

HOUSE BILL 406

C2

8lr0034

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

Introduced and read first time: January 28, 2008

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2008

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 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;
9 providing for the effective date of certain provisions of this Act; providing for the
10 termination of certain provisions of this Act; and generally relating to financing
11 transactions of the Department of Business and Economic Development.

12 BY adding to

13 Article 83A – Department of Business and Economic Development

14 Section 5–107

15 Annotated Code of Maryland

16 (2003 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article 83A – Department of Business and Economic Development

19 Section 5–1405

20 Annotated Code of Maryland

21 (2003 Replacement Volume and 2007 Supplement)

22 BY adding to

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 Article – Economic Development

2 Section 5–107

3 Annotated Code of Maryland

4 (As enacted by Chapter _____ (H.B. 1050) of the Acts of the General Assembly of
5 2008)

6 BY repealing and reenacting, with amendments,

7 Article – Economic Development

8 Section 5–319(c)

9 Annotated Code of Maryland

10 (As enacted by Chapter _____ (H.B. 1050) of the Acts of the General Assembly of
11 2008)

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

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

15 **5–107.**

16 **THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT**
17 **THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL,**
18 **LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO**
19 **FINANCING TRANSACTIONS, INCLUDING EXPENDING FUNDS FROM ITS GENERAL**
20 **AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE,**
21 **OR MAINTAIN COLLATERAL OR LIENS.**

22 5–1405.

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

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

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

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

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

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

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

3 (4) Redevelopment of qualified brownfields sites;

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

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

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

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

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

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

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

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

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

27 1. The recipient is the Maryland Economic Development
28 Corporation;

29 2. The financial assistance is for an arts and
30 entertainment enterprise or arts and entertainment project; or

31 3. The financial assistance is for a qualified distressed
32 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.

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

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

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

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

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

7 2. Is located in a qualified distressed county;

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

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

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

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

16 A. A marketing plan designed to market the project to
17 prospective businesses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (1) Equitable funds distribution among Maryland’s counties;

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

10 (3) That no particular qualified distressed county benefits
11 disproportionally from financial assistance to qualified distressed counties under this
12 subtitle.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article – Economic Development**

20 **5–107.**

21 **THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT**
22 **THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL,**
23 **LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO**
24 **FINANCING TRANSACTIONS, INCLUDING EXPENDING FUNDS FROM ITS GENERAL**
25 **AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE,**
26 **OR MAINTAIN COLLATERAL OR LIENS.**

27 **5–319.**

28 (c) (1) Except as provided in paragraph (2) of this subsection, financial
29 assistance provided to a local government or the Corporation for a project shall be
30 approved by a formal resolution of:

31 (i) the governing body of the jurisdiction in which the project is
32 located; or

1 (ii) if the recipient of the financial assistance is the Corporation,
2 its board of directors.

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

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

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

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

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

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
21 take effect on the taking effect of Chapter (H.B. 1050) of the Acts of the General
22 Assembly of 2008. If Section 2 of this Act takes effect, Section 1 of this Act shall be
23 abrogated and of no further force and effect.

24 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to the
25 provisions of Section 3 of this Act, this Act shall take effect July 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.