

SENATE BILL 969

C8

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By: **Senator McCray**

Introduced and read first time: February 28, 2023

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Success Assurance Model and Fund – Establishment**

3 FOR the purpose of establishing the Success Assurance Model in the Department of
4 Commerce to provide business services to small businesses through professional
5 services entities; establishing the Success Assurance Fund as a special, nonlapsing
6 fund to provide funding to support the Success Assurance Model; requiring the
7 Department to select a managing nonprofit to oversee the administration of the
8 Success Assurance Model; requiring the managing nonprofit to select a coordinating
9 service provider to carry out the daily operations and responsibilities of the Success
10 Assurance Model; establishing application, approval, monitoring, and payment
11 procedures for small businesses to receive business services from professional
12 services entities; and generally relating to the Success Assurance Model and Fund.

13 BY repealing and reenacting, without amendments,
14 Article – Economic Development
15 Section 1–101(a) and (c)
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2022 Supplement)

18 BY adding to
19 Article – Economic Development
20 Section 5–2301 through 5–2313 to be under the new subtitle “Subtitle 23. Success
21 Assurance Model and Fund”
22 Annotated Code of Maryland
23 (2018 Replacement Volume and 2022 Supplement)

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

26 **Article – Economic Development**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1–101.

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

3 (c) “Department” means the Department of Commerce.

4 **SUBTITLE 23. SUCCESS ASSURANCE MODEL AND FUND.**

5 **5–2301.**

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

8 (B) “BUSINESS SERVICES” MEANS THE FOLLOWING TYPES OF SERVICES
9 PROVIDED BY A PROFESSIONAL SERVICES ENTITY:

10 (1) ACCOUNTING AND FINANCE SERVICES;

11 (2) INFORMATION TECHNOLOGY SERVICES, INCLUDING
12 CYBERSECURITY SERVICES;

13 (3) MARKETING AND ADVERTISING SERVICES;

14 (4) LEGAL AND BUSINESS ADVISORY SERVICES;

15 (5) SERVICES RELATED TO ESTIMATING, BIDDING, OR NEGOTIATING
16 BUSINESS COSTS;

17 (6) EMPLOYEE RETIREMENT PLANNING SERVICES;

18 (7) PERSONNEL MANAGEMENT SERVICES;

19 (8) LOGISTICS MANAGEMENT SERVICES;

20 (9) ASSESSMENTS OF OPERATIONAL WEAKNESSES; AND

21 (10) ANY OTHER SIMILAR SKILLED OR SPECIALIZED SERVICES THAT
22 WILL PROMOTE THE EXPANSION OR RETENTION OF A SMALL BUSINESS.

23 (C) “COORDINATING SERVICE PROVIDER” MEANS A BUSINESS ENTITY
24 PRIMARILY ENGAGED IN ACCOUNTING OR CONSULTING THAT IS SELECTED UNDER §
25 5–2305 OF THIS SUBTITLE.

26 (D) “FUND” MEANS THE SUCCESS ASSURANCE FUND.

1 **(E) “MANAGING NONPROFIT” MEANS THE NONPROFIT SELECTED BY THE**
2 **DEPARTMENT UNDER § 5–2304 OF THIS SUBTITLE.**

3 **(F) “PROFESSIONAL SERVICES ENTITY” MEANS AN ENTITY THAT PROVIDES**
4 **ANY BUSINESS SERVICES.**

5 **(G) “SMALL BUSINESS” MEANS ANY OF THE FOLLOWING ENTITIES THAT ARE**
6 **LOCATED IN THE STATE:**

7 **(1) A SMALL, MINORITY, OR WOMEN–OWNED BUSINESS;**

8 **(2) A CERTIFIED VETERAN–OWNED SMALL BUSINESS ENTERPRISE;**

9 **(3) ANY BUSINESS THAT HAS RECEIVED FUNDING OR APPLIED FOR**
10 **FUNDING FROM ANY DEPARTMENT PROGRAM, INCLUDING THE MARYLAND SMALL**
11 **BUSINESS DEVELOPMENT FINANCING AUTHORITY AND THE SMALL, MINORITY,**
12 **AND WOMEN–OWNED BUSINESSES ACCOUNT; OR**

