

SENATE BILL 340

C8

9lr1030
CF HB 543

By: **Senators Kagan, Augustine, Feldman, King, Peters, West, and Young**

Introduced and read first time: January 30, 2019

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2019

CHAPTER _____

1 AN ACT concerning

2 **Maryland Technology Development Corporation – Investments and Operations**

3 FOR the purpose of ~~requiring the Maryland Technology Development Corporation to~~
4 ~~recover from a business enterprise certain investments made from the Enterprise~~
5 ~~Fund under certain circumstances; including in the Fund the recovery of certain~~
6 ~~money under certain circumstances; providing certain requirements~~
7 technology-based businesses must meet before the Maryland Technology
8 Development Corporation may make certain grants or provide certain equity
9 investment financing; requiring the Corporation to adopt certain regulations;
10 requiring the Board of Directors of the Corporation to make certain appointments;
11 requiring the Board to adopt certain policies; providing that certain persons are
12 subject to certain public ethics law; providing certain requirements for eligibility as
13 a member of the Maryland Venture Fund Authority; requiring the Maryland Venture
14 Fund Authority in the Corporation to meet at least quarterly for certain purposes;
15 altering the information required to be reported annually by the Corporation;
16 requiring the Corporation to report certain information to the Governor, the
17 Maryland Economic Development Commission, and the General Assembly on a
18 quarterly basis; defining a certain term terms; making certain conforming changes;
19 and generally relating to the Maryland Technology Development Corporation.

20 BY repealing and reenacting, without amendments,

21 Article – Economic Development

22 Section 10-401(a), 10-468, and 10-474

23 Annotated Code of Maryland

24 (2018 Replacement Volume)

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 BY adding to
 2 Article – Economic Development
 3 Section 10–401(f) through (h) and 10–494
 4 Annotated Code of Maryland
 5 (2018 Replacement Volume)

6 BY repealing and reenacting, with amendments,
 7 Article – Economic Development
 8 Section ~~10–468~~ 10–402(c), 10–403(a), 10–407, 10–408, 10–409, 10–415, 10–469, and
 9 10–470, 10–475, 10–478, 10–488(b) and (c), and 10–489(a)
 10 Annotated Code of Maryland
 11 (2018 Replacement Volume)

12 ~~BY repealing and reenacting, without amendments,~~
 13 ~~Article – Economic Development~~
 14 ~~Section 10–474~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(2018 Replacement Volume)~~

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

19 **Article – Economic Development**

20 10–401.

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

22 (F) “INVESTMENT COMMITTEE” MEANS A COMMITTEE APPOINTED BY THE
 23 BOARD TO ADVISE ON AND APPROVE INVESTMENTS AS REQUIRED UNDER THIS
 24 SUBTITLE.

25 (G) “PRINCIPAL BUSINESS OPERATIONS” MEANS THE HEADQUARTERS
 26 FROM WHICH THE BUSINESS’S OFFICERS DIRECT, CONTROL, AND COORDINATE THE
 27 BUSINESS’S ACTIVITIES.

28 (H) “QUALIFIED BUSINESS” MEANS A BUSINESS THAT, AT THE TIME OF THE
 29 FIRST INVESTMENT IN THE BUSINESS UNDER A PROGRAM OF THE CORPORATION,
 30 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

31 (1) (I) HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN
 32 THE STATE, HAS OVER HALF ITS WORKFORCE WORKING IN THE STATE, AND INTENDS
 33 TO MAINTAIN ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE AFTER
 34 RECEIVING AN INVESTMENT UNDER THE PROGRAM; OR

1 **(II) IS A BUSINESS OR START-UP BUSINESS THAT IS APPROVED**
2 **BY THE INVESTMENT COMMITTEE AND WILL, AS A RESULT OF THE INVESTMENT,**
3 **HAVE A SUBSTANTIAL ECONOMIC IMPACT IN THE STATE THROUGH JOB CREATION,**
4 **CAPITAL INVESTMENT, AND CONTRIBUTION TO THE STATE'S TECHNOLOGY**
5 **ECOSYSTEM;**

