

Chapter 432

(House Bill 548)

AN ACT concerning

**Financial Regulation – Maryland Community Investment Venture Fund –
Establishment
(Access to Banking Act)**

FOR the purpose of ~~authorizing the establishment of a~~ establishing the Maryland Community Investment Venture Fund by the Commissioner of Financial Regulation as an instrumentality of the State for certain purposes; providing for certain assessment offset credits for certain banking institutions and credit unions ~~that establish de novo branches or maintain branches~~ in certain areas; authorizing the use of the Banking Institution and Credit Union Regulation Fund for certain purposes; and generally relating to ~~financial regulation~~ the Maryland Community Investment Venture Fund and the assessment of banking institutions and credit unions.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–118, 5–203, and 6–712
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

BY adding to
Article – Financial Institutions
Section 2–118.1
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 5–101(a) and (b)
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

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

Article – Financial Institutions

2–118.

(a) In this section, “Fund” means the Banking Institution and Credit Union Regulation Fund established under this section.

(b) There is a Banking Institution and Credit Union Regulation Fund that consists of:

(1) All revenue received for the chartering and regulation of persons who engage in the business of a banking institution or credit union under this article; and

(2) Any other fee, assessment, or revenue received by the Commissioner from banking institutions and credit unions under this article.

(c) Notwithstanding subsection (b) of this section, the Commissioner shall pay all fines and penalties collected by the Commissioner from banking institutions and credit unions under this article into the General Fund of the State.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of banking institutions and credit unions under this article, including:

(1) Expenditures authorized under this article; [and]

(2) INVESTMENTS AUTHORIZED UNDER § 2-118.1 OF THIS SUBTITLE;

AND

[(2)] (3) Any other expense authorized in the State budget.

(e) (1) All the costs and expenses of the Commissioner relating to the regulation of banking institutions and credit unions under this article shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) If, in any given fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate banking institutions and credit unions under this article, the excess amount shall be carried forward within the Fund.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(g) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

- (i) The General Fund of the State; or
- (ii) A special fund of the State.

2-118.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “FUND” MEANS THE MARYLAND COMMUNITY INVESTMENT VENTURE FUND.

~~(2)~~ **(3) “LOW- TO MODERATE-INCOME TRACT” HAS THE MEANING STATED IN § 5-203 OF THIS ARTICLE.**

~~(3) “PRIVATE VENTURE FUND” MEANS THE SEPARATE ENTITY OR ENTITIES CHARTERED IN ACCORDANCE WITH SUBSECTIONS (B) AND (K) OF THIS SECTION.~~

(B) (1) ~~THE COMMISSIONER MAY INVEST IN~~ THERE IS A MARYLAND COMMUNITY INVESTMENT VENTURE FUND.

(2) ~~THE MARYLAND COMMUNITY INVESTMENT VENTURE FUND IS A PRIVATE VENTURE FUND THAT IS A SEPARATELY CHARTERED EQUITY FUND USING BOTH:~~

- (I) IS AN INSTRUMENTALITY OF THE STATE; AND**
- (II) USES PUBLIC AND PRIVATE INVESTMENT FUNDS.**

~~(3)~~ **(C) (1) THE SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE PURPOSE OF THE PRIVATE VENTURE FUND FUND IS TO DEVELOP OPPORTUNITIES FOR BANKING INSTITUTIONS AND CREDIT UNIONS TO BETTER SERVE THE NEEDS OF LOW- TO MODERATE-INCOME TRACTS BY:**

(I) INVESTING IN THE DEVELOPMENT OF FINANCIAL PRODUCT OR FINANCIAL PRODUCT UNDERWRITING INNOVATIONS THAT ~~WILL~~ ENHANCE ACCESS TO CAPITAL, FUNDING, AND OTHER FINANCIAL SERVICES FOR BUSINESSES IN LOW- TO MODERATE-INCOME TRACTS IN ~~MARYLAND~~ THE STATE;

(II) DEPLOYING, TESTING, AND EVALUATING ~~THESE~~ THE INNOVATIONS FOR PROVIDING CAPITAL AND FUNDING TO BUSINESSES IN LOW- TO MODERATE-INCOME TRACTS IN ~~MARYLAND~~ THE STATE; AND

(III) PROMOTING AND MAKING ~~THESE~~ THE INNOVATIONS AVAILABLE TO ~~A VARIETY OF~~ BANKING INSTITUTIONS AND CREDIT UNIONS FOR USE IN ENHANCING ACCESS TO CAPITAL, FUNDING, AND OTHER FINANCIAL SERVICES FOR BUSINESSES IN LOW- TO MODERATE-INCOME TRACTS IN ~~MARYLAND~~ THE STATE.

