
By: **Chairman, Economic Matters Committee (By Request - Departmental -
Business and Economic Development)**

Introduced and read first time: February 13, 2004

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2004

CHAPTER _____

1 AN ACT concerning

2 **Economic Development - Smart Growth Economic Development**
3 **Infrastructure Fund - Maryland Economic Development Assistance**
4 **Authority and Fund**

5 FOR the purpose of consolidating the financial assistance available from the former
6 Smart Growth Economic Development Infrastructure Fund into the Maryland
7 Economic Development Assistance Authority and Fund in the Department of
8 Business and Economic Development; establishing eligibility, approval, and
9 other requirements for assistance from the Maryland Economic Development
10 Assistance Authority and Fund to fund qualified distressed county projects and
11 feasibility studies; defining certain terms; providing for the transfer of certain
12 funds; providing for the effective dates of this Act; and generally relating to the
13 Maryland Economic Development Assistance Authority and Fund and the
14 former Smart Growth Economic Development Infrastructure Fund.

15 BY renumbering

16 Article 83A - Department of Business and Economic Development
17 Section 5-1401(m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w), respectively
18 to be Section 5-1401(n), (o), (p), (q), (r), (s), (t), (w), (x), (y), and (z), respectively
19 Annotated Code of Maryland
20 (2003 Replacement Volume)

21 BY adding to

22 Article 83A - Department of Business and Economic Development
23 Section 5-1401(m), (u), and (v)
24 Annotated Code of Maryland

1 (2003 Replacement Volume)

2 BY repealing and reenacting, with amendments,
3 Article 83A - Department of Business and Economic Development
4 Section 5-1404(c)(10), 5-1405(c), (d), (g), (h), and (i), 5-1406(c), 5-1410(d) and
5 (e), and 5-1411
6 Annotated Code of Maryland
7 (2003 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 5-1401(m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w),
10 respectively, of Article 83A - Department of Business and Economic Development of
11 the Annotated Code of Maryland be renumbered to be Section(s) 5-1401(n), (o), (p),
12 (q), (r), (s), (t), (w), (x), (y), and (z), respectively.

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

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

16 5-1401.

17 (M) "COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

18 (U) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY THAT HAS
19 DEVELOPED IN CONSULTATION WITH THE MUNICIPAL CORPORATIONS LOCATED
20 WITHIN THE COUNTY AND SUBMITTED TO THE SECRETARY A LOCAL STRATEGIC
21 PLAN FOR ECONOMIC DEVELOPMENT THAT HAS BEEN APPROVED BY THE
22 SECRETARY AND:

23 (1) FOR WHICH THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST
24 RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE EXCEEDS 150% OF THE
25 AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING THE SAME
26 PERIOD; OR

27 (2) FOR WHICH THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE
28 MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE DOES NOT
29 EXCEED 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE
30 STATE DURING THE SAME PERIOD.

31 (V) "QUALIFIED DISTRESSED COUNTY PROJECT" MEANS A PROJECT CARRIED
32 OUT IN A QUALIFIED DISTRESSED COUNTY BY A LOCAL GOVERNMENT.

33 5-1404.

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

35 (10) Repayments on or recoveries from any financial assistance provided
36 from the former Brownfields Revitalization Incentive Fund, the former Animal Waste

1 Technology Fund, the former Maryland Industrial Land Fund, [and] the former
2 Maryland Industrial and Commercial Redevelopment Fund, AND THE FORMER
3 SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE FUND;

4 5-1405.

5 (c) (1) Financial assistance from the Fund:

6 (i) May not exceed the lesser of \$10,000,000 or 20% of the Fund
7 balance;

8 (ii) Except as provided in item (iii) of this paragraph, may not
9 exceed 70% of the total costs of the project being financed;

10 (iii) May constitute 100% of the total costs of the project being
11 financed if:

12 1. The recipient is the Maryland Economic Development
13 Corporation; [or]

14 2. The financial assistance is for an arts and entertainment
15 enterprise or arts and entertainment project; OR

16 3. THE FINANCIAL ASSISTANCE IS FOR A QUALIFIED
17 DISTRESSED COUNTY PROJECT;

18 (iv) If a loan for a significant strategic economic development
19 opportunity or for a specialized economic development opportunity, shall carry an
20 interest rate below the market rate of interest, as determined by the Department;

21 (v) If a loan for a local economic development opportunity or to a
22 local government FOR A PROJECT THAT IS NOT IN A QUALIFIED DISTRESSED
23 COUNTY, shall carry an interest rate not exceeding one-eighth of one percent plus the
24 net interest cost of the most recent State general obligation bond issue preceding the
25 approval of the loan;

