

SENATE BILL 788

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CF HB 829

By: **Senators Hester, Feldman, West, Peters, Kramer, and Kagan**

Introduced and read first time: February 9, 2021

Assigned to: Finance and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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

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

17 BY adding to

18 Article – Economic Development

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

21 Annotated Code of Maryland

22 (2018 Replacement Volume and 2020 Supplement)

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

25 **Article – Economic Development**

26 **SUBTITLE 17. CAPITAL ACCESS PROGRAM.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-1701.**

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

4 (B) "BORROWER" MEANS A BUSINESS THAT:

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

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

8 (3) HAS FEWER THAN 50 EMPLOYEES.

9 (C) "LENDER" MEANS:

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

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

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

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

18 **5-1702.**

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

21 **5-1703.**

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

26 **5-1704.**

1 **A LOAN QUALIFIES UNDER THE PROGRAM IF THE LOAN:**

2 **(1) SATISFIES THE LENDING CRITERIA OF THE FINANCIAL**
3 **INSTITUTION;**

4 **(2) HAS A TERM NOT EXCEEDING 10 YEARS;**

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

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

8 **5-1705.**

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

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

13 **5-1706.**

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

16 **(B) AT THE TIME OF ENROLLMENT:**

17 **(1) THE BORROWER SHALL MAKE A PAYMENT TO THE ACCOUNT OF AT**
18 **LEAST 2% AND UP TO 7% OF THE ENROLLED LOAN AMOUNT;**

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

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

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

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

1 **5-1707.**

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

4 **5-1708.**

5 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
7 Assembly that \$50,000,000 of financial assistance provided by the federal government to
8 the State in response to the coronavirus pandemic on or after January 1, 2021, be
9 distributed to capitalize the State guarantee under the Capital Access Program established
10 under Section 1 of this Act, if the purposes of the Program are a permissible use of the
11 financial assistance.

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