



MARBIDCO
growing rural ventures™

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Mary Shank Creek, Chair / Stephen R. McHenry, Executive Director

TESTIMONY STATEMENT

BILL: Senate Bill 433 (Economic Development – Woman– and Minority–Owned Shellfish Aquaculture Enterprise Fund)

COMMITTEE: Senate Finance

DATE: February 21, 2023

POSITION: Support with Amendments

The Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) fully supports the overall objective of Senate Bill 433, but with amendments to be submitted later this week to make the legislation more practical to implement. As introduced, Senate Bill 433 would create the “Woman- and Minority-Owned Shellfish Aquaculture Enterprise Fund” within MARBIDCO. MARBIDCO is the State’s quasi-governmental economic development finance instrumentality supporting the farming, forestry, and seafood industries. Since 2011, MARBIDCO has funded a total of 90 shellfish aquaculture projects (through one major subsidized loan program and another minor one).

MARBIDCO’s proposed amendments would convert the proposed new shellfish aquaculture loan fund into a new grant program instead, and pair it up with the existing “Maryland Shellfish Aquaculture Financing Fund” (MARBIDCO’s main shellfish aquaculture financing program). There is also a constitutionality concern raised in SB 433, as introduced, that the proposed amendments will help to rectify.

Finally, MARBIDCO is also recommending that the required appropriation in SB 433 be increased by \$250,000, in order to implement a necessary recommendation that for every \$1.00 that is appropriated to the proposed new **Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program**, that simultaneously another \$1.50 go into the **Maryland Shellfish Aquaculture Financing Fund**, since three-quarters of the proposed new funding for beginning oyster farmers is coming out to the MSAFF. More specifically, **MARBIDCO is recommending that \$1.25 million be appropriated in FY 2025**, with \$500,000 going into the new beginning oyster farmer grant program and another \$750,000 to replenish the MSAFF (to cover one-half of the cost of the three new loans we would need to make to each beginning oyster farmer participating in the new grant program).

The attachment provides a good deal of additional information concerning the proposed new beginning oyster farmer programming and how the amendments to SB 433 would conceptually work.

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**The Beginning Small, Minority and Women-owned Shellfish Aquaculture Enterprise Grant Program
(The Design for Senate Bill 433, As Amended)**

As introduced, Senate Bill 433 would create the “Woman- and Minority-Owned Shellfish Aquaculture Enterprise Fund” within MARBIDCO. MARBIDCO is the State’s quasi-governmental economic development finance instrumentality supporting the farming, forestry, and seafood industries. Since 2011, MARBIDCO has funded a total of 90 shellfish aquaculture projects (through one major program and another minor one). **MARBIDCO supports SB 433 with amendments to convert the proposed new loan fund into a grant program instead, and pair it up with the existing Maryland Shellfish Aquaculture Financing Fund** (MARBIDCO’s main shellfish aquaculture financing program), and in a manner that is legal for MARBIDCO to do so.

It is important to note that **the Attorney General’s Office has advised that SB 433, as introduced, would violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution**, and therefore is constitutionally insufficient and is not able to be administered. MARBIDCO’s Assistant Attorney General has further advised that: In the absence of a disparity study demonstrating the persistent lingering effects of historic discrimination against women- and minority-owned businesses in this industry that would justify a fund that is set aside for their benefit, MARBIDCO would not be able to administer the fund established in SB 433 in a manner that is race- or gender conscious. And the Croson Study done for the Medical Marijuana legislation is not applicable here, a separate disparity study would have to be conducted to address the specific inequities that this bill seeks to remedy.*

*(*NOTE: A “Croson Study”, named for the 1989 Supreme Court case City of Richmond v. Croson, is research report prepared by an expert third party consultant that analyzes the persistent lingering effects of historic discrimination against certain groups of people. These studies can be expensive to contract for and take a significant amount of time to complete. MDOT handles obtaining the disparity studies for the State of Maryland.)*

However, we believe that inspiration can be found in a somewhat parallel situation dating back to 2007 concerning the desire by minority organization advocates to establish a targeted small business financing support program that the General Assembly ultimately embraced with the passage of major gaming legislation that year that created the Small, Minority and Women-Owned Business Account – Video Lottery Terminal (VLT) program. This program, funded with a 1.5% set-aside of the State’s gaming revenues, has provided nearly \$100 million in debt financing support to small businesses located across the State through various revolving loan programs administered by 10 Fund Managers (under the supervision of the Maryland Department of Commerce).