6 **(2) HAS AGREED TO USE THE INVESTMENT PRIMARILY TO:**

7 **(I) SUPPORT BUSINESS OPERATIONS IN THE STATE; OR**

8 **(II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND**
9 **SUPPORT BUSINESS OPERATIONS IN THE STATE;**

10 **(3) HAS NOT MORE THAN 250 EMPLOYEES; AND**

11 **(4) IS NOT PRIMARILY ENGAGED IN:**

12 **(I) RETAIL SALES;**

13 **(II) REAL ESTATE DEVELOPMENT;**

14 **(III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR**

15 **(IV) THE PROVISION OF PROFESSIONAL SERVICES BY**
16 **ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.**

17 10-402.

18 (c) The purposes of the Corporation are to:

19 **(1) assist in transferring to the private sector the results and products of**
20 **scientific research and development conducted by colleges, [and] universities, AND**
21 **FEDERAL RESEARCH INSTITUTIONS IN THE STATE;**

22 **(2) assist in commercializing those results and products;**

23 **(3) assist in commercializing technology developed in the private sector;**

24 **(4) foster the commercialization of research and development conducted by**
25 **colleges, universities, and the private sector to create and sustain businesses throughout**
26 **all regions of the State; [and]**

27 **(5) generally assist early-stage and start-up businesses in the State;**

1 **(6) INVEST IN MARYLAND-BASED TECHNOLOGY COMPANIES AND**
2 **PROMOTE THE COMMERCIALIZATION AND GROWTH OF TECHNOLOGY COMPANIES**
3 **AND JOBS IN THE STATE;**

4 **(7) BUILD A LONG-TERM ENTREPRENEURIAL CAPACITY AND**
5 **SUSTAINED VENTURE CAPITAL PRESENCE IN THE STATE;**

6 **(8) CREATE PATHWAYS TO FOLLOW-ON FINANCING IN THE STATE;**
7 **AND**

8 **(9) FOSTER INCLUSIVE AND DIVERSE ENTREPRENEURSHIP AND**
9 **INNOVATION THROUGHOUT THE STATE, WHICH MAY INCLUDE INITIATIVES TO RAISE**
10 **AWARENESS OF PROGRAMS TO ASSIST SMALL, MINORITY, AND WOMEN-OWNED**
11 **BUSINESSES THROUGH MARKETING AND OTHER EFFORTS.**

12 10-403.

13 (a) **(1) A Board of Directors shall manage the Corporation and its units and**
14 **exercise its corporate powers.**

15 **(2) (I) A BOARD OF DIRECTORS MAY APPOINT MEMBERS OF AN**
16 **ADVISORY COMMITTEE.**

17 **(II) IF A BOARD OF DIRECTORS APPOINTS AN ADVISORY**
18 **COMMITTEE, THE BOARD SHALL ADOPT POLICIES ESTABLISHING THE**
19 **RESPONSIBILITIES OF THE ADVISORY COMMITTEE.**

20 10-407.

21 (a) Except as provided in subsections (b), (c), and (e) of this section, the
22 Corporation is exempt from:

23 (1) Title 10 and Division II of the State Finance and Procurement Article;
24 and

25 (2) §§ 3-301 and 3-303 of the General Provisions Article.

26 (b) The Corporation is subject to the Public Information Act.

27 (c) The Board [and], the officers and employees of the Corporation, MEMBERS
28 **OF THE INVESTMENT COMMITTEE, AND MEMBERS OF ANY ADVISORY COMMITTEE**
29 **APPOINTED** are subject to the Public Ethics Law.

1 (d) The officers and employees of the Corporation are not subject to the provisions
2 of Division I of the State Personnel and Pensions Article that govern the State Personnel
3 Management System.

4 (e) **(1)** The Corporation, its Board, and employees are subject to Title 12,
5 Subtitle 4 of the State Finance and Procurement Article.

