~~
33 ~~CARE CENTER UNDER §§ 5-570 THROUGH 5-585 OF THE FAMILY LAW ARTICLE.~~

34 (H) "CHILD CARE SPECIAL LOAN" MEANS A DIRECT LOAN FOR THE EXPANSION
35 OR IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES IN THE
36 STATE, WHICH IS GOVERNED BY THE TERMS OF § 5-1409 OF THIS SUBTITLE.

1 ~~[(c)]~~ ~~(H)~~ (I) "Fund" means the Maryland Economic Development Assistance
2 Fund.

3 ~~(J)~~ (J) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, OR INVESTMENT
4 PROVIDED UNDER THIS SUBTITLE.

5 ~~(K)~~ (K) "LOCAL ECONOMIC DEVELOPMENT FUND" MEANS A REVOLVING,
6 NONLAPSING FUND THAT ONE OR MORE LOCAL GOVERNMENTS ESTABLISH FOR
7 PURPOSES OF ECONOMIC DEVELOPMENT WITHIN THE AREAS UNDER THEIR
8 JURISDICTIONS.

9 ~~(L)~~ (L) "LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS A
10 PROJECT THAT THE DEPARTMENT DETERMINES PROVIDES A VALUABLE ECONOMIC
11 DEVELOPMENT OPPORTUNITY TO THE JURISDICTION IN WHICH THE PROJECT IS
12 LOCATED AND WHICH IS A PRIORITY FOR AND ENDORSED BY THE GOVERNING BODY
13 OF THAT JURISDICTION.

14 ~~(M)~~ (M) "LOCAL GOVERNMENT" MEANS A COUNTY OR MUNICIPALITY OR ITS
15 DESIGNATED AGENCY OR INSTRUMENTALITY OR THE MARYLAND ECONOMIC
16 DEVELOPMENT CORPORATION.

17 ~~(N)~~ (N) "PERSON RESPONSIBLE FOR THE DISCHARGE" HAS THE MEANING
18 STATED IN § 4-401 OF THE ENVIRONMENT ARTICLE.

19 ~~(O)~~ (O) "QUALIFIED BROWNFIELDS SITE" MEANS A BROWNFIELDS SITE
20 THAT HAS BEEN DETERMINED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC
21 DEVELOPMENT TO BE ELIGIBLE FOR FINANCIAL INCENTIVES UNDER THIS
22 SUBTITLE.

23 ~~(P)~~ (P) "RESPONSIBLE PERSON" HAS THE MEANING STATED IN § 7-201 OF
24 THE ENVIRONMENT ARTICLE.

25 ~~(Q)~~ (Q) "SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT
26 OPPORTUNITY" MEANS A PROJECT THAT THE DEPARTMENT DETERMINES PROVIDES
27 A VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY OF STATEWIDE, REGIONAL,
28 OR STRATEGIC INDUSTRY IMPACT.

29 ~~(R)~~ (R) "SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY" MEANS AN
30 ANIMAL WASTE TECHNOLOGY PROJECT, AN AQUACULTURE PROJECT,
31 REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE, OR A PROJECT TO CREATE
32 OR EXPAND A CHILD CARE FACILITY.

33 ~~[(d)]~~ ~~(S)~~ (S) "Working capital" means funds to be used for current operations
34 of a business.

35 5-1402.

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

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

6 (2) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
7 QUALIFIED BROWNFIELDS SITES; AND

8 (3) PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS FOR
9 ECONOMIC DEVELOPMENT PROJECTS AND GRANTS FOR LOCAL ECONOMIC
10 DEVELOPMENT FUNDS.

11 5-1403.

12 (a) There is a Maryland Economic Development Assistance Authority in the
13 Department.

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

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

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

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

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

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

24 (2) As ex officio members:

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

26 (ii) The Secretary of the Department of Transportation or the
27 Secretary's designee.

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

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

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

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

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

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

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

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

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

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

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

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

18 5-1404.

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

21 (b) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
22 7-302 of the State Finance and Procurement Article.

23 (2) The Treasurer shall separately hold and the Comptroller shall
24 account for the Fund.

