

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1550 Session of 2013

INTRODUCED BY MILNE, THOMAS, AUMENT, BAKER, BIZZARRO, CLYMER, CUTLER, P. DALEY, DENLINGER, D. EVANS, EVERETT, FLECK, GABLER, GIBBONS, GINGRICH, GODSHALL, GROVE, HARPER, C. HARRIS, HEFFLEY, JAMES, KAMPF, F. KELLER, M. K. KELLER, KILLION, KINSEY, LAWRENCE, LONGIETTI, MACKENZIE, MAJOR, MARSHALL, MARSICO, MICOZZIE, MILLARD, R. MILLER, MIRABITO, MIRANDA, MURT, MUSTIO, NEILSON, O'NEILL, OBERLANDER, PASHINSKI, PYLE, QUINN, REED, SACCONI, SANKEY, SAYLOR, SIMMONS, SONNEY, TALLMAN, TAYLOR, TOEPEL, TOOHIL, TRUITT, WHEATLEY, HELM AND HANNA, JUNE 17, 2013

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 4, 2014

AN ACT

1 ~~Amending Titles 12 (Commerce and Trade) and 64 (Public~~ <--
2 ~~Authorities and Quasi Public Corporations) of the~~
3 ~~Pennsylvania Consolidated Statutes, further providing for~~
4 ~~revolving loan program accounts; repealing First Industries~~
5 ~~Program and Second Stage Loan Program; providing for~~
6 ~~Pennsylvania Business Development Authority; imposing duties~~
7 ~~on the Department of Community and Economic Development;~~
8 ~~providing for First Industries Program, for Second Stage Loan~~
9 ~~Program and for transfer from Commonwealth Financing~~
10 ~~Authority to Pennsylvania Business Development Authority for~~
11 ~~First Industries Program and Second Stage Program; and making~~
12 ~~related repeals.~~

13 AMENDING TITLES 12 (COMMERCE AND TRADE) AND 64 (PUBLIC <--
14 AUTHORITIES AND QUASI-PUBLIC CORPORATIONS) OF THE
15 PENNSYLVANIA CONSOLIDATED STATUTES, IN ECONOMIC DEVELOPMENT
16 FINANCING STRATEGY, FURTHER PROVIDING FOR DEFINITIONS; IN
17 SMALL BUSINESS FIRST, FURTHER PROVIDING FOR DEFINITIONS, FOR
18 FUND AND ACCOUNTS, FOR DEPARTMENT RESPONSIBILITIES, FOR
19 CAPITAL DEVELOPMENT LOANS, FOR EDA LOANS, FOR LOANS IN
20 DISTRESSED COMMUNITIES, FOR POLLUTION PREVENTION ASSISTANCE
21 LOANS, AND FOR EXPORT FINANCING LOANS; PROVIDING FOR
22 DELEGATION; AND FURTHER PROVIDING FOR REPORTING AND
23 INSPECTION; IN MACHINERY AND EQUIPMENT LOANS, FURTHER
24 PROVIDING FOR DEFINITIONS, FOR ESTABLISHMENT, FOR ELIGIBILITY

1 FOR LOANS AND TERMS AND CONDITIONS, FOR APPLICATION AND
2 ADMINISTRATION, FOR POWERS OF SECRETARY, FOR REPORTING AND
3 INSPECTION, FOR NONDISCRIMINATION, FOR CONFLICT OF INTEREST,
4 FOR REPORTS TO GENERAL ASSEMBLY AND FOR GUIDELINES; PROVIDING
5 FOR THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM; IN
6 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY, PROVIDING FOR
7 GENERAL PROVISIONS, FOR PENNSYLVANIA INDUSTRIAL DEVELOPMENT
8 PROGRAM AND TRANSFER OF LOANS; REPEALING CERTAIN PROVISIONS
9 OF THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT; AND
10 MAKING EDITORIAL CHANGES.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Chapters 23 and 29 of Title 12 of the~~ <--
14 ~~Pennsylvania Consolidated Statutes are repealed:~~

