

SENATE BILL 67

C8

8lr0028

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Commerce)**

Requested: October 13, 2017

Introduced and read first time: January 10, 2018

Assigned to: Finance

Committee Report: Favorable

Senate action: Recommitted to Finance (Senator Middleton), January 30, 2018

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 14, 2018

CHAPTER _____

1 AN ACT concerning

2 **Department of Commerce – Maryland Economic Development Assistance**
3 **Authority and Fund – Renaming and Revising**

4 FOR the purpose of renaming the Maryland Economic Development Assistance Authority
5 and the Maryland Economic Development Assistance Fund to be the Advantage
6 Maryland Fund Authority and the Advantage Maryland Fund; altering the
7 composition of the Fund; expanding the information required to be included in a
8 certain report; specifying the amount of financial assistance that may be used to
9 finance certain costs for working capital; altering the financial assistance authorized
10 under the Fund; altering the authorized uses of the Fund; altering certain limits on
11 providing financial assistance from the Fund for certain entities or purposes; altering
12 the required terms and interest rates on a certain loan or other financial assistance
13 from the Fund; requiring the publisher of the Annotated Code of Maryland, in
14 consultation with and subject to the approval of the Department of Legislative
15 Services, to correct any cross-references or terminology rendered incorrect by this
16 Act; altering certain definitions; making conforming changes; providing for the
17 termination of certain provisions of this Act; and generally relating to the renaming
18 of and revisions to the Maryland Economic Development Assistance Authority and
19 Fund.

20 BY repealing and reenacting, with amendments,
21 Article – Economic Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 5–102; 5–301(g), (n), and (w) to be under the amended subtitle “Subtitle 3.
 2 Advantage Maryland Fund Authority and Fund”; 5–305 to be under the
 3 amended part “Part II. Advantage Maryland Fund Authority”; 5–310, 5–313,
 4 5–315, and 5–316 to be under the amended part “Part III. Advantage
 5 Maryland Fund”; ~~5–322(a)~~ 5–322, 5–324(c) and (d), 5–325(a), (c), (d), and (e),
 6 5–408(a), 10–104(a), and 11–302(a)
 7 Annotated Code of Maryland
 8 (2008 Volume and 2017 Supplement)

9 ~~BY repealing~~
 10 ~~Article – Economic Development~~
 11 ~~Section 5–325(c) through (e)~~
 12 ~~Annotated Code of Maryland~~
 13 ~~(2008 Volume and 2017 Supplement)~~

14 ~~BY adding to~~
 15 ~~Article – Economic Development~~
 16 ~~Section 5–325(c) and (d)~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(2008 Volume and 2017 Supplement)~~

19 BY repealing and reenacting, without amendments,
 20 Article – Economic Development
 21 Section 5–401(a) and (b)
 22 Annotated Code of Maryland
 23 (2008 Volume and 2017 Supplement)

24 BY repealing and reenacting, with amendments,
 25 Article – State Finance and Procurement
 26 Section 5–7B–01(c)(1)
 27 Annotated Code of Maryland
 28 (2015 Replacement Volume and 2017 Supplement)

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

31 **Article – Economic Development**

32 5–102.

33 The Department shall administer the State’s economic development and financial
 34 assistance programs and funds including:

35 (1) the BRAC Revitalization and Incentive Zone Program, under Subtitle
 36 13 of this title;

37 (2) the Enterprise Fund, under Subtitle 6 of this title;

- 1 (3) the Enterprise Zones Program, under Subtitle 7 of this title;
- 2 (4) the Make Office Vacancies Extinct Program, under Subtitle 15 of this
3 title;
- 4 (5) the Maryland Economic Adjustment Fund, under Subtitle 2 of this title;
- 5 (6) the [Maryland Economic Development Assistance] **ADVANTAGE**
6 **MARYLAND FUND** Authority and Fund, under Subtitle 3 of this title;
- 7 (7) the Maryland Industrial Development Financing Authority, under
8 Subtitle 4 of this title;
- 9 (8) the Maryland Small Business Development Financing Authority, under
10 Subtitle 5 of this title;
- 11 (9) the Appalachian Regional Development Program, under Title 13,
12 Subtitle 1 of this article;
- 13 (10) jointly with the Department of Housing and Community Development,
14 the Community Development Block Grant for Economic Development;
- 15 (11) the Regional Institution Strategic Enterprise Zone Program under
16 Subtitle 14 of this title; and
- 17 (12) any other programs or funds designated by statute, the Governor, or
18 the Secretary.

