

# HOUSE BILL 1186

C8

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By: **Chair, Economic Matters Committee (By Request – Departmental – Business and Economic Development)**

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, February 26, 2007

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Committee Report: Favorable

House action: Adopted

Read second time: March 17, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Business and Economic Development – Financing Transactions**

3 FOR the purpose of authorizing the Department of Business and Economic  
4 Development to expend funds and take certain actions to protect the interests of  
5 the Department in financing transactions; allowing the Department to receive  
6 certain repayments and returns on investment for certain financings made to  
7 local governments from the Maryland Economic Development Assistance Fund  
8 without triggering certain new financing requirements; altering certain  
9 limitations on funding for strategic plans, economic development plans, and  
10 feasibility studies from the Maryland Economic Development Assistance Fund;  
11 and generally relating to the Department of Business and Economic  
12 Development and financing.

13 BY adding to

14 Article 83A – Department of Business and Economic Development

15 Section 5–107

16 Annotated Code of Maryland

17 (2003 Replacement Volume and 2006 Supplement)

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**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.



1 BY repealing and reenacting, with amendments,  
2 Article 83A – Department of Business and Economic Development  
3 Section 5–1405  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2006 Supplement)

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

8 **Article 83A – Department of Business and Economic Development**

9 **5–107.**

10 **THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT**  
11 **THE INTEREST OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL,**  
12 **LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO**  
13 **FINANCING TRANSACTIONS, INCLUDING BY EXPENDING FUNDS FROM ITS**  
14 **GENERAL AND SPECIAL FUNDS TO ACQUIRE, DISPOSE, OPERATE, PROTECT,**  
15 **ENHANCE, OR MAINTAIN COLLATERAL OR LIENS.**

16 5–1405.

17 (a) The Department may use moneys in the Fund to:

18 (1) Provide financial assistance to eligible applicants; and

19 (2) Pay expenses for administrative, actuarial, legal, and technical  
20 services for the Fund.

21 (b) Financial assistance from the Fund may be used only to finance costs  
22 incurred for:

23 (1) Acquisition or construction of a building or real estate, and  
24 associated development and carrying costs;

25 (2) Acquisition, construction, or installation of machinery, equipment,  
26 furnishings, fixtures, leasehold improvements, site improvements, or infrastructure  
27 improvements, including rail line enhancements on or to the site of an economic  
28 development project, and associated development and carrying costs;

29 (3) Working capital for significant strategic economic development  
30 opportunities, arts and entertainment enterprises, or arts and entertainment projects;

1 (4) Redevelopment of qualified brownfields sites;

2 (5) (i) Except as provided in item (ii) of this paragraph, up to 50%  
3 of the costs of renovations, construction, or purchase of real property, fixtures, or  
4 equipment related to a child care facility, but not for refinancing existing loans,  
5 working capital, supplies, or inventory; or

6 (ii) A business that has received or will receive a day care loan  
7 insured by the Maryland Industrial Development Financing Authority; such  
8 businesses shall be limited to financial assistance from the Fund of not more than 20%  
9 of the costs described in item (i) of this paragraph;

10 (6) If supported by a resolution adopted by the governing body of the  
11 jurisdiction in which a project may be located, costs of feasibility studies;

12 (7) Up to 50% of the costs of preparing a county's or municipality's  
13 strategy or plan for economic development, not to exceed a total of \$50,000 in a 3-year  
14 period; and

15 (8) Any project intended to assist businesses in areas declared federal  
16 disaster areas, but only if the Fund received an application for financial assistance  
17 within 1 year after the declaration of the federal disaster area.

18 (c) (1) Financial assistance from the Fund:

19 (i) May not exceed the lesser of \$10,000,000 or 20% of the Fund  
20 balance;

21 (ii) Except as provided in item (iii) of this paragraph, may not  
22 exceed 70% of the total costs of the project being financed;

23 (iii) May constitute 100% of the total costs of the project being  
24 financed if:

25 1. The recipient is the Maryland Economic Development  
26 Corporation;

27 2. The financial assistance is for an arts and  
28 entertainment enterprise or arts and entertainment project; or

29 3. The financial assistance is for a qualified distressed  
30 county project;

1 (iv) If a loan for a significant strategic economic development  
2 opportunity or for a specialized economic development opportunity, shall carry an  
3 interest rate below the market rate of interest, as determined by the Department;

4 (v) If a loan for a local economic development opportunity or to  
5 a local government for a project that is not in a qualified distressed county, shall carry  
6 an interest rate not exceeding one-eighth of one percent plus the net interest cost of  
7 the most recent State general obligation bond issue preceding the approval of the loan;

8 (vi) Shall not bear a rate of interest less than 3% unless the  
9 project funded by a loan is located in an area of high unemployment or the  
10 Department determines that the borrower is carrying out a compelling economic  
11 development initiative;

12 (vii) If a loan for a qualified distressed county project, shall carry  
13 a rate of interest determined by the Department or the Authority; and

14 (viii) May not be used to refinance existing debt.

15 (2) Loans from the Fund may not be for a term exceeding:

16 (i) For working capital – 3 years;

17 (ii) For financing machinery, equipment, furnishings, or fixtures  
18 – the lesser of 15 years or the useful life of the asset, as determined by the  
19 Department;

20 (iii) For financing the construction or acquisition of buildings  
21 and real estate – 25 years; and

22 (iv) For financial assistance for redevelopment of a qualified  
23 brownfields site or a qualified distressed county project – a term approved by the  
24 Department or the Authority.

25 (3) For loans from the Fund the Department may:

26 (i) Waive interest during the first 2 years of a loan term; or

27 (ii) Upon a default by the borrower, impose an interest rate that  
28 exceeds the limits set forth in paragraph (1) of this subsection.

