## **HOUSE BILL 548**

I1 (3lr0117)

## ENROLLED BILL

— Economic Matters/Finance —

Introduced by The Speaker (By Request – Administration) and Delegates Addison, Allen, Alston, Amprey, Attar, Bagnall, Bhandari, Boafo, Boyce, Cardin, Charles, Conaway, Crutchfield, Cullison, Davis, Ebersole, Edelson, Embry, Fennell, Foley, Fraser-Hidalgo, Grossman, Harris, Harrison, Healey, Henson, Holmes, D. Jones, Kaiser, Kaufman, Kelly, Kerr, J. Long, Lopez, Pasteur, Patterson, Phillips, Qi, Queen, Reznik, Rogers, Rosenberg, Ruth, Sample-Hughes, Shetty, Simpson, Smith, Solomon, Stein, Taveras, Toles, Turner, Valderrama, Vogel, Watson, Wells, Wilkins, Williams, Wivell, Woods, Wu, and Young

Read and Examined by Proofreaders:

	Proofreader
	Proofreader
Sealed with the Great Seal and presented	d to the Governor, for his approval this
day of at	o'clock,M
	Speaker
СНАРТЕН	₹
AN ACT concerning	
Financial Regulation – Maryland Com Establis (Access to Ba	hment
	lishment of a establishing the Maryland by the Commissioner of Financial Regulation or certain purposes; providing for certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



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1 2 3 4 5 6	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.
7 8 9 10 11	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)
12 13 14 15 16	BY adding to Article – Financial Institutions Section 2–118.1 Annotated Code of Maryland (2020 Replacement Volume and 2022 Supplement)
17 18 19 20 21	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)
22 23	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
24	Article - Financial Institutions
25	2–118.
26 27	(a) In this section, "Fund" means the Banking Institution and Credit Union Regulation Fund established under this section.
28 29	(b) There is a Banking Institution and Credit Union Regulation Fund that consists of:
30 31	(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
32 33	(2) Any other fee, assessment, or revenue received by the Commissioner from banking institutions and credit unions under this article.
34 35	(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.

1 2 3	(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:
4	(1) Expenditures authorized under this article; [and]
5 6	(2) Investments authorized under § $2-118.1$ of this subtitle; and
7	[(2)] (3) Any other expense authorized in the State budget.
8 9 10	(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.
11 12	(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:
13 14	(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or
15 16	(ii) By the budget amendment procedure provided for in $\S$ 7–209 of the State Finance and Procurement Article.
17 18 19 20	(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.
21	(f) (1) The State Treasurer is the custodian of the Fund.
22 23	(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.
24 25 26	(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.
27 28	(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:
29	(i) The General Fund of the State; or
30	(ii) A special fund of the State.

- 1 **2–118.1.**
- 2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
- 3 INDICATED.
- 4 (2) "FUND" MEANS THE MARYLAND COMMUNITY INVESTMENT
- 5 VENTURE FUND.
- 6 "LOW- TO MODERATE-INCOME TRACT" HAS THE MEANING
- 7 STATED IN § 5–203 OF THIS ARTICLE.
- 8 (3) "PRIVATE VENTURE FUND" MEANS THE SEPARATE ENTITY OR
- 9 ENTITIES CHARTERED IN ACCORDANCE WITH SUBSECTIONS (B) AND (K) OF THIS
- 10 **SECTION.**
- 11 (B) (1) THE COMMISSIONER MAY INVEST IN THERE IS A MARYLAND
- 12 COMMUNITY INVESTMENT VENTURE FUND.
- 13 (2) THE MARYLAND COMMUNITY INVESTMENT VENTURE FUND IS A
- 14 PRIVATE VENTURE FUND THAT IS A SEPARATELY CHARTERED EQUITY FUND USING
- 15 **BOTH**:
- 16 <u>(I) IS AN INSTRUMENTALITY OF THE STATE; AND</u>
- 17 (II) USES PUBLIC AND PRIVATE INVESTMENT FUNDS.
- 18 (3) (C) (1) THE SUBJECT TO PARAGRAPH (2) OF THIS
- 19 SUBSECTION, THE PURPOSE OF THE PRIVATE VENTURE FUND FUND IS TO DEVELOP
- 20 OPPORTUNITIES FOR BANKING INSTITUTIONS AND CREDIT UNIONS TO BETTER
- 21 SERVE THE NEEDS OF LOW- TO MODERATE-INCOME TRACTS BY:
- 22 (I) INVESTING IN THE DEVELOPMENT OF FINANCIAL PRODUCT
- 23 OR FINANCIAL PRODUCT UNDERWRITING INNOVATIONS THAT WILL ENHANCE
- 24 ACCESS TO CAPITAL, FUNDING, AND OTHER FINANCIAL SERVICES FOR BUSINESSES
- 25 IN LOW- TO MODERATE-INCOME TRACTS IN MARYLAND THE STATE;
- 26 (II) DEPLOYING, TESTING, AND EVALUATING THESE THE
- 27 INNOVATIONS FOR PROVIDING CAPITAL AND FUNDING TO BUSINESSES IN LOW- TO
- 28 MODERATE-INCOME TRACTS IN MARYLAND THE STATE; AND
- 29 (III) PROMOTING AND MAKING THESE THE INNOVATIONS
- 30 AVAILABLE TO A VARIETY OF BANKING INSTITUTIONS AND CREDIT UNIONS FOR USE
- 31 IN ENHANCING ACCESS TO CAPITAL, FUNDING, AND OTHER FINANCIAL SERVICES