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

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

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

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

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

32 (4) Repayments of principal and interest from loans made from the
33 Fund;

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

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

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

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

11 (II) THE REPURCHASE FROM THE DEPARTMENT OF ANY OF ITS
12 INVESTMENT INTEREST; OR

13 (III) SALE OF AN APPRECIATED ASSET;

14 (8) REPAYMENTS RECEIVED FROM RECIPIENTS OF CONDITIONAL
15 GRANTS EXTENDED BY THE DEPARTMENT;

16 (9) MONEYS COLLECTED UNDER § 9-229 OF THE TAX PROPERTY
17 ARTICLE;

18 (10) REPAYMENTS ON OR RECOVERIES FROM ANY FINANCIAL
19 ASSISTANCE PROVIDED FROM THE FORMER BROWNFIELDS REVITALIZATION
20 INCENTIVE FUND, THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER
21 MARYLAND INDUSTRIAL LAND FUND, AND THE FORMER MARYLAND INDUSTRIAL
22 AND COMMERCIAL REDEVELOPMENT FUND;

23 (11) REPAYMENTS ON LOANS MADE FROM THE FORMER CHILD CARE
24 FACILITIES DIRECT LOAN FUND, THE FORMER CHILD CARE SPECIAL LOAN FUND,
25 AND THE FORMER MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND WITHIN
26 THE DEPARTMENT; AND

27 [(7)] (12) Any other moneys made available to the Fund.

28 5-1405.

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

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

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

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

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

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

5 (3) Working capital FOR SIGNIFICANT STRATEGIC ECONOMIC
6 DEVELOPMENT OPPORTUNITIES;

7 (4) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

8 (5) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, UP TO
9 50% OF THE COSTS OF RENOVATIONS, CONSTRUCTION, OR PURCHASE OF REAL
10 PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO A CHILD CARE FACILITY, BUT
11 NOT FOR REFINANCING EXISTING LOANS, WORKING CAPITAL, SUPPLIES, OR
12 INVENTORY; OR

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

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

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

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

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

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

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

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

33 [(v)] (IV) [Shall] IF A LOAN FOR A SIGNIFICANT STRATEGIC
34 ECONOMIC DEVELOPMENT OPPORTUNITY OR FOR A SPECIALIZED ECONOMIC
35 DEVELOPMENT OPPORTUNITY, SHALL carry an interest rate below the market rate of
36 interest, as determined by the Department; [and]

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

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

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

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

12 (i) For working capital - 3 years;

13 (ii) For financing machinery, equipment, furnishings, or fixtures -
 14 [10 years] THE LESSER OF 15 YEARS OR THE USEFUL LIFE OF THE ASSET, AS
 15 DETERMINED BY THE DEPARTMENT; [and]

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (F) FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE LOCAL
15 GOVERNMENT OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED MUST
16 PROVIDE:

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

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

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

25 (II) THE FINANCING OF A PORTION OF THE COSTS OF THE PROJECT
26 EQUAL TO AT LEAST 10% OF THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM
27 THE FUND.

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

30 (I) THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE
31 PROJECT IS LOCATED; OR

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

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

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

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

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

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

12 5-1406.

13 (A) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
14 DETERMINES TO BE A SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT
15 OPPORTUNITY, THE DEPARTMENT OR THE AUTHORITY MAY PROVIDE A LOAN FROM
16 THE FUND TO AN INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR
17 THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN AN AMOUNT NOT
18 EXCEEDING \$10,000,000.

19 (B) FOR A PROJECT THAT THE DEPARTMENT OR THE AUTHORITY
20 DETERMINES TO BE A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE
21 DEPARTMENT OR THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE FROM THE
22 FUND TO AN INDIVIDUAL, A PRIVATE BUSINESS, A NOT FOR PROFIT ENTITY, OR THE
23 MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN THE FOLLOWING
24 AMOUNTS:

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

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

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

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

33 (D) FINANCIAL ASSISTANCE PROVIDED FOR A SPECIALIZED ECONOMIC
34 DEVELOPMENT OPPORTUNITY MAY BE:

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

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

1 (3) IN AN AMOUNT DETERMINED BY THE DEPARTMENT OR THE
2 AUTHORITY.