(2) WITH THE APPROVAL OF THE COMMISSIONER, THE PURPOSE OF THE FUND MAY BE ALTERED IN A MANNER THAT IS CONSISTENT WITH THE INTENT AND REQUIREMENTS OF THIS SECTION.

(D) (1) (I) THE COMMISSIONER SHALL ESTABLISH A GOVERNANCE STRUCTURE FOR THE FUND.

(II) THE COMMISSIONER MAY COLLABORATE WITH INVESTORS IN THE FUND WHEN ESTABLISHING THE GOVERNANCE STRUCTURE.

(2) THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE, SHALL SERVE ON THE GOVERNING BODY OF THE FUND.

~~(E)~~ (E) (1) THE COMMISSIONER MAY ~~EXPEND~~ USE UP TO \$250,000 FROM THE BANKING INSTITUTION AND CREDIT UNION REGULATION FUND ESTABLISHED UNDER § 2-118 OF THIS SUBTITLE TO COVER THE EXPENSES ASSOCIATED WITH ~~CHARTERING AND ORGANIZING THE PRIVATE VENTURE FUND~~ ESTABLISHING THE FUND, INCLUDING ACCOUNTING, ADVISORY, THIRD-PARTY SERVICE PROVIDER, MARKETING, AND OTHER NECESSARY EXPENSES.

~~(D)~~ (2) TO ENCOURAGE PRIVATE INVESTMENT, THE COMMISSIONER MAY PROVIDE ~~THE AN~~ INITIAL EQUITY CAPITAL INVESTMENT IN THE ~~PRIVATE VENTURE FUND~~ FUND IN AN AMOUNT UP TO \$2,500,000 FROM THE BANKING INSTITUTION AND CREDIT UNION REGULATION FUND.

~~(E)~~ (F) (1) THROUGH JUNE 30, 2028, THE COMMISSIONER MAY MATCH ~~ANY AN~~ INVESTMENT MADE IN THE ~~PRIVATE VENTURE FUND~~ FUND BY A BANKING INSTITUTION OR CREDIT UNION UP TO THE AMOUNT OF THE ASSESSMENT CREDIT

EARNED BY ~~THAT THE~~ BANKING INSTITUTION OR CREDIT UNION UNDER IN ACCORDANCE WITH ~~§ 5-203(C)~~ § 5-203(D) OR § 6-712(C)(4) OF THIS ARTICLE.

~~(F)~~ (2) THE COMMISSIONER MAY NOT MAKE ANY FURTHER INVESTMENTS AN INVESTMENT IN THE PRIVATE VENTURE FUND FUND AFTER JUNE 30, 2028.

~~(G) ANY AND ALL~~ ALL INVESTMENT RETURNS OR RETURN OF CAPITAL FROM THE PRIVATE VENTURE FUND FUND WITH RESPECT TO ANY AN INVESTMENT AUTHORIZED BY THE COMMISSIONER SHALL BE THE PROPERTY OF CREDITED TO THE BANKING INSTITUTION AND CREDIT UNION REGULATION FUND.

~~(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER MAY NEGOTIATE APPROPRIATE GOVERNANCE STRUCTURES FOR THE PRIVATE VENTURE FUND WITH OTHER INVESTORS.~~

~~(2) THE COMMISSIONER OR A REPRESENTATIVE OF THE COMMISSIONER SHALL ALWAYS SERVE ON THE BODY GOVERNING THE PRIVATE VENTURE FUND.~~

~~(3) (I) THE PURPOSE OF THE PRIVATE VENTURE FUND MAY NOT BE ALTERED OR AMENDED WITHOUT THE CONSENT OF THE COMMISSIONER.~~

~~(H) ANY ALTERED OR AMENDED PURPOSE MUST REMAIN CONSISTENT WITH THIS SECTION.~~

~~(H)~~ (H) AT THE DIRECTION OF THE COMMISSIONER, AND IN ADDITION TO ANY CUSTOMARY AND APPROPRIATE AUDITS OF THE FUND FUND, THE PRIVATE VENTURE FUND GOVERNING BODY OF THE FUND SHALL BE REQUIRED TO ENGAGE OBTAIN THE SERVICES OF AN INDEPENDENT THIRD PARTY DESIGNATED BY THE COMMISSIONER ON AN ANNUAL BASIS TO EVALUATE WHETHER ALL THE INVESTMENTS MEET THE CRITERIA ESTABLISHED BY MADE TO THE FUND COMPLY WITH THIS SECTION.

