



**MARBIDCO**  
growing rural ventures™

MARYLAND AGRICULTURAL AND RESOURCE-BASED  
INDUSTRY DEVELOPMENT CORPORATION  
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Mary Shank Creek, *Chair* / Stephen R. McHenry, *Executive Director*

## TESTIMONY STATEMENT

**BILL:** Senate Bill 399 (State Government-Quasi-Governmental Units-Oversight and Governance)

**COMMITTEE:** Senate Economic, Health and Environmental Affairs

**DATE:** March 3, 2022

**POSITION:** Support with Amendments

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The Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) supports Senate Bill 399, State Government-Quasi-Governmental Units-Oversight and Governance, with amendments, and would like to offer comment on several of the bill's provisions. MARBIDCO fully supports appropriate transparency and good governance by the State's quasi-public instrumentalities.

### **Background Information Concerning MARBIDCO**

MARBIDCO was established by the Maryland General Assembly 15 years ago as a relatively specialized economic development financial intermediary instrumentality of the State of Maryland (as an independent corporate entity) to enhance the sustainability of the State's agricultural and resource-based industries to help support locally produced food and fiber products, bolster local economies, and preserve working farm and forest land for future generations. MARBIDCO is governed by a Board of Directors that consists of 17 individuals who bring a wide range of perspective and experience to the Corporation's operations. These include 11 members appointed by the Governor with the Advice and Consent of the Senate, and 6 ex officio (voting) members from MDA, DNR, Commerce, Rural Maryland Council, Maryland Food Center Authority, and the University of Maryland Extension.

MARBIDCO employs a small staff of experienced agribusiness credit underwriters, loan servicers, and grant administrators, and the Attorney General's Office (and outside bond counsel when necessary) provide legal services to the organization (on a fee-for-service basis).

MARBIDCO's lending and agribusiness development incentive programs are designed to help fill an important economic development void by promoting commercial business start-up and expansion in the agricultural sector. Moreover, the Corporation aims is to help agricultural and resource-based businesses to innovate, diversify and exploit emerging market opportunities in food and fiber production.

MARBIDCO does this, in part, by filling gaps in privately provided capital, and by helping rural businesses to leverage federal, regional, and local government support to sustain or increase operational sustainability and profitability. In addition, because of a rapidly aging farmer population, MARBIDCO also aims to help young and beginning farmers to start and expand food or fiber production business enterprises.

MARBIDCO's basic operating framework for its Core programming balances two key objectives:

- 1) Help make higher risk capital and credit available to qualifying agricultural, forestry and seafood enterprises at affordable interest rates; and
- 2) Conduct the organization's financial affairs in such a manner that it can reach self-sustainability after FY 2025 – with respect to its Core loan (and small grant incentive) programs. MARBIDCO is on track to meet this requirement.

(Note: MARBIDCO also receives grant funds from various other public and private sources from time-to-time to offer “specialty” loan and grant incentive programs. Today, the Corporation offers four specialty loan programs and three specialty grant incentive programs. All of these programs are designed to eventually be self-liquidating.)

As required by law, MARBIDCO receives annual appropriations in the State Budget for its Core Programs (\$2.3 million), Local Farm Enterprise Food Aggregation Grant Program (\$435,000) and the Next Generation Farmland Acquisition Program (\$2.5 million). These appropriations will cease after fiscal 2025 or fiscal 2027. MARBIDCO's Executive Director routinely attends the Senate and House budget committee hearings every year where these programmatic allowances are considered (within MDA's budget).

Today, MARBIDCO offers more than a dozen agricultural and rural business financial assistance programs. Assisting young and beginning farmers are a special focus for MARBIDCO, as is farm operation diversification (through value added processing activities). Commercial urban farming has also become an important focus of MARBIDCO's efforts.

To date, MARBIDCO has helped **541** young or beginning farmers buy their first farms or expand their business operations (with \$59 million deployed) and has assisted with funding **277** value added food or fiber processing enterprises (\$7.1 million deployed). MARBIDCO's investment in agricultural/rural business lending (\$63.5 million deployed) has also leveraged nearly \$170 million in private commercial loan capital (approaching a 3-to-1 leverage of MARBIDCO's debt capital). More recently, MARBIDCO has also assisted **33** “beginner farmers” with purchasing their first farms (\$9.0 million deployed) and helped put 3,080 acres of good quality farmland on a path to become permanently preserved through the Next Generation Farmland Acquisition Program.