15 ~~[CHAPTER 23~~
16 ~~SMALL BUSINESS FIRST~~

17 ~~Sec.~~

18 ~~2301. Scope.~~

19 ~~2302. Definitions.~~

20 ~~2303. Establishment.~~

21 ~~2304. Fund and accounts.~~

22 ~~2305. Department responsibilities.~~

23 ~~2306. Capital development loans.~~

24 ~~2307. EDA loans.~~

25 ~~2308. Loans in distressed communities.~~

26 ~~2309. Pollution prevention assistance loans.~~

27 ~~2310. Export financing loans.~~

28 ~~2311. Reporting and inspection.~~

29 ~~2312. Limitations.~~

30 ~~§ 2301. Scope.~~

31 ~~This chapter relates to the Small Business First Program.~~

32 ~~§ 2302. Definitions.~~

33 ~~The following words and phrases when used in this chapter~~
34 ~~shall have the meanings given to them in this section unless the~~

1 ~~context clearly indicates otherwise:~~

2 ~~"Agricultural processor." A person that adds value by~~
3 ~~subjecting one or more farm commodities to a process of~~
4 ~~manufacture, development or preparation for sale or a person~~
5 ~~that converts a farm product into a marketable form.~~

6 ~~"Agricultural producer." A person involved in the management~~
7 ~~and use of a normal agricultural operation for the production of~~
8 ~~a farm commodity.~~

9 ~~"Apparel products." Products manufactured, woven, cut, sewn~~
10 ~~or otherwise similarly processed by mechanical or human effort~~
11 ~~from fabrics, leather or cloth and made for use as clothing,~~
12 ~~shoes or other attire.~~

13 ~~"Applicant." A person that applies for a loan in accordance~~
14 ~~with this chapter.~~

15 ~~"Area loan organization." A local development district, an~~
16 ~~industrial development agency organized and existing under the~~
17 ~~act of May 17, 1956 (1955 P.L.1609, No.537), known as the~~
18 ~~Pennsylvania Industrial Development Authority Act, or any other~~
19 ~~nonprofit economic development organization certified by the~~
20 ~~department as possessing the qualifications necessary to~~
21 ~~evaluate and administer loans made under this chapter.~~

22 ~~"Capital development project." Land, buildings, equipment~~
23 ~~and machinery and working capital which is acquired,~~
24 ~~constructed, renovated or used by a small business in accordance~~
25 ~~with any of the following:~~

26 ~~(1) As part of a for profit project or venture not of a~~
27 ~~mercantile or service related nature, except for hospitality~~
28 ~~industry projects.~~

29 ~~(2) As part of an effort to:~~

30 ~~(i) bring a small business into compliance with~~

1 ~~Federal or State environmental laws or regulations;~~

2 ~~(ii) complete an approved remediation project; or~~

3 ~~(iii) permit a small business to adopt generally-~~
4 ~~acceptable pollution prevention practices.~~

5 ~~(3) As part of an effort to provide assistance to a~~
6 ~~small business that is a recycler of municipal or commercial~~
7 ~~waste or that is a manufacturer using recycled municipal or~~
8 ~~commercial waste materials.~~

9 ~~(4) As part of an effort to assist a small business with~~
10 ~~defense conversion activities.~~

11 ~~(5) As part of a for profit project or venture to~~
12 ~~manufacture products to be exported out of the United States~~
13 ~~by a small business which is not of a mercantile or service-~~
14 ~~related nature, except for export related services and~~
15 ~~international export related mercantile ventures or advanced~~
16 ~~technology and computer related services and mercantile-~~
17 ~~ventures and which will increase this Commonwealth's national-~~
18 ~~or international market shares.~~

19 ~~(6) As part of a for profit project or venture that~~
20 ~~meets the requirements of section 2308 (relating to loans in~~
21 ~~distressed communities)~~

22 ~~(7) As part of an effort to assist in the start up or~~
23 ~~expansion of a for profit or not for profit child day care~~
24 ~~center subject to licensure by the Commonwealth.~~