6 **(2)** THE BOARD, THE OFFICERS AND EMPLOYEES OF THE
7 CORPORATION, THE MEMBERS OF THE INVESTMENT COMMITTEE, AND THE
8 MEMBERS OF ANY ADVISORY COMMITTEE APPOINTED SHALL DISCLOSE TO THE
9 STATE COMMISSION ON ETHICS WHETHER THEY ARE EMPLOYED BY OR HAVE A
10 FINANCIAL INTEREST IN AN ENTITY THAT CURRENTLY HAS OR WILL APPLY FOR
11 FUNDS OR AN INVESTMENT IN A PROGRAM ADMINISTERED BY THE CORPORATION.

12 10-408.

13 **(A)** THE CORPORATION SHALL ADOPT REGULATIONS ESTABLISHING:

14 **(1)** THE INVESTMENT COMMITTEE;

15 **(2)** THE RESPONSIBILITIES OF THE INVESTMENT COMMITTEE; AND

16 **(3)** THE PROCEDURES FOR THE APPOINTMENT OF INVESTMENT
17 COMMITTEE MEMBERS.

18 **(B)** The Corporation may:

19 (1) adopt bylaws for the conduct of its business;

20 (2) adopt a seal;

21 (3) maintain offices at a place it designates in the State;

22 (4) accept loans, grants, or assistance of any kind from the federal or State
23 government, a local government, a college or university, or a private source;

24 (5) enter into contracts and other legal instruments;

25 (6) sue or be sued;

26 (7) acquire, purchase, hold, lease as lessee, and use:

27 (i) a franchise, patent, or license;

28 (ii) any real, personal, mixed, tangible, or intangible property; or

1 (iii) an interest in the property listed in this item;

2 (8) sell, lease as lessor, transfer, license, assign, or dispose of property or a
3 property interest that it acquires;

4 (9) fix and collect rates, rentals, fees, royalties, and charges for services
5 and resources it provides or makes available;

6 (10) create, own, control, or be a member of a corporation, limited liability
7 company, partnership, or other entity, whether operated for profit or not for profit;

8 (11) exercise power usually possessed by a private corporation in performing
9 similar functions unless to do so would conflict with State law; and

10 (12) do all things necessary or convenient to carry out the powers granted
11 by this subtitle.

12 10-409.

13 **(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE**
14 **Corporation may make grants to or provide equity investment financing for**
15 **technology-based businesses, IF:**

16 **(1) THE INVESTMENTS ARE MADE TO A QUALIFIED BUSINESS;**

17 **(2) THE INVESTMENTS ARE MADE ON REVIEW AND APPROVAL OF A**
18 **WRITTEN APPLICATION THAT:**

19 **(I) CONTAINS SUFFICIENT INFORMATION TO VERIFY THAT THE**
20 **QUALIFIED BUSINESS HAS ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE OR**
21 **WILL HAVE A SUBSTANTIAL ECONOMIC IMPACT ON THE STATE; AND**

22 **(II) CONTAINS A CERTIFICATION OF THE VERACITY OF THE**
23 **INFORMATION BY AN AUTHORIZED SIGNATORY OF THE QUALIFIED BUSINESS; AND**

24 **(3) AT LEAST THE NUMBER OF MEMBERS THAT CONSTITUTES A**
25 **QUORUM OF ANY FUND OR AUTHORITY HAS BEEN APPOINTED UNDER THE**
26 **REQUIREMENTS FOR THAT FUND OR AUTHORITY.**

27 **(B) IN REGARD TO ANY AND ALL PROGRAMS OF THE CORPORATION, EXCEPT**
28 **AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE CORPORATION SHALL ADOPT**
29 **REGULATIONS TO GOVERN INVESTMENTS UNDER THIS SUBSECTION THAT SPECIFY:**