- FOR BUSINESSES IN LOW- TO MODERATE-INCOME TRACTS IN MARYLAND THE 1 2 STATE.
- 3 (2) WITH THE APPROVAL OF THE COMMISSIONER, THE PURPOSE OF
- 4 THE FUND MAY BE ALTERED IN A MANNER THAT IS CONSISTENT WITH THE INTENT
- AND REQUIREMENTS OF THIS SECTION. 5
- 6 THE COMMISSIONER SHALL ESTABLISH A GOVERNANCE (D) (1) (I)STRUCTURE FOR THE FUND. 7
- 8 (II) THE COMMISSIONER MAY COLLABORATE WITH INVESTORS IN THE FUND WHEN ESTABLISHING THE GOVERNANCE STRUCTURE. 9
- 10 **(2)** THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE, SHALL SERVE ON THE GOVERNING BODY OF THE FUND. 11
- THE COMMISSIONER MAY EXPEND USE UP TO \$250,000 12 **(1)** <del>(C)</del> (E)
- FROM THE BANKING INSTITUTION AND CREDIT UNION REGULATION FUND 13 ESTABLISHED UNDER § 2-118 OF THIS SUBTITLE TO COVER THE EXPENSES 14
- ASSOCIATED WITH CHARTERING AND ORGANIZING THE PRIVATE VENTURE FUND
- 15
- ESTABLISHING THE FUND, INCLUDING ACCOUNTING, ADVISORY, THIRD-PARTY 16
- SERVICE PROVIDER, MARKETING, AND OTHER NECESSARY EXPENSES. 17
- TO ENCOURAGE PRIVATE INVESTMENT, THE COMMISSIONER MAY 18 <del>(D)</del>
- PROVIDE THE AN INITIAL EQUITY CAPITAL INVESTMENT IN THE PRIVATE VENTURE 19
- FUND IN AN AMOUNT UP TO \$2,500,000 FROM THE BANKING INSTITUTION 20
- AND CREDIT UNION REGULATION FUND. 21
- 22(1) THROUGH JUNE 30, 2028, THE COMMISSIONER MAY MATCH
- 23 ANY AN INVESTMENT MADE IN THE PRIVATE VENTURE FUND BY A BANKING
- INSTITUTION OR CREDIT UNION UP TO THE AMOUNT OF THE ASSESSMENT CREDIT 24
- EARNED BY THAT THE BANKING INSTITUTION OR CREDIT UNION UNDER IN 25
- ACCORDANCE WITH  $\S 5-203(C)$   $\S 5-203(D)$  OR  $\S 6-712(C)(4)$  OF THIS ARTICLE. 26
- 27**(2)** COMMISSIONER <del>(F)</del> THE MAY NOT MAKE ANY FURTHER
- 28INVESTMENTS AN INVESTMENT IN THE PRIVATE VENTURE FUND FUND AFTER JUNE
- 29 30, 2028.
- 30 ANY AND ALL ALL INVESTMENT RETURNS OR RETURN OF CAPITAL
- FROM THE PRIVATE VENTURE FUND FUND WITH RESPECT TO ANY AN INVESTMENT 31
- AUTHORIZED BY THE COMMISSIONER SHALL BE THE PROPERTY OF CREDITED TO 32
- THE BANKING INSTITUTION AND CREDIT UNION REGULATION FUND. 33

