

HOUSE BILL 543

C8

9lr2352
CF SB 340

By: Delegates Jones, Bartlett, Barve, Brooks, Cardin, Chang, Dumais, Gaines, Healey, Hettleman, Hornberger, Lierman, Pena-Melnyk, Pendergrass, Solomon, Stein, and Sydnor

Introduced and read first time: February 4, 2019

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2019

CHAPTER _____

1 AN ACT concerning

2 **Maryland Technology Development Corporation – Investments and Operations**

3 FOR the purpose of ~~requiring the Maryland Technology Development Corporation to~~
4 ~~recover from a business enterprise certain investments made from the Enterprise~~
5 ~~Fund under certain circumstances; including in the Fund the recovery of certain~~
6 ~~money under certain circumstances; providing certain requirements~~
7 ~~technology-based businesses must meet before the Maryland Technology~~
8 ~~Development Corporation may make certain grants or provide certain equity~~
9 ~~investment financing; requiring the Corporation to adopt certain regulations;~~
10 ~~requiring the Board of Directors of the Corporation to make certain appointments;~~
11 ~~requiring the Board to adopt certain policies; providing that certain persons are~~
12 ~~subject to certain public ethics law; providing certain requirements for eligibility as~~
13 ~~a member of the Maryland Venture Fund Authority; requiring the Maryland Venture~~
14 ~~Fund Authority in the Corporation to meet at least quarterly for certain purposes;~~
15 ~~altering the information required to be reported annually by the Corporation;~~
16 ~~requiring the Corporation to report certain information to the Governor, the~~
17 ~~Maryland Economic Development Commission, and the General Assembly on a~~
18 ~~quarterly basis; defining a certain term terms; making certain conforming changes;~~
19 ~~and generally relating to the Maryland Technology Development Corporation.~~

20 BY repealing and reenacting, without amendments,

21 Article – Economic Development

22 Section 10-401(a), 10-468, and 10-474

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.



Annotated Code of Maryland
(2018 Replacement Volume)

BY adding to

Article – Economic Development
Section 10–401(f) through (h) and 10–494
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section ~~10–468~~ 10–402(c), 10–403(a), 10–407, 10–408, 10–409, 10–415, 10–469, ~~and~~
10–470, 10–475, 10–478, 10–488(b) and (c), and 10–489(a)

Annotated Code of Maryland
(2018 Replacement Volume)

~~BY repealing and reenacting, without amendments,~~

~~Article – Economic Development~~

~~Section 10–474~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume)~~

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

Article – Economic Development

10–401.

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

(F) “INVESTMENT COMMITTEE” MEANS A COMMITTEE APPOINTED BY THE
BOARD TO ADVISE ON AND APPROVE INVESTMENTS AS REQUIRED UNDER THIS
SUBTITLE.

(G) “PRINCIPAL BUSINESS OPERATIONS” MEANS THE HEADQUARTERS
FROM WHICH THE BUSINESS’S OFFICERS DIRECT, CONTROL, AND COORDINATE THE
BUSINESS’S ACTIVITIES.

(H) “QUALIFIED BUSINESS” MEANS A BUSINESS THAT, AT THE TIME OF THE
FIRST INVESTMENT IN THE BUSINESS UNDER A PROGRAM OF THE CORPORATION,
EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

(1) (I) HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN
THE STATE, HAS OVER HALF ITS WORKFORCE WORKING IN THE STATE, AND INTENDS

TO MAINTAIN ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE AFTER RECEIVING AN INVESTMENT UNDER THE PROGRAM; OR

(II) IS A BUSINESS OR START-UP BUSINESS THAT IS APPROVED BY THE INVESTMENT COMMITTEE AND WILL, AS A RESULT OF THE INVESTMENT, HAVE A SUBSTANTIAL ECONOMIC IMPACT IN THE STATE THROUGH JOB CREATION, CAPITAL INVESTMENT, AND CONTRIBUTION TO THE STATE'S TECHNOLOGY ECOSYSTEM;

(2) HAS AGREED TO USE THE INVESTMENT PRIMARILY TO:

(I) SUPPORT BUSINESS OPERATIONS IN THE STATE; OR

(II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND SUPPORT BUSINESS OPERATIONS IN THE STATE;

(3) HAS NOT MORE THAN 250 EMPLOYEES; AND

(4) IS NOT PRIMARILY ENGAGED IN:

(I) RETAIL SALES;

(II) REAL ESTATE DEVELOPMENT;

(III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

(IV) THE PROVISION OF PROFESSIONAL SERVICES BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

10-402.