30 **(1) THE TYPES OF QUALIFIED BUSINESSES IN WHICH AN INVESTMENT**
31 **MAY BE MADE;**

1 **(2) THE BASIC STANDARDS AN ENTERPRISE SHALL MEET TO QUALIFY**
2 **FOR AN INVESTMENT;**

3 **(3) THE AMOUNT OF MONEY AVAILABLE FOR INVESTMENT;**

4 **(4) THE INVESTMENT POLICY STATEMENT OF THE CORPORATION**
5 **THAT DESCRIBES THE PROCEDURES, CRITERIA, INVESTMENT PHILOSOPHY, AND**
6 **GUIDELINES FOR HOW THE CORPORATION'S INVESTMENT DECISIONS WILL BE**
7 **MADE; AND**

8 **(5) A PROCESS FOR THE CONSIDERATION OF WHETHER INVESTMENTS**
9 **HELP TO FOSTER INCLUSIVE AND DIVERSE ENTREPRENEURSHIP, INCLUDING THE**
10 **CORPORATION'S SUPPORT FOR MARKETING AND OTHER EFFORTS TO RAISE**
11 **AWARENESS OF PROGRAMS TO ASSIST SMALL, MINORITY, AND WOMEN-OWNED**
12 **BUSINESSES.**

13 **(c) THE CORPORATION MAY MAKE INVESTMENTS UNDER AN AGREEMENT**
14 **WITH THE BOARD OF TRUSTEES FOR THE STATE RETIREMENT AND PENSION**
15 **SYSTEM UNDER § 21-123.2 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

16 10-415.

17 **(a) (1) On or before October 1 of each year, the Corporation shall report to the**
18 **Governor, the Maryland Economic Development Commission, and, in accordance with §**
19 **2-1246 of the State Government Article, the General Assembly.**

20 **[(b)] (2) The report REQUIRED UNDER THIS SUBSECTION shall include:**

21 **(I) a complete operating and financial statement covering the**
22 **Corporation's operations [and];**

23 **(II) a summary of the Corporation's activities during the preceding**
24 **fiscal year;**

25 **(III) INFORMATION ON ALL SALARIES AND ANY INCENTIVES**
26 **APPROVED BY THE BOARD FOR CORPORATION EMPLOYEES;**

27 **(IV) INFORMATION ON OUTREACH, TRAINING, MENTORSHIP,**
28 **SUPPORT, AND INVESTMENT IN MINORITY AND WOMEN-OWNED QUALIFIED**
29 **BUSINESSES, INCLUDING SUPPORT FOR MARKETING BY THE MARYLAND SMALL**
30 **BUSINESS DEVELOPMENT FINANCING AUTHORITY; AND**

1 (V) INFORMATION ON ENTITIES THAT HAVE CURRENT
2 INVESTMENTS AND ENTITIES THAT RECEIVED FUNDING OR INVESTMENTS IN THE
3 CURRENT YEAR ON THE:

4 1. PRINCIPAL BUSINESS OPERATIONS;

5 2. NUMBER OF EMPLOYEES IN THE STATE AND THE
6 NUMBER OF EMPLOYEES OUTSIDE THE STATE;

7 3. CAPITAL OR OTHER INVESTMENTS MADE IN THE
8 STATE; AND

9 4. PROPOSED AND ACTUAL JOB CREATION OR CAPITAL
10 INVESTMENT IN THE STATE AS A RESULT OF THE INVESTMENT OR SUPPORT;

11 (VI) A LIST OF BUSINESSES THAT HAVE RECEIVED FUNDING
12 THAT WOULD NO LONGER QUALIFY AS A QUALIFIED BUSINESS; AND

13 (VII) INFORMATION ON THE CREATION OF AND APPOINTMENTS
14 MADE TO AN ADVISORY COMMITTEE AND THE RESPONSIBILITIES OF THE ADVISORY
15 COMMITTEE AND MEMBERS OF THE COMMITTEE.

16 (B) (1) ON A QUARTERLY BASIS, THE CORPORATION SHALL REPORT TO
17 THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN
18 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE JOINT
19 AUDIT COMMITTEE AND THE GENERAL ASSEMBLY.