1           (4) Proceeds of investments from the Fund may be expended only on  
2 costs described in subsection (b) of this section.

3           (d) To be eligible for financial assistance from the Fund, an applicant must  
4 be:

5           (1) An individual, private business, not for profit entity, or local  
6 government which:

7           (i) Must use the requested financial assistance for a project in  
8 an eligible industry sector, unless the applicant is a local government intending to use  
9 the financial assistance to carry out a project that:

10                           1. Does not benefit a particular private sector entity; or

11                           2. Is located in a qualified distressed county;

12           (ii) Intends to use the requested financial assistance for a  
13 project that has a strong potential for expanding or retaining employment  
14 opportunities in the State; and

15           (iii) Submits to the Department an application containing:

16                           1. Any information the Department or the Authority  
17 deems necessary in evaluating the request for financial assistance; and

18                           2. For a qualified distressed county project, the  
19 following, in form and content acceptable to the Department:

20                                   A. A marketing plan designed to market the project to  
21 prospective businesses;

22                                   B. A statement of planned marketing expenditures as a  
23 percent of the total financial assistance amount requested; and

24                                   C. A plan for the project that is consistent with the  
25 county's local strategic economic development plan as to the location and type of  
26 project; or

27           (2) A local economic development fund that meets the criteria set forth  
28 in § 5-1407 of this subtitle.

1 (e) Subject to the restrictions of this subtitle, the Department or the  
2 Authority shall impose such terms and conditions on financial assistance provided  
3 from the Fund as either deems appropriate.

4 (f) For a local economic development opportunity, the local government of  
5 the jurisdiction in which the project is located must provide:

6 (1) A formal resolution of the governing body of the jurisdiction in  
7 which the project is located endorsing the financial assistance to be provided from the  
8 Fund; and

9 (2) Either or both of the following, as determined by the Department  
10 or the Authority, to evidence its support of the project:

11 (i) A guarantee, secured by the full faith and credit of the  
12 county or municipality in which the project is located, of all or a portion of the amount  
13 of the financial assistance; or

14 (ii) The financing of a portion of the costs of the project equal to  
15 at least 10% of the financial assistance to be provided from the Fund.

16 (g) (1) Financial assistance provided to a local government must be  
17 approved by a formal resolution of:

18 (i) The governing body of the jurisdiction in which the project is  
19 located; or

20 (ii) Except as provided in paragraph (2) of this subsection, if the  
21 recipient of the financial assistance is the Maryland Economic Development  
22 Corporation, its Board of Directors.

23 (2) If the recipient of the financial assistance is the Maryland  
24 Economic Development Corporation for a qualified distressed county project, the  
25 financial assistance must be approved by formal resolutions of both the board of  
26 directors of the Maryland Economic Development Corporation and the governing body  
27 of the jurisdiction in which the project is located.

28 (3) A project that is funded by a grant from the Fund to a local  
29 government, and carried out by the local government, must be consistent with the  
30 strategy or plan for economic development of the county or municipality in which the  
31 project is located.

1           **(4) IF THE DEPARTMENT PROVIDES FINANCIAL ASSISTANCE TO A**  
2 **LOCAL GOVERNMENT FOR A PROJECT, AN INTEREST IN THAT PROJECT IS LATER**  
3 **TRANSFERRED TO A THIRD PARTY, AND THE TRANSFER OF THE INTEREST IS**  
4 **FINANCED BY THE LOCAL GOVERNMENT:**

5           **(I) THE LOCAL GOVERNMENT MAY ASSIGN THE FINANCING**  
6 **DOCUMENTS TO THE DEPARTMENT AS A REPAYMENT OF OR RETURN ON THE**  
7 **DEPARTMENT'S FINANCIAL ASSISTANCE TO THE LOCAL GOVERNMENT; AND**

8           **(II) THE ASSIGNMENT MAY NOT BE DEEMED A NEW**  
9 **FINANCING UNDER THIS SUBTITLE.**

10           (h) (1) Financial assistance from the Fund not exceeding \$2,500,000 may  
11 be approved by the Secretary.

12           (2) Financial assistance from the Fund exceeding \$2,500,000 shall be  
13 approved by the Authority.

14           (3) Notwithstanding paragraphs (1) and (2) of this subsection, the  
15 Secretary may approve financial assistance exceeding \$2,500,000 for a qualified  
16 distressed county project.

17           (i) The Department shall periodically review its portfolio in an effort to  
18 ensure:

19           (1) Equitable funds distribution among Maryland's counties;

20           (2) Adequate funding for qualified distressed county projects; and

21           (3) That no particular qualified distressed county benefits  
22 disproportionally from financial assistance to qualified distressed counties under this  
23 subtitle.

24           (j) The Department shall report to the Governor and, subject to § 2-1246 of  
25 the State Government Article, to the General Assembly before January 1 of each year  
26 on the number, amount, use, and economic benefits of financial assistance awarded  
27 under this subtitle.

28           **(K) FINANCIAL ASSISTANCE AWARDED UNDER THIS SUBTITLE IS NOT**  
29 **REQUIRED TO BE WITHIN A PRIORITY FUNDING AREA AS PROVIDED UNDER §**

1 **5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF THE**  
2 **FINANCIAL ASSISTANCE IS TO DEFRAY THE COSTS OF:**

3 **(1) A STRATEGIC PLAN OR ECONOMIC DEVELOPMENT PLAN FOR A**  
4 **COUNTY OR MUNICIPALITY; OR**

5 **(2) A FEASIBILITY STUDY.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 July 1, 2007.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.