

Chapter 704

(House Bill 829)

AN ACT concerning

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

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

BY adding to

Article – Economic Development

Section 5–1701 through ~~5–1708~~ 5–1707 to be under the new subtitle “Subtitle 17. Capital Access Program”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Economic Development

SUBTITLE 17. CAPITAL ACCESS PROGRAM.

5–1701.

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

(B) “BORROWER” MEANS A BUSINESS THAT:

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

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

(3) HAS FEWER THAN 50 EMPLOYEES.

(C) "LENDER" MEANS:

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

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

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

(D) "PROGRAM" MEANS THE CAPITAL ACCESS PROGRAM ESTABLISHED UNDER § 5-1702 OF THIS SUBTITLE.

5-1702.

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

5-1703.

THE PURPOSE OF THE PROGRAM IS TO STIMULATE OPPORTUNITIES FOR SMALL BUSINESSES THAT MAY HAVE DIFFICULTY IN OBTAINING BUSINESS FINANCING TO HAVE ACCESS TO CREDIT BY ESTABLISHING A LOAN LOSS RESERVE PROGRAM.

5-1704.

A LOAN QUALIFIES UNDER THE PROGRAM IF THE LOAN:

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

(2) HAS A TERM NOT EXCEEDING 10 YEARS;

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

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

5-1705.

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

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

5-1706.

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

(B) AT THE TIME OF ENROLLMENT:

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

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

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

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

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

5-1707.

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

~~**5-1708.**~~

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

~~**SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that \$50,000,000 of financial assistance provided by the federal government to the State in response to the coronavirus pandemic on or after January 1, 2021, be**~~

~~distributed to capitalize the State guarantee under the Capital Access Program established under Section 1 of this Act, if the purposes of the Program are a permissible use of the financial assistance.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.