

Chapter 228

(House Bill 451)

AN ACT concerning

Neighborhood Business Development Program – Financial Assistance for Food ~~Desert Areas~~ Deserts

FOR the purpose of altering the ~~purpose~~ purposes of the Neighborhood Business Development Program to include ~~help-creating~~ helping to create certain small businesses and other food-related enterprises in food deserts; requiring the Business Development Program in the Neighborhood Business Development Program to provide financial assistance to projects in food deserts; authorizing certain entities to apply for financial assistance for a project in a food desert under certain circumstances; establishing the Interagency Food Desert Advisory Committee; establishing the membership, chair, staffing, and duties of the Advisory Committee; authorizing the Secretary of Housing and Community Development, on the recommendation of the Advisory Committee, to designate an area as a food desert after considering certain factors; requiring the Department of Housing and Community Development to adopt certain regulations; authorizing a certain entity to originate and administer financial assistance to a food desert project under certain circumstances; authorizing the Department to provide financial assistance in a certain manner when an approved entity originates or provides financial assistance for a food desert project under certain circumstances; requiring the Department to submit a certain report to certain committees of the General Assembly on or before a certain date each year; defining a certain term; and generally relating to the Neighborhood Business Development Program and food deserts.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–301, 6–303, 6–304, 6–305, and 6–308
Annotated Code of Maryland
(2006 Volume and 2013 Supplement)

BY adding to
Article – Housing and Community Development
Section 6–308.2, 6–308.3, and 6–308.4
Annotated Code of Maryland
(2006 Volume and 2013 Supplement)

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

Article – Housing and Community Development

6–301.

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

(b) (1) “Development costs” means the costs incurred to construct or rehabilitate a neighborhood business development project.

(2) “Development costs” includes the costs of:

- (i) necessary studies, surveys, plans, and specifications;
- (ii) architectural, engineering, or other special services, including flood plain studies, environmental audits, and critical area or wetland assessments;
- (iii) land and improvements;
- (iv) site preparation;
- (v) construction, reconstruction, and rehabilitation;
- (vi) machinery, equipment, and furnishings;
- (vii) essential start–up operating costs, including working capital and initial occupancy expenses;
- (viii) indemnity and surety bonds and premiums on insurance;
- (ix) temporary relocation expenses; and
- (x) other necessary fees.

(C) “FOOD DESERT” MEANS THE PART OF A PRIORITY FUNDING AREA DESIGNATED BY THE SECRETARY UNDER § 6–308(C) OF THIS SUBTITLE.

[(c)] (D) “Fund” means the Neighborhood Business Development Fund.

[(d)] (E) “Microenterprise” means a business with not more than five employees that:

(1) requires not more than \$35,000 in total start–up capital or financial assistance; and

(2) does not have access to the traditional commercial banking sector.

[(e)] (F) “Program” means the Neighborhood Business Development Program.

[(f)] (G) (1) “Project” means a neighborhood business development project that receives financial assistance from the Fund.

(2) “Project” includes a microenterprise project that receives financial assistance from the Fund.

[(g)] (H) “Small business” means a business that qualifies as a small business under § 6–302 of this subtitle.

[(h)] (I) “Sustainable community” means the part of a priority funding area that:

(1) as determined by the Smart Growth Subcabinet, satisfies the requirements of § 6–205 of this title;

(2) has been designated as a BRAC Revitalization and Incentive Zone under Title 5, Subtitle 13 of the Economic Development Article; or

(3) has been designated a transit-oriented development under § 7–101 of the Transportation Article.

6–303.

(a) There is a Neighborhood Business Development Program.

(b) The purposes of the Program **[are,] ARE:**

(1) in sustainable communities, to:

[(1)] (I) help develop, redevelop, or expand small businesses and microenterprises;

[(2)] (II) stimulate investment by the private sector;

[(3)] (III) invest in revitalization projects for small businesses and microenterprises; and

[(4)] (IV) stimulate political subdivisions to participate in developing and expanding small businesses and microenterprises; **AND**

(2) IN FOOD DESERTS, TO HELP CREATE SMALL BUSINESSES AND OTHER FOOD-RELATED ENTERPRISES THAT PROVIDE FRESH FRUITS, VEGETABLES, AND OTHER HEALTHY FOODS TO RESIDENTS IN THE FOOD DESERT.

(c) The Program includes:

- (1) the Business Development Program; and
- (2) the Capital Access Program.

6-304.

(a) There is a Business Development Program in the Neighborhood Business Development Program.

(b) The Business Development Program shall provide financial assistance to projects in sustainable communities **AND FOOD DESERTS**.

6-305.

(a) (1) A small business, nonprofit organization, or microenterprise may apply for financial assistance under the Business Development Program.

(2) The Department shall review each application.

(b) An applicant may qualify for financial assistance for a project in a sustainable community **OR FOOD DESERT** if the application demonstrates that:

(1) except for a microenterprise project, the project has significant commitments for financing from other private and nonstate public sources that are sufficient to complete the project with the money from the Fund;

(2) the financial assistance from the Fund is the minimum amount necessary to make the project financially feasible;

(3) the project is ready to proceed when it receives financial assistance from the Business Development Program; **[and]**

(4) the political subdivision has adopted a resolution, or its authorized designee has delivered a letter to the Business Development Program, that expresses support for the project; **AND**

(5) ANY FOOD DESERT PROJECT INCLUDES A PLAN TO SEEK OUT SOURCES OF MARYLAND-GROWN PRODUCE AND MARYLAND PRODUCED FOODS.

(c) Financial assistance under the Business Development Program may be provided to a small business, nonprofit organization, or microenterprise as:

- (1) a grant;
- (2) a loan;
- (3) a reduction in the principal obligation of or interest rate on a loan or portion of a loan;
- (4) a prepayment of interest on a subordinate or superior loan or portion of a loan;
- (5) an assurance;
- (6) a guarantee; or
- (7) any other form of credit enhancement.

