

Chapter 345

(Senate Bill 1072)

AN ACT concerning

Linked Deposit Programs for Small Businesses and Minority Business Enterprises

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

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

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

Article – State Finance and Procurement

6–211.

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

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

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

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

(2) has a term not exceeding 10 years;

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

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

(I) 2 PERCENTAGE POINTS; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article – State Finance and Procurement

6–212.

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

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

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

(1) satisfies the lending criteria of the financial institution;

(2) has a term not exceeding 10 years;

(3) is made to a small business qualified under Title 14, Subtitle 5 of this article;

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

(I) 2 PERCENTAGE POINTS; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) (1) Subject to paragraph (2) of this subsection, on notification by the Department of Housing and Community Development that a small business participating in the Linked Deposit Program for Small Businesses no longer qualifies as a small business under Title 14, Subtitle 5 of this article, the Treasurer shall reduce

the amount of the interest bearing deposit with the participating financial institution by the outstanding balance of the loan made under this section to the small business that no longer qualifies under Title 14, Subtitle 5 of this article.

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

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

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

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

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

Approved by the Governor, May 2, 2013.