(c) The purposes of the Corporation are to:

(1) assist in transferring to the private sector the results and products of scientific research and development conducted by colleges, [and] universities, AND FEDERAL RESEARCH INSTITUTIONS IN THE STATE;

(2) assist in commercializing those results and products;

(3) assist in commercializing technology developed in the private sector;

(4) foster the commercialization of research and development conducted by colleges, universities, and the private sector to create and sustain businesses throughout all regions of the State; [and]

(5) generally assist early-stage and start-up businesses in the State;

(6) INVEST IN MARYLAND-BASED TECHNOLOGY COMPANIES AND
PROMOTE THE COMMERCIALIZATION AND GROWTH OF TECHNOLOGY COMPANIES
AND JOBS IN THE STATE;

(7) BUILD A LONG-TERM ENTREPRENEURIAL CAPACITY AND
SUSTAINED VENTURE CAPITAL PRESENCE IN THE STATE;

(8) CREATE PATHWAYS TO FOLLOW-ON FINANCING IN THE STATE;
AND

(9) FOSTER INCLUSIVE AND DIVERSE ENTREPRENEURSHIP AND
INNOVATION THROUGHOUT THE STATE, WHICH MAY INCLUDE INITIATIVES TO RAISE
AWARENESS OF PROGRAMS TO ASSIST SMALL, MINORITY, AND WOMEN-OWNED
BUSINESSES THROUGH MARKETING AND OTHER EFFORTS.

10-403.

(a) (1) A Board of Directors shall manage the Corporation and its units and
exercise its corporate powers.

(2) (I) A BOARD OF DIRECTORS MAY APPOINT MEMBERS OF AN
ADVISORY COMMITTEE.

(II) IF A BOARD OF DIRECTORS APPOINTS AN ADVISORY
COMMITTEE, THE BOARD SHALL ADOPT POLICIES ESTABLISHING THE
RESPONSIBILITIES OF THE ADVISORY COMMITTEE.

10-407.

(a) Except as provided in subsections (b), (c), and (e) of this section, the
Corporation is exempt from:

(1) Title 10 and Division II of the State Finance and Procurement Article;
and

(2) §§ 3-301 and 3-303 of the General Provisions Article.

(b) The Corporation is subject to the Public Information Act.

(c) The Board [and], the officers and employees of the Corporation, MEMBERS
OF THE INVESTMENT COMMITTEE, AND MEMBERS OF ANY ADVISORY COMMITTEE
APPOINTED are subject to the Public Ethics Law.

(d) The officers and employees of the Corporation are not subject to the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System.

(e) (1) The Corporation, its Board, and employees are subject to Title 12, Subtitle 4 of the State Finance and Procurement Article.

(2) THE BOARD, THE OFFICERS AND EMPLOYEES OF THE CORPORATION, THE MEMBERS OF THE INVESTMENT COMMITTEE, AND THE MEMBERS OF ANY ADVISORY COMMITTEE APPOINTED SHALL DISCLOSE TO THE STATE ETHICS COMMISSION WHETHER THEY ARE EMPLOYED BY OR HAVE A FINANCIAL INTEREST IN AN ENTITY THAT CURRENTLY HAS OR WILL APPLY FOR FUNDS OR AN INVESTMENT IN A PROGRAM ADMINISTERED BY THE CORPORATION.

10-408.

(A) THE CORPORATION SHALL ADOPT REGULATIONS ESTABLISHING:

(1) THE INVESTMENT COMMITTEE;

(2) THE RESPONSIBILITIES OF THE INVESTMENT COMMITTEE; AND

(3) THE PROCEDURES FOR THE APPOINTMENT OF INVESTMENT COMMITTEE MEMBERS.