- 1 (H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE 2 COMMISSIONER MAY NEGOTIATE APPROPRIATE GOVERNANCE STRUCTURES FOR 3 THE PRIVATE VENTURE FUND WITH OTHER INVESTORS.
- 4 (2) THE COMMISSIONER OR A REPRESENTATIVE OF THE 5 COMMISSIONER SHALL ALWAYS SERVE ON THE BODY GOVERNING THE PRIVATE 6 VENTURE FUND.
- 7 (3) (1) THE PURPOSE OF THE PRIVATE VENTURE FUND MAY NOT BE 8 ALTERED OR AMENDED WITHOUT THE CONSENT OF THE COMMISSIONER.
- 9 (II) ANY ALTERED OR AMENDED PURPOSE MUST REMAIN
  10 CONSISTENT WITH THIS SECTION.
- 11 (H) (H) AT THE DIRECTION OF THE COMMISSIONER, AND IN ADDITION TO
  12 ANY CUSTOMARY AND APPROPRIATE AUDITS OF THE FUND, THE PRIVATE
  13 VENTURE FUND GOVERNING BODY OF THE FUND SHALL BE REQUIRED TO ENGAGE
  14 OBTAIN THE SERVICES OF AN INDEPENDENT THIRD PARTY DESIGNATED BY THE
  15 COMMISSIONER ON AN ANNUAL BASIS TO EVALUATE WHETHER ALL THE
  16 INVESTMENTS MEET THE CRITERIA ESTABLISHED BY MADE TO THE FUND COMPLY
  17 WITH THIS SECTION.
- 18 (J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
  19 DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT
  20 APPLY TO A SERVICE THAT THE COMMISSIONER OBTAINS UNDER THIS SECTION.
- 21 (2) THE COMMISSIONER IS SUBJECT TO TITLE 12, SUBTITLE 4 OF
  22 THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES CONTRACTED
  23 UNDER SUBSECTION (C) OR (K) OF THIS SECTION.
- 24 (K) (I) (1) TO THE EXTENT IF THE COMMISSIONER DETERMINES THAT
  25 SEPARATE PRIVATE VENTURE FUNDS ARE NECESSARY TO ACCOMPLISH THE
  26 PURPOSE OF THE PRIVATE VENTURE FUND FUND, THE COMMISSIONER MAY EXPEND
  27 FUNDS USE MONEY FROM THE FUND TO CHARTER AND ORGANIZE ESTABLISH
  28 ADDITIONAL PRIVATE VENTURE FUNDS.
- 29 ANY AN ADDITIONAL PRIVATE VENTURE FUNDS CHARTERED AND 30 ORGANIZED UNDER FUND ESTABLISHED IN ACCORDANCE WITH THIS SUBSECTION ARE SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF THIS SECTION ON THE 31 MARYLAND COMMUNITY INVESTMENT-VENTURE FUND UNDER SUBSECTION (B) OF 32 THIS SECTION, INCLUDING THE AGGREGATE EXPENSE AND INVESTMENT 33 34 LIMITATIONS STATED IN SUBSECTIONS (C)-THROUGH (F) OF THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS (B) THROUGH (F) OF THIS 35 SECTION. 36