19 Subtitle 3. [Maryland Economic Development Assistance] **ADVANTAGE MARYLAND**
20 **FUND** Authority and Fund.

21 5–301.

22 (g) “Authority” means the [Maryland Economic Development Assistance]
23 **ADVANTAGE MARYLAND FUND** Authority.

24 (n) “Fund” means the [Maryland Economic Development Assistance]
25 **ADVANTAGE MARYLAND** Fund.

26 (w) (1) “Working capital” means money to be used for current operations of a
27 business.

28 (2) “**WORKING CAPITAL**” **DOES NOT INCLUDE ACCOUNTS**
29 **RECEIVABLE, INVENTORY, OR ANY INVESTMENTS.**

1 Part II. [Maryland Economic Development Assistance] **ADVANTAGE MARYLAND FUND**
2 Authority.

3 5–305.

4 There is [a Maryland Economic Development Assistance] **AN ADVANTAGE**
5 **MARYLAND FUND** Authority in the Department.

6 Part III. [Maryland Economic Development Assistance] **ADVANTAGE MARYLAND** Fund.

7 5–310.

8 There is [a Maryland Economic Development Assistance] **AN ADVANTAGE**
9 **MARYLAND** Fund in the Department.

10 5–313.

11 The Fund consists of:

- 12 (1) money appropriated in the State budget to the Fund;
- 13 (2) money made available to the Fund through federal programs or private
14 contributions;
- 15 (3) repayments of principal and interest from loans made from the Fund;
- 16 (4) proceeds from the sale, disposition, lease, or rental of collateral related
17 to financial assistance provided by the Department under this subtitle;
- 18 (5) application or other fees paid to the Fund to process requests for
19 financial assistance;
- 20 (6) recovery of an investment made by the Department in a business,
21 including an arrangement under which part of the investment is recovered through:
- 22 (i) a requirement that the Department receive a proportion of cash
23 flow, commissions, royalties, or license fees;
- 24 (ii) the repurchase from the Department of any of its investment
25 interest; or
- 26 (iii) the sale of an appreciated asset;
- 27 (7) repayments received from recipients of conditional grants from the
28 Department;

- 1 (8) money collected under § 9–229 of the Tax – Property Article;
- 2 (9) repayments on or recoveries from financial assistance provided from
- 3 the former:
 - 4 (i) Brownfields Revitalization Incentive Fund;
 - 5 (ii) Child Care Facilities Direct Loan Fund;
 - 6 (iii) Child Care Special Loan Fund;
 - 7 **(IV) MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND;**
 - 8 ~~[(iv)]~~ **(V)** Maryland Industrial and Commercial Redevelopment
 - 9 Fund;
 - 10 ~~[(v)]~~ **(VI)** Maryland Industrial Land Fund;
 - 11 ~~[(vi)]~~ **(VII)** Maryland Seafood and Aquaculture Loan Fund; and
 - 12 ~~[(vii)]~~ **(VIII)** Smart Growth Economic Development Infrastructure
 - 13 Fund; and
 - 14 (10) any other money made available to the Fund.

15 5–315.

16 In accordance with § 2.5–109 of this article, the Department shall report on:

17 (1) the [number, amount, use, and] economic benefits of financial
 18 assistance provided under this subtitle; AND

19 (2) THE FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE,
 20 INCLUDING:

21 (I) THE NUMBER OF FINANCIAL ASSISTANCE; AND

22 (II) FOR EACH FINANCIAL ASSISTANCE:

23 1. THE TYPE;

24 2. THE USE;

25 3. THE AMOUNT; AND

26 4. THE TERMS.