~~(J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A SERVICE THAT THE COMMISSIONER OBTAINS UNDER THIS SECTION.~~

~~(2) THE COMMISSIONER IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES CONTRACTED UNDER SUBSECTION (C) OR (K) OF THIS SECTION.~~

~~(K)~~ (1) TO THE EXTENT IF THE COMMISSIONER DETERMINES THAT SEPARATE PRIVATE VENTURE FUNDS ARE NECESSARY TO ACCOMPLISH THE

~~PURPOSE OF THE PRIVATE VENTURE FUND FUND, THE COMMISSIONER MAY EXPEND FUNDS USE MONEY FROM THE FUND TO CHARTER AND ORGANIZE ESTABLISH ADDITIONAL PRIVATE VENTURE FUNDS.~~

~~(2) ANY AN ADDITIONAL PRIVATE VENTURE FUNDS CHARTERED AND ORGANIZED UNDER FUND ESTABLISHED IN ACCORDANCE WITH THIS SUBSECTION ARE SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF THIS SECTION ON THE MARYLAND COMMUNITY INVESTMENT VENTURE FUND UNDER SUBSECTION (B) OF THIS SECTION, INCLUDING THE AGGREGATE EXPENSE AND INVESTMENT LIMITATIONS STATED IN SUBSECTIONS (C) THROUGH (F) OF THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS (B) THROUGH (F) OF THIS SECTION.~~

5-101.

(a) In this title the following words have the meanings indicated.

(b) “CAMELS” means the composite rating adopted by the federal Financial Institutions Examination Council to evaluate the adequacy of capital, quality of assets, capability of management, quality and level of earnings, adequacy of liquidity, and sensitivity to market risk.

5-203.

(a) (1) ~~IN THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE,~~ THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) ~~“BRANCH” MEANS A DEPOSIT-TAKING OFFICE OF A BANKING INSTITUTION IN MARYLAND~~ OTHER THAN THE MAIN OFFICE AS DEFINED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(3) ~~“DE NOVO BRANCH” HAS THE MEANING STATED IN § 5-1001 OF THIS TITLE WITH RESPECT TO A BANKING INSTITUTION.~~

(4) ~~“DEPOSIT GROWTH CAP” MEANS THE YEAR-OVER-YEAR PERCENTAGE CHANGE OF DOMESTIC OFFICE DEPOSITS AS REPORTED ON DECEMBER 31 EACH YEAR BY THE FEDERAL DEPOSIT INSURANCE CORPORATION IN THE FEDERAL DEPOSIT INSURANCE CORPORATION QUARTERLY BANK PROFILE.~~

(5) ~~“DEPOSITS” MEANS DEPOSITS ORIGINATED AND HOUSED AT A BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT AS REPORTED BY A BANKING INSTITUTION TO THE FEDERAL DEPOSIT INSURANCE CORPORATION EACH YEAR AS OF JUNE 30.~~

(6) “LOW- TO MODERATE-INCOME TRACT” MEANS A CENSUS TRACT DELINEATED BY THE U.S. BUREAU OF THE CENSUS IN THE MOST RECENT DECENNIAL CENSUS AS PUBLISHED BY THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL THAT CORRESPONDS TO LOW- TO MODERATE-INCOME LEVEL CLASSIFICATIONS AS DEFINED BY THE REGULATION OF THE FEDERAL RESERVE BOARD IMPLEMENTING THE FEDERAL COMMUNITY REINVESTMENT ACT, 12 C.F.R. 228.12.

(B) The Commissioner shall impose annual assessments on each banking institution as provided in this section, to cover the expense of regulating banking institutions.

[(b)] (C) (1) Except as provided in paragraph (2) of this subsection, the Commissioner shall assess each banking institution the sum of:

(i) \$8,000; plus

(ii) 1. 12 cents for each \$1,000 of the assets of the institution over \$50,000,000, but not more than \$250,000,000;

2. 10 cents for each \$1,000 of assets over \$250,000,000, but not more than \$500,000,000;

3. 9 cents for each \$1,000 of assets over \$500,000,000, but not more than \$1,000,000,000;

4. 8 cents for each \$1,000 of assets over \$1,000,000,000, but not more than \$10,000,000,000; and

5. 7 cents for each \$1,000 of assets over \$10,000,000,000.

(2) If a banking institution is not in the business of accepting deposits or retaining funds in a deposit account as defined in § 5-509 of this title, the Commissioner shall assess the banking institution the sum of:

(i) \$5,000; plus

(ii) 1. 0.3 cents for each \$1,000 of managed assets held in a fiduciary capacity up to \$5,000,000,000;

2. 0.2 cents for each \$1,000 of managed assets held in a fiduciary capacity over \$5,000,000,000, but not more than \$20,000,000,000;

3. 0.1 cent for each \$1,000 of managed assets held in a fiduciary capacity over \$20,000,000,000 up to \$27,500,000,000;

4. 0.2 cents for each \$1,000 of nonmanaged and custodial assets held in a fiduciary capacity up to \$5,000,000,000; and

5. 0.1 cent for each \$1,000 of nonmanaged and custodial assets held in a fiduciary capacity over \$5,000,000,000 up to \$20,000,000,000.