6-308.

(a) The Department shall:

- (1) administer the Business Development Program;
- (2) adopt regulations to carry out the Business Development Program, **INCLUDING A PROCESS TO DESIGNATE AN AREA AS A FOOD DESERT UNDER SUBSECTION (C) OF THIS SECTION;**
- (3) establish, for each category of financing described in § 6-306(c) of this subtitle, minimum percentages or amounts of private and nonstate public financing that an applicant for the Business Development Program must secure; and
- (4) make a reasonable, good faith effort to make 25% of the Business Development Program loans and grants to microenterprises.

(b) The Department may:

- (1) sell, assign, or otherwise dispose of a Program loan or revenue from a loan on terms and conditions acceptable to the Department, including selling loans at a discount, if the maximum sale proceeds in any fiscal year do not exceed \$4,000,000; and
- (2) apply the proceeds received from a sale, assignment, or other disposition under item (1) of this subsection to the Fund.

(C) THE SECRETARY, ON THE RECOMMENDATION OF THE INTERAGENCY FOOD DESERT ADVISORY COMMITTEE ESTABLISHED UNDER § 6-308.2 OF THIS SUBTITLE, MAY DESIGNATE AN AREA AS A FOOD DESERT AFTER CONSIDERING THE FOLLOWING FACTORS:

- (1) AVAILABILITY OF FRESH FRUIT, VEGETABLES, AND OTHER HEALTHY FOODS IN THE AREA;**
- (2) INCOME LEVELS OF LOCAL RESIDENTS;**
- (3) TRANSPORTATION NEEDS OF LOCAL RESIDENTS AND THE AVAILABILITY OF PUBLIC TRANSPORTATION;**
- (4) COMMENTS FROM LOCAL GOVERNMENTS; AND**
- (5) ANY OTHER FACTORS THAT THE DEPARTMENT CONSIDERS RELEVANT.**

6-308.2.

- (A) THERE IS AN INTERAGENCY FOOD DESERT ADVISORY COMMITTEE.**
- (B) THE COMMITTEE CONSISTS OF THE FOLLOWING SEVEN MEMBERS:**
 - (1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;**
 - (2) THE SECRETARY OF AGRICULTURE, OR THE SECRETARY'S DESIGNEE;**
 - (3) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;**
 - (4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;**
 - (5) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;**
 - (6) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE; AND**
 - (7) THE SECRETARY OF EDUCATION, OR THE SECRETARY'S DESIGNEE.**

(C) THE SECRETARY OR THE SECRETARY'S DESIGNEE IS THE CHAIR OF THE COMMITTEE.

(D) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COMMITTEE.

(E) THE COMMITTEE SHALL:

(1) ADVISE AND MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE DEVELOPMENT AND ADOPTION OF REGULATIONS RELATED TO FOOD DESERTS PROJECTS;

(2) MAKE RECOMMENDATIONS TO THE SECRETARY ON APPLICATIONS FOR DESIGNATING AN AREA AS A FOOD DESERT; AND

(3) MAKE RECOMMENDATIONS FOR INTERAGENCY COORDINATION TO REDUCE THE NUMBER OF FOOD DESERTS AND PROMOTE HEALTHY FOOD ACCESS FOR MARYLAND NEIGHBORHOODS.

6-308.3.

(A) IF THE DEPARTMENT DETERMINES THAT AN ENTITY IS CAPABLE OF ADMINISTERING A FOOD DESERT PROJECT, THE ENTITY MAY ORIGINATE AND ADMINISTER FINANCIAL ASSISTANCE TO A FOOD DESERT PROJECT IN ACCORDANCE WITH STANDARDS THE DEPARTMENT ADOPTS BY REGULATION.

(B) THE DEPARTMENT MAY:

(1) PAY AN APPROVED ENTITY A REASONABLE ORIGINATION, APPLICATION, AND PROCESSING FEE FOR EACH FOOD DESERT PROJECT THAT IS ORIGINATED BY THE APPROVED ENTITY;

(2) DIRECTLY FUND THE FINANCIAL ASSISTANCE FOR A FOOD DESERT PROJECT THAT IS ORIGINATED BY AN APPROVED ENTITY; AND

(3) PROVIDE FINANCIAL ASSISTANCE TO AN APPROVED ENTITY FOR THE PURPOSE OF THE APPROVED ENTITY PROVIDING FINANCIAL ASSISTANCE FOR A FOOD DESERT PROJECT IN ACCORDANCE WITH THIS SUBTITLE.

6-308.4.

(A) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE PROGRAM, IN ACCORDANCE WITH § 2-1246

OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE.

(B) THE REPORT UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE NAMES OF APPROVED ENTITIES AWARDED FINANCIAL ASSISTANCE FOR FOOD DESERT PROJECTS;

(2) THE TYPE OF ACTIVITIES IN WHICH THE APPROVED ENTITIES ARE ENGAGED;

(3) THE LOCATION OF THE APPROVED ENTITY'S OPERATION;

(4) THE AMOUNT OF EACH GRANT AWARD;

(5) THE NUMBER OF EMPLOYEES EMPLOYED BY THE APPROVED ENTITY;

(6) THE BASIS FOR APPROVING THE GRANT;

(7) AN EXPLANATION OF HOW THE APPROVED ENTITY'S OPERATION ADVANCES THE POLICY GOAL OF REDUCING FOOD DESERTS; AND

(8) IF AVAILABLE, HOW LONG THE GRANTEE'S OPERATION STAYED IN BUSINESS FOLLOWING THE AWARDING OF THE GRANT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, April 14, 2014.