

Chapter 429

(House Bill 1304)

AN ACT concerning

Department of Agriculture – Animal Waste Technology Fund

FOR the purpose of repealing the provisions relating to financial assistance for certain animal waste technology projects from the Maryland Economic Development Assistance Fund in the Department of Business and Economic Development; establishing the Animal Waste Technology Fund, a special, nonlapsing fund in the Department of Agriculture, establishing the purposes, uses, and funding sources of the Fund; requiring the Secretary of Agriculture to administer the Fund and establish certain procedures; authorizing the Secretary to contract for certain services and impose certain fees; establishing an Animal Waste Technology Fund Advisory Committee; establishing the membership, staffing, role, and responsibilities of the Advisory Committee; authorizing the Secretary to take certain actions to protect the interests of the Department of Agriculture in certain financing transactions; defining certain terms; and generally relating to funding for animal waste technology projects.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–301, 5–311, 5–313, 5–316, and 5–321(b)(1)
Annotated Code of Maryland
(2008 Volume and 2011 Supplement)

BY adding to
Article – Agriculture
Section 8–7A–101 through 8–7A–105 to be under the new subtitle “Subtitle 7A.
Animal Waste Technology Fund”
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

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

Article – Economic Development

5–301.

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

(b) [“Animal waste technology project” means a project that involves the research, development, implementation, or market development of technology that is intended to:

- (1) reduce the amount of nutrients in animal waste;
- (2) alter the composition of animal waste;
- (3) develop alternative animal waste management strategies; or
- (4) use animal waste in a production process.

(c) [“Aquaculture project” means a project that encourages innovation, expansion, and modernization of the seafood processing industry or aquaculture industry.

[(d)] (C) [“Arts and entertainment district” means an area designated by the Secretary as an arts and entertainment district under Title 4, Subtitle 7 of this article.

[(e)] (D) [“Arts and entertainment enterprise” means a for-profit or not-for-profit entity that is:

- (1) located in an arts and entertainment district; and
- (2) dedicated to the visual or performing arts.

[(f)] (E) [“Arts and entertainment project” means a project that promotes or enhances the development of an arts and entertainment district.

[(g)] (F) (1) [“Associated development and carrying costs” means costs that are associated with the acquisition and maintenance of an asset.

- (2) [“Associated development and carrying costs” includes:
 - (i) settlement costs;
 - (ii) insurance;
 - (iii) interest;
 - (iv) taxes;
 - (v) government fees;
 - (vi) utilities; and

(vii) the costs of managing and securing the asset.

[(h)] (G) “Authority” means the Maryland Economic Development Assistance Authority.

[(i)] (H) “Brownfields Revitalization Incentive Program” means the program in the Department that provides financial assistance from the Fund for the redevelopment of qualified brownfields sites, as provided in Part VI of this subtitle.

[(j)] (I) (1) “Brownfields site” means a property that:

(i) is located in a county or municipal corporation that elects to participate in the Brownfields Revitalization Incentive Program in accordance with § 5–336 of this subtitle; and

(ii) is:

1. an eligible property, as defined in § 7–501 of the Environment Article, that is owned or operated by an inculpable person, as defined in § 7–501 of the Environment Article; or

2. a property where there is a release, discharge, or threatened release of oil, as defined in § 4–401 of the Environment Article, that is subject to Title 4 of the Environment Article.

(2) “Brownfields site” does not include property that is owned or operated by:

(i) a responsible person as defined in § 7–201 of the Environment Article; or

(ii) a person responsible for the discharge, as defined in § 4–401 of the Environment Article.

[(k)] (J) “Child care facility” means a facility that is required to be licensed as a child care center under Title 5, Subtitle 5, Part VII of the Family Law Article.

[(l)] (K) “Child care special loan” means a direct loan to expand or improve child care services at a child care facility, as provided in Part VII of this subtitle.

[(m)] (L) “Corporation” means the Maryland Economic Development Corporation.

[(n)] (M) “Financial assistance” means a grant, loan, or investment provided under this subtitle.

[(o)] (N) “Fund” means the Maryland Economic Development Assistance Fund.

[(p)] (O) “Local economic development fund” means a revolving, nonlapsing fund that one or more local governments establish for economic development in the areas under their jurisdiction.

[(q)] (P) “Local economic development opportunity” means a project that:

(1) is determined by the Department or Authority to provide a valuable economic development opportunity to the jurisdiction in which the project is located; and

(2) is a priority for and endorsed by the governing body of that jurisdiction.

[(r)] (Q) “Local government” means:

(1) a county;

(2) a municipal corporation;

(3) a designated agency or instrumentality of a county; or

(4) a designated agency or instrumentality of a municipal corporation.

[(s)] (R) “Qualified brownfields site” means a brownfields site that is determined by the Department to be eligible for financial assistance under this subtitle.

[(t)] (S) “Qualified distressed county project” means a project that a local government or the Corporation carries out in a qualified distressed county.

[(u)] (T) “Responsible person” has the meaning stated in § 7–201 of the Environment Article.

