

Bill No. 40-12  
Concerning: Economic Development -  
Green ~~[[Organization Supplement]]~~  
Investor Incentive Program  
Revised: 4/3/2013 Draft No. 3  
Introduced: December 4, 2012  
Enacted: April 16, 2013  
Executive: April 24, 2013  
Effective: July 24, 2013  
Sunset Date: None  
Ch. 12, Laws of Mont. Co. 2013

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Berliner and Leventhal

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**AN ACT** to:

- (1) authorize the County to provide qualified applicants a Green ~~[[Organization Supplement]]~~ Investor Incentive Payment; and
- (2) generally amend the law governing County financial incentives for investment in certain businesses.

By adding

Montgomery County Code  
Chapter 20, Finance  
Section 20-76C

<b>Boldface</b>	<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>
<del>[[Double boldface brackets]]</del>	<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. Section 20-76C is inserted as follows:**

2           **20-76C. Green [[Organization Supplement]] Investor Incentive Program.**

3           (a) Definitions. In this Section, the following words have the meanings  
4           indicated:

5           Green product or service means [[the delivery of a product or service in  
6           the following areas:

7           (1) renewable, clean, or distributed energy;

8           (2) energy efficiency products or services;

9           (3) sustainable farming and food distribution;

10          (4) water quality and conservation;

11          (5) pollution reduction and remediation;

12          (6) recycling, reuse, and resource recovery; or

13          (7) biodiversity and natural resource conservation.]]

14          a product or service that measures, prevents, limits, minimizes, or  
15          corrects environmental damage to water, air, or soil, as well as problems  
16          related to waste, ecosystems, biodiversity, habitat or natural resource  
17          depletion. All claims related to environmental attributes, as applicable,  
18          for a product or service, must conform to guidelines published by the  
19          Federal Trade Commission or other appropriate entity designated by the  
20          Director of Environmental Protection.

21          Investment means the contribution of money in cash or cash equivalents  
22          expressed in United States dollars, at a risk of loss, to a qualified green  
23          company in exchange for stock, a partnership or membership interest, or  
24          other ownership interest in the equity of the qualified green company,  
25          title to which ownership interest vests in the qualified investor but does  
26          not include debt.

27 Qualified green [[organization]] company means any [[business,  
 28 cooperative, or non-profit]] entity of any form duly organized and  
 29 existing under the laws of any jurisdiction for the purpose of conducting  
 30 business for profit, excluding a sole proprietorship, that:

31 (1) [[provides a green product or service]] develops an innovative,  
 32 new to the market, technology, or a unique combination of  
 33 technologies, available only from that company, which adds  
 34 significant value to a green product or service or is engaged in  
 35 research or development of a such technology or technologies;  
 36 and

37 (2) implements a sustainable operation as verified by a third party.

38 Qualified investor means any individual or entity that invests at least  
 39 [[(\$5,000)] \$25,000 in a qualified [[Montgomery County]] green  
 40 [[organization]] company and that is required to file an income tax  
 41 return in any jurisdiction. Qualified investor does not include:

42 (1) a qualified pension plan, individual retirement account, or other  
 43 qualified retirement plan under the Employee Retirement Income  
 44 Security Act of 1974, as amended, or fiduciaries or custodians  
 45 under such plans, or similar tax-favored plans or entities under  
 46 the laws of other countries;

47 (2) an individual or entity that has an ownership interest in the  
 48 qualified green company other than from a previous investment,  
 49 which previous investment by itself or with the additional  
 50 investment does not create a 25% or greater equity holding by the  
 51 qualified investor in the qualified green company; or

52                   (3)    an individual or entity deriving any financial benefit, including  
 53                                 salary or other compensation, from the qualified green company  
 54                                 in which the qualified investor makes an investment.

55                   Sustainable operation means an organization validated by a third party  
 56                   under one of the following:

- 57                   (1)    Montgomery County [[Certified]] Green Business Certification  
 58                                 Program, as certified by the Department of Environmental  
 59                                 Protection;
- 60                   (2)    [[Certified]] B Corp Certification from B Lab;
- 61                   (3)    Green America Gold Certification;
- 62                   (4)    Green Seal Certification;
- 63                   (5)    International Organization for Standardization ISO 14001  
 64                                 [[certified]] Certification; or
- 65                   (6)    any other third party validation approved by the Department of  
 66                                 Environmental Protection.

67                   (b)    Incentive Payment [[of supplement]]. The Director of Finance must  
 68                                 pay, subject to the amount of the annual appropriation in that fiscal year,  
 69                                 [[a Green Organization Supplement]] an incentive payment to each  
 70                                 [[applicant]] qualified investor who meets certain eligibility standards.

