

# SENATE BILL 1072

P1

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By: **Senator Middleton**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 21, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Linked Deposit Programs for Small Businesses and Minority Business**  
3 **Enterprises**

4 FOR the purpose of altering the minimum interest rate that a loan may have in order  
5 to qualify under certain linked deposit programs; altering the interest rate that  
6 the State Treasurer may accept in making certain interest bearing deposits;  
7 authorizing the State Treasurer to make certain interest bearing deposits in  
8 any financial institution without certain security under certain circumstances;  
9 providing for the termination of certain provisions of this Act; and generally  
10 relating to the Linked Deposit Programs for Small Businesses and Minority  
11 Business Enterprises.

12 BY repealing and reenacting, with amendments,  
13 Article – State Finance and Procurement  
14 Section 6–211 and 6–212  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2012 Supplement)

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

19 **Article – State Finance and Procurement**

20 6–211.

21 (a) (1) There is a Linked Deposit Program in the Department of Housing  
22 and Community Development.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) The purpose of the Linked Deposit Program is to stimulate  
2 opportunities for minority business enterprises to have access to credit by assisting  
3 these businesses in obtaining loans at lower than market interest rates.

4           (b) A loan qualifies under the Linked Deposit Program if the loan:

5                 (1) satisfies the financial institution's lending criteria;

6                 (2) has a term not exceeding 10 years;

7                 (3) is made to a minority business enterprise certified under Title 14,  
8 Subtitle 3 of this article;

9                 (4) has an interest rate that [is 2 percentage points below the interest  
10 rate] the financial institution [would charge for] **CHARGES ON** a loan for a similar  
11 purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

12                         **(I) 2 PERCENTAGE POINTS; OR**

13                         **(II) THE DIFFERENCE BETWEEN THE FINANCIAL**  
14 **INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE**  
15 **INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; and**

16                 (5) has points or fees charged at loan closing not exceeding 1 percent  
17 of the loan amount.

18           (c) The Department of Housing and Community Development shall:

19                 (1) confirm with the certification agency designated under Title 14,  
20 Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a  
21 business that is certified as a minority business enterprise;

22                 (2) establish procedures for notification by the certification agency  
23 designated under Title 14, Subtitle 3 of this article if a business that has an  
24 outstanding balance of a loan under the Linked Deposit Program is no longer certified;

25                 (3) require minority business enterprises and lenders to notify the  
26 Department concerning final loan disposition; and

27                 (4) report annually to the Governor, the Treasurer, and, in accordance  
28 with § 2-1246 of the State Government Article, the General Assembly on overall  
29 performance of the Linked Deposit Program.

30           (d) The Treasurer may establish the Linked Deposit Program for investment  
31 of deposits in any financial institution that:

1 (1) the Treasurer has designated as a depository for State money; and

2 (2) makes a loan in accordance with subsection (b) of this section.

3 (e) (1) The Treasurer may make one or more interest bearing deposits  
4 that are equal to:

5 (i) the amount of the loan made by the financial institution in  
6 accordance with subsection (b) of this section; or

7 (ii) the aggregate amount of two or more loans made by one or  
8 more financial institutions in accordance with subsection (b) of this section.

9 (2) In making an interest bearing deposit under this subsection, the  
10 Treasurer may accept a rate that is UP TO 2 percentage points below current market  
11 rates or an index selected by the Treasurer.

12 (3) The Treasurer may use up to \$50,000,000 to make interest bearing  
13 deposits in an amount equivalent to the amount financial institutions loan to certified  
14 minority business enterprises.

15 (4) **NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS**  
16 **SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER**  
17 **THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY**  
18 **REQUIRED IN § 6-202 OF THIS SUBTITLE IF:**

19 (I) **THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH**  
20 **A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;**

21 (II) **THE FINANCIAL INSTITUTION SELECTED BY THE**  
22 **TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE**  
23 **OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN**  
24 **THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM**  
25 **INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR**  
26 **THE ACCOUNT OF THE TREASURER;**

27 (III) **AT THE SAME TIME THE MONEY IS DEPOSITED AND THE**  
28 **CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER**  
29 **BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED**  
30 **BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF**  
31 **OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF**  
32 **MONEY INITIALLY DEPOSITED BY THE TREASURER;**

33 (IV) **EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE**  
34 **TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE**

1 **CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE**  
 2 **CERTIFICATE OF DEPOSIT; AND**

3 **(V) THE FINANCIAL INSTITUTION SELECTED BY THE**  
 4 **TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE**  
 5 **CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.**

6 (f) (1) Subject to paragraph (2) of this subsection, on notification by the  
 7 Department of Housing and Community Development that a minority business  
 8 enterprise participating in the Linked Deposit Program is no longer certified under  
 9 Title 14, Subtitle 3 of this article, the Treasurer shall reduce the amount of the  
 10 interest bearing deposit with the participating financial institution by the outstanding  
 11 balance of the loan made under this section to the decertified minority business  
 12 enterprise.

13 (2) A minority business enterprise that loses its certification due to  
 14 revenue or employee growth may not be considered decertified for purposes of  
 15 paragraph (1) of this subsection.

16 (g) (1) A loan assisted by a linked deposit is not a debt of the State or a  
 17 pledge of the credit of the State.

18 (2) The Treasurer and the State are not liable to any financial  
 19 institution for payment of the principal or interest on a loan assisted by a linked  
 20 deposit.