3 5-1407.

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

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

9 (I) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE LOCAL
10 JURISDICTION IN COMPARISON TO THE AVERAGE RATE OF UNEMPLOYMENT FOR
11 THE STATE;

12 (II) WHETHER THE LOCAL GOVERNMENT CURRENTLY
13 ADMINISTERS A LOCAL ECONOMIC DEVELOPMENT FUND;

14 (III) THE ABILITY OF THE LOCAL GOVERNMENT TO LEVERAGE
15 PRIVATE MONEYS;

16 (IV) THE LEVEL OF FINANCIAL COMMITMENT PROVIDED BY THE
17 LOCAL GOVERNMENT; AND

18 (V) ANY OTHER FACTORS THAT THE DEPARTMENT OR THE
19 AUTHORITY CONSIDERS RELEVANT.

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

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

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

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

28 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, DURING THE
29 PERIOD FROM OCTOBER 1, 1998 THROUGH JUNE 30, 2003, A COUNTY MAY NOT
30 RECEIVE A TOTAL OF MORE THAN \$500,000 UNDER THIS SECTION OR UNDER THE
31 FORMER MARYLAND INDUSTRIAL LAND ACT PROVISIONS GOVERNING GRANTS TO
32 LOCAL ECONOMIC DEVELOPMENT FUNDS.

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

35 (I) ANY FUNDS RECEIVED UNDER THIS SECTION BY A MUNICIPAL
36 CORPORATION OR A DESIGNATED AGENCY OR INSTRUMENTALITY SHALL BE

1 DEEMED TO BE FUNDS GRANTED TO THE COUNTY WITHIN WHICH THE MUNICIPAL
2 CORPORATION, AGENCY, OR INSTRUMENTALITY IS LOCATED; AND

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

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

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

14 (E) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO §
15 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE
16 JANUARY 1 OF EACH YEAR ON THE NUMBER, AMOUNT, USE, AND ECONOMIC
17 BENEFITS OF GRANTS AWARDED UNDER THIS SECTION.

18 5-1408.

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

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

32 (II) IN THE DEPARTMENT'S NOTICE OF AN APPLICANT'S
33 QUALIFICATION FOR FINANCIAL INCENTIVES UNDER SUBPARAGRAPH (I) OF THIS
34 PARAGRAPH, THE DEPARTMENT SHALL SPECIFY WHICH OF THE CRITERIA SET
35 FORTH IN PARAGRAPH (4) OF THIS SUBSECTION THE APPLICANT MET.

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

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

1 (II) THE PROPERTY IS AN EXISTING OR FORMER INDUSTRIAL OR
2 COMMERCIAL SITE THAT POSES A THREAT TO PUBLIC HEALTH OR THE
3 ENVIRONMENT.

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

6 (I) THE FEASIBILITY OF REDEVELOPMENT;

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

9 (III) THE EXTENT OF RELEASES OR THREATENED RELEASES AT THE
10 SITE AND THE DEGREE TO WHICH THE CLEANUP AND REDEVELOPMENT OF THE SITE
11 WILL PROTECT PUBLIC HEALTH OR THE ENVIRONMENT;

12 (IV) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR
13 OTHER ECONOMIC BASE EMPLOYERS;

14 (V) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT
15 RESPONSIBLE PERSONS; OR

16 (VI) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO
17 ECONOMIC DEVELOPMENT.

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

20 (1) THE DEPARTMENT OF THE ENVIRONMENT, THE OFFICE OF
21 PLANNING, AND RELEVANT LOCAL OFFICIALS;

22 (2) THE NEIGHBORING COMMUNITY AND ANY CITIZENS GROUPS
23 LOCATED IN THE COMMUNITY;

24 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
25 ORGANIZATIONS;

26 (4) PUBLIC HEALTH EXPERTS; AND

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

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

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

1 5-1409.

2 (A) IN ADDITION TO PROVIDING MONEYS FROM THE FUND TO ASSIST IN
3 CREATING AND EXPANDING CHILD CARE FACILITIES IN THE STATE UNDER OTHER
4 PROVISIONS OF THIS SUBTITLE, THE DEPARTMENT MAY USE FEDERAL OR OTHER
5 FUNDS PROVIDED FOR THE PURPOSE TO MAKE CHILD CARE SPECIAL LOANS.