71                   (c)    Eligibility standards. [[An applicant]] A qualified investor, who need  
 72                                 not be a County resident, is eligible to receive the [[Supplement]]  
 73                                 incentive payment if the [[applicant]] qualified investor:

- 74                                 [[(1) is a qualified investor; and
- 75                                 (2)]] invests in a qualified green [[organization]] company that:
- 76                                 [[A)]] (1) has its headquarters and base of operations in the County; or

77 ~~[(B)]~~ (2) has signed a lease for at least 5 years to open a [facility]  
 78 qualified green company with its headquarters and base of  
 79 operations in the County; and

80 (3) has been in business for less than 10 years and employs less than  
 81 50 people and does not have its securities publicly traded on any  
 82 exchange.

83 (d) Additional eligibility standards. The County Executive, by Method 2  
 84 regulation, may impose other eligibility standards. However, those  
 85 standards must not make any person ineligible to receive the  
 86 [Supplement] incentive payment who would be eligible under  
 87 subsection (c).

88 (e) Ineligible investments. ~~[[A qualified]]~~ An investor must not receive [a  
 89 supplement for capital] an incentive payment [used] for [any]:

90 (1) the installation of any geothermal, or solar photovoltaic, or  
 91 similar system; or

92 (2) any building green or energy efficiency improvement.

93 (f) Amount of [supplement] incentive payment. The [Supplement paid]  
 94 incentive payment made, subject to the amount of the annual  
 95 appropriation in that fiscal year, to each [recipient is a one-time  
 96 Supplement and must equal 50% of the recipient's investment in a  
 97 qualified green organization, or a lower percentage set in the annual  
 98 operating budget resolution, up to \$25,000.]] qualified investor must  
 99 equal the amount of the investment made by the qualified investor,  
 100 divided by the total amount of investments made by all qualified  
 101 investors in the same calendar year, multiplied by the total amount of  
 102 funds appropriated for the green investor incentive program in that year.

103 The incentive payment made to any qualified investor in any single  
 104 fiscal year must not exceed the lesser of:

- 105 (1) 50% of the investment made by the qualified investor in that  
 106 fiscal year;  
 107 (2) 15% of the total annual and supplement appropriation for the  
 108 green investor incentive program in that fiscal year; or  
 109 (3) \$50,000.


110 (g) In order to calculate the amount of the incentive payment to be made to  
 111 a qualified investor under Subsection (f), the Director of the Department  
 112 of Economic Development must, by January 15 of each calendar year,  
 113 compile a list of each qualified investor making an investment in a  
 114 qualified green company and the amount of that investment during the  
 115 preceding calendar year. This list must be determined using the  
 116 applications and any supporting documents qualified investors submit.  
 117 The Director may take any other action necessary to administer the  
 118 incentive payment. The Executive may issue regulations under Method  
 119 (2) to implement this Section.

120 [(g)] (h) *Application required.* The Director of the Department of Economic  
 121 Development must require each [[eligible person]] qualified investor to  
 122 submit an application for the [[Supplement]] incentive payment and  
 123 may take any other action necessary to administer the [[Supplement]]  
 124 incentive payment. The Executive may issue regulations under Method  
 125 (2) to specify an application process and otherwise implement this  
 126 Section.

127 [(h)] (i) *Fraudulent applications.* A person who submits a false or fraudulent  
 128 application, or withholds material information, to obtain [[a]] an  
 129 incentive payment under this Section has committed a Class A

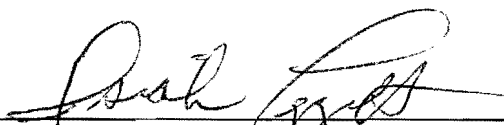
130 violation. In addition, the person must repay the County for all amounts  
131 improperly paid and all accrued interest and penalties that would apply  
132 to those amounts as if they were overdue taxes. A person who violates  
133 this Section is liable for all court costs and expenses and reasonable  
134 attorney's fees of the County incurred in any civil action brought by the  
135 County to recover any payment, interest, or penalty. The County may  
136 collect any amount due, and otherwise enforce this Section, by any  
137 other appropriate legal action.

138 *Approved:*

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140 \_\_\_\_\_  
Nancy Navarro, President, County Council

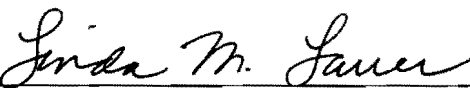
4/16/13  
\_\_\_\_\_  
Date

141 *Approved:*

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143 \_\_\_\_\_  
Isiah Leggett, County Executive

April 14, 2013  
\_\_\_\_\_  
Date

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

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146 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

April 26, 2013  
\_\_\_\_\_  
Date