20 (2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL
21 INCLUDE A LIST OF THE QUALIFIED BUSINESSES OR OTHER BUSINESSES RECEIVING
22 SUPPORT THROUGH PROGRAMS ADMINISTERED BY THE CORPORATION, INCLUDING
23 THOSE RECEIVING INVESTMENTS MADE UNDER § 21-123.2 OF THE STATE
24 PERSONNEL AND PENSIONS ARTICLE.

25 (3) THE LIST OF QUALIFIED BUSINESSES OR OTHER BUSINESSES
26 RECEIVING SUPPORT SHALL INCLUDE FOR EACH BUSINESS:

27 (I) THE NUMBER OF EMPLOYEES IN THE STATE;

28 (II) THE NUMBER OF EMPLOYEES OUTSIDE THE STATE;

29 (III) THE CAPITAL OR OTHER INVESTMENTS MADE IN THE STATE;

30 AND

1 (IV) PROPOSED JOB CREATION OR CAPITAL INVESTMENT IN THE
 2 STATE AS A RESULT OF THE INVESTMENT OR SUPPORT.

3 10-468.

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

5 ~~(b) "BUSINESS ENTERPRISE" MEANS A BUSINESS THAT:~~

6 ~~(1) IS TECHNOLOGY-BASED; AND~~

7 ~~(2) HAS OVER HALF OF ITS WORKFORCE EITHER RESIDING OR~~
 8 ~~WORKING IN THE STATE.~~

9 ~~{(b)} (c)~~ "Corporation" means the Maryland Technology Development
 10 Corporation.

11 ~~{(c)} (d)~~ "Fund" means the Enterprise Fund established under § 10-469 of this
 12 subtitle.

13 10-469.

14 (a) There is an Enterprise Fund in the Corporation.

15 (b) The Corporation may use the Fund to:

16 (1) make a grant or loan, at the rate of interest set by the Corporation;

17 (2) provide equity investment financing for a ~~business enterprise~~
 18 QUALIFIED BUSINESS;

19 (3) guarantee a loan, equity, investment, or other private financing to
 20 expand the capital resources of a ~~business enterprise~~ QUALIFIED BUSINESS;

21 (4) purchase advisory services and technical assistance to better support
 22 economic development;

23 (5) pay the Corporation's obligations to a venture firm under the Invest
 24 Maryland Program, as provided under § 10-492(c)(2)(i) of this subtitle; and

25 (6) pay the administrative, legal, and actuarial expenses of the
 26 Corporation.

27 (c) The Corporation shall manage and supervise the Fund.

1 (d) ~~THE CORPORATION SHALL REQUIRE RECOVERY OF A GRANT, A LOAN,~~
 2 ~~OR AN EQUITY INVESTMENT FROM A BUSINESS ENTERPRISE IF AT ANY TIME WITHIN~~
 3 ~~THE 3-YEAR PERIOD FOLLOWING THE INVESTMENT AWARD, THE BUSINESS~~
 4 ~~ENTERPRISE FAILS TO MAINTAIN ITS STATUS AS A BUSINESS ENTERPRISE, AS~~
 5 ~~DEFINED IN § 10-468 OF THIS SUBTITLE.~~

6 ~~(E)~~ (1) The Fund is a special, nonlapsing revolving fund that is not subject to
 7 reversion under § 7-302 of the State Finance and Procurement Article.

8 (2) The Treasurer shall hold the Fund and the Comptroller shall account
 9 for it.