13 **(4) ANY BUSINESS THAT IS REFERRED TO THE COORDINATING**
14 **SERVICE PROVIDER OR THE MANAGING NONPROFIT BY:**

15 **(I) A BANK, AS DEFINED IN 12 U.S.C. § 1841;**

16 **(II) THE DEPARTMENT;**

17 **(III) THE MARYLAND SMALL BUSINESS DEVELOPMENT**
18 **CENTER;**

19 **(IV) STATE OR LOCAL ECONOMIC DEVELOPMENT**
20 **ORGANIZATIONS OR REPRESENTATIVES; OR**

21 **(V) A MEMBER OF THE GENERAL ASSEMBLY.**

22 **(H) “SUCCESS ASSURANCE MODEL” MEANS THE FRAMEWORK**
23 **ESTABLISHED UNDER THIS SUBTITLE TO PROVIDE BUSINESS SERVICES TO SMALL**
24 **BUSINESSES THROUGH PROFESSIONAL SERVICES ENTITIES.**

25 **5–2302.**

26 **(A) THERE IS A SUCCESS ASSURANCE MODEL IN THE DEPARTMENT.**

27 **(B) THE PURPOSE OF THE SUCCESS ASSURANCE MODEL ESTABLISHED**

1 UNDER THIS SUBTITLE IS TO PROVIDE COMPREHENSIVE AND TARGETED BUSINESS
2 SERVICES TO SMALL BUSINESSES THROUGH PROFESSIONAL SERVICES ENTITIES.

3 **5-2303.**

4 (A) THERE IS A SUCCESS ASSURANCE FUND.

5 (B) THE PURPOSE OF THE FUND IS TO AWARD GRANTS TO THE
6 COORDINATING SERVICE PROVIDER, WHICH SHALL BE DISBURSED AS PAYMENT TO
7 PROFESSIONAL SERVICES ENTITIES THAT HAVE BEEN SELECTED TO PROVIDE
8 BUSINESS SERVICES TO SMALL BUSINESSES UNDER § 5-2309 OF THIS SUBTITLE.

9 (C) THE DEPARTMENT, IN CONSULTATION WITH A MANAGING NONPROFIT,
10 SHALL ADMINISTER THE FUND.

11 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
12 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

15 (E) (1) THE FUND CONSISTS OF:

16 (I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE
17 FUND; AND

18 (II) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED
19 FOR THE BENEFIT OF THE FUND.

20 (2) FOR FISCAL YEAR 2025, THE GOVERNOR SHALL INCLUDE IN THE
21 ANNUAL BUDGET BILL AN APPROPRIATION OF \$4,000,000 TO THE FUND.

22 (F) THE FUND MAY BE USED ONLY FOR:

23 (1) AWARDING GRANTS TO THE COORDINATING SERVICE PROVIDER,
24 WHICH SHALL BE DISBURSED AS PAYMENT TO PROFESSIONAL SERVICES ENTITIES
25 TO ASSIST SMALL BUSINESSES WITH RECEIVING BUSINESS SERVICES UNDER THE
26 SUCCESS ASSURANCE MODEL; AND

27 (2) ADMINISTRATIVE EXPENSES OF THE SUCCESS ASSURANCE
28 MODEL.

29 (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND

1 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

2 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
3 THE GENERAL FUND OF THE STATE.

4 (H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
5 WITH THE STATE BUDGET.

6 (I) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE
7 AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

8 5-2304.

9 (A) THE DEPARTMENT SHALL SELECT A MANAGING NONPROFIT THAT
10 SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION TO:

11 (1) OVERSEE THE ADMINISTRATION OF THE SUCCESS ASSURANCE
12 MODEL; AND

13 (2) HIRE AND MANAGE A COORDINATING SERVICE PROVIDER.