26 (vi) Shall not bear a rate of interest less than 3% unless the project
27 funded by a loan is located in an area of high unemployment or the Department
28 determines that the borrower is carrying out a compelling economic development
29 initiative; [and]

30 (VII) IF A LOAN FOR A QUALIFIED DISTRESSED COUNTY PROJECT,
31 SHALL CARRY A RATE OF INTEREST DETERMINED BY THE DEPARTMENT OR THE
32 AUTHORITY; AND

33 [(vii)] (VIII) May not be used to refinance existing debt.

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

35 (i) For working capital - 3 years;

1 (ii) For financing machinery, equipment, furnishings, or fixtures -
2 the lesser of 15 years or the useful life of the asset, as determined by the Department;

3 (iii) For financing the construction or acquisition of buildings and
4 real estate - 25 years; and

5 (iv) For [financing] FINANCIAL ASSISTANCE FOR redevelopment of
6 a qualified brownfields site OR A QUALIFIED DISTRESSED COUNTY PROJECT - a term
7 approved by the Department or the Authority.

8 (3) For loans from the Fund the Department may:

9 (i) Waive interest during the first 2 years of a loan term; or

10 (ii) Upon a default by the borrower, impose an interest rate that
11 exceeds the limits set forth in paragraph (1) of this subsection.

12 (4) Proceeds of investments from the Fund may be expended only on
13 costs described in subsection (b) of this section.

14 (d) To be eligible for financial assistance from the Fund, an applicant must be:

15 (1) An individual, private business, not for profit entity, or local
16 government which:

17 (i) [Unless] MUST USE THE REQUESTED FINANCIAL ASSISTANCE
18 FOR A PROJECT IN AN ELIGIBLE INDUSTRY SECTOR, UNLESS the applicant is a local
19 government intending to use the financial assistance to carry out a project that:

20 1. [does] DOES not benefit a particular private sector
21 entity[, must use the requested financial assistance for a project in an eligible
22 industry sector]; OR

23 2. IS LOCATED IN A QUALIFIED DISTRESSED COUNTY;

24 (ii) Intends to use the requested financial assistance for a project
25 that has a strong potential for expanding or retaining employment opportunities in
26 the State; and

27 (iii) Submits to the Department an application containing:

28 1. [any] ANY information the Department or the Authority
29 deems necessary in evaluating the request for financial assistance; AND

30 2. FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE
31 FOLLOWING, IN FORM AND CONTENT ACCEPTABLE TO THE DEPARTMENT;

32 A. A MARKETING PLAN DESIGNED TO MARKET THE PROJECT
33 TO PROSPECTIVE BUSINESSES;

1 B. A STATEMENT OF PLANNED MARKETING EXPENDITURES
2 AS A PERCENT OF THE TOTAL FINANCIAL ASSISTANCE AMOUNT REQUESTED; AND

3 C. A PLAN FOR THE PROJECT THAT IS CONSISTENT WITH
4 THE COUNTY'S LOCAL STRATEGIC ECONOMIC DEVELOPMENT PLAN AS TO THE
5 LOCATION AND TYPE OF PROJECT; or

6 (2) A local economic development fund that meets the criteria set forth in
7 § 5-1407 of this subtitle.

8 (g) (1) Financial assistance provided to a local government must be
9 approved by a formal resolution of:

10 (i) The governing body of the jurisdiction in which the project is
11 located; or

12 (ii) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
13 SUBSECTION, IF the recipient of the financial assistance is the Maryland Economic
14 Development Corporation, its board of directors.

15 (2) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE
16 MARYLAND ECONOMIC DEVELOPMENT CORPORATION FOR A QUALIFIED
17 DISTRESSED COUNTY PROJECT, THE FINANCIAL ASSISTANCE MUST BE APPROVED BY
18 FORMAL RESOLUTIONS OF BOTH THE BOARD OF DIRECTORS OF THE MARYLAND
19 ECONOMIC DEVELOPMENT CORPORATION AND THE GOVERNING BODY OF THE
20 JURISDICTION IN WHICH THE PROJECT IS LOCATED.

21 [(2)] (3) A project that is funded by a grant from the Fund to a local
22 government, and carried out by the local government, must be consistent with the
23 strategy or plan for economic development of the county or municipality in which the
24 project is located.

25 (h) (1) Financial assistance from the Fund not exceeding \$2,500,000 may be
26 approved by the Secretary.