10 ~~[(e)] (F)~~ The Fund consists of:

11 (1) money appropriated by the State to the Fund;

12 (2) money made available to the Fund through federal programs or private
 13 contributions;

14 (3) repayment of principal of a loan made from the Fund;

15 (4) payment of interest on a loan made from the Fund;

16 (5) proceeds from the sale, disposition, lease, or rental by the Corporation
 17 of collateral related to financing that the Corporation provides under this subtitle;

18 (6) premiums, fees, royalties, interest, repayments of principal, and
 19 returns on investments paid to the Corporation by or on behalf of:

20 (i) a ~~business enterprise~~ QUALIFIED BUSINESS in which the
 21 Corporation has made an investment under this subtitle; or

22 (ii) an investor providing an investment guaranteed by the
 23 Corporation under this subtitle;

24 (7) recovery of an investment made by the Corporation in a ~~business~~
 25 ~~enterprise~~ QUALIFIED BUSINESS under this subtitle, including an arrangement under
 26 which the Corporation's investment in the ~~business enterprise~~ QUALIFIED BUSINESS is
 27 recovered through:

28 (i) a requirement that the Corporation receive a proportion of cash
 29 flow, commission, royalty, or payment on a patent; ~~for~~

30 (ii) the repurchase from the Corporation of any evidence of financial
 31 participation, including a note, stock, bond, or debenture; ~~or~~

~~(H) THE RECOVERY OF A GRANT, A LOAN, OR AN EQUITY INVESTMENT IN A BUSINESS ENTERPRISE THAT FAILS TO MAINTAIN ITS STATUS AS A BUSINESS ENTERPRISE, AS DEFINED IN § 10-468 OF THIS SUBTITLE;~~

(8) repayment of a conditional grant extended by the Corporation;

(9) money deposited into the Fund under § 10-492(c)(2)(i) of this subtitle;
and

(10) any other money made available to the Corporation for the Fund.

~~(f) (c)~~ (1) The Treasurer shall invest money in the Fund in the same manner as other State money.

(2) Any investment earnings of the Fund shall be credited to the Fund.

10-470.

(a) The Corporation may require that all or part of a grant be repaid, with interest at a rate the Corporation sets, when conditions specified by the Corporation occur.

(b) (1) Whenever the Corporation is authorized by law to make a grant, including a grant from the Economic Development Opportunities Program Account authorized under § 7-314 of the State Finance and Procurement Article, the Corporation may use money appropriated for the grant to make an equity investment in a [business enterprise] QUALIFIED BUSINESS.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in making an equity investment under this subtitle, the Corporation may not acquire an ownership interest in an enterprise that exceeds 25%.

(ii) In making an equity investment under this subtitle in one or more venture or private equity firms, the Corporation may acquire an ownership interest exceeding 25%.

(3) Within 15 years after making an equity investment under this subtitle, the Corporation shall divest itself of that investment.

(4) The liability of the State and the Corporation in making an equity investment under this subtitle is limited to the amount of that investment.

(5) The Corporation shall adopt regulations governing equity investments under this subsection that specify:

(i) the types of business enterprises in which an investment may be made;

- 1 (ii) the basic standards an enterprise shall meet to qualify for an
2 investment;
- 3 (iii) the amount of money available for investment; and
- 4 (iv) the criteria that the Corporation uses to make investment
5 decisions.]

6 10-474.

7 There is a Maryland Venture Fund Authority in the Corporation.

8 10-475.

9 (a) The Authority consists of the following nine members:

- 10 (1) seven members appointed by the Governor with the advice and consent
11 of the Senate;
- 12 (2) one member appointed by the President of the Senate; and
- 13 (3) one member appointed by the Speaker of the House.

14 (b) (1) Of the seven members appointed by the Governor:

15 (i) 1. at least four shall have experience in working with
16 companies that have raised investment capital for seed-stage to venture-stage companies
17 or in providing professional services to the venture capital industry; and

18 2. one of the four members selected under item 1 of this item
19 shall have experience in higher education research and development and technology
20 transfer projects;

21 (ii) at least one shall have experience as a small business owner;

22 (iii) at least one shall have experience as a business executive that
23 has raised venture capital investments; and

24 (iv) at least one shall be a resident of a rural county in the State.

25 (2) The Governor shall consider the geographic diversity of the State when
26 appointing members.