1 5-316.

2 Financial assistance is deemed authorized under this subtitle if it was provided, or
3 approved to be provided, from the following programs that have been incorporated into the
4 Fund:

5 (1) the Brownfields Revitalization Incentive Fund;

6 (2) the Child Care Facilities Direct Loan Fund;

7 (3) the Child Care Special Loan Fund;

8 **(4) THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND;**

9 **[(4)] (5)** the Maryland Industrial and Commercial Redevelopment Fund;

10 **[(5)] (6)** the Maryland Industrial Land Act;

11 **[(6)] (7)** the Maryland Seafood and Aquaculture Loan Fund; and

12 **[(7)] (8)** the Smart Growth Economic Development Infrastructure Fund.

13 5-322.

14 (a) Financial assistance from the Fund may be used only to finance costs incurred
15 for:

16 (1) construction or acquisition of a building or real property, and associated
17 development and carrying costs;

18 (2) construction, acquisition, or installation of equipment, furnishings,
19 fixtures, leasehold improvements, site improvements, or infrastructure improvements,
20 including rail line enhancements on or to the site of an economic development project, and
21 associated development and carrying costs;

22 (3) **SUBJECT TO SUBSECTION (C) OF THIS SECTION**, working capital [for
23 significant strategic economic development opportunities, arts and entertainment
24 enterprises, or arts and entertainment projects];

25 (4) redevelopment of qualified brownfields sites;

26 (5) subject to § 5-325(b)(3) of this subtitle, construction, purchase, or
27 renovation of real property, fixtures, or equipment related to a child care facility;

1 (6) if supported by a resolution adopted by the governing body of the
2 jurisdiction in which a project may be located, feasibility studies;

3 (7) subject to § 5-325(b)(4) of this subtitle, preparation of a county's or
4 municipal corporation's strategy or plan for economic development; and

5 (8) a project intended to assist businesses in areas that are declared to be
6 federal disaster areas, but only if the Department receives an application for financial
7 assistance within 1 year after the declaration of the federal disaster area.

8 (b) Financial assistance from the Fund may not be used to refinance existing debt.

9 (C) FINANCIAL ASSISTANCE FROM THE FUND USED TO FINANCE COSTS
10 INCURRED FOR WORKING CAPITAL MAY NOT EXCEED \$3,000,000.

11 ~~5-324.~~

12 ~~(e) If the Department or Authority determines a project to be a local economic~~
13 ~~development opportunity, the Department or Authority may provide financial assistance~~
14 ~~from the Fund for the project to an individual, private business, nonprofit entity, or the~~
15 ~~Corporation in an amount not exceeding[:~~

16 ~~(1) \$5,000,000 for a GRANT, loan, or investment[; and~~

17 ~~(2) \$2,000,000 for a grant].~~

18 ~~(d) (1) Financial assistance provided to a local government or the Corporation~~
19 ~~to finance a project may be:~~

20 ~~(i) in the form of a grant, loan, or investment; and~~

21 ~~(ii) except as provided in paragraph (2) of this subsection, in an~~
22 ~~amount not exceeding [\$3,000,000] \$5,000,000.~~

23 ~~(2) Financial assistance for a qualified distressed county project may be in~~
24 ~~an amount determined by the Department.~~

25 ~~(3) A grant to a local economic development fund is subject to the~~
26 ~~requirements of Part V of this subtitle.~~

27 ~~5-325.~~

28 (a) Subject to the restrictions of THIS SECTION AND this subtitle, the
29 Department or Authority may impose the terms and conditions, INCLUDING THE
30 INTEREST RATES OF LOANS, on financial assistance from the Fund as either considers
31 appropriate.