While MARBIDCO believes that the creation of a new revolving loan program for shellfish aquaculture is not advisable (since it would duplicate an existing successful loan program), a new legally constructed grant program creating what we are calling the **“Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program”** could be desirable in our view, since it can effectively be offered in tandem with MARBIDCO’s existing **Maryland Shellfish Aquaculture Financing Fund** program. We believe that the name of such a new grant program could confer a marketing advantage to MARBIDCO (and other supporting agencies and organizations) in helping to generate interest in oyster farming among women and minorities. MARBIDCO would also plan to market this new program to the entities named in the bill, and most especially the two HBCU’s in Maryland that either work with farmers today (University of Maryland Eastern Shore) or have had a shellfish aquaculture educational program in the recent past (Morgan State University at its PEARL facility in Calvert County).

What Would the New Shellfish Aquaculture Grant Program Accomplish Beyond a Marketing Benefit?

Getting started in the oyster farming industry requires having the availability of the following (especially pertaining to “bottom-culture”, since this production method offers the best opportunity for a beginning oyster farmer to become profitable over time):

1. A shellfish aquaculture lease issued by DNR (for production operations located in tidal waters, either on submerged land “on the bottom” of a bay or tributary, or in the water column of a bay or tributary).
2. A workboat equipped with a dredge (including the related hydraulics, winder, foot pedal controls, cordage, and other fittings).
3. Upwards of a minimum of \$50,000 in cash-in-hand (if one already owns a properly equipped workboat), or about \$100,000 (if one does not own a workboat).
4. And finally, to begin a 15-acre shellfish aquaculture operation, the ability to accumulate an additional \$300,000 or so within 2 or 3 years, primarily to be used as working capital. The main reason that so much money is required to start an oyster farm today is because of the very high cost of oyster seed (which is oyster larvae which has attached themselves to a substrate called “spat-on-shell”, or simply just “spat”). The cost of oyster seed today is three times greater than just a few years ago, largely because of a scarcity of oyster shell (which is used as a substrate).

Having access to sufficient financial resources to acquire equipment and use as working capital is not only a challenge facing many women and minorities, but also many younger men too. It is believed that there are a sizable number of people in Maryland who are interested in starting an oyster farm, but simply do not have money available to buy a workboat or make a sizable financial contribution toward the costs of oyster seed and other start-up farm business expenses.

As such, what MARBIDCO is proposing with the amendments to SB 433, is to establish a new grant program that will assist people who currently have relatively modest financial means, in order to effectively empower them to try to seek a DNR shellfish aquaculture lease (which often takes a year or two to get), AND to be help enable them to be approved to acquire a workboat and three well-subsidized loans from MARBIDCO’s existing **Maryland Shellfish Aquaculture Financing Fund (MSAFF)**.

In short, the proposed **Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program** would provide eligible beginning oyster farmers with a much-needed bridge to MARBIDCO’s main shellfish aquaculture financing program, which would be especially tailored to provide subsidized loans of up to \$300,000 that would feature a specially reduced 50% forgiveness of the principal balance for good repayment performance (for an individual loan of no more than \$100,000 made annually). Moreover, the interest rate that would be charged to the approved grant program participants would be reduced from the normal 3.00%, to just 0.25%, during the standard up to 3-year interest-only aspect of the MSAFF program.

MARBIDCO has administered the **Maryland Shellfish Aquaculture Financing Fund** program since 2011 and funded 86 shellfish aquaculture projects through it, with about half of these being bottom culture projects and the other half water column projects. (For recent example, 15 MSAFF projects have been approved during the last four years for a total of almost \$1.2 million, with two-thirds of these approvals occurring prior to the Covid-19 pandemic.) About 80% of all funded projects have involved oyster farm

operators who are also commercial watermen (i.e., “TFL” or Tidal Fisheries License holders) and 20% have been entrepreneurs who are new to working on the waters of the Chesapeake and Coastal Bays.

A recent review of the financial statements provided by the operators of the shellfish aquaculture enterprises receiving MSAFF loans revealed that at the time of loan application they had, on average, cash-on-hand of \$81,367 and a net worth of \$1,563,493. Bottom culture applicants generally had a significantly lower net worth than water column applicants did (which is a more capital-intensive production method), with an average net worth of \$1,183,170.