(B) The Corporation may:

(1) adopt bylaws for the conduct of its business;

(2) adopt a seal;

(3) maintain offices at a place it designates in the State;

(4) accept loans, grants, or assistance of any kind from the federal or State government, a local government, a college or university, or a private source;

(5) enter into contracts and other legal instruments;

(6) sue or be sued;

(7) acquire, purchase, hold, lease as lessee, and use:

(i) a franchise, patent, or license;

(ii) any real, personal, mixed, tangible, or intangible property; or

(iii) an interest in the property listed in this item;

(8) sell, lease as lessor, transfer, license, assign, or dispose of property or a property interest that it acquires;

(9) fix and collect rates, rentals, fees, royalties, and charges for services and resources it provides or makes available;

(10) create, own, control, or be a member of a corporation, limited liability company, partnership, or other entity, whether operated for profit or not for profit;

(11) exercise power usually possessed by a private corporation in performing similar functions unless to do so would conflict with State law; and

(12) do all things necessary or convenient to carry out the powers granted by this subtitle.

10-409.

(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE Corporation may make grants to or provide equity investment financing for technology-based businesses, IF:

(1) THE INVESTMENTS ARE MADE TO A QUALIFIED BUSINESS;

(2) THE INVESTMENTS ARE MADE ON REVIEW AND APPROVAL OF A WRITTEN APPLICATION THAT:

(I) CONTAINS SUFFICIENT INFORMATION TO VERIFY THAT THE QUALIFIED BUSINESS HAS ITS PRINCIPAL BUSINESS OPERATIONS IN THE STATE OR WILL HAVE A SUBSTANTIAL ECONOMIC IMPACT ON THE STATE; AND

(II) CONTAINS A CERTIFICATION OF THE VERACITY OF THE INFORMATION BY AN AUTHORIZED SIGNATORY OF THE QUALIFIED BUSINESS; AND

(3) AT LEAST THE NUMBER OF MEMBERS THAT CONSTITUTES A QUORUM OF ANY FUND OR AUTHORITY HAS BEEN APPOINTED UNDER THE REQUIREMENTS FOR THAT FUND OR AUTHORITY.

(B) IN REGARD TO ANY AND ALL PROGRAMS OF THE CORPORATION, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE CORPORATION SHALL ADOPT REGULATIONS TO GOVERN INVESTMENTS UNDER THIS SUBSECTION THAT SPECIFY:

(1) THE TYPES OF QUALIFIED BUSINESSES IN WHICH AN INVESTMENT MAY BE MADE;

1 **(2) THE BASIC STANDARDS AN ENTERPRISE SHALL MEET TO QUALIFY**
2 **FOR AN INVESTMENT;**

3 **(3) THE AMOUNT OF MONEY AVAILABLE FOR INVESTMENT;**

4 **(4) THE INVESTMENT POLICY STATEMENT OF THE CORPORATION**
5 **THAT DESCRIBES THE PROCEDURES, CRITERIA, INVESTMENT PHILOSOPHY, AND**
6 **GUIDELINES FOR HOW THE CORPORATION'S INVESTMENT DECISIONS WILL BE**
7 **MADE; AND**

8 **(5) A PROCESS FOR THE CONSIDERATION OF WHETHER INVESTMENTS**
9 **HELP TO FOSTER INCLUSIVE AND DIVERSE ENTREPRENEURSHIP, INCLUDING THE**
10 **CORPORATION'S SUPPORT FOR MARKETING AND OTHER EFFORTS TO RAISE**
11 **AWARENESS OF PROGRAMS TO ASSIST SMALL, MINORITY, AND WOMEN-OWNED**
12 **BUSINESSES.**

13 **(c) THE CORPORATION MAY MAKE INVESTMENTS UNDER AN AGREEMENT**
14 **WITH THE BOARD OF TRUSTEES FOR THE STATE RETIREMENT AND PENSION**
15 **SYSTEM UNDER § 21-123.2 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

16 **10-415.**

17 **(a) (1) On or before October 1 of each year, the Corporation shall report to the**
18 **Governor, the Maryland Economic Development Commission, and, in accordance with §**
19 **2-1246 of the State Government Article, the General Assembly.**