~~¶(c) (1) A loan from the Fund shall bear an interest rate below the market rate of interest, as determined by the Department, if the loan is for:~~

~~(i) a significant strategic economic development opportunity; or~~

~~(ii) a specialized economic development opportunity.~~

~~(2) A loan from the Fund for a qualified distressed county project shall bear an interest rate determined by the Department or the Authority.~~

~~(3) A loan from the Fund shall bear an interest rate not exceeding one-eighth of 1% plus the net interest cost of the most recent State general obligation bond issue preceding the approval of the loan if the loan is:~~

~~(i) for a local economic development opportunity; or~~

~~(ii) to a local government.~~

~~(4) A loan from the Fund may not bear an interest rate of less than 3% unless:~~

~~(i) (1) the project funded by the loan is located in an area of high unemployment; or~~

~~(ii) (2) the Department determines that the borrower is carrying out a compelling economic development initiative.~~

~~(d) (1) The Department may waive interest during the first 2 years of the term of a loan from the Fund.~~

~~(2) If a borrower defaults on a loan from the Fund, the Department may impose an interest rate that exceeds the limits set forth in subsection (c)(1) or (3) of this section.~~

(e) The term of a loan from the Fund may not exceed:

(1) for working capital, ~~3~~ **7** years;

(2) for financing equipment, furnishings, or fixtures, the lesser of 15 years or the useful life of the asset, as determined by the Department;

(3) for financing the construction or acquisition of buildings and real property, 25 years; and

(4) for financing the redevelopment of a qualified brownfields site or a qualified distressed county project, a term approved by the Department or Authority. ~~¶~~

1 ~~(C) THE DEPARTMENT SHALL DETERMINE THE TERMS OF FINANCIAL~~
2 ~~ASSISTANCE, INCLUDING ESTABLISHING TERMS OF REPAYMENT AND INTEREST~~
3 ~~RATES OF LOANS.~~

4 ~~(D) (1) THE DEPARTMENT MAY IMPOSE A 0% INTEREST RATE ON A LOAN~~
5 ~~FROM THE FUND.~~

6 ~~(2) IF A BORROWER DEFAULTS ON A LOAN FROM THE FUND, THE~~
7 ~~DEPARTMENT MAY IMPOSE A DEFAULT INTEREST RATE ON THE LOAN.~~

8 5-401.

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

10 (b) "Authority" means the Maryland Industrial Development Financing
11 Authority.

12 5-408.

13 (a) The members of the Authority are also the members of the [Maryland
14 Economic Development Assistance] **ADVANTAGE MARYLAND FUND** Authority under §
15 5-306 of this title.

16 10-104.

17 (a) The General Assembly finds that:

18 (1) the State's economy continues to experience technological change and
19 restructuring;

20 (2) technological change may result in economic contraction and
21 dislocation, but affords opportunities to expand productive employment and expand the
22 State's economy and tax base;

23 (3) the establishment of a public corporation to acquire or improve projects:

24 (i) serves the public interest by accomplishing one or more of the
25 Corporation's legislative purposes listed in subsection (b) of this section; and

26 (ii) complements existing State marketing programs administered
27 by the Department and through the Department's financial assistance programs including
28 the Maryland Industrial Development Financing Authority and the [Maryland Economic
29 Development Assistance] **ADVANTAGE MARYLAND FUND** Authority under Title 5 of this
30 article; and

1 (4) the State lacks and needs direct property development capability for
2 economic development purposes.

3 11-302.

4 (a) The General Assembly finds that:

5 (1) the economy of the State and its local governments will be greatly
6 impacted by the closure or realignment of any military installation through any base
7 realignment or closing action;

8 (2) although a closure or realignment will result in economic contraction
9 and dislocation, it also affords opportunities to expand productive employment and expand
10 the State's economy and tax base;

11 (3) for this reason, the General Assembly enacted the Maryland Military
12 Installation Strategic Planning Council Act; and

13 (4) the establishment of State-chartered public corporations to develop
14 military installations slated for closure or realignment in the State would:

15 (i) serve the public interest;

16 (ii) complement existing State marketing programs administered by
17 the Department through:

18 1. its Division of Business Development; and

19 2. financial assistance programs such as those of the
20 [Maryland Economic Development Assistance] **ADVANTAGE MARYLAND FUND**
21 Authority and Fund and the Maryland Industrial Development Financing Authority; and

22 (iii) serve as an additional means to achieve the mission of the
23 Maryland Military Installation Council.

