

## Chapter 380

**(House Bill 1451)**

AN ACT concerning

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

FOR the purpose of authorizing the Community Development Administration to provide certain forms of financial assistance for business projects; *altering the requirements for a project to qualify as a certain business project*; authorizing the Department of Housing and Community Development to provide certain forms of financial assistance under the Business Development Program; authorizing the Department to sell or assign a certain equity interest without approval or execution by the Board of Public Works; and generally relating to financial assistance provided by the Community Development Administration and the Department of Housing and Community Development.

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

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

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

**Article – Housing and Community Development**

4–223.

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

(1) located in:

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

(ii) a qualified opportunity zone designated under § 1400Z–1 of the Internal Revenue Code in Allegany County, *BALTIMORE CITY, BALTIMORE COUNTY, CHARLES COUNTY*, Garrett County, *HOWARD COUNTY, MONTGOMERY COUNTY, PRINCE GEORGE’S COUNTY*, Somerset County, or Wicomico County; and

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

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

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

- (1) real property;
- (2) personal property;
- (3) bank accounts;
- (4) certificates of deposit, stocks, and bonds;
- (5) credit enhancement, assurance, or guaranty; or
- (6) any other collateral acceptable to the Administration.

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

- (1) A LOAN;**
- (2) A REDUCTION IN THE PRINCIPAL OBLIGATION OF OR INTEREST RATE ON A LOAN OR PORTION OF A LOAN;**
- (3) A PREPAYMENT OF INTEREST ON A SUBORDINATE OR SUPERIOR LOAN OR PORTION OF A LOAN;**
- (4) AN ASSURANCE;**
- (5) A GUARANTEE OR OTHER FORM OF CREDIT ENHANCEMENT; OR**
- (6) A PROMISSORY NOTE THAT MAY BE CONVERTED TO AN EQUITY OWNERSHIP INTEREST AND LIQUIDATED AT THE EARLIEST OPPORTUNITY TO REALIZE THE HIGHEST MARKET VALUE FOR THE ADMINISTRATION.**

6-305.

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

(2) The Department shall review each application.

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

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

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

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

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

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

(i) resolution; or

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

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

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

(1) a grant;

(2) a loan;

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

- a loan;
- (4) a prepayment of interest on a subordinate or superior loan or portion of a loan;
  - (5) an assurance;
  - (6) a guarantee; [or]
  - (7) any other form of credit enhancement; **OR**

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

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

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

6–308.

(a) The Department shall:

- (1) administer the Business Development Program;
- (2) adopt regulations to carry out the Business Development Program, including a process to designate an area as a food desert under subsection (c) of this section; and
- (3) make a reasonable, good faith effort to make 25% of the Business Development Program loans and grants to microenterprises.

(b) The Department may:

- (1) sell, assign, or otherwise dispose of a Program loan or revenue from a loan on terms and conditions acceptable to the Department, including selling loans at a discount, if the maximum sale proceeds in any fiscal year do not exceed limits that the Department sets by regulation;
- (2) apply the proceeds received from a sale, assignment, or other disposition under item (1) of this subsection to the Fund; [and]
- (3) pledge a Program loan as security for any:

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

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

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

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

- (1) availability of fresh fruit, vegetables, and other healthy foods in the area;
- (2) income levels of local residents;
- (3) transportation needs of local residents and the availability of public transportation;
- (4) comments from local governments; and
- (5) any other factors that the Department considers relevant.

6–310.

(a) There is a Neighborhood Business Development Fund.

(b) The Department shall use the Fund to:

- (1) operate and pay expenses of the Program; and
- (2) provide financial assistance to small businesses, nonprofit organizations, and microenterprises.

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

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

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

(e) The Fund consists of:

- (1) money appropriated in the State budget for the Program;
  - (2) any repayment or prepayment of financial assistance under this subtitle or under the State Action Loans for Targeted Areas Program under former Article 83B, Title 4, Subtitle 6, of the Code;
  - (3) money transferred to the Fund from any other fund as provided in this article;
  - (4) money received from the sale, assignment, or other disposition of Program loans **AND EQUITY INTERESTS**;
  - (5) other money received by the Program under this subtitle or from the Community Development Administration under Subtitle 2 of this title; and
  - (6) investment earnings of the Fund.
- (f) The Fund shall be invested in the same way as other State money.
- (g) With the approval of the Legislative Policy Committee and, subject to § 7–209 of the State Finance and Procurement Article, after the first 8 months of a fiscal year, the Department may transfer unencumbered money in the Fund to:
- (1) any other fund established under this title;
  - (2) the Community Development Administration to provide financial assistance to business projects; and
  - (3) the Maryland Housing Fund under Title 3 of this article to provide insurance, credit enhancement, or a guaranty on:
    - (i) a Program loan; or
    - (ii) a business project loan, bond, or security that is issued, made, or purchased by the Community Development Administration under Title 4 of this article.

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

**Article – Housing and Community Development**

4–223.

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

(1) located in:

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

(ii) a qualified opportunity zone designated under § 1400Z–1 of the Internal Revenue Code in Allegany County, Baltimore City, Baltimore County, Charles County, Garrett County, Howard County, Montgomery County, Prince George’s County, Somerset County, or Wicomico County; and

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

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

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

(1) real property;

(2) personal property;

(3) bank accounts;

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

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

(6) any other collateral acceptable to the Administration.

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

(1) a loan;

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

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

(4) an assurance; **OR**

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

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

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

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

**Approved by the Governor, May 16, 2022.**