20 **[(b)] (2) The report REQUIRED UNDER THIS SUBSECTION shall include:**

21 **(I) a complete operating and financial statement covering the**
22 **Corporation's operations [and];**

23 **(II) a summary of the Corporation's activities during the preceding**
24 **fiscal year;**

25 **(III) INFORMATION ON ALL SALARIES AND ANY INCENTIVES**
26 **APPROVED BY THE BOARD FOR CORPORATION EMPLOYEES;**

27 **(IV) INFORMATION ON OUTREACH, TRAINING, MENTORSHIP,**
28 **SUPPORT, AND INVESTMENT IN MINORITY AND WOMEN-OWNED QUALIFIED**
29 **BUSINESSES, INCLUDING SUPPORT FOR MARKETING BY THE MARYLAND SMALL**
30 **BUSINESS DEVELOPMENT FINANCING AUTHORITY;**

(V) INFORMATION ON ENTITIES THAT HAVE CURRENT INVESTMENTS AND ENTITIES THAT RECEIVED FUNDING OR INVESTMENTS IN THE CURRENT YEAR ON THE:

1. PRINCIPAL BUSINESS OPERATIONS;

2. NUMBER OF EMPLOYEES IN THE STATE AND THE NUMBER OF EMPLOYEES OUTSIDE THE STATE;

3. CAPITAL OR OTHER INVESTMENTS MADE IN THE STATE; AND

4. PROPOSED AND ACTUAL JOB CREATION OR CAPITAL INVESTMENT IN THE STATE AS A RESULT OF THE INVESTMENT OR SUPPORT;

(VI) A LIST OF BUSINESSES THAT HAVE RECEIVED FUNDING THAT WOULD NO LONGER QUALIFY AS A QUALIFIED BUSINESS; AND

(VII) INFORMATION ON THE CREATION OF AND APPOINTMENTS MADE TO AN ADVISORY COMMITTEE AND THE RESPONSIBILITIES OF THE ADVISORY COMMITTEE AND MEMBERS OF THE COMMITTEE.

(B) (1) ON A QUARTERLY BASIS, THE CORPORATION SHALL REPORT TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE JOINT AUDIT COMMITTEE AND THE GENERAL ASSEMBLY.

(2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE A LIST OF THE QUALIFIED BUSINESSES OR OTHER BUSINESSES RECEIVING SUPPORT THROUGH PROGRAMS ADMINISTERED BY THE CORPORATION, INCLUDING THOSE RECEIVING INVESTMENTS MADE UNDER § 21-123.2 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(3) THE LIST OF QUALIFIED BUSINESSES OR OTHER BUSINESSES RECEIVING SUPPORT SHALL INCLUDE FOR EACH BUSINESS:

(I) THE NUMBER OF EMPLOYEES IN THE STATE;

(II) THE NUMBER OF EMPLOYEES OUTSIDE THE STATE;

(III) THE CAPITAL OR OTHER INVESTMENTS MADE IN THE STATE;

AND

**(IV) PROPOSED JOB CREATION OR CAPITAL INVESTMENT IN THE
STATE AS A RESULT OF THE INVESTMENT OR SUPPORT.**

10-468.

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

~~(b) "BUSINESS ENTERPRISE" MEANS A BUSINESS THAT:~~

~~(1) IS TECHNOLOGY-BASED; AND~~

~~(2) HAS OVER HALF OF ITS WORKFORCE EITHER RESIDING OR
WORKING IN THE STATE.~~

~~[(b)] (c)~~ "Corporation" means the Maryland Technology Development Corporation.

~~[(c)] (d)~~ "Fund" means the Enterprise Fund established under § 10-469 of this subtitle.

10-469.

(a) There is an Enterprise Fund in the Corporation.

(b) The Corporation may use the Fund to:

(1) make a grant or loan, at the rate of interest set by the Corporation;

(2) provide equity investment financing for a ~~business enterprise~~
QUALIFIED BUSINESS;

(3) guarantee a loan, equity, investment, or other private financing to expand the capital resources of a ~~business enterprise~~ **QUALIFIED BUSINESS;**

(4) purchase advisory services and technical assistance to better support economic development;

(5) pay the Corporation's obligations to a venture firm under the Invest Maryland Program, as provided under § 10-492(c)(2)(i) of this subtitle; and

(6) pay the administrative, legal, and actuarial expenses of the Corporation.