As explained earlier, MARBIDCO intends that the **Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program** focus on providing funding to applicants that are more financially disadvantaged than the applicants we have had in the past using the MSAFF program, meaning specially here that during the first year that the program is offered the applicants (either an individual or married couple) could NOT have a net worth greater than \$300,000. (Senate Bill 433, as introduced, contained a net worth limitation provision of \$1.7 million, which in our view is much too high.) MARBIDCO would plan to reassess the net worth limitation requirement after the first year to determine its effectiveness in helping to generate a diverse pool of eligible applicants.

A Description of the Current MARBIDCO Shellfish Aquaculture Programs

Below are summaries of the two shellfish aquaculture loan programs that MARBIDCO currently offers (which are really combination loan and grant programs in their net effect):

The Maryland Shellfish Aquaculture Financing Fund helps both watermen (who wish to transition from wild oyster harvesting) and other entrepreneurs to start or expand underwater shellfish farming enterprises using leased growing areas in the Chesapeake or Coastal Bays. These operations can be located on the bottom of a tidal body of water, or in the water column (using cages or floats), or both at the same time. Bottom culture and water column leases issued by DNR are required. The loan proceeds can be used to purchase shell, seed, spat, or equipment. The borrowers make interest-only payments (at 3.00% initially) for the first three years while the oysters are growing to market size. After that, if borrowers have made their quarterly payments, 25% of the principal balance is forgiven (40% for first-time borrowers) and borrowers fully repay the remaining amortizing balance over two to four additional years (at 5.25% interest). The maximum single loan amount is \$100,000 (and subsidized loan amounts cumulatively max out at \$300,000). Since FY 2011, MARBIDCO has approved 86 shellfish aquaculture financings totaling \$5,311,627. MARBIDCO has approximately **\$800,000** available to lend today in this program’s revolving fund.

The Maryland Remote Setting Shellfish Aquaculture Loan Fund provides affordable financing (5.25% interest rate) to persons who want to start or expand shellfish remote setting (nursery) aquaculture operations (that are located on land or a pier). The nursery grower purchases larvae from a hatchery and places it in a tank containing cultch (substrate such as clean oyster shells) for the larvae to set on. Applicants must have a DNR shellfish aquaculture nursery lease from DNR. Eligible equipment includes items related to commercial remote setting aquaculture projects such as seed (larvae), shell (substrate), tanks, pumps, blowers, and tank heaters. The final year of four-term amortizing loan payments is forgiven for good loan repayment performance. The maximum loan amount is \$30,000. Since FY 2012, MARBIDCO has approved 4 shellfish aquaculture remote setting financings totaling \$119,826. MARBIDCO has approximately **\$55,000** available to lend today from the program’s revolving fund.

How Would the New Shellfish Aquaculture Grant Program Work?

MARBIDCO is recommending that for every \$1.00 that is appropriated to the new **Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program**, that simultaneously another \$1.50 go into the **Maryland Shellfish Aquaculture Financing Fund**.

As such, MARBIDCO is also recommending that \$1.25 million be appropriated in FY 2025, on perhaps a pilot basis, with \$500,000 going into the new beginning oyster farmer grant program and another \$750,000 to replenish the MSAFF (to cover one-half of the cost of the three new loans we would make to each beginning oyster farmer). The assumption during the first year is that five (5) approved applicants would be approved for grants, and who would also receive three, \$100,000 loans, spread over a three-year period. (So altogether, \$400,000 would be awarded to support a beginning farmer from the two programs, with \$150,000 eventually paid back into the MSAFF over an 8-year period.)

More specially, under the proposed **Beginning Small, Minority and Women-Owned Shellfish Aquaculture Enterprise Grant Program**, if funded, MARBIDCO would award up to \$100,000 for the benefit of an approved applicant with the funds being deployed as follows:

- Up to \$46,000 to purchase and properly outfit a workboat.
- \$30,000 in supplemental borrower grant support split over the first two years (at \$15,000 each year), which MARBIDCO would disburse with the MSAFF loan proceeds.
- \$24,000 for substantial loan interest buydown subsidies for all the MSAFF interest-only periods, by taking the shellfish aquaculture loan interest rate from 3.00% to just 0.25%, thus reducing the required interest payment from \$750.00 to \$62.50 per quarter. (NOTE: MARBIDCO must charge a very modest rate of interest in order to maintain an ongoing relationship with the borrower.)