6 (B) CHILD CARE SPECIAL LOANS MAY BE PROVIDED TO FINANCE THE
7 EXPANSION OR IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES
8 IN THE STATE, IN ACCORDANCE WITH THE TERMS OF THIS SECTION.

9 (C) ALL MONEYS RECEIVED BY THE FUND FOR MAKING CHILD CARE SPECIAL
10 LOANS SHALL BE SEPARATELY ACCOUNTED FOR, INCLUDING:

11 (1) FEDERAL FUNDS ALLOCATED OR GRANTED FOR CHILD CARE
12 SPECIAL LOANS, INCLUDING CHILD CARE AND DEVELOPMENT BLOCK GRANT FUNDS;

13 (2) PRIVATE MONEYS DONATED OR GRANTED TO THE FUND FOR CHILD
14 CARE SPECIAL LOANS;

15 (3) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS
16 ON CHILD CARE SPECIAL LOANS MADE WITH FEDERAL FUNDS;

17 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
18 COLLATERAL RELATING TO CHILD CARE SPECIAL LOANS;

19 (5) ANY OTHER MONEYS MADE AVAILABLE FOR CHILD CARE SPECIAL
20 LOANS; AND

21 (6) ANY FEDERAL FUNDS FOR CHILD CARE SPECIAL LOANS THAT ARE
22 USED BY THE DEPARTMENT TO PAY COSTS OF ADMINISTERING THE LOANS.

23 (D) IN MAKING CHILD CARE SPECIAL LOANS, CONSIDERATION SHALL BE
24 GIVEN TO:

25 (1) COMMUNITY NEED;

26 (2) COMMUNITY INCOME, WITH PRIORITY GIVEN TO THOSE
27 COMMUNITIES WITH THE LOWEST MEDIAN FAMILY INCOME;

28 (3) CARE FOR CHILDREN WITH TEENAGE PARENTS IN SCHOOL OR
29 TRAINING;

30 (4) CARE FOR CHILDREN WITH SPECIAL NEEDS; AND

31 (5) INFANT CARE.

32 (E) THE DEPARTMENT MAY MAKE A CHILD CARE SPECIAL LOAN TO AN
33 APPLICANT ONLY IF:

1 (1) THE APPLICANT MEETS THE QUALIFICATIONS REQUIRED BY THIS
2 SECTION;

3 (2) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED
4 BY THE SOURCE OF THE FUNDS TO BE LOANED; AND

5 (3) THE LOAN WILL BE USED TO ASSIST APPLICANTS IN MEETING
6 APPLICABLE STATE AND LOCAL CHILD CARE STANDARDS.

7 (F) TO APPLY FOR FINANCIAL ASSISTANCE, AN APPLICANT SHALL SUBMIT TO
8 THE DEPARTMENT AN APPLICATION CONTAINING INFORMATION THAT THE
9 DEPARTMENT REQUIRES, WHICH SHALL INCLUDE:

10 (1) A DETAILED DESCRIPTION OF THE PROPOSED OR EXISTING CHILD
11 CARE FACILITY;

12 (2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;

13 (3) THE TOTAL AMOUNT OF FUNDS REQUIRED TO EXPAND OR IMPROVE
14 THE CHILD CARE SERVICES AT THE CHILD CARE FACILITY;

15 (4) THE FUNDS AVAILABLE TO THE APPLICANT WITHOUT FINANCIAL
16 ASSISTANCE FROM THE DEPARTMENT;

17 (5) THE AMOUNT OF FINANCIAL ASSISTANCE SOUGHT FROM THE
18 DEPARTMENT;

19 (6) EVIDENCE OF THE INABILITY OF THE APPLICANT TO OBTAIN THE
20 FINANCING NECESSARY FOR THE FACILITY ON AFFORDABLE TERMS THROUGH
21 NORMAL LENDING CHANNELS;

22 (7) INFORMATION THAT RELATES TO THE FINANCIAL STATUS OF THE
23 APPLICANT, INCLUDING, IF APPLICABLE:

24 (I) A CURRENT BALANCE SHEET;

25 (II) A PROFIT AND LOSS STATEMENT; AND

26 (III) CREDIT REFERENCES; AND

27 (8) EVIDENCE, SUCH AS A LEASE, OPTION TO BUY, OR DEED, THAT THE
28 APPLICANT SHALL BE LEGALLY ENTITLED TO REMAIN AT THE CHILD CARE FACILITY
29 FOR AT LEAST THE TERM OF THE LOAN.