27 (2) Financial assistance from the Fund exceeding \$2,500,000 shall be
28 approved by the Authority.

29 (3) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,
30 THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE EXCEEDING \$2,500,000 FOR A
31 QUALIFIED DISTRESSED COUNTY PROJECT.

32 (i) The Department shall periodically review its portfolio in an effort to
33 ensure:

34 (1) [equitable] EQUITABLE funds distribution among Maryland's
35 counties;

36 (2) ADEQUATE FUNDING FOR QUALIFIED DISTRESSED COUNTY
37 PROJECTS; AND

1 (3) THAT NO PARTICULAR QUALIFIED DISTRESSED COUNTY BENEFITS
2 DISPROPORTIONALLY FROM FINANCIAL ASSISTANCE TO QUALIFIED DISTRESSED
3 COUNTIES UNDER THIS SUBTITLE.

4 5-1406.

5 (c) (1) Financial assistance provided to a local government to finance a
6 project may be in the form of a grant, loan, or investment and, EXCEPT AS PROVIDED
7 IN PARAGRAPH (2) OF THIS SUBSECTION, may be for an amount not exceeding
8 \$3,000,000.

9 (2) SUBJECT TO § 5-1405(C)(1)(I) OF THIS SUBTITLE, FINANCIAL
10 ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT MAY BE IN AN
11 AMOUNT DETERMINED BY THE DEPARTMENT.

12 [(2)] (3) A grant to a local economic development fund is subject to the
13 requirements set forth in § 5-1407 of this subtitle.

14 5-1410.

15 (d) The provisions of this section do not apply to financial assistance to a local
16 government that uses the financial assistance provided under this subtitle to carry
17 out a project that:

18 (1) [does] DOES not benefit a particular private sector entity; OR

19 (2) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY.

20 (e) For the purpose of providing financial assistance under this subtitle, the
21 following shall be deemed to be in eligible industry sectors and are not subject to the
22 requirements specifically imposed on significant strategic economic development
23 opportunities and local economic development opportunities:

24 (1) Animal waste technology projects;

25 (2) Aquaculture projects;

26 (3) Redevelopment of qualified brownfields sites;

27 (4) Creation or expansion of child care facilities;

28 (5) Arts and entertainment enterprises and arts and entertainment
29 projects; [and]

30 (6) Projects in areas declared to be federal disaster areas within 1 year
31 before the Department receives an application for financial assistance under this
32 subtitle; AND

33 (7) FEASIBILITY STUDIES.

1 5-1411.

2 (a) Financial assistance provided, or approved to be provided, from the former
3 Animal Waste Technology Fund, the former Maryland Seafood and Aquaculture Loan
4 Fund, the former Brownfields Revitalization Incentive Fund, the former Child Care
5 Facilities Direct Loan Fund, the former Child Care Special Loan Fund, the former
6 Maryland Industrial Land Act, [or] the former Maryland Industrial and Commercial
7 Redevelopment Fund, OR THE FORMER SMART GROWTH ECONOMIC DEVELOPMENT
8 INFRASTRUCTURE FUND shall be deemed authorized under this subtitle.

9 (b) Moneys on deposit in the former Animal Waste Technology Fund, the
10 former Maryland Seafood and Aquaculture Loan Fund, the former Brownfields
11 Revitalization Incentive Fund, the former Child Care Facilities Direct Loan Fund, the
12 former Child Care Special Loan Fund, the former Maryland Industrial Land Fund,
13 and the former Maryland Industrial and Commercial Redevelopment Fund shall be
14 transferred to the Fund on July 1, 2000.

15 (C) MONEYS ON DEPOSIT IN THE FORMER SMART GROWTH ECONOMIC
16 DEVELOPMENT INFRASTRUCTURE FUND SHALL BE TRANSFERRED TO THE FUND ON
17 JULY 1, 2004.

18 SECTION 3. AND BE IT FURTHER ENACTED, That any moneys on deposit in
19 the Smart Growth Economic Development Infrastructure Fund under Article 83A, §
20 5-701 of the Code at the end of June 30, 2004, which terminates on June 30, 2004, in
21 accordance with Section 3 of Chapter 304 of the Acts of the General Assembly of 1999,
22 shall be transferred to the Maryland Economic Development Assistance Fund under
23 Article 83A, § 5-1404 of the Code.

24 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
25 Act shall take effect July 1, 2004.

26 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
27 Section 4 of this Act, this Act shall take effect June 30, 2004.