25 ~~"Child day care center." Any premises in which child day~~
26 ~~care is provided simultaneously for seven or more children who~~
27 ~~are not related to the provider.~~

28 ~~"Community development institution." Any of the following:~~

29 ~~(1) An area loan organization for a distressed~~
30 ~~community.~~

1 ~~(2) A community development financial institution~~
2 ~~located in a distressed community and approved by the~~
3 ~~department.~~

4 ~~"Distressed community." A community which has any of the~~
5 ~~following:~~

6 ~~(1) A census tract or other specifically defined~~
7 ~~geographic area in which there is any of the following:~~

8 ~~(i) A median income below 80% of the median income~~
9 ~~for the United States or this Commonwealth.~~

10 ~~(ii) Twenty percent or more of the population is~~
11 ~~below the poverty level by family size published by the~~
12 ~~Bureau of the Census.~~

13 ~~(iii) An unemployment rate 50% higher than the~~
14 ~~national average.~~

15 ~~(2) An area which is designated a subzone, expansion~~
16 ~~subzone or improvement subzone under the act of October 6,~~
17 ~~1998 (P.L.705, No.92), known as the Keystone Opportunity Zone~~
18 ~~and Keystone Opportunity Expansion Zone Act.~~

19 ~~(3) Any other geographic area designated by the~~
20 ~~department as distressed. The designation shall be published~~
21 ~~in the Pennsylvania Bulletin.~~

22 ~~"EDA loan." A loan made under this chapter utilizing funds~~
23 ~~made available to the department under the Public Works and~~
24 ~~Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. §~~
25 ~~3121 et seq.).~~

26 ~~"Ex Im Bank." The Export Import Bank of the United States.~~

27 ~~"Export activity." An activity undertaken by a person within~~
28 ~~this Commonwealth related to exports.~~

29 ~~"Export business." A person that is engaged in a for profit~~
30 ~~enterprise involving export activities and that employs 250 or~~

1 ~~fewer individuals.~~

2 ~~"Exports." Goods or services to be sold or performed outside~~
3 ~~the United States.~~

4 ~~"Farm commodity." Any Pennsylvania grown agricultural,~~
5 ~~horticultural, aquacultural, vegetable, fruit and floricultural~~
6 ~~product of the soil, livestock and meats, wools, hides, furs,~~
7 ~~poultry, eggs, dairy products, nuts, mushrooms, honey products~~
8 ~~and forest products.~~

9 ~~"Fund." The Small Business First Fund continued under~~
10 ~~section 2304 (relating to fund and accounts).~~

11 ~~"Hazardous substance." Any element, compound or material~~
12 ~~which is any of the following:~~

13 ~~(1) Regulated as a hazardous air pollutant under section~~
14 ~~6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787),~~
15 ~~known as the Air Pollution Control Act.~~

16 ~~(2) Defined as a hazardous waste under section 103 of~~
17 ~~the act of July 7, 1980 (P.L.380, No.97), known as the Solid~~
18 ~~Waste Management Act.~~

19 ~~(3) Regulated under the act of December 7, 1990~~
20 ~~(P.L.639, No.165), known as the Hazardous Material Emergency~~
21 ~~Planning and Response Act.~~

22 ~~"Hospitality industry project." A for profit project or~~
23 ~~venture which involves a small business that operates a hotel,~~
24 ~~motel or other lodging facility and that employs at least five~~
25 ~~full time equivalent employees at the time an application is~~
26 ~~submitted to the department for financing. The term includes a~~
27 ~~for profit project or venture which involves a small business~~
28 ~~that operates a restaurant or food service operation open to the~~
29 ~~public, that has been in continuous operation for at least five~~
30 ~~years and that employs at least five full time equivalent~~

1 ~~employees at the time an application is submitted.~~

2 ~~"Insurance policy." An export credit insurance policy for~~
3 ~~small businesses offered by the Export Import Bank of the United~~
4 ~~States.~~

5 ~~"Natural disaster." As defined in 35 Pa.C.S. § 7102~~
6 ~~(relating to definitions).~~