30 (G) EXCEPT AS PROVIDED IN THIS SECTION, THE DEPARTMENT MAY SET THE
31 TERMS AND CONDITIONS FOR CHILD CARE SPECIAL LOANS.

32 (H) IF THE DEPARTMENT DECIDES TO LEND MONEY TO AN APPLICANT, THE
33 DEPARTMENT SHALL PREPARE LOAN DOCUMENTS, WHICH SHALL INCLUDE:

34 (1) THE RATE OF INTEREST ON THE LOAN;

1 (2) THE AMOUNT OF THE LOAN;

2 (3) A REQUIREMENT THAT BEFORE EACH DISBURSEMENT OF LOAN
3 PROCEEDS IS RELEASED TO THE APPLICANT, THE APPLICANT AND THE
4 DEPARTMENT COSIGN THE REQUEST FOR THE FUNDS;

5 (4) PROVISIONS FOR REPAYMENT OF THE LOAN; AND

6 (5) ANY OTHER PROVISIONS THAT THE DEPARTMENT DETERMINES ARE
7 NECESSARY, INCLUDING THE TAKING OF LIENS AND SECURITY INTERESTS IN REAL
8 AND PERSONAL PROPERTY.

9 (I) (1) MORTGAGES OR DEEDS OF TRUST HELD AS SECURITY FOR LOANS
10 MADE UNDER THIS SECTION WHICH ARE IN DEFAULT MAY BE FORECLOSED BY THE
11 DEPARTMENT IN THE SAME MANNER AS PROVIDED BY THE MARYLAND RULES FOR
12 FORECLOSURES IN PRIVATE TRANSACTIONS.

13 (2) THE DEPARTMENT MAY TAKE TITLE IN ITS NAME TO ANY PROPERTY
14 FORECLOSED UNDER THIS SECTION AS WELL AS TO CONVEY TITLE TO SUCH
15 PROPERTY TO BONA FIDE PURCHASERS OF THE PROPERTY.

16 (J) THE TERM OF THE CHILD CARE SPECIAL LOAN MAY NOT EXCEED 10
17 YEARS.

18 (K) (1) THE APPLICANT FOR A CHILD CARE SPECIAL LOAN TO FINANCE A
19 CHILD CARE FACILITY MUST AGREE TO OPERATE THE CHILD CARE FACILITY FOR AT
20 LEAST THE TERM OF THE LOAN AND TO REPAY THE OUTSTANDING LOAN IN FULL
21 UPON THE LOSS OF LICENSE, TERMINATION OF LEASE, OR TRANSFER, SALE, OR
22 REFINANCING OF THE CHILD CARE FACILITY, AS APPLICABLE, BEFORE THE END OF
23 THE LOAN TERM.

24 (2) THE CHILD CARE SPECIAL LOAN DOCUMENTS MAY PROVIDE FOR
25 PENALTIES FOR ANY APPLICANT WHO FAILS TO OPERATE THE CHILD CARE FACILITY
26 FOR THE ENTIRE TERM OF THE LOAN.

27 (L) THE MINIMUM AMOUNT OF A SPECIAL LOAN FOR A FACILITY SHALL BE
28 \$1,000 AND THE MAXIMUM AMOUNT SHALL BE \$10,000.

29 (M) (1) THE PROCEEDS OF THE CHILD CARE SPECIAL LOANS MAY BE USED:

30 (I) TO ASSIST APPLICANTS IN MEETING APPLICABLE STATE AND
31 LOCAL CHILD CARE STANDARDS;

32 (II) TO PAY FOR MINOR RENOVATIONS, AND FOR UPGRADING CHILD
33 CARE FACILITIES TO ASSURE THAT APPLICANTS MEET STATE AND LOCAL CHILD
34 CARE STANDARDS; OR

35 (III) FOR THE PURCHASE AND INSTALLATION OF EQUIPMENT,
36 MACHINERY, AND FURNITURE, INCLUDING EQUIPMENT NEEDED TO ACCOMMODATE
37 CHILDREN WITH SPECIAL NEEDS.