(c) The Corporation shall manage and supervise the Fund.

(d) ~~THE CORPORATION SHALL REQUIRE RECOVERY OF A GRANT, A LOAN, OR AN EQUITY INVESTMENT FROM A BUSINESS ENTERPRISE IF AT ANY TIME WITHIN THE 3 YEAR PERIOD FOLLOWING THE INVESTMENT AWARD, THE BUSINESS ENTERPRISE FAILS TO MAINTAIN ITS STATUS AS A BUSINESS ENTERPRISE, AS DEFINED IN § 10-468 OF THIS SUBTITLE.~~

~~(E)~~ (1) The Fund is a special, nonlapsing revolving fund that is not subject to reversion under § 7-302 of the State Finance and Procurement Article.

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

~~[(e)] (F)~~ The Fund consists of:

(1) money appropriated by the State to the Fund;

(2) money made available to the Fund through federal programs or private contributions;

(3) repayment of principal of a loan made from the Fund;

(4) payment of interest on a loan made from the Fund;

(5) proceeds from the sale, disposition, lease, or rental by the Corporation of collateral related to financing that the Corporation provides under this subtitle;

(6) premiums, fees, royalties, interest, repayments of principal, and returns on investments paid to the Corporation by or on behalf of:

(i) a ~~business enterprise~~ **QUALIFIED BUSINESS** in which the Corporation has made an investment under this subtitle; or

(ii) an investor providing an investment guaranteed by the Corporation under this subtitle;

(7) recovery of an investment made by the Corporation in a ~~business enterprise~~ **QUALIFIED BUSINESS** under this subtitle, including an arrangement under which the Corporation's investment in the ~~business enterprise~~ **QUALIFIED BUSINESS** is recovered through:

(i) a requirement that the Corporation receive a proportion of cash flow, commission, royalty, or payment on a patent; ~~for~~

(ii) the repurchase from the Corporation of any evidence of financial participation, including a note, stock, bond, or debenture; ~~or~~

~~(HH) THE RECOVERY OF A GRANT, A LOAN, OR AN EQUITY INVESTMENT IN A BUSINESS ENTERPRISE THAT FAILS TO MAINTAIN ITS STATUS AS A BUSINESS ENTERPRISE, AS DEFINED IN § 10-468 OF THIS SUBTITLE;~~

(8) repayment of a conditional grant extended by the Corporation;

(9) money deposited into the Fund under § 10-492(c)(2)(i) of this subtitle;
and

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

~~[(f)] (c)~~ (1) The Treasurer shall invest money in the Fund in the same manner as other State money.

(2) Any investment earnings of the Fund shall be credited to the Fund.

10-470.

(a) The Corporation may require that all or part of a grant be repaid, with interest at a rate the Corporation sets, when conditions specified by the Corporation occur.

(b) (1) Whenever the Corporation is authorized by law to make a grant, including a grant from the Economic Development Opportunities Program Account authorized under § 7-314 of the State Finance and Procurement Article, the Corporation may use money appropriated for the grant to make an equity investment in a [business enterprise] QUALIFIED BUSINESS.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in making an equity investment under this subtitle, the Corporation may not acquire an ownership interest in an enterprise that exceeds 25%.

(ii) In making an equity investment under this subtitle in one or more venture or private equity firms, the Corporation may acquire an ownership interest exceeding 25%.

(3) Within 15 years after making an equity investment under this subtitle, the Corporation shall divest itself of that investment.

(4) The liability of the State and the Corporation in making an equity investment under this subtitle is limited to the amount of that investment.

~~[(5)]~~ (5) The Corporation shall adopt regulations governing equity investments under this subsection that specify:

(i) the types of business enterprises in which an investment may be made;

1 (ii) the basic standards an enterprise shall meet to qualify for an
2 investment;
3 (iii) the amount of money available for investment; and
4 (iv) the criteria that the Corporation uses to make investment
5 decisions.]