21 (h) The Department of Housing and Community Development and the  
 22 Treasurer may adopt regulations to carry out this section.

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

25 **Article – State Finance and Procurement**

26 6–212.

27 (a) (1) There is a Linked Deposit Program for Small Businesses in the  
 28 Department of Housing and Community Development.

29 (2) The purpose of the Linked Deposit Program for Small Businesses  
 30 is to stimulate opportunities for small businesses to have access to credit by assisting  
 31 these businesses in obtaining loans at lower than market interest rates.

32 (b) A loan qualifies under the Linked Deposit Program for Small Businesses  
 33 if the loan:

- 1 (1) satisfies the lending criteria of the financial institution;
- 2 (2) has a term not exceeding 10 years;
- 3 (3) is made to a small business qualified under Title 14, Subtitle 5 of  
4 this article;
- 5 (4) has an interest rate that [is 2 percentage points below the interest  
6 rate] the financial institution [would charge for] **CHARGES ON** a loan for a similar  
7 purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

8 (I) **2 PERCENTAGE POINTS; OR**

9 (II) **THE DIFFERENCE BETWEEN THE FINANCIAL**  
10 **INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE**  
11 **INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; and**

12 (5) has points or fees charged at loan closing not exceeding 1 percent  
13 of the loan amount.

14 (c) The Department of Housing and Community Development shall:

15 (1) confirm with the Department of General Services that each loan  
16 under the Linked Deposit Program for Small Businesses is made to a business that  
17 qualifies as a small business;

18 (2) establish procedures for notification by the Department of General  
19 Services if a business that has an outstanding balance of a loan under the Linked  
20 Deposit Program for Small Businesses no longer qualifies as a small business;

21 (3) require small businesses and lenders to notify the Department of  
22 Housing and Community Development concerning final loan disposition; and

23 (4) report annually to the Governor, the Treasurer, and, in accordance  
24 with § 2-1246 of the State Government Article, the General Assembly on overall  
25 performance of the Linked Deposit Program for Small Businesses.

26 (d) The Treasurer may establish the Linked Deposit Program for Small  
27 Businesses for investment of deposits in any financial institution that:

28 (1) the Treasurer has designated as a depository for State money; and

29 (2) makes a loan in accordance with subsection (b) of this section.

30 (e) (1) The Treasurer may make one or more interest bearing deposits  
31 that are equal to:

1 (i) the amount of the loan made by the financial institution in  
2 accordance with subsection (b) of this section; or

3 (ii) the aggregate amount of two or more loans made by one or  
4 more financial institutions in accordance with subsection (b) of this section.

5 (2) In making an interest bearing deposit under this subsection, the  
6 Treasurer may accept a rate that is **UP TO 2** percentage points below current market  
7 rates or an index selected by the Treasurer.

8 (3) The Treasurer may use up to \$50,000,000 to make interest bearing  
9 deposits in an amount equivalent to the amount financial institutions loan to qualified  
10 small businesses.

11 **(4) NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS**  
12 **SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER**  
13 **THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY**  
14 **REQUIRED IN § 6-202 OF THIS SUBTITLE IF:**

15 **(I) THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH**  
16 **A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;**

17 **(II) THE FINANCIAL INSTITUTION SELECTED BY THE**  
18 **TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE**  
19 **OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN**  
20 **THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM**  
21 **INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR**  
22 **THE ACCOUNT OF THE TREASURER;**

23 **(III) AT THE SAME TIME THE MONEY IS DEPOSITED AND THE**  
24 **CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER**  
25 **BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED**  
26 **BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF**  
27 **OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF**  
28 **MONEY INITIALLY DEPOSITED BY THE TREASURER;**

29 **(IV) EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE**  
30 **TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE**  
31 **CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE**  
32 **CERTIFICATE OF DEPOSIT; AND**

1                   **(V) THE FINANCIAL INSTITUTION SELECTED BY THE**  
2 **TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE**  
3 **CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.**

4           (f)   (1)   Subject to paragraph (2) of this subsection, on notification by the  
5 Department of Housing and Community Development that a small business  
6 participating in the Linked Deposit Program for Small Businesses no longer qualifies  
7 as a small business under Title 14, Subtitle 5 of this article, the Treasurer shall reduce  
8 the amount of the interest bearing deposit with the participating financial institution  
9 by the outstanding balance of the loan made under this section to the small business  
10 that no longer qualifies under Title 14, Subtitle 5 of this article.

11                   (2)   A small business that loses its qualification due to revenue or  
12 employee growth may not be considered unqualified for purposes of paragraph (1) of  
13 this subsection.

14           (g)   (1)   A loan assisted by a linked deposit is not a debt of the State or a  
15 pledge of the credit of the State.

16                   (2)   The Treasurer and the State are not liable to any financial  
17 institution for payment of the principal or interest on a loan assisted by a linked  
18 deposit.

19           (h)   The Department of Housing and Community Development and the  
20 Treasurer may adopt regulations to carry out this section.

21           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the  
23 termination provision specified in Section 3 of Chapter 396 of the Acts of the General  
24 Assembly of 2006 and Section 2 of Chapter 740 of the Acts of the General Assembly of  
25 2009. If those termination provisions take effect, with no further action required by  
26 the General Assembly, Section 1 of this Act shall be abrogated and of no further force  
27 and effect.