

# HOUSE BILL 1451

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By: **Delegate McIntosh**

Introduced and read first time: February 23, 2022

Assigned to: Rules and Executive Nominations

Re-referred to: Appropriations, February 27, 2022

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Committee Report: Favorable

House action: Adopted

Read second time: March 10, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Housing and Community Development – Business Projects and the Business**  
3 **Development Program – Financial Assistance**

4 FOR the purpose of authorizing the Community Development Administration to provide  
5 certain forms of financial assistance for business projects; authorizing the  
6 Department of Housing and Community Development to provide certain forms of  
7 financial assistance under the Business Development Program; authorizing the  
8 Department to sell or assign a certain equity interest without approval or execution  
9 by the Board of Public Works; and generally relating to financial assistance provided  
10 by the Community Development Administration and the Department of Housing and  
11 Community Development.

12 BY repealing and reenacting, with amendments,  
13 Article – Housing and Community Development  
14 Section 4–223, 6–305, 6–308, and 6–310  
15 Annotated Code of Maryland  
16 (2019 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Housing and Community Development  
19 Section 4–223  
20 Annotated Code of Maryland  
21 (2019 Replacement Volume and 2021 Supplement)  
22 (As enacted by Section 1 of this Act)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Housing and Community Development**

4 4–223.

5 (a) A project qualifies as a business project if the project is:

6 (1) located in:

7 (i) an area designated as a priority funding area under § 5–7B–02  
8 of the State Finance and Procurement Article; or

9 (ii) a qualified opportunity zone designated under § 1400Z–1 of the  
10 Internal Revenue Code in Allegany County, Garrett County, Somerset County, or Wicomico  
11 County; and

12 (2) (i) acquired, owned, developed, constructed, reconstructed,  
13 rehabilitated, or improved by a person or an entity for the purposes of carrying on a  
14 business whether or not for profit; or

15 (ii) eligible for funding from the Neighborhood Business  
16 Development Fund under § 6–310 of this article.

17 (b) Repayment of principal and interest for a business project may be secured by:

18 (1) real property;

19 (2) personal property;

20 (3) bank accounts;

21 (4) certificates of deposit, stocks, and bonds;

22 (5) credit enhancement, assurance, or guaranty; or

23 (6) any other collateral acceptable to the Administration.

24 **(C) FINANCIAL ASSISTANCE FOR A BUSINESS PROJECT MAY BE PROVIDED**  
25 **AS:**

26 **(1) A LOAN;**

1           **(2) A REDUCTION IN THE PRINCIPAL OBLIGATION OF OR INTEREST**  
2 **RATE ON A LOAN OR PORTION OF A LOAN;**

3           **(3) A PREPAYMENT OF INTEREST ON A SUBORDINATE OR SUPERIOR**  
4 **LOAN OR PORTION OF A LOAN;**

5           **(4) AN ASSURANCE;**

6           **(5) A GUARANTEE OR OTHER FORM OF CREDIT ENHANCEMENT; OR**

7           **(6) A PROMISSORY NOTE THAT MAY BE CONVERTED TO AN EQUITY**  
8 **OWNERSHIP INTEREST AND LIQUIDATED AT THE EARLIEST OPPORTUNITY TO**  
9 **REALIZE THE HIGHEST MARKET VALUE FOR THE ADMINISTRATION.**

10 6–305.

11           (a) (1) A small business, nonprofit organization, or microenterprise may apply  
12 for financial assistance under the Business Development Program.

13           (2) The Department shall review each application.

14           (b) An applicant may qualify for financial assistance for a project in a priority  
15 funding area or an eligible opportunity zone if the application demonstrates that:

16           (1) the financial assistance from the Fund is the minimum amount  
17 necessary to make the project financially feasible;

18           (2) the project is ready to proceed when it receives financial assistance from  
19 the Business Development Program; and

20           (3) any food desert project includes a plan to seek out sources of  
21 Maryland–grown produce and Maryland produced foods.

22           (c) (1) The Department shall provide written notice to the political subdivision  
23 in which the proposed project is located.

24           (2) Except as provided in paragraph (3) of this subsection, the Department  
25 may not approve an application unless the political subdivision in which the proposed  
26 project is located approves the application by:

27           (i) resolution; or

28           (ii) letter, delivered to the Department by the political subdivision's  
29 authorized designee, expressing support of the plan or project.

1           (3) If the Department does not receive notice of approval or denial of an  
2 application from the affected jurisdictions within 45 days after notice of the proposed  
3 project is given in accordance with paragraph (1) of this subsection, the Department may  
4 approve the application.

5           (d) Financial assistance under the Business Development Program may be  
6 provided to a small business, nonprofit organization, or microenterprise as:

7           (1) a grant;

8           (2) a loan;

9           (3) a reduction in the principal obligation of or interest rate on a loan or  
10 portion of a loan;

11           (4) a prepayment of interest on a subordinate or superior loan or portion of  
12 a loan;

13           (5) an assurance;

14           (6) a guarantee; [or]

15           (7) any other form of credit enhancement; **OR**

16           **(8) A PROMISSORY NOTE THAT MAY BE CONVERTED TO AN EQUITY**  
17 **OWNERSHIP INTEREST AND LIQUIDATED AT THE EARLIEST OPPORTUNITY TO**  
18 **REALIZE THE HIGHEST MARKET VALUE FOR THE DEPARTMENT.**

19           (e) (1) The Department shall reserve at least the lesser of \$5,000,000 or the  
20 annual capital appropriation for the Fund to make financial assistance available to projects  
21 located in sustainable communities.