6 10-474.

7 There is a Maryland Venture Fund Authority in the Corporation.

8 10-475.

9 (a) The Authority consists of the following nine members:

10 (1) seven members appointed by the Governor with the advice and consent
11 of the Senate;

12 (2) one member appointed by the President of the Senate; and

13 (3) one member appointed by the Speaker of the House.

14 (b) (1) Of the seven members appointed by the Governor:

15 (i) 1. at least four shall have experience in working with
16 companies that have raised investment capital for seed-stage to venture-stage companies
17 or in providing professional services to the venture capital industry; and

18 2. one of the four members selected under item 1 of this item
19 shall have experience in higher education research and development and technology
20 transfer projects;

21 (ii) at least one shall have experience as a small business owner;

22 (iii) at least one shall have experience as a business executive that
23 has raised venture capital investments; and

24 (iv) at least one shall be a resident of a rural county in the State.

25 (2) The Governor shall consider the geographic diversity of the State when
26 appointing members.

27 (c) The members appointed by the President and the Speaker:

28 (1) may not be elected officials; and

(2) shall have experience and expertise in venture capital investments.

(d) Each member shall be a resident of the State.

(e) (1) The term of a member is 4 years.

(2) At the end of a term, a member continues to serve until a successor is appointed.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(4) A member appointed by the Governor may be removed by the Governor with or without cause.

(5) The terms of the members are staggered as required by the terms provided for members of the Authority on July 1, 2011.

(f) **[A] IN ADDITION TO THE REQUIREMENTS OF TITLE 5 OF THE GENERAL PROVISIONS ARTICLE, A member of the Authority may not BE EMPLOYED BY OR have any financial interest in a purchaser, qualified business, or venture firm OR HOLD ANY OTHER EMPLOYMENT RELATIONSHIP OR FINANCIAL INTEREST THAT WOULD IMPAIR THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE MEMBER.**

(G) THE AUTHORITY MAY NOT HAVE ADDITIONAL ADVISORS OR ADVISORY BOARDS, WHETHER ACTING INFORMALLY OR FORMALLY CONSTITUTED, OTHER THAN AS APPOINTED OR DESIGNATED IN THIS SUBTITLE.

10-478.

The Authority shall:

(1) provide advice to and consult with the Corporation in connection with the administration of the Program under this subtitle; AND

(2) **MEET AT LEAST QUARTERLY TO REVIEW THE CORPORATION'S INVESTMENT ~~POLICY AND~~ POLICIES, INVESTMENT DECISIONS ~~FOR THE PROGRAM UNDER THIS SUBTITLE,~~ AND ADHERENCE TO THE STATUTORY AND REGULATORY REQUIREMENTS IMPOSED ON THE CORPORATION.**

10-488.

(b) **TO ENSURE THE CORPORATION HAS CONTINUED ACCESS TO THE BEST AVAILABLE AND QUALIFIED VENTURE FIRMS AS WELL AS TO PROVIDE FOR THE**

REPLACEMENT OF VENTURE FIRMS THAT HAVE BEEN DISQUALIFIED UNDER § 10-494 OF THIS SUBTITLE:

(1) [An] AN applicant shall file an application with the Corporation in the form required by the Corporation[.];

(2) [The] THE application shall include the applicant's most recent financial statements[.];

(3) [The] THE Corporation shall [begin accepting] ACCEPT applications for certification [on or before January 1, 2012.] FOR A PERIOD OF 3 MONTHS AT THE CORPORATION'S CHOOSING, AT THE SAME TIME EACH YEAR; AND

(4) [An application for certification may not be accepted after May 1, 2012] NOTWITHSTANDING THE REQUIREMENTS OF § 10-494(B) OF THIS SUBTITLE, WHEN ONE OR MORE VENTURE FIRMS HAVE BEEN DISQUALIFIED UNDER § 10-494 OF THIS SUBTITLE, THE CORPORATION MAY RECEIVE APPLICATIONS, FOR A PERIOD OF NOT LESS THAN 2 MONTHS, AT ANY TIME DURING THE CALENDAR YEAR.