24 Article – State Finance and Procurement

25 5-7B-01.

26 (c) (1) “Growth-related project” means only the items set forth below:

27 (i) any major capital project as defined in § 2-103.1(a)(4) of the
28 Transportation Article, except existing transportation facilities projects as defined in §
29 4-101(h) of the Transportation Article, project planning as defined in § 8-610(i) of the
30 Transportation Article, or initial project planning as defined in § 8-610(e) of the
31 Transportation Article;

1 (ii) funding by the Department of Housing and Community
2 Development for:

3 1. construction or purchase of newly constructed single
4 family homes or purchase of loans for newly constructed single family homes under Title 4,
5 Subtitle 2, Subtitle 3, or Subtitle 8 of the Housing and Community Development Article;

6 2. acquisition or construction of newly constructed
7 multifamily rental housing under Title 4, Subtitle 2, Subtitle 4, or Subtitle 15 of the
8 Housing and Community Development Article; or

9 3. State-funded neighborhood revitalization projects under
10 Title 6 of the Housing and Community Development Article;

11 (iii) funding by the Department of Commerce under any of the
12 following:

13 1. the Maryland Industrial Development Financing
14 Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

15 2. the Maryland Small Business Development Financing
16 Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

17 3. the former Maryland Energy Financing Act, authorized
18 under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the Maryland
19 Industrial Development Financing Authority;

20 4. the Economic Development Opportunities Program Fund,
21 authorized under § 7–314 of this article;

22 5. the former Maryland Competitive Advantage Financing
23 Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code; and

24 6. the [Maryland Economic Development Assistance]
25 **ADVANTAGE MARYLAND FUND** Authority and Fund, authorized under Title 5, Subtitle
26 3 of the Economic Development Article;

27 (iv) funding by the Department of the Environment, for any project
28 under:

29 1. §§ 9–1601 through 9–1605 (Water Quality Revolving Loan
30 Fund) of the Environment Article except for funding nonpoint source pollution projects;

31 2. §§ 9–420 through 9–426 (Water Supply Financial
32 Assistance Program) of the Environment Article; and

1 3. the supplemental assistance program authorized under
2 Title 9, Subtitle 3, Part VI of the Environment Article; and

3 (v) except as provided in paragraph (2) of this subsection,
4 procurement or funding of projects by the Department of General Services for:

5 1. leases of property by the State governed by §§ 4–318
6 through 4–321 of this article; and

7 2. land acquisition governed by §§ 4–411 through 4–416 of
8 this article.

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

11 **Article – Economic Development**

12 5–324.

13 (c) If the Department or Authority determines a project to be a local economic
14 development opportunity, the Department or Authority may provide financial assistance
15 from the Fund for the project to an individual, private business, nonprofit entity, or the
16 Corporation in an amount not exceeding[:

17 (1) \$5,000,000 for a GRANT, loan, or investment[; and

18 (2) \$2,000,000 for a grant].

19 (d) (1) Financial assistance provided to a local government or the Corporation
20 to finance a project may be:

21 (i) in the form of a grant, loan, or investment; and

22 (ii) except as provided in paragraph (2) of this subsection, in an
23 amount not exceeding [~~\$3,000,000~~] \$5,000,000.

24 (2) Financial assistance for a qualified distressed county project may be in
25 an amount determined by the Department.

26 (3) A grant to a local economic development fund is subject to the
27 requirements of Part V of this subtitle.

28 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That the publisher of the
29 Annotated Code of Maryland, in consultation with and subject to the approval of the
30 Department of Legislative Services, shall correct, with no further action required by the
31 General Assembly, cross–references and terminology rendered incorrect by this Act. The

1 publisher shall adequately describe any correction that is made in an editor's note following
2 the section affected.

3 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2018. Section 2 of this Act shall remain effective for a period of 5 years and, at the
5 end of June 30, 2023, Section 2 of this Act, with no further action required by the General
6 Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.