14 (B) THE NONPROFIT SELECTED BY THE DEPARTMENT UNDER SUBSECTION
15 (A) OF THIS SECTION SHALL:

16 (1) BE BASED IN THE STATE;

17 (2) HAVE THE MANAGEMENT CAPACITY TO COORDINATE THE
18 SUCCESS ASSURANCE MODEL;

19 (3) BE EQUIPPED TO RECEIVE GRANTS; AND

20 (4) HAVE AT LEAST 15 YEARS OF EXPERIENCE WITH:

21 (I) PROVIDING LOANS AND EQUITY INVESTMENTS TO SMALL
22 BUSINESSES IN THE STATE; AND

23 (II) ADVISING, SUPPORTING, AND MENTORING SMALL
24 BUSINESSES IN THE STATE.

25 5-2305.

26 (A) WITH THE APPROVAL OF THE DEPARTMENT, THE MANAGING
27 NONPROFIT SHALL SELECT A COORDINATING SERVICE PROVIDER TO CARRY OUT

1 THE DAILY OPERATIONS AND RESPONSIBILITIES OF THE SUCCESS ASSURANCE
2 MODEL UNDER THIS SUBTITLE.

3 (B) THE COORDINATING SERVICE PROVIDER IS RESPONSIBLE FOR:

4 (1) RECEIVING GRANTS FROM THE FUND; AND

5 (2) DISTRIBUTING PAYMENTS FROM THE FUND TO PROFESSIONAL
6 SERVICES ENTITIES THAT ARE PROVIDING BUSINESS SERVICES IN ACCORDANCE
7 WITH THIS SUBTITLE.

8 5-2306.

9 (A) TO APPLY TO RECEIVE BUSINESS SERVICES FROM A PROFESSIONAL
10 SERVICES ENTITY UNDER THE SUCCESS ASSURANCE MODEL, A SMALL BUSINESS
11 SHALL SUBMIT AN APPLICATION TO THE COORDINATING SERVICE PROVIDER THAT
12 INCLUDES:

13 (1) A STATEMENT DEMONSTRATING THAT THE BUSINESS IS A SMALL
14 BUSINESS, AS DEFINED IN § 5-2301 OF THIS SUBTITLE;

15 (2) A STATEMENT OF THE BUSINESS SERVICES REQUESTED;

16 (3) ANY SUPPORTING FINANCIAL INFORMATION THAT THE SMALL
17 BUSINESS BELIEVES IS RELEVANT TO THE REQUESTED BUSINESS SERVICES; AND

18 (4) IF APPLICABLE, THE NAME OF A PROFESSIONAL SERVICES ENTITY
19 THAT THE SMALL BUSINESS REQUESTS TO RECEIVE BUSINESS SERVICES FROM AND
20 THE BASIS FOR THE REQUEST.

21 (B) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN AN ELECTRONIC
22 PORTAL ON THE DEPARTMENT'S WEBSITE THAT ENABLES A SMALL BUSINESS TO
23 SUBMIT AN APPLICATION IN ACCORDANCE WITH THIS SECTION.

24 5-2307.

25 THE COORDINATING SERVICE PROVIDER, IN CONSULTATION WITH THE
26 MANAGING NONPROFIT, SHALL APPROVE OR DENY THE APPLICATION OF A SMALL
27 BUSINESS TO RECEIVE BUSINESS SERVICES FROM A PROFESSIONAL SERVICES
28 ENTITY BASED ON:

29 (1) A REVIEW OF THE APPLICATION;

1 (2) A DETERMINATION THAT THE SMALL BUSINESS IS IN GOOD
2 STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

3 (3) AVAILABLE FUNDING; AND

4 (4) ANY OTHER CRITERIA OR EVIDENCE DETERMINED TO BE
5 NECESSARY BY THE COORDINATING SERVICE PROVIDER OR THE MANAGING
6 NONPROFIT.

7 5-2308.

8 (A) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, THE
9 COORDINATING SERVICE PROVIDER AND THE MANAGING NONPROFIT SHALL
10 ESTABLISH A COMPETITIVE PROCESS FOR PROFESSIONAL SERVICES ENTITIES TO
11 SUBMIT BIDS TO PROVIDE BUSINESS SERVICES TO SMALL BUSINESSES THAT HAVE
12 HAD THEIR APPLICATIONS APPROVED UNDER § 5-2307 OF THIS SUBTITLE.