(c) To be certified as a venture firm:

(1) the applicant must have, at the time of application, an equity capitalization, net assets, or written commitments of at least \$500,000 in the form of cash or cash equivalents; [and]

(2) at least two principals or persons employed to direct the investment of the designated capital of the applicant must have at least 5 years of money management experience in the venture capital or private equity sectors;

(3) FOR A PERIOD OF 2 YEARS FROM THE DATE OF DISQUALIFICATION, THE APPLICANT MAY NOT BE:

(I) A VENTURE FIRM THAT HAS BEEN DISQUALIFIED UNDER § 10-494 OF THIS SUBTITLE; OR

(II) A FIRM WITH MAJORITY OWNERSHIP COMPOSED OF MEMBERS WHO HAD OWNERSHIP OR LEADERSHIP ROLES IN A FIRM THAT HAS BEEN DISQUALIFIED UNDER § 10-494 OF THIS SUBTITLE.

10-489.

(a) (1) A business that is classified as a qualified business at the time of the first investment in the business by a venture firm, the Enterprise Fund, or the Financing Authority remains classified as a qualified business and may receive follow-on investments

1 from a venture firm, the Enterprise Fund, or the Financing Authority AS PROVIDED
2 UNDER THIS SUBSECTION.

3 (2) [Except as provided in paragraph (3) of this subsection, a] A follow-on
4 investment [made under this subsection] FROM A VENTURE FIRM is a qualified
5 investment even though the business does not meet the definition of a qualified business
6 at the time of the follow-on investment.

7 (3) With respect to an investment by the Enterprise Fund or the Financing
8 Authority, a follow-on investment does not qualify as a qualified investment if, at the time
9 of the follow-on investment, the [qualified] business no longer [has its principal business
10 operations in the State] MEETS THE DEFINITION OF A QUALIFIED BUSINESS.

11 10-494.

12 (A) EACH VENTURE FIRM SHALL BE REQUIRED TO MAKE EQUITY
13 INVESTMENTS IN AN AMOUNT NOT LESS THAN 50% OF THE CAPITAL ALLOCATED TO
14 QUALIFIED BUSINESSES WITHIN 3 YEARS OF EACH CAPITAL ALLOCATION.

15 (B) IN REGARDS TO VENTURE FIRMS THAT HAVE RECEIVED AN ALLOCATION
16 BEFORE JUNE 1, 2019, THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION
17 SHALL APPLY AS OF JUNE 1, 2019.

18 (C) IN THE EVENT THAT A VENTURE FIRM FAILS TO MEET THE
19 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE CORPORATION SHALL:

20 (1) RESCIND THE ALLOCATION AND AUTHORIZATION FOR THAT FIRM
21 FROM THE DATE OF NONCOMPLIANCE WITH SUBSECTION (A) OF THIS SECTION AND
22 REMOVE THAT FIRM'S CERTIFICATION FOR PARTICIPATION IN THE PROGRAM;

23 (2) CEASE MAKING THE PAYMENT OF MANAGEMENT AND OTHER FEES
24 TO THE VENTURE FUND FROM THE DATE OF NONCOMPLIANCE WITH SUBSECTION (A)
25 OF THIS SECTION; AND

26 (3) CONSULT AND COORDINATE WITH THE OFFICE OF THE ATTORNEY
27 GENERAL FOR THE RECOVERY OF ANY FUNDS, AS MAY BE NECESSARY.

28 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
29 2019, the Maryland Technology Development Corporation shall report to the General
30 Assembly, in accordance with § 2-1246 of the State Government Article, on the status of
31 the Corporation's efforts to address the findings of the fiscal compliance audit of the
32 Corporation conducted by the Office of Legislative Audits for the period beginning January
33 7, 2015, and ending April 10, 2018.

1 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
2 2019, the Department of Legislative Services shall review Title 10, Subtitle 4 of the
3 Economic Development Article and make recommendations to the General Assembly on:

4 (1) how to make Title 10, Subtitle 4 of the Economic Development Article,
5 regarding the Maryland Technology Development Corporation programs, more clear with
6 consistent definitions; and

7 (2) whether there is language that can be repealed as duplicative or
8 obsolete.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 ~~October~~ June 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.