

HOUSE BILL 829

C8

11r0991
CF SB 788

By: **Delegate Lierman**

Introduced and read first time: January 29, 2021

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2021

CHAPTER _____

1 AN ACT concerning

2 **Economic Development – Small Business Financing – Loan Loss Reserve**
3 **(Maryland Capital Access Program)**

4 FOR the purpose of establishing a Capital Access Program in the Department of Commerce
5 for a certain purpose; specifying that certain loans qualify under the Program;
6 requiring a lender to enroll a qualifying loan not more than a certain number of days
7 after a certain date; authorizing a lender to enroll all or a portion of a qualifying loan
8 in an amount not more than a certain amount; requiring the Department to establish
9 a loan loss reserve account under certain circumstances; requiring the borrower,
10 lender, and Department to make certain payments under certain circumstances;
11 requiring that a loan loss reserve account be available under certain circumstances;
12 requiring the Department to establish certain procedures; ~~requiring the Governor to~~
13 ~~include in the annual budget bill for a certain fiscal year a certain appropriation for~~
14 ~~the Program;~~ authorizing the Department to adopt certain regulations; defining
15 certain terms; ~~declaring the intent of the General Assembly;~~ and generally relating
16 to the establishment of the Capital Access Program.

17 BY adding to

18 Article – Economic Development

19 Section 5–1701 through ~~5–1708~~ 5–1707 to be under the new subtitle “Subtitle 17.

20 Capital Access Program”

21 Annotated Code of Maryland

22 (2018 Replacement Volume and 2020 Supplement)

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

3 **Article – Economic Development**

4 **SUBTITLE 17. CAPITAL ACCESS PROGRAM.**

5 **5–1701.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “BORROWER” MEANS A BUSINESS THAT:

9 (1) QUALIFIES AS A SMALL BUSINESS UNDER THE U.S. SMALL
10 BUSINESS ADMINISTRATION SIZE STANDARDS;

11 (2) APPLIES TO A LENDER FOR BUSINESS FINANCING; AND

12 (3) HAS FEWER THAN 50 EMPLOYEES.

13 (C) “LENDER” MEANS:

14 (1) A CREDIT UNION, AS DEFINED IN § 1–101 OF THE FINANCIAL
15 INSTITUTIONS ARTICLE;

16 (2) A FINANCIAL INSTITUTION, AS DEFINED IN § 1–101 OF THE
17 FINANCIAL INSTITUTIONS ARTICLE; OR

18 (3) A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION AS
19 DEFINED IN 12 U.S.C. § 4702(5).

20 (D) “PROGRAM” MEANS THE CAPITAL ACCESS PROGRAM ESTABLISHED
21 UNDER § 5–1702 OF THIS SUBTITLE.

22 **5–1702.**

23 THERE IS A CAPITAL ACCESS PROGRAM IN THE DEPARTMENT ~~OF~~
24 ~~COMMERCE.~~

25 **5–1703.**

26 THE PURPOSE OF THE PROGRAM IS TO STIMULATE OPPORTUNITIES FOR
27 SMALL BUSINESSES THAT MAY HAVE DIFFICULTY IN OBTAINING BUSINESS

1 FINANCING TO HAVE ACCESS TO CREDIT BY ESTABLISHING A LOAN LOSS RESERVE
2 PROGRAM.

3 5-1704.

4 A LOAN QUALIFIES UNDER THE PROGRAM IF THE LOAN:

5 (1) SATISFIES THE LENDING CRITERIA OF THE FINANCIAL
6 INSTITUTION;

7 (2) HAS A TERM NOT EXCEEDING 10 YEARS;

8 (3) MAY BE SHORT OR LONG TERM, HAVE FIXED OR VARIABLE RATES,
9 AND BE SECURED OR UNSECURED; AND

10 (4) DOES NOT EXCEED \$250,000.

11 5-1705.

12 (A) A LENDER SHALL ENROLL A QUALIFYING LOAN IN THE PROGRAM NOT
13 MORE THAN 30 DAYS AFTER THE DATE OF THE FIRST DISBURSEMENT OF THE LOAN.

14 (B) A LENDER MAY ENROLL ALL OR A PORTION OF A QUALIFYING LOAN IN
15 AN AMOUNT NOT MORE THAN \$250,000.

16 5-1706.

17 (A) THE DEPARTMENT SHALL ESTABLISH A LOAN LOSS RESERVE ACCOUNT
18 FOR A LENDER WHEN A LENDER ENROLLS ITS FIRST LOAN UNDER THE PROGRAM.

19 (B) AT THE TIME OF ENROLLMENT:

20 (1) THE BORROWER SHALL MAKE A PAYMENT TO THE ACCOUNT OF ~~AT~~
21 ~~LEAST 2% AND UP TO~~ BETWEEN 0% AND 7% OF THE ENROLLED LOAN AMOUNT;

22 (2) THE LENDER SHALL MAKE A PAYMENT TO THE ACCOUNT OF AT
23 LEAST 2% OF THE ENROLLED AMOUNT; AND

24 (3) THE DEPARTMENT SHALL MAKE A MATCHING PAYMENT TO THE
25 ACCOUNT IN AN AMOUNT EQUAL TO THE BORROWER AND LENDER'S AGGREGATE
26 PAYMENT UNDER ITEMS (1) AND (2) OF THIS SUBSECTION.

27 (C) THE LOAN LOSS RESERVE ACCOUNT OF A LENDER SHALL BE AVAILABLE
28 FOR THE LENDER TO WITHDRAW IF A BORROWER DEFAULTS ON A QUALIFYING LOAN.

1 (D) THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR A LENDER TO
2 WITHDRAW FROM THE PROGRAM.

3 ~~5-1707.~~

4 ~~FOR FISCAL YEAR 2023, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL~~
5 ~~BUDGET BILL AN APPROPRIATION OF \$10,000,000 TO THE PROGRAM.~~

6 ~~5-1708.~~

7 THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

8 ~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General~~
9 ~~Assembly that \$50,000,000 of financial assistance provided by the federal government to~~
10 ~~the State in response to the coronavirus pandemic on or after January 1, 2021, be~~
11 ~~distributed to capitalize the State guarantee under the Capital Access Program established~~
12 ~~under Section 1 of this Act, if the purposes of the Program are a permissible use of the~~
13 ~~financial assistance.~~

14 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.