13 (B) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN AN ELECTRONIC
14 PORTAL ON THE DEPARTMENT'S WEBSITE THAT ENABLES PROFESSIONAL SERVICES
15 ENTITIES TO SUBMIT A BID IN ACCORDANCE WITH THIS SECTION.

16 5-2309.

17 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COORDINATING
18 SERVICE PROVIDER, WITH APPROVAL OF THE MANAGING NONPROFIT, SHALL
19 SELECT A PROFESSIONAL SERVICES ENTITY TO PROVIDE BUSINESS SERVICES TO A
20 SMALL BUSINESS BASED ON THE FOLLOWING FACTORS:

21 (1) THE TYPE AND PROPOSED COST OF THE BUSINESS SERVICES THAT
22 WILL BE PROVIDED BY THE PROFESSIONAL SERVICES ENTITY;

23 (2) WHETHER THE PROPOSED BUSINESS SERVICES WILL BE ABLE TO
24 ADEQUATELY ADDRESS THE NEEDS OF THE SMALL BUSINESS;

25 (3) THE EXPERTISE OF THE PROFESSIONAL SERVICES ENTITY TO
26 PROVIDE THE SPECIFIC BUSINESS SERVICES;

27 (4) INPUT OR ANY PREFERENCE FROM THE SMALL BUSINESS THAT IS
28 REQUESTING BUSINESS SERVICES; AND

29 (5) ANY OTHER RELEVANT FACTORS DETERMINED BY THE
30 COORDINATING SERVICE PROVIDER OR THE MANAGING NONPROFIT.

(B) THE COORDINATING SERVICE PROVIDER AND THE MANAGING NONPROFIT SHALL CONSIDER BIDS FROM AT LEAST TWO PROFESSIONAL SERVICES ENTITIES BEFORE SELECTING A PROFESSIONAL SERVICES ENTITY TO PROVIDE BUSINESS SERVICES TO A SMALL BUSINESS.

(C) ONCE A PROFESSIONAL SERVICES ENTITY IS SELECTED, THE COORDINATING SERVICE PROVIDER SHALL CONDUCT AN ENTRANCE INTERVIEW WITH THE SMALL BUSINESS, THE PROFESSIONAL SERVICES ENTITY, AND A REPRESENTATIVE FROM THE MANAGING NONPROFIT TO IDENTIFY SPECIFIC:

(1) STRENGTHS AND WEAKNESSES OF THE SMALL BUSINESS; AND

(2) AREAS THAT SHOULD BE THE FOCUS OF THE BUSINESS SERVICES THAT WILL BE PROVIDED BY THE PROFESSIONAL SERVICES ENTITY.

5-2310.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, A PROFESSIONAL SERVICES ENTITY THAT HAS BEEN SELECTED UNDER § 5-2309 OF THIS SUBTITLE MAY PROVIDE BUSINESS SERVICES TO A SMALL BUSINESS ONCE A BUSINESS SERVICES AGREEMENT HAS BEEN EXECUTED.

(B) (1) THE SMALL BUSINESS, THE COORDINATING SERVICE PROVIDER, AND THE MANAGING NONPROFIT SHALL MUTUALLY AGREE AND ENTER INTO A BUSINESS SERVICES AGREEMENT WITH THE PROFESSIONAL SERVICES ENTITY THAT HAS BEEN SELECTED UNDER § 5-2309 OF THIS SUBTITLE.

(2) THE BUSINESS SERVICES AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL STATE:

(I) THE EXACT BUSINESS SERVICES THAT WILL BE PROVIDED BY THE PROFESSIONAL SERVICES ENTITY;

(II) THE TIMELINE FOR THE PROVISION OF THE BUSINESS SERVICES UNDER ITEM (I) OF THIS PARAGRAPH;

(III) THE TOTAL COST OF THE BUSINESS SERVICES UNDER ITEM (I) OF THIS PARAGRAPH; AND

(IV) ANY OTHER TERMS OR CONDITIONS THAT ARE DETERMINED TO BE NECESSARY BY THE COORDINATING SERVICE PROVIDER OR THE MANAGING NONPROFIT.

