



# Senate Committee on Community, Economic and Recreational Development

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House Bill 1550, Printer's No. 3650

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Sponsor: Representative Milne

## Bill Summary

House Bill 1550, Printer's No. 3650, amends Title 12 (Commerce and Trade) and Title 64 (Public Authorities and Quasi-public Corporations) of the Pennsylvania Consolidated Statutes, in economic development financing strategy for the purpose of consolidating five business loan programs under the jurisdiction of the {existing} Pennsylvania Industrial Development Authority (PIDA). [Note: This is compared to the previous idea of creating a {new} authority (e.g., Pennsylvania Business Development Authority (PBDA) or Liberty Financing Authority (LFA).] Further providing for definitions; in small business first, for department responsibilities, for capital development loans, for EDA loans, for loans in distressed communities, for pollution prevention assistance loans, and for export financing loans, providing for delegation; and further providing for reporting and inspection; in machinery and equipment loans, further providing for definitions, for establishment, for eligibility for loans and terms and conditions, for application and administration, for powers of secretary, for reporting and inspection, for nondiscrimination, for conflict of interest, for reports to General Assembly and for guidelines; providing for Pennsylvania Industrial Development program in Pennsylvania Industrial Development Authority, providing for general provisions, for Pennsylvania Industrial Development Program and transfer of loans; repealing certain provisions of the Pennsylvania Industrial Development Act; and making editorial changes.

Several economic development business financing (loan) programs are consolidated under the jurisdiction of the PA Industrial Development Authority (PIDA), including:

- Small Business First (SBF) and its affiliated programs [Title 12 (Commerce and Trade) - §2303 (relating to establishment)]:
  - Community Economic Development (CED) (Capitol Development Loans [Title 12 - § 2306], EDA Loans under the Public Works and Economic Development Act of 1965 [Title 12 - §2307], Loans in Distressed Communities [Title 12 - §2308])
  - Pollution Prevention Assistance [Title 12 - §2309]
  - Export Financing (EF) [Title 12 - §2310]
- Machinery and Equipment Loan Fund (MELF) [Title 12 - §2903 (Relating to establishment)]
- Pennsylvania Industrial Development Program (current PIDA program – a revolving loan fund [Title 12 (Commerce & Trade) & Title 64 (Public Authorities and Quasi-public Corporations)])

Changes to all programs:

- All applications for the programs will be made through certified economic development organizations, which must prepare and approve the loan applications prior to submission to PIDA, in accordance with a common application process. The amendment provides for the certification of economic development organizations by PIDA (based on current DCED practice and guidelines) and for the common application process.
- All programs will include non-discrimination and conflict of interest provisions (that are currently applied only to Machinery and Equipment Loan Fund loans).
- The PIDA board would be authorized to make transfers among the Small Business First Fund, Machinery and Equipment Loan Fund, and the Industrial Development Fund to ensure the efficient use of funds.

- Note: The one exception to PIDA authority to transfer funds is with regard to the funds in the Pollution Assistance Account.

#### Specific Program Changes:

- Small Business First (SBF)
  - {SBF – Capitol Development Loans} – The limit on Capital Development Loans is increased from [\$200,000] to \$400,000 or 50% of the project costs, whichever is less. The program is allowed to issue lines of credit (in addition to currently allowed term loans), up to \$100,000 for working capital. PIDA is allowed to adjust the dollar amount (currently \$25,000, except with regard to agricultural producers) for each job created or saved in the program’s job creation/retention ratio by publishing notice in the PA Bulletin based on changes in unemployment statistics, inflation, PIDA’s cash flow and the need to keep this Commonwealth and the businesses of this Commonwealth competitive.
  - {SBF – Capital Development Loans and Loans in Distressed Communities} – The Capital Development Loans (as indicated above) and Loans in Distressed Communities program may issue lines of credit (in addition to term loans).
  - {All SBF} - The PIDA board may, by the adoption of a resolution, delegate the review and approval of loans less than \$200,000 to authority staff (SBF loans are currently approved by DCED staff).
  - {All SBF} - PIDA is allowed to periodically update job retention requirements for projects.
- Machinery and Equipment Loan Fund
  - PIDA is allowed to adjust the dollar amount (currently \$25,000 for each job created or saved) in the program’s job creation/retention ratio by publishing notice in the PA Bulletin based on changes in unemployment statistics, inflation, PIDA’s cash flow and the need to keep this Commonwealth and the businesses of this Commonwealth competitive.
- PA Industrial Development Program (PIDP) – A {new} Chapter 30 (relating to the PA Industrial Development Program) is added to Title 12 (Commerce & Trade) that establishes the provisions of the PA Industrial Development Program within Title 12 for the purpose of providing loans for industrial development projects, industrial parks and multiple-tenancy building projects, to increase employment levels and to improve the overall economic health of this Commonwealth.
  - The complicated 50-year old formula for determining the maximum percentage of PIDA financing that a project may receive is replaced with uniform maximum percentages, as follows:
    - PIDA may finance up to **50%** of an industrial development project.
    - PIDA may finance up to **75%** of an industrial park project.
    - PIDA may finance up to **50%** of a multi-tenant facility project, if the project is secured by a first mortgage. Up to **40%** may be financed, if the project is secured by a second mortgage (vs. a 1<sup>st</sup> mortgage).
      - Note: Where PIDA financing is **secured by 1<sup>st</sup> mortgage** may also have up to **10% secured by second mortgage**, although in this instance with regard the 1<sup>st</sup> mortgage would have to reduce the up to 50% with regard to 1<sup>st</sup> by the percentage done by second mortgage by equal percentage.
  - Certified Economic Development Organizations can sponsor loans for any applicant. Previously, applicants had to be IDCs.