[(v)] (U) “Significant strategic economic development opportunity” means a project that is determined by the Department or Authority to provide a valuable economic development opportunity of statewide, regional, or strategic industry impact.

[(w)] (V) “Specialized economic development opportunity” means:

(1) [an animal waste technology project;

(2)] an aquaculture project;

- [(3)] (2) an arts and entertainment enterprise;
- [(4)] (3) an arts and entertainment project;
- [(5)] (4) the redevelopment of a qualified brownfields site; or
- [(6)] (5) a project to create or expand a child care facility.

[(x)] (w) “Working capital” means money to be used for current operations of a business.

5–311.

The purposes of the Fund are to:

(1) expand employment opportunities in the State by providing financial assistance to businesses that are engaged in eligible industry sectors, including financial assistance for:

- (i) [animal waste technology projects;
- (ii)] aquaculture projects;
- [(iii)] (II) arts and entertainment enterprises;
- [(iv)] (III) arts and entertainment projects; and
- [(v)] (IV) creation and expansion of child care facilities;

(2) provide financial assistance for the redevelopment of qualified brownfields sites;

(3) provide financial assistance to local governments and the Corporation for economic development projects; and

(4) provide grants to local economic development funds.

5–313.

The Fund consists of:

- (1) money appropriated in the State budget to the Fund;
- (2) money made available to the Fund through federal programs or private contributions;

- (3) repayments of principal and interest from loans made from the Fund;
- (4) proceeds from the sale, disposition, lease, or rental of collateral related to financial assistance provided by the Department under this subtitle;
- (5) application or other fees paid to the Fund to process requests for financial assistance;
- (6) recovery of an investment made by the Department in a business, including an arrangement under which part of the investment is recovered through:
- (i) a requirement that the Department receive a proportion of cash flow, commissions, royalties, or license fees;
 - (ii) the repurchase from the Department of any of its investment interest; or
 - (iii) the sale of an appreciated asset;
- (7) repayments received from recipients of conditional grants from the Department;
- (8) money collected under § 9–229 of the Tax – Property Article;
- (9) repayments on or recoveries from financial assistance provided from the former:
- (i) [Animal Waste Technology Fund;
 - (ii)] Brownfields Revitalization Incentive Fund;
 - [(iii)] **(II)** Child Care Facilities Direct Loan Fund;
 - [(iv)] **(III)** Child Care Special Loan Fund;
 - [(v)] **(IV)** Maryland Industrial and Commercial Redevelopment Fund;
 - [(vi)] **(V)** Maryland Industrial Land Fund;
 - [(vii)] **(VI)** Maryland Seafood and Aquaculture Loan Fund; and

Fund; and [(viii)] **(VII)** Smart Growth Economic Development Infrastructure

(10) any other money made available to the Fund.

5-316.

Financial assistance is deemed authorized under this subtitle if it was provided, or approved to be provided, from the following programs that have been incorporated into the Fund:

(1) [the Animal Waste Technology Fund;

(2)] the Brownfields Revitalization Incentive Fund;

[(3)] **(2)** the Child Care Facilities Direct Loan Fund;

[(4)] **(3)** the Child Care Special Loan Fund;

Fund; [(5)] **(4)** the Maryland Industrial and Commercial Redevelopment

[(6)] **(5)** the Maryland Industrial Land Act;

[(7)] **(6)** the Maryland Seafood and Aquaculture Loan Fund; and

Fund. [(8)] **(7)** the Smart Growth Economic Development Infrastructure

5-321.

(b) (1) For the purpose of providing financial assistance under this subtitle, the following are deemed to be in eligible industry sectors:

(i) [animal waste technology projects;

(ii)] aquaculture projects;

[(iii)] **(II)** arts and entertainment enterprises;

[(iv)] **(III)** arts and entertainment projects;

[(v)] **(IV)** redevelopment of qualified brownfields sites;

[(vi)] **(V)** creation or expansion of child care facilities;

[(vii)] (VI) projects in areas that are declared to be federal disaster areas within 1 year before the Department receives an application for financial assistance under this subtitle; and

[(viii)] (VII) feasibility studies.

Article – Agriculture

SUBTITLE 7A. ANIMAL WASTE TECHNOLOGY FUND.

8-7A-101.

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

(B) “ANIMAL WASTE TECHNOLOGY PROJECT” MEANS THE RESEARCH, DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY THAT IS INTENDED TO:

- (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
- (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
- (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES;

OR

- (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

(C) “FUND” MEANS THE ANIMAL WASTE TECHNOLOGY FUND.

8-7A-102.

(A) THERE IS AN ANIMAL WASTE TECHNOLOGY FUND IN THE DEPARTMENT.

(B) THE PURPOSE OF THE ANIMAL WASTE TECHNOLOGY FUND IS TO PROVIDE FINANCIAL ASSISTANCE TO INDIVIDUALS AND BUSINESS ENTERPRISES THAT:

- (1) CONDUCT RESEARCH OR DEVELOP TECHNOLOGIES THAT ARE INTENDED TO REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;

(2) ALTER THE COMPOSITION OF ANIMAL WASTE;

(3) DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT STRATEGIES; OR

(4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

(C) THE GOAL OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT AND IMPLEMENTATION OF ECONOMICALLY FEASIBLE TECHNOLOGIES THAT HELP PROTECT THE PUBLIC HEALTH AND THE ENVIRONMENT BY REDUCING THE AMOUNT OF NUTRIENTS FROM ANIMAL WASTE TO ENABLE FARMERS TO MEET NUTRIENT MANAGEMENT REQUIREMENTS AND PROVIDE ALTERNATIVE ANIMAL WASTE MANAGEMENT STRATEGIES TO FARMERS.