(3) THE BUSINESS SERVICES AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN AGREEMENT BY THE SMALL BUSINESS, THE COORDINATING SERVICE PROVIDER, AND THE PROFESSIONAL SERVICES ENTITY TO ADHERE TO THE REQUIREMENTS IN § 5-2311 OF THIS SUBTITLE.

(C) THE COST OF THE BUSINESS SERVICES PROVIDED UNDER SUBSECTION (B)(2)(III) OF THIS SECTION SHALL BE REIMBURSED AS FOLLOWS:

(1) BY THE SMALL BUSINESS, 25% OF THE TOTAL COST; AND

(2) BY THE FUND, 75% OF THE TOTAL COST.

(D) (1) A BUSINESS SERVICES AGREEMENT UNDER THIS SECTION MAY BE TERMINATED BY THE COORDINATING SERVICE PROVIDER OR THE MANAGING NONPROFIT AT ANY TIME IF THE PROFESSIONAL SERVICES ENTITY OR THE SMALL BUSINESS FAILS TO COMPLY WITH THE TERMS OF THE BUSINESS SERVICES AGREEMENT.

(2) IF A BUSINESS SERVICES AGREEMENT IS TERMINATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COORDINATING SERVICE PROVIDER, WITH THE ASSISTANCE OF THE MANAGING NONPROFIT AND THE DEPARTMENT, SHALL RECOVER PAYMENT FOR ANY BUSINESS SERVICES THAT HAVE NOT BEEN PROVIDED.

5-2311.

(A) ONCE A BUSINESS SERVICES AGREEMENT IS EXECUTED UNDER § 5-2310 OF THIS SUBTITLE, BUSINESS SERVICES SHALL BE PROVIDED TO THE SMALL BUSINESS BY THE PROFESSIONAL SERVICES ENTITY.

(B) UNTIL ALL BUSINESS SERVICES ARE PROVIDED TO THE SMALL BUSINESS BY THE PROFESSIONAL SERVICES ENTITY OR THE BUSINESS SERVICES AGREEMENT IS TERMINATED UNDER § 5-2310(D) OF THIS SUBTITLE, THE COORDINATING SERVICE PROVIDER SHALL:

(1) REGULARLY HOLD MEETINGS WITH THE SMALL BUSINESS AND THE PROFESSIONAL SERVICES ENTITY TO ENSURE THAT BUSINESS SERVICES ARE BEING PROVIDED IN A TIMELY AND EFFICIENT MANNER; AND

(2) PROVIDE THE MANAGING NONPROFIT WITH STATUS UPDATES ON THE PROGRESS OF THE BUSINESS SERVICES THAT ARE BEING PROVIDED TO THE SMALL BUSINESS.

1 **5-2312.**

2 **THE DEPARTMENT, IN CONSULTATION WITH THE MANAGING NONPROFIT AND**
3 **THE COORDINATING SERVICE PROVIDER, MAY ADOPT ANY GUIDELINES OR**
4 **REGULATIONS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.**

5 **5-2313.**

6 **ON OR BEFORE DECEMBER 1, 2024, AND EACH YEAR THEREAFTER, THE**
7 **DEPARTMENT SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE**
8 **STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:**

9 **(1) THE IMPLEMENTATION AND ADMINISTRATION OF THIS SUBTITLE;**

10 **(2) THE SMALL BUSINESSES THAT HAVE RECEIVED BUSINESS**
11 **SERVICES FROM PROFESSIONAL SERVICES ENTITIES;**

12 **(3) A SUMMARY OF THE MOST COMMON REASONS FOR THE DENIAL OF**
13 **SMALL BUSINESS APPLICATIONS UNDER § 5-2307 OF THIS SUBTITLE; AND**

14 **(4) A SUMMARY OF THE USE OF THE FUND TO PROVIDE GRANTS TO**
15 **THE COORDINATING SERVICE PROVIDER.**

16 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
17 **1, 2023.**