7 ~~"Normal agricultural operation." As defined in section 2 of~~
8 ~~the act of June 10, 1982 (P.L.454, No.133), entitled "An act~~
9 ~~protecting agricultural operations from nuisance suits and~~
10 ~~ordinances under certain circumstances."~~

11 ~~"Pollution prevention." The reduction or elimination of~~
12 ~~pollution at its source. The term does not include any of the~~
13 ~~following:~~

14 ~~(1) A substitution of one hazardous or toxic substance~~
15 ~~for another which will cause an increased risk to the~~
16 ~~environment or to human health.~~

17 ~~(2) A cross media transfer.~~

18 ~~(3) A delisting of a hazardous waste or toxic chemical.~~

19 ~~"Pollution prevention assistance agency." Any of the~~
20 ~~following:~~

21 ~~(1) An area loan organization.~~

22 ~~(2) An industrial resource center created pursuant to~~
23 ~~the act of June 22, 2001 (P.L.400, No.31), known as the~~
24 ~~Industrial Resources Center Partnership Act.~~

25 ~~"Pollution prevention infrastructure." A capital development~~
26 ~~project which permits a small business to adopt or install~~
27 ~~pollution prevention equipment or processes to:~~

28 ~~(1) Reduce or reuse raw materials onsite.~~

29 ~~(2) Reduce the production of waste.~~

30 ~~(3) Reduce energy consumption.~~

1 ~~"Program." The Small Business First Program established~~
2 ~~under section 2303 (relating to establishment).~~

3 ~~"Reuse." Use of a product or component in its original form~~
4 ~~more than once.~~

5 ~~"Small business." A person that is engaged in a for profit~~
6 ~~enterprise and that employs 100 or fewer individuals. The term~~
7 ~~includes the following:~~

8 ~~(1) An enterprise located in a small business incubator~~
9 ~~facility.~~

10 ~~(2) An agricultural processor.~~

11 ~~(3) An agricultural producer.~~

12 ~~(4) An enterprise which manufactures apparel products.~~

13 ~~(5) An enterprise which is a for profit or not for~~
14 ~~profit child day care center subject to licensure by the~~
15 ~~Commonwealth.~~

16 ~~"Working capital." Capital used by a small business for~~
17 ~~operations, excluding fixed assets and production machinery and~~
18 ~~equipment.~~

19 ~~§ 2303. Establishment.~~

20 ~~There is established within the department a program to be~~
21 ~~known as the Small Business First Program. The program shall be~~
22 ~~administered by the department and provide loans to eligible~~
23 ~~persons for certain projects which encourage job creating and~~
24 ~~job preserving economic development within this Commonwealth.~~

25 ~~§ 2304. Fund and accounts.~~

26 ~~(a) Fund. The Small Business First Fund, created under~~
27 ~~section 1302(a) of the act of June 29, 1996 (P.L. 434, No. 67),~~
28 ~~known as the Job Enhancement Act, is continued. The Treasury~~
29 ~~Department shall credit the following to the fund:~~

30 ~~(1) Appropriations made by the General Assembly to the~~

1 ~~department for the program.~~

2 ~~(2) Federal funds made available under the Public Works~~
3 ~~and Economic Development Act of 1965 (Public Law 89-136, 42-~~
4 ~~U.S.C. § 3121 et seq.) or any other Federal statute,~~
5 ~~regulation or program for the program.~~

6 ~~(3) Payments from recipients of loans made from the~~
7 ~~fund.~~

8 ~~(4) Payments from recipients of loans made under the~~
9 ~~former act of July 2, 1984 (P.L.545, No.109), known as the~~
10 ~~Capital Loan Fund Act.~~

11 ~~(5) Interest income derived from investment of the money~~
12 ~~in the fund.~~

13 ~~(6) Any other deposits, payments or contributions from~~
14 ~~any other source made available to the department for the~~
15 ~~program.~~