1 (2) THE LOAN PROCEEDS MAY NOT BE USED FOR THE PURCHASE OR
2 IMPROVEMENT OF LAND OR FOR THE PURCHASE, CONSTRUCTION, OR
3 IMPROVEMENT OF ANY BUILDING OR FACILITY.

4 [5-1406.] ~~5-1409.~~ 5-1410.

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

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

10 (1) Consult with the Department and the Department of Labor,
11 Licensing, and Regulation; and

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

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

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

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

26 (1) ANIMAL WASTE TECHNOLOGY PROJECTS;

27 (2) AQUACULTURE PROJECTS;

28 (3) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES; AND

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

30 ~~5-1410.~~ 5-1411.

31 (A) FINANCIAL ASSISTANCE PROVIDED, OR APPROVED TO BE PROVIDED,
32 FROM THE FORMER ANIMAL WASTE TECHNOLOGY FUND, THE FORMER MARYLAND
33 SEAFOOD AND AQUACULTURE LOAN FUND, THE FORMER BROWNFIELDS
34 REVITALIZATION INCENTIVE FUND, THE FORMER CHILD CARE FACILITIES DIRECT
35 LOAN FUND, THE FORMER CHILD CARE SPECIAL LOAN FUND, THE FORMER
36 MARYLAND INDUSTRIAL LAND ACT, OR THE FORMER MARYLAND INDUSTRIAL AND

1 COMMERCIAL REDEVELOPMENT FUND SHALL BE DEEMED AUTHORIZED UNDER THIS
2 SUBTITLE.

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

10 **Article - Environment**

11 7-507.

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

17 **Article - State Finance and Procurement**

18 Subtitle 7B. Priority Funding Areas.

19 5-7B-01.

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

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

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

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

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

35 3. State-funded neighborhood revitalization projects under
36 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.~~ 3. the Maryland Energy Financing Act, authorized
12 under Article 83A, Title 6, Subtitle 4 of the Code;}

13 [6.] ~~3.~~ 4. the Economic Development Opportunities
14 Program Fund, authorized under § 7-314 of this article;

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

17 [8.] ~~5.~~ 6. the Maryland Economic Development
18 Assistance Authority and Fund, authorized under Article 83A, Title 5, Subtitle 14 of
19 the Code;

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

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

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

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

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

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

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

1 3. land acquisition governed by §§ 4-411 through 4-416 of
2 this article.

3 Subtitle 3. Unspent Balances.

4 7-314.

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

6 (2) "Fund" means the Economic Development Opportunities Program
7 Fund.

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

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

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

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

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

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

24 1. maintains a strong financial condition and minimal credit
25 risk profile;

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

28 3. is consistent with the strategic plan of the State for
29 economic development;

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

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

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

3 1. is consistent with the strategic plan of the State for
4 economic development; and

5 2. creates or retains substantial employment, particularly in
6 areas of high unemployment; or

7 (iii) establishment or attraction of a public institution, a private
8 institution, or a federal research and development institute new to the State that:

9 1. is consistent with the strategic plan of the State for
10 economic development; and

11 2. creates or retains substantial employment, particularly in
12 areas of high unemployment.

13 (b) Subject to the provisions of this section, the Economic Development
14 Opportunities Program Fund is established to maximize extraordinary economic
15 development opportunities.

16 (c) The Governor may provide an appropriation in the budget bill to the Fund
17 for a specific or general purpose or purposes.

