
By: ~~Senators Middleton and Hafer, Hafer, and McFadden~~

Introduced and read first time: February 2, 2001

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2001

CHAPTER _____

1 AN ACT concerning

2 **Business and Economic Development - Maryland Competitive Advantage**
3 **Financing Fund**

4 FOR the purpose of repealing the termination date of certain provisions of law related
5 to the Maryland Competitive Advantage Financing Fund; eliminating the
6 requirement that an application for financial assistance from the Fund must
7 include certain information related to ~~the financial responsibility of the~~
8 ~~applicant and the owners of the applicant; bankruptcy and existing liens or~~
9 judgments; requiring that, if the applicant or any of the owners of the applicant
10 currently owe any State or federal taxes that were not paid when due, the
11 application include certain evidence regarding the payment or dispute of taxes;
12 extending the maximum duration for certain loans; removing a defined period of
13 extension for the extension of the terms of certain loans, subject to certain
14 limitations; making technical changes; and generally relating to the Maryland
15 Competitive Advantage Financing Fund in the Department of Business and
16 Economic Development.

17 BY repealing and reenacting, with amendments,
18 Chapter 299 of the Acts of the General Assembly of 1999
19 Section 3

20 BY repealing and reenacting, with amendments,
21 Article 83A - Department of Business and Economic Development
22 Section 5-1303 and 5-1304
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2000 Supplement)

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

3 **Chapter 299 of the Acts of 1999**

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 1999. [It shall remain effective for a period of 2 years and, at the end of June
6 30, 2001, with no further action required by the General Assembly, this Act shall be
7 abrogated and of no further force and effect.]

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

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

11 5-1303.

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

13 (1) Provide financial assistance to eligible applicants; and

14 (2) Pay expenses for administrative, actuarial, legal, and technical
15 services for the Fund.

16 (b) Subject to the restrictions of this subtitle, the Department may provide
17 financial assistance from the Fund to a business that:

18 (1) Is a small business;

19 (2) Has made reasonable efforts to obtain financial assistance on
20 reasonable terms from other sources; and

21 (3) Meets the qualifications required by this subtitle.

22 (c) To apply for financial assistance, an applicant shall submit an application
23 to the Department on the form that the Department requires.

24 (d) The application shall include:

25 (1) A detailed business plan, including:

26 (i) An itemization of known and estimated costs;

27 (ii) The total amount of investment required; and

28 (iii) The amount of financial assistance requested from the
29 Department;

30 (2) The amount of funds available to the applicant without financial
31 assistance from the Department;

1 (3) Information relating to the financial status of the applicant,
2 including:

3 (i) A current balance sheet;

4 (ii) A profit and loss statement;

5 (iii) Credit references; and

6 (iv) Evidence that the applicant and the owners are financially
7 responsible, including a:

8 1. A statement or evidence that neither the applicant nor any
9 of its owners:

10 1. ~~Has filed for bankruptcy in the 7 years preceding the~~
11 ~~application;~~

12 2. ~~Has any existing liens or judgments; and~~

13 3. ~~Currently~~ CURRENTLY owes any State or federal taxes
14 that were not paid when due; OR

15 2. IF THE APPLICANT OR ANY OF ITS OWNERS CURRENTLY
16 OWE ANY STATE OR FEDERAL TAXES THAT WERE NOT PAID WHEN DUE, EVIDENCE
17 THAT THE TAXPAYER:

18 A. WILL HAVE PAID THE TAXES IN FULL BEFORE THE
19 ANTICIPATED TIME OF CLOSING FOR ANY FINANCIAL ASSISTANCE TO BE PROVIDED
20 UNDER THIS SUBTITLE;

21 B. IS IN COMPLIANCE WITH A REPAYMENT SCHEDULE
22 APPROVED BY THE TAXING AUTHORITY; OR

23 C. IS DISPUTING THE TAXES IN GOOD FAITH AND THROUGH
24 APPROPRIATE CHANNELS;

25 (4) Information showing the financial status of each owner of the
26 applicant, including:

27 (i) A current balance sheet;

28 (ii) An income statement; and

29 (iii) Credit references;

30 (5) Evidence that the applicant has made reasonable efforts to obtain
31 financial assistance on reasonable terms from other sources; and

32 (6) Any other relevant information that the Department requests.

1 5-1304.

2 (a) Except as provided in this subtitle, the Department may set the terms and
3 conditions for loans, loan guarantees, and any other financial assistance provided
4 under this subtitle.

5 (b) The Department may require any security or guarantee for financial
6 assistance as it deems appropriate.

7 (c) The amount of any financial assistance shall not be less than \$10,000 and
8 shall not exceed \$100,000.

9 (d) (1) Except as provided in paragraph (2) of this subsection, the term of
10 any loan or other financial assistance may not exceed 10 years.

11 (2) If more than 50% of the proceeds of a loan made from the Fund are
12 used for working capital, the term of the loan may not exceed [1 year] 3 YEARS,
13 unless[:

14 (i) At], AT the end of [1 year] 3 YEARS, the Department reviews
15 the [borrowers'] BORROWER'S performance and financial condition and determines
16 that [a 1-year], SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN extension of
17 the term is appropriate[; and

18 (ii) In the case of a loan term that is extended for an additional
19 year, at the end of the additional year, the Department repeats the review and
20 determines that an additional 1-year extension is appropriate].

21 (3) The term of a loan made under paragraph (2) of this subsection may
22 not exceed [3] 5 years.

23 (e) The applicant must provide at least 10% of the total project costs or capital
24 needed.

25 (f) Funds made available through financial assistance may be used only to
26 finance costs incurred for:

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

28 (2) Acquisition, construction, or installation of machinery, equipment,
29 furnishings, fixtures, leasehold improvements, or site improvements; or

30 (3) Working capital.

31 (g) If an applicant violates any provision of the financial assistance documents
32 or ceases to meet the requirements of this subtitle, the Department may:

33 (1) Withhold from the applicant further advances of financial assistance
34 until the applicant complies with the agreement or requirements; and

1 (2) Exercise any other remedy for which the financial assistance
2 documents provide.

3 (h) The Department shall adopt regulations necessary to carry out the
4 provisions of this subtitle.

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
6 take effect July 1, 2001.

7 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
8 Section 3 of this Act, this Act shall take effect June 1, 2001.