- 5-101.1
- 2 (a) In this title the following words have the meanings indicated.
- 3 "CAMELS" means the composite rating adopted by the federal Financial (b)
- Institutions Examination Council to evaluate the adequacy of capital, quality of assets, 4
- capability of management, quality and level of earnings, adequacy of liquidity, and 5
- sensitivity to market risk. 6
- 5-203. 7
- 8 In this section<del>, unless the context clearly requires</del> 9 OTHERWISE. THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
- 10 "BRANCH" MEANS A DEPOSIT-TAKING OFFICE OF A BANKING
- 11 INSTITUTION IN MARYLAND OTHER THAN THE MAIN OFFICE AS DEFINED BY THE
- FEDERAL DEPOSIT INSURANCE CORPORATION. 12
- 13 "DE NOVO BRANCH" HAS THE MEANING STATED IN § 5-1001 OF
- 14 THIS TITLE WITH RESPECT TO A BANKING INSTITUTION.
- "DEPOSIT GROWTH CAP" 15 **(4)** MEANS THE YEAR-OVER-YEAR
- PERCENTAGE CHANGE OF DOMESTIC OFFICE DEPOSITS AS REPORTED ON 16
- DECEMBER 31 EACH YEAR BY THE FEDERAL DEPOSIT INSURANCE CORPORATION 17
- IN THE FEDERAL DEPOSIT INSURANCE CORPORATION QUARTERLY BANK PROFILE. 18
- 19 "DEPOSITS" MEANS DEPOSITS ORIGINATED AND HOUSED AT A
- 20 BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT AS REPORTED BY A
- BANKING INSTITUTION TO THE FEDERAL DEPOSIT INSURANCE CORPORATION 21
- 22EACH YEAR AS OF JUNE 30.
- "LOW- TO MODERATE-INCOME TRACT" MEANS A CENSUS TRACT 23
- DELINEATED BY THE U.S. BUREAU OF THE CENSUS IN THE MOST RECENT 24
- DECENNIAL CENSUS AS PUBLISHED BY THE FEDERAL FINANCIAL INSTITUTIONS 25
- 26 EXAMINATION COUNCIL THAT CORRESPONDS TO LOW- TO MODERATE-INCOME
- 27LEVEL CLASSIFICATIONS AS DEFINED BY THE REGULATION OF THE FEDERAL
- RESERVE BOARD IMPLEMENTING THE FEDERAL COMMUNITY REINVESTMENT ACT, 28
- 29 12 C.F.R. 228.12.
- 30 The Commissioner shall impose annual assessments on each banking
- institution as provided in this section, to cover the expense of regulating banking 31
- 32institutions.

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(3)

institution's most recent financial report.

- 8 1 [(b)] **(C)** Except as provided in paragraph (2) of this subsection, the (1) 2 Commissioner shall assess each banking institution the sum of: 3 \$8,000; plus (i) 4 (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; 5 6 2. 10 cents for each \$1,000 of assets over \$250,000,000, but 7 not more than \$500,000,000; 8 9 cents for each \$1,000 of assets over \$500,000,000, but not 3. 9 more than \$1,000,000,000; 10 8 cents for each \$1,000 of assets over \$1,000,000,000, but 11 not more than \$10,000,000,000; and 12 5. 7 cents for each \$1,000 of assets over \$10,000,000,000. 13 (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 14 shall assess the banking institution the sum of: 15 16 \$5,000; plus (i) 17 (ii) 1. 0.3 cents for each \$1,000 of managed assets held in a fiduciary capacity up to \$5,000,000,000; 18 19 0.2 cents for each \$1,000 of managed assets held in a 20 fiduciary capacity over \$5,000,000,000, but not more than \$20,000,000,000; 210.1 cent for each \$1,000 of managed assets held in a 22fiduciary capacity over \$20,000,000,000 up to \$27,500,000,000: 230.2 cents for each \$1,000 of nonmanaged and custodial 24 assets held in a fiduciary capacity up to \$5,000,000,000; and 255. 0.1 cent for each \$1,000 of nonmanaged and custodial 26 assets held in a fiduciary capacity over \$5,000,000,000 up to \$20,000,000,000.
- 29 A WELL-CAPITALIZED BANKING INSTITUTION WITH A COMPOSITE CAMELS RATING OF 1 OR 2 MAY FILE WITH THE COMMISSIONER A REQUEST FOR 30 31 AN ASSESSMENT OFFSET CREDIT OF:

The assessments shall be based on assets stated in a banking

- 1 (1) 12 CENTS FOR EACH \$1,000 OF DEPOSITS IN A DE NOVO BRANCH 2 LOCATED IN A LOW- TO MODERATE-INCOME TRACT FOR THE FIRST 5 YEARS AFTER 3 THE DATE THE BRANCH OPENED; OR
- 4 (2) 6 CENTS FOR EACH \$1,000 OF DEPOSITS IN A BRANCH LOCATED IN 5 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%.
- 9 [(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.
- 11 (G) THE COMMISSIONER MAY DESIGNATE A SUCCESSOR INDEX FOR:
- 12 (1) THE LOW- TO MODERATE-INCOME TRACT IF THE FEDERAL 13 FINANCIAL INSTITUTIONS EXAMINATION COUNCIL TRACT INCOME LEVEL DATA IS
- 14 NO LONGER PUBLISHED; OR
- 15 (2) THE DEPOSIT GROWTH CAP IF THE FEDERAL DEPOSIT 16 INSURANCE CORPORATION REPORT OF DOMESTIC OFFICE DEPOSITS IS NO LONGER 17 PUBLISHED.
- 18 6–712.
- 19 (a) (1) In this section<del>, unless the context clearly requires</del> 20 <del>otherwise,</del> the following words have the meanings indicated.
- 21 **(2)** "DE NOVO BRANCH" MEANS A BRANCH OF A CREDIT UNION THAT 22 WAS ORIGINALLY ESTABLISHED BY THE CREDIT UNION IN MARYLAND THE STATE.
- 23"DEPOSIT GROWTH CAP" **(3)** MEANS THE YEAR-OVER-YEAR 24PERCENTAGE CHANGE OF TOTAL SHARES AND DEPOSITS REPORTED DECEMBER 31 EACH YEAR BY FEDERALLY INSURED CREDIT UNIONS TO THE NATIONAL CREDIT 25 UNION ADMINISTRATION AND PUBLISHED IN THE NATIONAL CREDIT UNION 26 27 ADMINISTRATION CALL REPORT AGGREGATE FINANCIAL PERFORMANCE 28REPORTS.
- 29 (4) "DEPOSITS" MEANS DEPOSITS ORIGINATED AND HOUSED AT A 30 CREDIT UNION BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT AS
- 31 REPORTED BY A CREDIT UNION TO THE COMMISSIONER EACH YEAR AS OF JUNE 30.

- 1 (5) "LOW- TO MODERATE-INCOME TRACT" HAS THE MEANING 2 STATED IN § 5-203 OF THIS ARTICLE.
- 3 **(B)** This section applies only to a credit union with assets of \$300,000 or greater.
- 4 **[(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.
- 6 (2) The Commissioner shall assess each credit union the sum of:
- 7 (i) \$1,000; and
- 8 (ii) 8 cents for each \$1,000 of the assets of the credit union over 9 \$1,000,000.
- 10 (3) The assessment shall be based on assets stated in the credit union's most recent financial report.
- 12 (4) A WELL-CAPITALIZED CREDIT UNION WITH A COMPOSITE 13 CAMELS RATING OF 1 OR 2 MAY FILE WITH THE COMMISSIONER A REQUEST FOR 14 AN ASSESSMENT OFFSET CREDIT OF:
- 15 (I) 12 CENTS FOR EACH \$1,000 OF DEPOSITS IN A DE NOVO 16 BRANCH LOCATED IN A LOW- TO MODERATE-INCOME TRACT FOR THE FIRST 5 YEARS 17 AFTER THE DATE THE DE NOVO BRANCH OPENED; OR
- 18 (II) 6 CENTS FOR EACH \$1,000 OF DEPOSITS IN A BRANCH
  19 LOCATED IN A LOW- TO MODERATE-INCOME TRACT NOT TO EXCEED THE DEPOSIT
  20 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.
- 23 (E) THE COMMISSIONER MAY DESIGNATE A SUCCESSOR INDEX FOR THE 24 DEPOSIT GROWTH CAP IF THE NATIONAL CREDIT UNION ADMINISTRATION CALL 25 REPORT AGGREGATE FINANCIAL PERFORMANCE REPORTS IS NO LONGER 26 PUBLISHED.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.