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April 7, 2025

The Honorable Wes Moore
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401
Delivered via email

RE: House Bill 601 and Senate Bill 1008, “Economic Development - Small Business Guaranty Fund – Alterations”

Dear Governor Moore:

We have reviewed and hereby approve House Bill 601 and Senate Bill 1008, identical bills entitled “Economic Development - Small Business Guaranty Fund – Alterations.” We write separately to advise that the bills must be implemented consistent with the constitutional prohibition on giving or loaning the credit of the State.

Article III, § 34 of the Maryland Constitution states, in relevant part: “The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation” As initially introduced, House Bill 601 and Senate Bill 1008 authorized the Maryland Small Business Development Financing Authority (“Authority”) to provide, under its Long-term Guaranty Program, a loan guaranty that is: (1) supported by the full faith and credit of the State and (2) in the form of an irrevocable letter of credit, an official treasurer’s check, funds on deposit in an escrow or other depository account, or any other legal instrument promising restitution or reimbursement for a financial institution’s loan losses.

Although an amendment to the bills struck the language authorizing the guaranty to be supported by the full faith and credit of the State, the removal of that language does not necessarily ensure compliance with Article III, § 34. In providing any form of guaranty authorized by the bills, the Authority still must consider whether the guaranty complies with § 34. *See Maryland Indus. Dev. Fin. Auth. v. Helfrich*, 250 Md. 602 (1968) (finding unconstitutional a statutory scheme establishing an industrial mortgage guaranty program).

Sincerely,

A handwritten signature in black ink, appearing to read "AGB", followed by the name "Brown" in a cursive script.

Anthony G. Brown

AGB/DWS/kd

cc: The Honorable Susan C. Lee
Jeremy Baker
Victoria L. Gruber