

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1186 (Chair, Economic Matters Committee) (By Request – Departmental –
Business and Economic Development)

Economic Matters

Finance

Business and Economic Development - Financing Transactions

This departmental bill authorizes the Department of Business and Economic Development (DBED) to provide financial assistance through the Maryland Economic Development Assistance and Authority Fund (MEDAAF) for a feasibility study and a strategic plan or economic development plan for a county or municipality outside of a priority funding area (PFA). In addition, the bill clarifies repayment provisions for a transfer of an interest in a MEDAAF project, and authorizes DBED to take necessary steps to protect its interests in financial transactions.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: None. The bill clarifies DBED's authority to perform current functions.

Local Effect: Minimal. The bill eliminates the possible requirement of a 10% local match for One Maryland loan repayments and a 70% State funding limitation.

Small Business Effect: DBED has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: DBED may take all reasonable actions to protect its interests in its investments, collateral, loans, grants, and other financial transactions. These actions may

include expending special and general funds to acquire, dispose, operate, protect, finance, or maintain collateral or liens.

If a local interest in a project financed through MEDAAF is transferred to a third party with the private entity providing payment over time, the local government may assign the financing documents to DBED as repayment of DBED's financial assistance, or as a return on the financial assistance. The assignment may not be deemed a new financing.

Current Law/Background: MEDAAF financial assistance may be used to finance costs for several different types of activities, including up to 50% of the costs of preparing a county's or municipality's strategy or plan for economic development, (not to exceed \$50,000 in three years), and costs of feasibility studies. Funding from MEDAAF must be used for projects in PFAs under Title 5, Subtitle 7B of the State Finance and Procurement Article. Growth-related projects cannot be funded outside of PFAs unless an exemption is granted or the Board of Public Works approves the project.

DBED advises that it has funded feasibility studies outside of PFAs, but in order to do so, it had to get permission from the Coordinating Committee at the Maryland Department of Planning, which meets once a month. In addition, it has provided financial assistance for strategic plans; however it has done so by using a specific technical definition of a strategic plan.

Under existing statute, if a local jurisdiction accepted a note from a private entity seeking to purchase an interest in a qualified distressed county (*i.e.* One Maryland) project, and assigned that note to DBED, this could be interpreted as assistance to the private entity. Under that scenario, the transaction would be a local economic development opportunity, and would require the local jurisdiction to provide a 10% financing match, and DBED could only provide up to 70% of the financial for the new project (the new project being the acquisition of the property).

DBED advises it has avoided this scenario by using a local government as a conduit. For example, DBED once used Princess Anne in Somerset County to transfer a building constructed through the Maryland Economic Development Corporation to a private party.

Under several of DBED's programs, it is specifically authorized by statute to take certain steps to ensure repayment of financial assistance. For instance, the Maryland Small Business Development Financing Authority is authorized to lease, pledge, administer, dispose of, or otherwise deal with property given as collateral under any loan agreement upon such terms and conditions that it may deem advisable. Under the Maryland Economic Adjustment Fund, DBED can foreclose on a mortgage or deed of trust on a property. However there are other programs where the statutory language is not as clear.

DBED is specifically authorized to take collateral, but may not be authorized to insure the collateral. DBED advises that it has been able to arrange to protect its interests in a property used as collateral; however on occasion that has necessitated entering into an agreement with a third party.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development,
Department of Legislative Services

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ncs/rhh

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