### **The Bill's Provisions**

MARBIDCO would like to provide the following observations:

- 1. Senate Bill 399 will change MARBIDCO's designation to a Quasi-Governmental Unit of Government from its current designation in statute as an independent Instrumentality of State.** MARBIDCO's statute provides that “the Corporation is a body politic and corporate and is an instrumentality of the State”. The term “quasi- governmental entity” is undefined in the legislation, which if enacted, may impact the ability of MARBIDCO and other entities named in the bill to issue bonds for project financing. MARBIDCO has issued tax-exempt revenue bonds in the past to help facilitate rural land preservation.

This change in designation may affect the ability of the entities concerned to perform related legislatively mandated functions, impacting:

- Ability to finance projects with loans, grants and other financing
- tax exemption status for bond issuance
- tax exemptions on properties or activities
- sovereign immunity in relation to tort and contract claims

- 2. Senate Bill 399 requires submittal of budgets to the Department of Budget and Management for inclusion in State budget books in the manner required by DBM and requires the budget committees to hold bi-annual hearings on the budget of each instrumentality.** This proposed requirement is of concern because it does not prescribe what DBM will require in terms of reporting, and how those requirements may or may not align with the statutory requirements for each instrumentality. A number of those statutes specify that the instrumentality has the authority to carry out their respective purposes without the consent of any State unit; and empower the entity to set rates and charges which are not subject to the supervision or regulation by a governmental unit. MARBIDCO, for example, is not a unit in the Executive Branch of State government.

In addition, the timing of the adoption of MARBIDCO's fiscal year budget is about six months later than that for Executive Branch agencies. The State agency budgets have to be prepared for final submission to DBM in December for the following fiscal year. MARBIDCO's Board of Directors approves the MARBIDCO budget in May or June just before the start of the new fiscal year. As such, this clearly presents a timing problem for MARBIDCO.

We would also observe that legislation that is currently moving through the legislative process, HB 375/ SB 269, entitled "Open Meetings Act-Application and Enhanced Requirements", that if passed will require each instrumentality to post meeting materials on-line in advance of and following each meeting. This would include proposed and approved annual budgets which should serve to provide the desired level of transparency concerning the instrumentality's annual budget.

MARBIDCO suggests that it might be appropriate too for the annual requirement for audited financial statements to be prepared be posted online, as this would provide an additional level of transparency concerning operational governance and management for these instrumentalities.

In addition, as noted previously, MARBIDCO's Executive Director attends all Maryland Department of Agriculture budget hearings every year to address any MARBIDCO issues.

- 3. Senate Bill 399 requires assessment of Board operations every 5 years by an independent consultant or accountant.** MARBIDCO estimates this could cost between \$35,000 to \$70,000 every five years. If this mandate remains in an adopted statute, MARBIDCO requests that a cost reimbursement account be established that each instrumentality can draw from to cover related costs when such an evaluation is undertaken.

The standards by which boards would be evaluated are not balanced against efforts to ensure board members are prepared to succeed in their appointed role. A more effective and less costly approach to ensuring good board management may be to provide centralized training for appointees prior to them being approved for appointment. Training could include considerations of fiduciary responsibility, ethics law requirements and Open Meetings Act compliance. This might be a responsibility that could be assigned to the Governor's Appointments Office, the Secretary of State's Office, or the State Ethics Commission (perhaps with support from a Maryland university and/or the Maryland Association of Nonprofit Organization's "Standards for Excellence Program").

- 4. Senate Bill 399 requires the Department of Legislative Services to subjectively evaluate the performance of each instrumentality.** Many of the instrumentalities included in this list of those to be evaluated on an 8-year cycle will be managing debt obligations and projects with terms that extend beyond that time-period. As investors consider partnering on projects, this impending evaluation and the resulting determination could send a negative signal to the market. MARBIDCO also makes commercial loans with amortizations as long as 30 years. (MARBIDCO estimates that approximately 100 hours of staff time would be required to assist DLS staff with this effort.)

MARBIDCO believes that the boards of the instrumentalities are well positioned to provide direction to the policy-making bodies about the status and effectiveness of each, and language in the bill which might require bi-annual reports to the Budget Committees by the instrumentalities is sufficient for policy makers to evaluate the desired impact of those bodies.

### **Conclusion**

MARBIDCO fully supports appropriate transparency and good governance by the State's quasi-public instrumentalities. In the case of the State's economic development instrumentalities, they were formed to act very nimbly, and with a long-term perspective, in helping to facilitate business development and commercial financing while at the same time safeguarding propriety commercial information and business plans as otherwise required under Maryland law. For these reasons, MARBIDCO supports Senate Bill 399 with amendments to address the concerns noted above.

Thank you.

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