27 (c) The members appointed by the President and the Speaker:

28 (1) may not be elected officials; and

1 (2) shall have experience and expertise in venture capital investments.

2 (d) Each member shall be a resident of the State.

3 (e) (1) The term of a member is 4 years.

4 (2) At the end of a term, a member continues to serve until a successor is
5 appointed.

6 (3) A member who is appointed after a term has begun serves only for the
7 rest of the term and until a successor is appointed.

8 (4) A member appointed by the Governor may be removed by the Governor
9 with or without cause.

10 (5) The terms of the members are staggered as required by the terms
11 provided for members of the Authority on July 1, 2011.

12 (f) [A] IN ADDITION TO THE REQUIREMENTS OF TITLE 5 OF THE GENERAL
13 PROVISIONS ARTICLE, A member of the Authority may not BE EMPLOYED BY OR have
14 any financial interest in a purchaser, qualified business, or venture firm OR HOLD ANY
15 OTHER EMPLOYMENT RELATIONSHIP OR FINANCIAL INTEREST THAT WOULD IMPAIR
16 THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE MEMBER.

17 (g) THE AUTHORITY MAY NOT HAVE ADDITIONAL ADVISORS OR ADVISORY
18 BOARDS, WHETHER ACTING INFORMALLY OR FORMALLY CONSTITUTED, OTHER
19 THAN AS APPOINTED OR DESIGNATED IN THIS SUBTITLE.

20 10-478.

21 The Authority shall:

22 (1) provide advice to and consult with the Corporation in connection with
23 the administration of the Program under this subtitle; AND

24 (2) MEET AT LEAST QUARTERLY TO REVIEW THE CORPORATION'S
25 INVESTMENT ~~POLICY AND~~ POLICIES, INVESTMENT DECISIONS ~~FOR THE PROGRAM~~
26 ~~UNDER THIS SUBTITLE,~~ AND ADHERENCE TO THE STATUTORY AND REGULATORY
27 REQUIREMENTS IMPOSED ON THE CORPORATION.

28 10-488.

29 (b) TO ENSURE THE CORPORATION HAS CONTINUED ACCESS TO THE BEST
30 AVAILABLE AND QUALIFIED VENTURE FIRMS AS WELL AS TO PROVIDE FOR THE

1 REPLACEMENT OF VENTURE FIRMS THAT HAVE BEEN DISQUALIFIED UNDER §
2 10-494 OF THIS SUBTITLE:

3 (1) [An] AN applicant shall file an application with the Corporation in the
4 form required by the Corporation[.];

5 (2) [The] THE application shall include the applicant's most recent
6 financial statements[.];

7 (3) [The] THE Corporation shall [begin accepting] ACCEPT applications
8 for certification [on or before January 1, 2012.] FOR A PERIOD OF 3 MONTHS AT THE
9 CORPORATION'S CHOOSING, AT THE SAME TIME EACH YEAR; AND

10 (4) [An application for certification may not be accepted after May 1, 2012]
11 NOTWITHSTANDING THE REQUIREMENTS OF § 10-494(B) OF THIS SUBTITLE, WHEN
12 ONE OR MORE VENTURE FIRMS HAVE BEEN DISQUALIFIED UNDER § 10-494 OF THIS
13 SUBTITLE, THE CORPORATION MAY RECEIVE APPLICATIONS, FOR A PERIOD OF NOT
14 LESS THAN 2 MONTHS, AT ANY TIME DURING THE CALENDAR YEAR.