16 ~~(b) Pollution prevention assistance. The Pollution~~
17 ~~Prevention Assistance Account, created under the act of June 29,~~
18 ~~1996 (P.L.434, No.67), known as the Job Enhancement Act, is~~
19 ~~continued. The Treasury Department shall credit the following to~~
20 ~~this account:~~

21 ~~(1) Appropriations made by the General Assembly to the~~
22 ~~department for pollution prevention assistance.~~

23 ~~(2) Payments from recipients of loans made from the~~
24 ~~Pollution Prevention Assistance Account.~~

25 ~~(3) Transfers from the Hazardous Sites Cleanup Fund as~~
26 ~~established in section 602.3 of the act of March 4, 1971~~
27 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971.~~

28 ~~(4) Interest income derived from investment of the money~~
29 ~~in the Pollution Prevention Assistance Account.~~

30 ~~(5) Any other deposits, payments or contributions from~~

1 ~~any other source made available to the department for~~
2 ~~pollution prevention assistance.~~

3 ~~(c) Use of fund.~~

4 ~~(1) Money in the fund may be used as follows:~~

5 ~~(i) By the department to make loans in accordance~~
6 ~~with this chapter and for administrative costs of the~~
7 ~~department in administering the program.~~

8 ~~(ii) By area loan organizations for administrative~~
9 ~~costs associated with the program which are approved by~~
10 ~~the department.~~

11 ~~(2) Money from the fund derived from appropriations~~
12 ~~specified for export financing assistance may be deposited by~~
13 ~~the department in banks or trust companies in special~~
14 ~~accounts. The special accounts must be continuously secured~~
15 ~~by a pledge of direct obligations of the United States or of~~
16 ~~the Commonwealth having an aggregate market value, exclusive~~
17 ~~of accrued interest, at least equal to the balance on deposit~~
18 ~~in the account. The securities shall be deposited with the~~
19 ~~department to be held by a trustee or agent satisfactory to~~
20 ~~the department. Banks and trust companies are authorized to~~
21 ~~give security under this paragraph. Money in these special~~
22 ~~accounts shall be paid out on order of the department.~~

23 ~~(d) Use of Pollution Prevention Assistance Account. Money~~
24 ~~in the Pollution Prevention Assistance Account may be used by~~
25 ~~the department to provide loans to small businesses for the~~
26 ~~adoption or installation of pollution prevention or energy~~
27 ~~efficient equipment or processes in accordance with section 2309~~
28 ~~(relating to pollution prevention assistance loans).~~

29 ~~§ 2305. Department responsibilities.~~

30 ~~(a) General rule. The department shall do all of the~~

1 following:

2 ~~(1) Administer the program.~~

3 ~~(2) Establish written guidelines as necessary. Any~~
4 ~~guidelines established shall be included in the report~~
5 ~~required by Chapter 3 (relating to economic development~~
6 ~~financing strategy).~~

7 ~~(3) Deposit payments made by recipients in the fund or~~
8 ~~the Pollution Prevention Assistance Account, as appropriate.~~

9 ~~(4) Approve standards for area loan organization~~
10 ~~application fees.~~

11 ~~(5) Approve community development financial~~
12 ~~institutions.~~

13 ~~(b) Program. In administering the program, the department~~
14 ~~may do any of the following:~~

15 ~~(1) Provide grants or other financial assistance to area~~
16 ~~loan organizations for any of the following purposes:~~

17 ~~(i) To establish loan reserve funds.~~

18 ~~(ii) To reimburse loan losses to commercial banks~~
19 ~~and other financial institutions as a means of~~
20 ~~encouraging the expansion and financing of small~~
21 ~~businesses.~~

22 ~~(2) Apply to the Ex Im Bank for delegated authority~~
23 ~~lender status under the Ex Im Bank's Working Capital Guaranty~~
24 ~~Program.~~

25 ~~(3) Utilize the outstanding portfolio of loans made~~
26 ~~under this chapter to raise additional funds by selling,~~
27 ~~securing, hypothecating or otherwise using such loan proceeds~~
28 ~~as a financing vehicle if the funds raised are used by the~~
29 ~~department for either of the following purposes:~~

30 ~~(i) To make new and additional loans under this~~

1 chapter.

