

SENATE BILL 38

C8
SB 252/21 – FIN

(PRE-FILED)

3lr0936

By: **Senator Ellis**

Requested: November 18, 2022

Introduced and read first time: January 11, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Minority Business Enterprise Procurement Contract Financing**

3 FOR the purpose of establishing a Minority Business Enterprise Procurement Contract
4 Financing Program in the Maryland Small Business Development Financing
5 Authority to provide working capital to qualified minority business enterprises in
6 order to facilitate their ability to enter into and complete performance under State
7 procurement contracts; authorizing certain loans and grants under certain
8 circumstances; establishing the Minority Business Enterprise Procurement Contract
9 Financing Fund as a special, nonlapsing fund; and generally relating to the Minority
10 Business Enterprise Procurement Contract Financing Program.

11 BY repealing and reenacting, without amendments,
12 Article – Economic Development
13 Section 5–501 and 5–505
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Economic Development
18 Section 5–512(c)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2022 Supplement)

21 BY adding to
22 Article – Economic Development
23 Section 5–578 through 5–580 to be under the new part “Part VII. Minority Business
24 Enterprise Procurement Contract Financing Program”
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 5–501.

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

6 (b) “Authority” means the Maryland Small Business Development Financing
7 Authority.

8 (c) “Financial institution” means:

9 (1) a financial institution, as defined in § 1–101 of the Financial
10 Institutions Article; and

11 (2) any other lender that the Authority approves.

12 (d) (1) “Loan document” means an instrument or agreement that evidences,
13 secures, or guarantees a loan.

14 (2) “Loan document” includes a note, financing statement, mortgage,
15 pledge, assignment, loan and security agreement, or guaranty.

16 (e) (1) “Working capital” means money used to meet the cash needs of an
17 operating business entity.

18 (2) “Working capital” does not include money used for a capital purchase.

19 5–505.

20 There is a Maryland Small Business Development Financing Authority in the
21 Department.

22 5–512.

23 (c) The Authority shall:

24 (1) in its internal functions, follow the procedures of the State that govern
25 the purchase of office space, supplies, facilities, materials, equipment, and professional
26 services;

27 (2) keep proper records of its accounts;

28 (3) keep separate records for:

1 (i) the Small Business Development Contract Financing Fund
2 under Part III of this subtitle;

3 (ii) the Small Business Development Guaranty Fund under Part IV
4 of this subtitle;

5 (iii) the Equity Participation Investment Program Fund under Part
6 V of this subtitle; [and]

7 (iv) the Small Business Surety Bond Fund under Part VI of this
8 subtitle; and

9 (V) THE MINORITY BUSINESS ENTERPRISE PROCUREMENT
10 CONTRACT FINANCING PROGRAM AND FUND UNDER PART VII OF THIS SUBTITLE;
11 AND

12 (4) in accordance with § 2.5–109 of this article, submit a report on its
13 condition and operations.

14 **5–576. RESERVED.**

15 **5–577. RESERVED.**

16 **PART VII. MINORITY BUSINESS ENTERPRISE PROCUREMENT CONTRACT**
17 **FINANCING PROGRAM.**

18 **5–578.**

19 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) “FUND” MEANS THE MINORITY BUSINESS ENTERPRISE PROCUREMENT
22 CONTRACT FINANCING FUND.

23 (C) “MINORITY BUSINESS ENTERPRISE” HAS THE MEANING STATED IN §
24 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

25 (D) “PROGRAM” MEANS THE MINORITY BUSINESS ENTERPRISE
26 PROCUREMENT CONTRACT FINANCING PROGRAM.

27 (E) “QUALIFIED MINORITY BUSINESS ENTERPRISE” MEANS A MINORITY
28 BUSINESS ENTERPRISE THAT IS:

29 (1) CERTIFIED IN ACCORDANCE WITH TITLE 14, SUBTITLE 3 OF THE
30 STATE FINANCE AND PROCUREMENT ARTICLE; AND

1 **(2) HAS A NET WORTH THAT DOES NOT EXCEED \$2,000,000.**

2 **5-579.**

3 **(A) THERE IS A MINORITY BUSINESS ENTERPRISE PROCUREMENT**
4 **CONTRACT FINANCING PROGRAM IN THE AUTHORITY.**

5 **(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE WORKING CAPITAL TO**
6 **QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO FACILITATE THEIR**
7 **ABILITY TO ENTER INTO AND COMPLETE PERFORMANCE UNDER STATE**
8 **PROCUREMENT CONTRACTS.**

9 **(C) THE AUTHORITY SHALL:**

10 **(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;**

11 **(2) PROVIDE LOANS AND AWARD GRANTS IN ACCORDANCE WITH THE**
12 **PURPOSE OF THE PROGRAM; AND**

13 **(3) ADOPT REGULATIONS TO:**

14 **(I) ENSURE THAT LOANS AND GRANTS TO QUALIFIED MINORITY**
15 **BUSINESS ENTERPRISES CARRY OUT THE PURPOSES OF THE PROGRAM;**

16 **(II) PROVIDE FOR APPLICATION PROCEDURES FOR GRANTS**
17 **AND LOANS UNDER THE PROGRAM;**

18 **(III) ATTACH SPECIFIC TERMS TO ANY LOAN OR GRANT THAT ARE**
19 **CONSIDERED NECESSARY TO ENSURE THAT THE PURPOSE OF THE PROGRAM IS**
20 **FULFILLED; AND**

21 **(IV) PROVIDE FOR PROCEDURES FOR THE REPAYMENT OF**
22 **LOANS MADE UNDER THE PROGRAM.**

23 **5-580.**

24 **(A) THERE IS A MINORITY BUSINESS ENTERPRISE PROCUREMENT**
25 **CONTRACT FINANCING FUND IN THE AUTHORITY.**

26 **(B) THE AUTHORITY SHALL ADMINISTER THE FUND.**

27 **(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**

1 SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND
2 PROCUREMENT ARTICLE.

3 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
4 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

5 (D) THE FUND CONSISTS OF:

6 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

7 (2) IF THE GENERAL ASSEMBLY ENACTS LEGISLATION
8 IMPLEMENTING SPORTS AND EVENT WAGERING IN THE STATE, AN AMOUNT EQUAL
9 TO 10% OF ANY PROCEEDS RECEIVED BY THE STATE FROM SPORTS AND EVENT
10 WAGERING IN THE STATE;

11 (3) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND;

12 (4) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND INTEREST
13 ON LOANS MADE FROM THE FUND; AND

14 (5) ANY OTHER MONEY FROM ANY SOURCE ACCEPTED FOR THE
15 BENEFIT OF THE FUND.

16 (E) THE FUND MAY BE USED ONLY FOR:

17 (1) LOANS AND GRANTS PROVIDED UNDER THE PROGRAM; AND

18 (2) ADMINISTRATIVE EXPENSES OF THE PROGRAM.

19 (F) (1) THE STATE TREASURER SHALL INVEST THE MONEY IN THE FUND
20 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

21 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED
22 TO THE GENERAL FUND OF THE STATE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2023.