15 (c) To be certified as a venture firm:

16 (1) the applicant must have, at the time of application, an equity
17 capitalization, net assets, or written commitments of at least \$500,000 in the form of cash
18 or cash equivalents; [and]

19 (2) at least two principals or persons employed to direct the investment of
20 the designated capital of the applicant must have at least 5 years of money management
21 experience in the venture capital or private equity sectors;

22 (3) FOR A PERIOD OF 2 YEARS FROM THE DATE OF
23 DISQUALIFICATION, THE APPLICANT MAY NOT BE:

24 (I) A VENTURE FIRM THAT HAS BEEN DISQUALIFIED UNDER §
25 10-494 OF THIS SUBTITLE; OR

26 (II) A FIRM WITH MAJORITY OWNERSHIP COMPOSED OF
27 MEMBERS WHO HAD OWNERSHIP OR LEADERSHIP ROLES IN A FIRM THAT HAS BEEN
28 DISQUALIFIED UNDER § 10-494 OF THIS SUBTITLE.

29 10-489.

30 (a) (1) A business that is classified as a qualified business at the time of the
31 first investment in the business by a venture firm, the Enterprise Fund, or the Financing
32 Authority remains classified as a qualified business and may receive follow-on investments

1 from a venture firm, the Enterprise Fund, or the Financing Authority AS PROVIDED
2 UNDER THIS SUBSECTION.

3 (2) [Except as provided in paragraph (3) of this subsection, a] A follow-on
4 investment [made under this subsection] FROM A VENTURE FIRM is a qualified
5 investment even though the business does not meet the definition of a qualified business
6 at the time of the follow-on investment.

7 (3) With respect to an investment by the Enterprise Fund or the Financing
8 Authority, a follow-on investment does not qualify as a qualified investment if, at the time
9 of the follow-on investment, the [qualified] business no longer [has its principal business
10 operations in the State] MEETS THE DEFINITION OF A QUALIFIED BUSINESS.

11 **10-494.**

12 (A) **EACH VENTURE FIRM SHALL BE REQUIRED TO MAKE EQUITY**
13 **INVESTMENTS IN AN AMOUNT NOT LESS THAN 50% OF THE CAPITAL ALLOCATED TO**
14 **QUALIFIED BUSINESSES WITHIN 3 YEARS OF EACH CAPITAL ALLOCATION.**

15 (B) **IN REGARDS TO VENTURE FIRMS THAT HAVE RECEIVED AN ALLOCATION**
16 **BEFORE JUNE 1, 2019, THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION**
17 **SHALL APPLY AS OF JUNE 1, 2019.**

18 (C) **IN THE EVENT THAT A VENTURE FIRM FAILS TO MEET THE**
19 **REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE CORPORATION SHALL:**

20 (1) **RESCIND THE ALLOCATION AND AUTHORIZATION FOR THAT FIRM**
21 **FROM THE DATE OF NONCOMPLIANCE WITH SUBSECTION (A) OF THIS SECTION AND**
22 **REMOVE THAT FIRM'S CERTIFICATION FOR PARTICIPATION IN THE PROGRAM;**

23 (2) **CEASE MAKING THE PAYMENT OF MANAGEMENT AND OTHER FEES**
24 **TO THE VENTURE FUND FROM THE DATE OF NONCOMPLIANCE WITH SUBSECTION (A)**
25 **OF THIS SECTION; AND**

26 (3) **CONSULT AND COORDINATE WITH THE OFFICE OF THE ATTORNEY**
27 **GENERAL FOR THE RECOVERY OF ANY FUNDS, AS MAY BE NECESSARY.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
29 2019, the Maryland Technology Development Corporation shall report to the General
30 Assembly, in accordance with § 2-1246 of the State Government Article, on the status of
31 the Corporation's efforts to address the findings of the fiscal compliance audit of the
32 Corporation conducted by the Office of Legislative Audits for the period beginning January
33 7, 2015, and ending April 10, 2018.

1 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
2 2019, the Department of Legislative Services shall review Title 10, Subtitle 4 of the
3 Economic Development Article and make recommendations to the General Assembly on:

4 (1) how to make Title 10, Subtitle 4 of the Economic Development Article,
5 regarding the Maryland Technology Development Corporation programs, more clear with
6 consistent definitions; and

7 (2) whether there is language that can be repealed as duplicative or
8 obsolete.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 ~~October~~ June 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.