22           (2) The Department may meet the funding obligations for sustainable  
23 communities and food deserts by using any financial assistance available to the  
24 Department that is authorized to be used for these projects.

25 6–308.

26           (a) The Department shall:

27           (1) administer the Business Development Program;

28           (2) adopt regulations to carry out the Business Development Program,  
29 including a process to designate an area as a food desert under subsection (c) of this section;  
30 and

1 (3) make a reasonable, good faith effort to make 25% of the Business  
2 Development Program loans and grants to microenterprises.

3 (b) The Department may:

4 (1) sell, assign, or otherwise dispose of a Program loan or revenue from a  
5 loan on terms and conditions acceptable to the Department, including selling loans at a  
6 discount, if the maximum sale proceeds in any fiscal year do not exceed limits that the  
7 Department sets by regulation;

8 (2) apply the proceeds received from a sale, assignment, or other  
9 disposition under item (1) of this subsection to the Fund; [and]

10 (3) pledge a Program loan as security for any:

11 (i) business project loan, bond, or security that is issued, made, or  
12 purchased by the Community Development Administration under Title 4 of this article; or

13 (ii) insurance, guaranty, or credit enhancement on a Program loan  
14 or business project under § 4-223 of this article; AND

15 **(4) WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC**  
16 **WORKS, SELL OR ASSIGN ANY EQUITY INTEREST ACQUIRED UNDER § 6-305(D) OF**  
17 **THIS SUBTITLE.**

18 (c) The Secretary, on the recommendation of the Interagency Food Desert  
19 Advisory Committee established under § 6-308.2 of this subtitle, may designate an area as  
20 a food desert after considering the following factors:

21 (1) availability of fresh fruit, vegetables, and other healthy foods in the  
22 area;

23 (2) income levels of local residents;

24 (3) transportation needs of local residents and the availability of public  
25 transportation;

26 (4) comments from local governments; and

27 (5) any other factors that the Department considers relevant.

28 6-310.

29 (a) There is a Neighborhood Business Development Fund.

30 (b) The Department shall use the Fund to:

1 (1) operate and pay expenses of the Program; and

2 (2) provide financial assistance to small businesses, nonprofit  
3 organizations, and microenterprises.

4 (c) (1) The Department shall administer the Fund.

5 (2) The State Treasurer shall hold and the Comptroller shall account for  
6 the Fund.

7 (d) The Fund is a continuing, nonlapsing special fund that is not subject to §  
8 7–302 of the State Finance and Procurement Article.

9 (e) The Fund consists of:

10 (1) money appropriated in the State budget for the Program;

11 (2) any repayment or prepayment of financial assistance under this  
12 subtitle or under the State Action Loans for Targeted Areas Program under former Article  
13 83B, Title 4, Subtitle 6, of the Code;

14 (3) money transferred to the Fund from any other fund as provided in this  
15 article;

16 (4) money received from the sale, assignment, or other disposition of  
17 Program loans **AND EQUITY INTERESTS**;

18 (5) other money received by the Program under this subtitle or from the  
19 Community Development Administration under Subtitle 2 of this title; and

20 (6) investment earnings of the Fund.

21 (f) The Fund shall be invested in the same way as other State money.

22 (g) With the approval of the Legislative Policy Committee and, subject to § 7–209  
23 of the State Finance and Procurement Article, after the first 8 months of a fiscal year, the  
24 Department may transfer unencumbered money in the Fund to:

25 (1) any other fund established under this title;

26 (2) the Community Development Administration to provide financial  
27 assistance to business projects; and

28 (3) the Maryland Housing Fund under Title 3 of this article to provide  
29 insurance, credit enhancement, or a guaranty on:

30 (i) a Program loan; or

1 (ii) a business project loan, bond, or security that is issued, made, or  
2 purchased by the Community Development Administration under Title 4 of this article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
4 as follows:

5 **Article – Housing and Community Development**

6 4–223.

7 (a) A project qualifies as a business project if the project is:

8 (1) located in:

9 (i) an area designated as a priority funding area under § 5–7B–02  
10 of the State Finance and Procurement Article; or

11 (ii) a qualified opportunity zone designated under § 1400Z–1 of the  
12 Internal Revenue Code in Allegany County, Garrett County, Somerset County, or Wicomico  
13 County; and

14 (2) (i) acquired, owned, developed, constructed, reconstructed,  
15 rehabilitated, or improved by a person or an entity for the purposes of carrying on a  
16 business whether or not for profit; or

17 (ii) eligible for funding from the Neighborhood Business  
18 Development Fund under § 6–310 of this article.

19 (b) Repayment of principal and interest for a business project may be secured by:

20 (1) real property;

21 (2) personal property;

22 (3) bank accounts;

23 (4) certificates of deposit, stocks, and bonds;

24 (5) credit enhancement, assurance, or guaranty; or

25 (6) any other collateral acceptable to the Administration.

26 (c) Financial assistance for a business project may be provided as:

27 (1) a loan;

1 (2) a reduction in the principal obligation of or interest rate on a loan or  
2 portion of a loan;

3 (3) a prepayment of interest on a subordinate or superior loan or portion of  
4 a loan;

5 (4) an assurance; **OR**

6 (5) a guarantee or other form of credit enhancement[; or

7 (6) a promissory note that may be converted to an equity ownership  
8 interest and liquidated at the earliest opportunity to realize the highest market value for  
9 the administration].

10 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
11 effect July 1, 2026.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section  
13 3 of this Act, this Act shall take effect July 1, 2022.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.