2 ~~(ii) To pay costs associated with financing.~~

3 ~~§ 2306. Capital development loans.~~

4 ~~(a) Application. A small business may submit an application~~
5 ~~and any applicable application fee to its area loan organization~~
6 ~~requesting a loan for certain costs of a capital development~~
7 ~~project. The application shall be on the form required by the~~
8 ~~department and shall include or demonstrate all of the~~
9 ~~following:~~

10 ~~(1) The name and address of the applicant.~~

11 ~~(2) A statement of the amount of loan assistance sought.~~

12 ~~(3) A statement of the capital development project,~~
13 ~~including a detailed statement of the cost of the project.~~

14 ~~(4) A financial commitment from a responsible source for~~
15 ~~any cost of the capital development project in excess of the~~
16 ~~amount requested.~~

17 ~~(5) Any other information required by the department.~~

18 ~~(b) Area loan organization review.~~

19 ~~(1) Upon receipt of a completed application, an area~~
20 ~~loan organization shall investigate and determine all of the~~
21 ~~following:~~

22 ~~(i) If the applicant is a small business.~~

23 ~~(ii) If the project is a capital development~~
24 ~~project.~~

25 ~~(iii) If, when the applicant is a small business,~~
26 ~~the capital development project demonstrates a~~
27 ~~substantial likelihood of creating or preserving~~
28 ~~employment activities in this Commonwealth or if, when~~
29 ~~the applicant is an agricultural producer, the project~~
30 ~~demonstrates a substantial likelihood of enhancing and~~

1 ~~growing normal agriculture operations.~~

2 ~~(iv) The ability of the applicant to meet and~~
3 ~~satisfy the debt service as it becomes due and payable.~~

4 ~~(v) The existence and sufficiency of collateral for~~
5 ~~the loan.~~

6 ~~(vi) Relevant criminal and credit history and~~
7 ~~ratings of the applicant as determined from outside~~
8 ~~credit reporting services and other sources.~~

9 ~~(vii) The number of employment opportunities to be~~
10 ~~created or preserved by the proposed capital development~~
11 ~~project.~~

12 ~~(viii) If the applicant complied with all other~~
13 ~~criteria established by the department.~~

14 ~~(2) Upon being satisfied that all requirements have been~~
15 ~~met, the area loan organizations shall recommend the~~
16 ~~applicant to the department and forward the application with~~
17 ~~all supporting documentation to the department for its review~~
18 ~~and approval.~~

19 ~~(c) Department review.—~~

20 ~~(1) Within 30 days of receiving a recommendation and a~~
21 ~~completed application, the department shall review the~~
22 ~~application. If the department is satisfied that all~~
23 ~~requirements have been met, the department may approve the~~
24 ~~loan request in accordance with the following:~~

25 ~~(i) A loan for land, buildings and machinery and~~
26 ~~equipment may not exceed \$200,000 or 50% of the total~~
27 ~~capital development project costs, whichever is less. For~~
28 ~~the purposes of this subparagraph, capital development~~
29 ~~project costs incurred during the 12 month period prior~~
30 ~~to the date of submission of the application to the~~

~~department shall be considered part of the total capital development project costs.~~

~~(ii) A loan for working capital may not exceed \$100,000 or 50% of the total capital development project costs, whichever is less.~~

~~(iii) Except for loans to agricultural producers, a loan must create or preserve one job for every \$25,000 loaned.~~

~~(2) The department shall notify the area loan organization and applicant of its decision.~~

~~(d) Approvals. For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the fund. The advance shall be forwarded to the area loan organization and, upon receipt by the area loan organization, shall become an obligation of the area loan organization. Prior to providing loan funds to the applicant, the area loan organization shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project.~~

~~The department may require the area loan organization to impose other terms and conditions on the recipient if the department determines that they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).~~

~~(e) Loan terms. A loan agreement entered into in accordance with subsection (c) shall do all of the following:~~