18 (d) ~~{After notice to and approval by the Legislative Policy Committee, the}~~
19 ~~THE~~ Governor may transfer funds by budget amendment from the Economic
20 Development Opportunities Program Fund to the expenditure account of the
21 appropriate executive agency ~~IN THE FOLLOWING CIRCUMSTANCES:~~

22 ~~(1) FOR PROJECTS IN WHICH FUNDING FROM THE FUND EXCEEDS~~
23 ~~\$2,500,000, THE GOVERNOR MUST PROVIDE NOTICE TO, AND OBTAIN APPROVAL~~
24 ~~FROM, THE LEGISLATIVE POLICY COMMITTEE; AND~~

25 ~~(2) FOR PROJECTS IN WHICH FUNDING FROM THE FUND DOES NOT~~
26 ~~EXCEED \$2,500,000, THE GOVERNOR MUST PROVIDE NOTICE TO, AND OBTAIN~~
27 ~~APPROVAL FROM, THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE POLICY~~
28 ~~COMMITTEE.~~

29 (e) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
30 7-302 of this subtitle.

31 (2) The Treasurer shall separately hold, and the Comptroller shall
32 account for, the Fund.

33 (3) The Fund shall be invested and reinvested in the same manner as
34 other State funds.

35 (4) Except as provided in paragraph (5) of this subsection, any
36 investment earnings shall be subject to § 7-311(d) of this subtitle.

1 (5) Any investment earnings on moneys transferred from the Fund to a
2 second continuing, nonlapsing fund may be retained to the credit of the second fund.

3 (f) (1) Moneys appropriated or credited to the Fund do not revert to the
4 Revenue Stabilization Fund.

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) THE FUND MAY PAY AN EXECUTIVE AGENCY FOR ADMINISTRATIVE,
5 LEGAL, OR ACTUARIAL EXPENSES INCURRED BY THE AGENCY IN CONNECTION WITH
6 TRANSACTIONS FUNDED BY TRANSFERS OF MONEYS TO THE AGENCY FROM THE
7 FUND.

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

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

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

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

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

27 (1) assisting in the retention or expansion of existing private sector
28 enterprises, public or private institutions, or federal research and development
29 institutes;

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

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

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

- 1 (1) a detailed description of:
- 2 (i) the proposed use of the funds;
- 3 (ii) the manner in which the proposed use meets the criteria as set
4 forth in this section;
- 5 (iii) the degree to which the proposed use of funds will advance
6 statewide or local economic development strategies and objectives; and
- 7 (iv) the degree to which available sources of federal, State, local,
8 and private financial support has been sought and will be utilized;
- 9 (2) the terms, conditions, and performance requirements of any grant or
10 loan for which the funds are to be used;
- 11 (3) a comprehensive economic analysis of the proposed use of the funds
12 which estimates:
- 13 (i) the economic impact to the State and the local jurisdictions
14 affected;
- 15 (ii) a minimum level of net economic benefits to the public sector;
- 16 (iii) the number of jobs expected to be created as a result of the
17 proposed economic development project and the percentage of those jobs that are
18 expected to be held by Maryland residents;
- 19 (iv) the wage rates and benefit packages for the jobs expected to be
20 created as a result of the proposed economic development project; and
- 21 (v) any other appropriate financial or economic benefits;
- 22 (4) any other analysis or information that is requested by the Legislative
23 Policy Committee; and
- 24 (5) the date on which the executive agency expects to disburse the funds
25 to the proposed recipient.
- 26 (m) If an executive agency fails to disburse transferred funds to a recipient
27 within 1 year after the expected disbursement date presented to the Legislative
28 Policy Committee under subsection (l) of this section, the funds will revert back to the
29 Fund and the Governor shall:
- 30 (1) resubmit the request to the Legislative Policy Committee to transfer
31 funds by budget amendment to the Fund; and
- 32 (2) provide the Legislative Policy Committee with the information
33 required under subsection (l) of this section.

1 (n) Funds appropriated to the Economic Development Opportunities Program
 2 Fund may not be loaned [or], granted, OR INVESTED for:

3 (1) substituting for funds from other State or local programs for which a
 4 project may be eligible and sufficient resources exist;

5 (2) projects which are not likely to attract or retain employment
 6 opportunities;

7 (3) funding projects located outside the State;

8 (4) construction or land acquisition by the Maryland Stadium Authority;
 9 or

10 (5) funding for any sports activity or facility.