Funding for the acquisition of a workboat (and the oyster seed purchases) would only be disbursed with the following conditions having been met:

1. The applicant has submitted a MSAFF loan request and it has been approved by MARBIDCO (which also requires the submission of includes a viable production and business plan); and
2. The applicant has submitted a shellfish aquaculture lease application to the Maryland Department of Natural Resources, and it has been approved.
3. Importantly, no grant funds can be disbursed until the above two items are approved.

Illustration of How the New Grant Program Would Financially Assist a Beginning Oyster Farmer

An illustration of the financial benefit to a beginning oyster farmer of participating in this new grant program has been modeled in a financial analysis using 1,000 simulations prepared by Dr. Matt Parker, Aquaculture Business Specialist, University of Maryland Extension.

Please see the results of the new oyster enterprise financial modeling below:

Average Annual Cash Flow for 1,000 Simulations of a New Oyster Farming Operation

Year	1	2	3	4	5	6	7	8	9	10
Beginning Cash Balance	\$ -	\$ 1,604	\$ 2,707	\$ 45,654	\$ 84,103	\$ 92,753	\$ 76,658	\$ 59,220	\$ 72,651	\$ 114,180
Incoming MARBIDCO Loan Funds	\$ 115,000	\$ 115,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Income From Shellfish Sales	\$ -	\$ -	\$ 57,343	\$ 153,469	\$ 151,812	\$ 153,925	\$ 152,075	\$ 154,295	\$ 155,055	\$ 154,735
Total Cash Inflows	\$ 115,000	\$ 115,000	\$ 157,343	\$ 153,469	\$ 151,812	\$ 153,925	\$ 152,075	\$ 154,295	\$ 155,055	\$ 154,735
Operation Expenses	\$ 113,396	\$ 113,646	\$ 113,896	\$ 114,270	\$ 116,163	\$ 116,771	\$ 116,515	\$ 114,365	\$ 113,525	\$ 113,522
MARBIDCO Interest Payments	\$ -	\$ 250	\$ 500	\$ 750	\$ 2,651	\$ 3,248	\$ 2,998	\$ 847	\$ -	\$ -
MARBIDCO Principle Payment	\$ -	\$ -	\$ -	\$ -	\$ 24,348	\$ 50,000	\$ 50,000	\$ 25,652	\$ -	\$ -
Total Cash Outflows	\$ 113,396	\$ 113,896	\$ 114,396	\$ 115,020	\$ 143,162	\$ 170,020	\$ 169,513	\$ 140,864	\$ 113,525	\$ 113,522
Yearly Net Cash Flow	\$ 1,604	\$ 1,104	\$ 42,947	\$ 38,449	\$ 8,650	\$ (16,094)	\$ (17,438)	\$ 13,431	\$ 41,529	\$ 41,213
Ending Cash Balance	\$ 1,604	\$ 2,707	\$ 45,654	\$ 84,103	\$ 92,753	\$ 76,658	\$ 59,220	\$ 72,651	\$ 114,180	\$ 155,393

Dr. Parker’s model suggests that, during the first seven years of the new oyster farming, when there is a large variability with annual positive cash flow, that sufficient revenues can be accrued during this period to cover all the operating and debt service expenses, compensate the oyster farmer for his/her investment of time and energy, and have some cushion too. And, by Year 8, given good management and the good favor by Mother Nature, the beginning farmer could realize an annual income of \$70,000 or more if all goes well.

Dr. Parker also notes that the bottom-culture of oysters in Maryland can be completed on a seasonal basis. Based on a review of monthly harvest data provided by Maryland Department of Natural Resources, nearly all harvest from bottom-culture oyster operations in Maryland occur when the wild oyster harvest season is closed (April through September). This is done so the oyster aquaculture operations receive a higher price per bushel since they are not competing with wild commercial oyster harvesters.

As such, a beginning oyster farming should have sufficient time available to work at an off-season job to earn extra income.

Conclusion

MARBIDCO heartily commends Senator Klausmeier for her long-time leadership and steadfast support for the development of healthy shellfish aquaculture industry in Maryland. MARBIDCO believes that the amendments conceptually explained here today for SB 433, including the appropriation of \$1.25 million to pilot this new beginning oyster farmer effort, holds real promise for helping to get a diverse new group of oyster farmers into operation, which would also contribute to improving the water quality of the Chesapeake and Coastal Bays. MARBIDCO will endeavor to work with the bill sponsor and the Committee to draft amendments for SB 433 to accomplish the aims set forth in this testimony.