Title 64 (Public Authorities and Quasi-Public Corporations) is amended by adding a Subchapter A (General Provisions) and a Subchapter C (Program Management) for purposes ensuring the various economic development programs are addressed under Title 64, including among other thing the authorization to transfer funds as indicated above.

This amendment also adds Subchapter D (Transfer of Loans) that provides for the transfer of loans and legal actions under the existing finance programs, makes necessary repeals and provides for various effective dates.

Most provisions are effective July 1, 2014 or immediately (whichever is later), although certain definitional changes and various technical changes are effective within 60 days.

**Existing Law**

The following is a listing of the various existing laws and the corresponding financial (loan) programs being consolidated:

- **Small Business First (SBF) Program** [Title 12 Commerce and Trade, Chapter 23]
  - **Community Economic Development (CED) Program** (e.g., Capital Development Loans, EDA Loans and Loans in Distressed Communities) [Title 12 Commerce and Trade, Chapter 23]
  - **Export Financing (EF) Program** [Title 12 Commerce and Trade, Chapter 23]
  - **Pollution Prevention Assistance** [Title 12 Commerce and Trade, Chapter 23]
- **Machinery and Equipment Loan (MELF) Program** [Title 12 Commerce and Trade, Chapter 29]
- **PA Industrial Development Authority (PIDA) Program** (a revolving fund) [May 17, 1956 (1955 P.L. 1609, No. 537), known as the Pennsylvania Industrial Development Authority Act and 64 Pa.C.S. Ch. 11 (Reserved - PIDA)]

**Other Legislation, Governor's Executive Budget (FY 13-14), Prior Session Legislation & Background**

Other Legislation: Related legislation calling for the establishment of the Pennsylvania Business Development Authority (PBDA) was introduced and referred to this committee in the current session as Senate Bill 525, Printer's No. 1077 (Ward) and encompassed within the Governor's Executive Budget (FY 2013-14) proposal.

Prior Session Legislation: Senate Bill 1257 (Earll) (2011-12 Legislative Session) was introduced and reported out of this committee in the previous session, although it was in a form then referred to as the Liberty Financing Authority (LFA).

Background: Both Senate Bill 525 and House Bill 1550 as originally introduced this session would have establish a flexible business financing authority to be known as the Pennsylvania Business Development Authority (PBDA), which would have created a simplified, one-stop-shop for job creators seeking capital to grow their businesses in Pennsylvania. The PBDA would have been able to pledge its unencumbered assets as security to leverage additional private funds. The PBDA legislation would have consolidate and/or eliminate eight existing economic development business financing (loan) programs [**see below for a listing**], currently governed by four different entities [e.g., Commonwealth Finance Authority (CFA), Pennsylvania Industrial Development Authority (PIDA), Pennsylvania Minority Business Development Authority (PMBDA), and the Department of Community and Economic Development (DCED)] under one authority (PDA) and board oversight.

The following is a listing of the various existing laws and the corresponding financial (loan) programs that were proposed to be consolidated and/or eliminated in the PBDA version:

- **Small Business First (SBF) Program** [Title 12 (Commerce and Trade), Chapter 23]
  - **Community Economic Development (CED) Program** (e.g., Capital Development Loans, EDA Loans and Loans in Distressed Communities) [Title 12 (Commerce and Trade), Chapter 23]
  - **Export Financing (EF) Program** [Title 12 (Commerce and Trade), Chapter 23]
  - *{Eliminated}* **Pollution Prevention Assistance** [Title 12 (Commerce and Trade), Chapter 23]
- **PA Industrial Development Authority (PIDA) Program** (revolving fund) [May 17, 1956 (1955 P.L. 1609, No. 537) and 64 Pa.C.S. Ch. 11 (Reserved - PIDA)]
- **PA Minority Business Development Authority (PMBDA) Program** [July 22, 1974 (P.L. 598, No. 206), known as the PMBDA Act]
- **Machinery and Equipment Loan (MELF) Program** [Title 12 (Commerce and Trade), Chapter 29]
- **{CFA} First Industries (FI) Program** [Title 64 (Public Authorities and Quasi-public Corporations), Section 1552]
- **{CFA} Second Stage Loan Guarantee (SSLG) Program** [Title 64 (Public Authorities and Quasi-public Corporations), Section 1553]