(D) (1) THE DEPARTMENT SHALL ADMINISTER THE FUND;

(2) THE SECRETARY MAY:

(I) DELEGATE TO ANY UNIT IN THE DEPARTMENT THE UNDERWRITING, CLOSING, MONITORING, AND WORKOUT FUNCTIONS FOR FUND LOANS; OR

(II) CONTRACT WITH ANOTHER ENTITY TO PERFORM THESE FUNCTIONS.

(E) (1) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND;

(3) ANY INVESTMENT EARNINGS OF THE FUND;

(4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM THE FUND;

(5) INCOME FROM EQUITY INVESTMENTS THAT THE STATE TREASURER MAKES FROM THE FUND;

(6) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE DEPARTMENT OF COLLATERAL RELATED TO ANY FINANCING PROVIDED BY THE DEPARTMENT UNDER THIS SUBTITLE; AND

(7) APPLICATION OR OTHER FEES PAID TO THE DEPARTMENT IN CONNECTION WITH THE PROCESSING OF REQUESTS FOR ASSISTANCE.

(G) THE DEPARTMENT MAY USE MONEY IN THE FUND TO:

(1) PROVIDE FINANCIAL ASSISTANCE TO DEFRAY THE COSTS OF ANIMAL WASTE TECHNOLOGY PROJECTS; AND

(2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES ASSOCIATED WITH OPERATING THE FUND.

(H) THE DEPARTMENT MAY IMPOSE TERMS AND CONDITIONS ON FINANCIAL ASSISTANCE PROVIDED FROM THE FUND, INCLUDING ADMINISTRATION AND TRANSACTION FEES.

(I) FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:

(1) USED ONLY TO PAY THE COSTS OF CARRYING OUT AN ANIMAL WASTE TECHNOLOGY PROJECT; AND

(2) IN THE FORM OF:

(I) A GRANT;

(II) A LOAN;

(III) A LOAN GUARANTEE; OR

(IV) A LOAN THAT IS CONVERTIBLE IN WHOLE OR IN PART TO A GRANT ON THE SATISFACTION OF SPECIFIED CONDITIONS.

8-7A-103.

(A) TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN ANIMAL WASTE TECHNOLOGY PROJECT SHALL HAVE STRONG POTENTIAL FOR:

- (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;**
- (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND**
- (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE STATE.**

(B) IF THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED EXCEEDS THE AMOUNT OF MONEY AVAILABLE IN THE FUND, THE DEPARTMENT SHALL GIVE PREFERENCE TO THE ANIMAL WASTE TECHNOLOGY PROJECTS THAT DEMONSTRATE THE GREATEST POTENTIAL FOR:

- (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;**
- (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND**
- (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE STATE.**

8-7A-104.

(A) THE DEPARTMENT SHALL ESTABLISH AN ANIMAL WASTE TECHNOLOGY FUND ADVISORY COMMITTEE.

(B) THE SECRETARY OF AGRICULTURE SHALL BE THE CHAIR OF THE ADVISORY COMMITTEE AND THE DEPARTMENT WILL PROVIDE STAFF SUPPORT.

(C) EX OFFICIO MEMBERSHIP OF THE ADVISORY COMMITTEE SHALL INCLUDE:

- (1) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;**
- (2) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;**
- (3) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;**

(4) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE; AND

(5) THE DEAN OF THE COLLEGE OF AGRICULTURE AND NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, OR THE DEAN'S DESIGNEE.

(D) THE SECRETARY SHALL APPOINT COMMITTEE REPRESENTATIVES TO INCLUDE THE POULTRY AND LIVESTOCK INDUSTRIES, AGRICULTURAL COMMUNITY, ENVIRONMENTAL COMMUNITY, AGRICULTURAL FERTILIZER INDUSTRIES, ENERGY SECTOR, AND OTHER AREAS OF EXPERTISE AS DEEMED APPROPRIATE.

(E) IN CONSULTATION WITH THE ANIMAL WASTE TECHNOLOGY FUND ADVISORY COMMITTEE, THE DEPARTMENT SHALL:

- (1) DEVELOP PROGRAM CRITERIA;**
- (2) REVIEW PROPOSALS; AND**
- (3) MAKE PROJECT FUNDING DETERMINATIONS.**

8-7A-105.

THE SECRETARY MAY TAKE ALL REASONABLE ACTIONS TO PROTECT THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL, LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO FINANCING TRANSACTIONS, INCLUDING FORGIVING A LOAN, EXPENDING FUNDS FROM ITS GENERAL AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE, OR MAINTAIN COLLATERAL OR LIENS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.