~~(1) State the collateral securing the loan. All loans shall be secured by lien positions on collateral at the~~

1 ~~highest level of priority as may be determined by the area~~
2 ~~loan organization with the approval of the department.~~

3 ~~(2) State the repayment period in accordance with the~~
4 ~~following:~~

5 ~~(i) A loan for real property shall have a repayment~~
6 ~~period of up to 15 years.~~

7 ~~(ii) A loan for machinery and equipment shall have a~~
8 ~~repayment period of up to ten years.~~

9 ~~(iii) A loan for working capital shall have a~~
10 ~~repayment period of up to three years.~~

11 ~~(iv) If, in a capital development project, there are~~
12 ~~two or more uses planned, the loan terms may be blended.~~

13 ~~(3) State the interest rate in accordance with the~~
14 ~~following:~~

15 ~~(i) Except as provided in subparagraph (ii), loans~~
16 ~~shall be made at an interest rate not to exceed 5% for~~
17 ~~the term of the loan.~~

18 ~~(ii) A loan to a small business which is an~~
19 ~~agricultural producer shall be made at an interest rate~~
20 ~~of not less than 2% for the term of the loan if all of~~
21 ~~the following apply:~~

22 ~~(A) A declaration under 35 Pa.C.S. § 7301(c)~~
23 ~~(relating to general authority of Governor) is in~~
24 ~~effect for at least ten days prior to the date of~~
25 ~~application.~~

26 ~~(B) The application is made within nine months~~
27 ~~of termination of the declaration.~~

28 ~~(C) The agricultural producer is in the area~~
29 ~~which has been declared to be a natural disaster~~
30 ~~area.~~

1 ~~(f) Loan administration. A loan made under this section~~
2 ~~shall be administered in accordance with departmental policies~~
3 ~~and procedures by the area loan organization which made the~~
4 ~~loan. Each area loan organization shall submit an annual report~~
5 ~~on the form required by the department and which includes or~~
6 ~~demonstrates all of the following:~~

7 ~~(1) Each outstanding loan.~~

8 ~~(2) The date approved.~~

9 ~~(3) The original principal amount.~~

10 ~~(4) The current principal balance.~~

11 ~~(5) The interest rate.~~

12 ~~(6) The purpose for which the loan was made.~~

13 ~~(7) An enumeration of any problems or issues which have~~
14 ~~arisen with regard to each loan.~~

15 ~~(8) A statement regarding the progress of the small~~
16 ~~business in creating or preserving its requisite number of~~
17 ~~employment opportunities.~~

18 ~~(9) Any other information or documentation required by~~
19 ~~the department.~~

20 ~~(g) Penalty.—~~

21 ~~(1) Except as provided in paragraph (2), the department~~
22 ~~shall impose a penalty upon a recipient if the recipient~~
23 ~~fails to create or preserve the number of employment~~
24 ~~opportunities specified in its approved application.~~

25 ~~(2) The department may waive the penalty required by~~
26 ~~paragraph (1) if the department determines that the failure~~
27 ~~was due to circumstances outside the control of the~~
28 ~~recipient.~~

29 ~~(3) The amount of the penalty imposed under paragraph~~
30 ~~(1) shall be equal to an increase in the interest rate to 2%~~

1 ~~greater than the current prime interest rate for the~~
2 ~~remainder of the loan.~~

3 ~~(h) Defaults. The department may by foreclosure take title~~
4 ~~to a capital development project which it financed if~~
5 ~~acquisition is necessary to protect a loan made under this~~
6 ~~section. The department shall pay all costs arising out of the~~
7 ~~foreclosure and acquisition from moneys held in the fund. The~~
8 ~~department may, in order to minimize financial losses and~~
9 ~~sustain employment, lease the capital development project. The~~
10 ~~department may withdraw moneys from the fund to purchase first~~
11 ~~mortgages and to make payments on first mortgages on any capital~~
12 ~~development project which it financed where purchase or payment~~
13 ~~is necessary to protect a loan made under this section. The~~
14 ~~department may sell, transfer, convey and assign the first~~
15 ~~mortgages and shall deposit any moneys derived from the sale of~~
16 ~~any first mortgages in the fund.~~