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

15 (P) AN EXECUTIVE AGENCY MAY APPROVE CHANGES TO A TRANSACTION
 16 APPROVED BY THE LEGISLATIVE POLICY COMMITTEE, ~~OR ITS EXECUTIVE~~
 17 ~~COMMITTEE~~, AS LONG AS THE CHANGES DO NOT MATERIALLY AND ADVERSELY
 18 AFFECT THE OVERALL POSITION OF THE EXECUTIVE AGENCY IN THE TRANSACTION
 19 OR THE ECONOMIC DEVELOPMENT BENEFITS TO BE DERIVED BY THE STATE IN THE
 20 TRANSACTION.

21 **Article - Tax - Property**

22 9-229.

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

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

28 (3) "Qualified brownfields site" has the meaning stated in Article 83A, §
 29 [3-901(d)] 5-1401(N) of the Code.

30 (4) "Taxing jurisdiction" means:

31 (i) a county or Baltimore City; or

32 (ii) a municipal corporation.

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

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

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

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

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

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

17 (1) grant a property tax credit against the property tax imposed on the
18 qualified brownfields site in an amount equal to 50% of the property tax attributable
19 to the increase in the assessment of the qualified brownfields site, including
20 improvements added to the site within the 5-year period as provided under this
21 subsection, over the assessment of the qualified brownfields site before the voluntary
22 cleanup; and

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

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

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

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

36 (ii) establish additional eligibility criteria for any additional
37 property tax credit granted.

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

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

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

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

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

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

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

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

26 Chapter 301 of the Acts of 1999

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 July 1, 1999. [It shall remain effective for a period of 2 years and, at the end of June
 29 30, 2001, with no further action required by the General Assembly, this Act shall be
 30 abrogated and of no further force and effect.]

31 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 6-301 through~~
 32 ~~6-312 and the subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of~~
 33 ~~Article 83A—Department of Business and Economic Development of the Annotated~~
 34 ~~Code of Maryland be transferred to be Section(s) 4-301 through 4-312 and the~~
 35 ~~subtitle "Subtitle 3. Child Care Special Loan Fund", respectively, of Article 83B—~~
 36 ~~Department of Housing and Community Development of the Annotated Code of~~
 37 ~~Maryland.~~

38 ~~SECTION 4. AND BE IT FURTHER ENACTED, That moneys on deposit in the~~
 39 ~~Child Care Special Loan Fund within the Department of Business and Economic~~

1 ~~Development shall be transferred to the Department of Housing and Community~~
2 ~~Development on July 1, 2000.~~

3 SECTION 5: 4. AND BE IT FURTHER ENACTED, That, except as expressly
4 provided to the contrary in this Act, any transaction affected by or flowing from any
5 statute here amended, repealed, or transferred, and validly entered into before the
6 effective date of this Act and every right, duty, or interest flowing from it remains
7 valid after the effective date of this Act and may be terminated, completed,
8 consummated, or enforced pursuant to law.

9 SECTION 6: 5. AND BE IT FURTHER ENACTED, That all bonds, notes, bond
10 anticipation notes, notes in the nature of commercial paper, or other instruments,
11 certificates or evidence of indebtedness or obligation heretofore issued by the
12 Department of Business and Economic Development, or any division, agency,
13 authority, body corporate or politic, or public instrumentality within or under the
14 Department of Business and Economic Development, or issued on behalf of the
15 Department or the State by any of the foregoing, are hereby declared to be valid,
16 legal, binding, and enforceable obligations to the extent of the obligation as provided
17 in any such bonds, notes, instruments, certificates, or evidences of indebtedness and
18 the proceedings relating to the issuance thereof.

19 SECTION 7: 6. AND BE IT FURTHER ENACTED, That if any provision of this
20 Act or the application thereof to any person or circumstance is held invalid for any
21 reason in a court of competent jurisdiction, the invalidity does not affect other
22 provisions or any other application of this Act which can be given effect without the
23 invalid provision or application, and for this purpose the provisions of this Act are
24 declared severable.

25 SECTION 8: 7. AND BE IT FURTHER ENACTED, That:

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

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

34 SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
35 take effect January 1, 2002.

36 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in
37 Section 8 of this Act, this Act shall take effect July 1, 2000.

