

# HOUSE BILL 406

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

Introduced and read first time: January 28, 2008

Assigned to: Economic Matters

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## A BILL ENTITLED

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 certain financing transactions; authorizing the Department  
6 to receive certain repayments and returns on investment for certain financings  
7 made to local governments from the Maryland Economic Development  
8 Assistance Fund without triggering certain new financing requirements; and  
9 generally relating to financing transactions of the Department of Business and  
10 Economic Development.

11 BY adding to

12 Article 83A – Department of Business and Economic Development  
13 Section 5–107  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article 83A – Department of Business and Economic Development  
18 Section 5–1405  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2007 Supplement)

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

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

24 **5–107.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT**  
2 **THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL,**  
3 **LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO**  
4 **FINANCING TRANSACTIONS, INCLUDING EXPENDING FUNDS FROM ITS GENERAL**  
5 **AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE,**  
6 **OR MAINTAIN COLLATERAL OR LIENS.**

7 5-1405.

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

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

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

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

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

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

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

22                   (4) Redevelopment of qualified brownfields sites;

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

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

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

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

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

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

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

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

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

14                           1. The recipient is the Maryland Economic Development  
15 Corporation;

16                           2. The financial assistance is for an arts and  
17 entertainment enterprise or arts and entertainment project; or

18                           3. The financial assistance is for a qualified distressed  
19 county project;

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

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

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

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

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

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

- 1 (i) For working capital – 3 years;
- 2 (ii) For financing machinery, equipment, furnishings, or fixtures  
3 – the lesser of 15 years or the useful life of the asset, as determined by the  
4 Department;
- 5 (iii) For financing the construction or acquisition of buildings  
6 and real estate – 25 years; and
- 7 (iv) For financial assistance for redevelopment of a qualified  
8 brownfields site or a qualified distressed county project – a term approved by the  
9 Department or the Authority.
- 10 (3) For loans from the Fund the Department may:
- 11 (i) Waive interest during the first 2 years of a loan term; or
- 12 (ii) Upon a default by the borrower, impose an interest rate that  
13 exceeds the limits set forth in paragraph (1) of this subsection.
- 14 (4) Proceeds of investments from the Fund may be expended only on  
15 costs described in subsection (b) of this section.
- 16 (d) To be eligible for financial assistance from the Fund, an applicant must  
17 be:
- 18 (1) An individual, private business, not for profit entity, or local  
19 government which:
- 20 (i) Must use the requested financial assistance for a project in  
21 an eligible industry sector, unless the applicant is a local government intending to use  
22 the financial assistance to carry out a project that:
- 23 1. Does not benefit a particular private sector entity; or
- 24 2. Is located in a qualified distressed county;
- 25 (ii) Intends to use the requested financial assistance for a  
26 project that has a strong potential for expanding or retaining employment  
27 opportunities in the State; and
- 28 (iii) Submits to the Department an application containing:
- 29 1. Any information the Department or the Authority  
30 deems necessary in evaluating the request for financial assistance; and

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

3                   A. A marketing plan designed to market the project to  
4 prospective businesses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) That no particular qualified distressed county benefits  
31 disproportionately from financial assistance to qualified distressed counties under this  
32 subtitle.

33 (j) The Department shall report to the Governor and, subject to § 2-1246 of  
34 the State Government Article, to the General Assembly before January 1 of each year

1 on the number, amount, use, and economic benefits of financial assistance awarded  
2 under this subtitle.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 2008.