

Bill No. 3-13
Concerning: Economic Development
Fund – Equity Investments
Revised: February 27, 2013 Draft No. 5
Introduced: February 5, 2013
Enacted: March 19, 2013
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) authorize the County to make an equity investment in a company located in, or relocating to, the County;
- (2) provide that the proceeds of an equity investment made by the County be used for certain purposes;
- (3) limit the amount and type of ownership interest the County may acquire;
- (4) require the County to post a notice of each equity investment on the County website within a certain period of time; and
- (5) generally amend the laws governing the Economic Development Fund.

By amending

Montgomery County Code
Chapter 20, Finance
Sections 20-74 and 20-75

By adding

Montgomery County Code
Chapter 20, Finance
Section 20-75A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 20-74 and 20-75 are amended and Section 20-75A is**
2 **added as follows:**

3 **20-74. Purpose of Fund.**

4 (a) The purpose of the Fund is to aid the economic development of the
5 County by assisting private employers who are located or plan to locate
6 or substantially expand operations in the County.

7 (b) Assistance to a private employer from this Fund may take the form of:

- 8 (1) loans or grants of public funds as otherwise authorized by law;
9 (2) transfers of real or personal property as otherwise authorized by
10 law;
11 (3) provision of services, when otherwise authorized, by a County
12 agency; [or]
13 (4) plans, studies, or other technical assistance; or
14 (5) an equity investment as authorized by Section 20-75A.

15 (c) As used in this Article, "private employer" means any for-profit or
16 nonprofit corporation or firm that is not owned, primarily funded, or
17 controlled by a government agency. "Private employer" includes a
18 lessor or supplier of real or personal property or services to a
19 government agency.

20 **20-75. Use of Fund.**

21 * * *

22 (d) The Executive must not provide assistance to a private employer valued
23 at more than \$500,000 unless the grant, [or] loan, or equity investment
24 is approved by the Council in a special or supplemental appropriation.
25 The amount of any discount from market value in the sale of County
26 property offered as part of the assistance must be included in the value
27 of the assistance. The Executive must submit an economic development

28 agreement to the Council within 60 days after all parties to the
29 agreement execute it.

30 * * *

31 **20-75A. Equity investments.**

32 (a) Subject to Section 20-75, the County may make an equity investment
33 through the Economic Development Fund in a company that is located
34 in the County or that agrees to relocate its business to the County.

35 (b) The proceeds of an equity investment made under subsection (a) may be
36 used for:

- 37 (1) working capital;
- 38 (2) salaries;
- 39 (3) marketing materials;
- 40 (4) acquisition of inventory, equipment, or real property;
- 41 (5) construction;
- 42 (6) renovation;
- 43 (7) leasehold improvements; or
- 44 (8) research and development.

45 (c) The County may not acquire an ownership interest exceeding 25% of
46 any company.

47 (d) The terms of an equity investment must be set forth in a funding
48 agreement that prohibits the County from:

- 49 (1) participating in the selection of the management of the company;
- 50 (2) overseeing the operation of the company; and
- 51 (3) assuming any present or future liability of the company.

52 (e) A funding agreement may be:

- 53 (1) an investment agreement;
- 54 (2) a limited partnership agreement;


- 55 (3) a preferred stock purchase agreement; or
- 56 (4) other documents that the County may require.

57 (f) The Director of Finance must:

- 58 (1) record the value of the equity investment in the County's
- 59 Financial Statements consistent with Generally Accepted
- 60 Accounting Principles;
- 61 (2) manage all equity investments acquired in accordance with the
- 62 funding agreement and State and County law; and
- 63 (3) post notice of each equity investment made under this Section in
- 64 a readily accessible and clearly identified location on the County
- 65 website within 5 days after the date on which the County initiates
- 66 the equity investment transaction.

67 (g) If an equity investment is liquidated through a sale or other disposition,
68 the proceeds must be deposited in the County's general fund.

69 *Approved:*

70 

3/21/13

Nancy Navarro, President, County Council

Date

72 *Approved:*

73

Isiah Leggett, County Executive

Date

74 *This is a correct copy of Council action.*

75

Linda M. Lauer, Clerk of the Council

Date