(3) The assessments shall be based on assets stated in a banking institution's most recent financial report.

(D) A WELL-CAPITALIZED BANKING INSTITUTION WITH A COMPOSITE CAMELS RATING OF 1 OR 2 MAY FILE WITH THE COMMISSIONER A REQUEST FOR AN ASSESSMENT OFFSET CREDIT OF:

(1) 12 CENTS FOR EACH \$1,000 OF DEPOSITS IN A DE NOVO BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT FOR THE FIRST 5 YEARS AFTER THE DATE THE BRANCH OPENED; OR

(2) 6 CENTS FOR EACH \$1,000 OF DEPOSITS IN A BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT NOT TO EXCEED THE DEPOSIT GROWTH CAP.

[(c) (E)] Notwithstanding subsection **[(b) (C)]** of this section, for a banking institution with a composite CAMELS rating of 3, 4, or 5 for its most recent examination, the annual assessment imposed under this section shall be increased by an additional 25%.

[(d) (F)] A banking institution shall pay the assessment imposed under this section to the Commissioner on or before the April 15 after it is imposed.

(G) THE COMMISSIONER MAY DESIGNATE A SUCCESSOR INDEX FOR:

(1) THE LOW- TO MODERATE-INCOME TRACT IF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL TRACT INCOME LEVEL DATA IS NO LONGER PUBLISHED; OR

(2) THE DEPOSIT GROWTH CAP IF THE FEDERAL DEPOSIT INSURANCE CORPORATION REPORT OF DOMESTIC OFFICE DEPOSITS IS NO LONGER PUBLISHED.

6-712.

(a) (1) IN THIS SECTION, ~~UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE,~~ THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DE NOVO BRANCH" MEANS A BRANCH OF A CREDIT UNION THAT WAS ORIGINALLY ESTABLISHED BY THE CREDIT UNION IN ~~MARYLAND~~ THE STATE.

(3) “DEPOSIT GROWTH CAP” MEANS THE YEAR-OVER-YEAR PERCENTAGE CHANGE OF TOTAL SHARES AND DEPOSITS REPORTED DECEMBER 31 EACH YEAR BY FEDERALLY INSURED CREDIT UNIONS TO THE NATIONAL CREDIT UNION ADMINISTRATION AND PUBLISHED IN THE NATIONAL CREDIT UNION ADMINISTRATION CALL REPORT AGGREGATE FINANCIAL PERFORMANCE REPORTS.

(4) “DEPOSITS” MEANS DEPOSITS ORIGINATED AND HOUSED AT A CREDIT UNION BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT AS REPORTED BY A CREDIT UNION TO THE COMMISSIONER EACH YEAR AS OF JUNE 30.

(5) “LOW- TO MODERATE-INCOME TRACT” HAS THE MEANING STATED IN § 5-203 OF THIS ARTICLE.

(B) This section applies only to a credit union with assets of \$300,000 or greater.

[(b)] (C) (1) The Commissioner shall impose an annual assessment on each credit union as provided in this subsection to cover the expense of regulating credit unions.

(2) The Commissioner shall assess each credit union the sum of:

(i) \$1,000; and

(ii) 8 cents for each \$1,000 of the assets of the credit union over \$1,000,000.

(3) The assessment shall be based on assets stated in the credit union’s most recent financial report.

(4) A WELL-CAPITALIZED CREDIT UNION WITH A COMPOSITE CAMELS RATING OF 1 OR 2 MAY FILE WITH THE COMMISSIONER A REQUEST FOR AN ASSESSMENT OFFSET CREDIT OF:

(I) 12 CENTS FOR EACH \$1,000 OF DEPOSITS IN A DE NOVO BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT FOR THE FIRST 5 YEARS AFTER THE DATE THE DE NOVO BRANCH OPENED; OR

(II) 6 CENTS FOR EACH \$1,000 OF DEPOSITS IN A BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT NOT TO EXCEED THE DEPOSIT GROWTH CAP.

[(c)] (D) A credit union shall pay the assessment imposed under this section to the Commissioner on or before the March 1 after the assessment is imposed.

(E) THE COMMISSIONER MAY DESIGNATE A SUCCESSOR INDEX FOR THE DEPOSIT GROWTH CAP IF THE NATIONAL CREDIT UNION ADMINISTRATION CALL REPORT AGGREGATE FINANCIAL PERFORMANCE REPORTS IS NO LONGER PUBLISHED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved by the Governor, May 8, 2023.