17 ~~§ 2307. EDA loans.~~

18 ~~(a) Application and administration procedures. The~~
19 ~~department shall establish application and administration~~
20 ~~procedures to be used for EDA loans. The procedures shall be~~
21 ~~established by guidelines and shall conform in all respects to~~
22 ~~those procedures required or established by the Economic~~
23 ~~Development Administration for use of Federal funds under the~~
24 ~~Public Works and Economic Development Act of 1965 (Public Law~~
25 ~~89-136, 42 U.S.C. § 3121 et seq.).~~

26 ~~(b) Eligibility for EDA loans. The department shall~~
27 ~~establish eligibility requirements to be used for EDA loans. The~~
28 ~~requirements shall be established by guidelines and shall~~
29 ~~conform in all respects to those procedures required or~~
30 ~~established by the Economic Development Administration for use~~

1 ~~of Federal funds under the Public Works and Economic Development~~
2 ~~Act of 1965.~~

3 ~~§ 2308. Loans in distressed communities.~~

4 ~~(a) Application. A small business located in a distressed~~
5 ~~community may submit an application and any applicable~~
6 ~~application fee to a community development institution~~
7 ~~requesting a loan for certain costs of a capital development~~
8 ~~project. The application shall be on the form required by the~~
9 ~~department and shall include or demonstrate all of the~~
10 ~~following:~~

11 ~~(1) The name and address of the applicant.~~

12 ~~(2) A statement that the small business is engaged in~~
13 ~~business to public service or in the mercantile, commercial~~
14 ~~or point of sale retail business sectors.~~

15 ~~(3) A statement of the amount of loan assistance sought.~~

16 ~~(4) A statement of the capital development project,~~
17 ~~including a detailed statement of the cost of the project.~~

18 ~~(5) A financial commitment from a responsible source for~~
19 ~~the cost of the capital development project in excess of the~~
20 ~~amount requested.~~

21 ~~(6) Any other information required by the department.~~

22 ~~(b) Community development institution review.~~

23 ~~(1) Upon receipt of a completed application, a community~~
24 ~~development institution shall investigate and determine all~~
25 ~~of the following:~~

26 ~~(i) If the applicant is a small business which is~~
27 ~~engaged in business to public service or in the~~
28 ~~mercantile, commercial or point of sale retail business~~
29 ~~sectors in accordance with conditions or criteria~~
30 ~~established by the department.~~

1 ~~(ii) If the project is a capital development~~
2 ~~project.~~

3 ~~(iii) If the applicant has demonstrated a direct~~
4 ~~impact on the community in which the capital development~~
5 ~~project is or will be located, on residents of that~~
6 ~~community or on the local and/or regional economy. The~~
7 ~~department shall establish criteria that will assist in~~
8 ~~making this demonstration.~~

9 ~~(iv) Number of employment opportunities to be~~
10 ~~created or preserved by the proposed capital development~~
11 ~~project.~~

12 ~~(v) If the applicant complied with all other~~
13 ~~criteria established by the department.~~

14 ~~(2) Upon being satisfied that all requirements have been~~
15 ~~met, the community development institution shall recommend~~
16 ~~the applicant to the department and forward the application~~
17 ~~with all supporting documentation to the department for its~~
18 ~~review and approval.~~

19 ~~(c) Department review.—~~

20 ~~(1) Upon receipt of a recommendation and a completed~~
21 ~~application, the department shall investigate and determine~~
22 ~~all of the following:~~

23 ~~(i) The ability of the applicant to meet and satisfy~~
24 ~~the debt service as it becomes due and payable. In~~
25 ~~reviewing repayment obligations, loans shall not be~~
26 ~~approved on the basis of direct financial return on~~
27 ~~investment and shall not be held to the loan loss~~
28 ~~standards of private commercial lenders. Loans shall be~~
29 ~~reviewed for the purpose of establishing a strong~~
30 ~~economic base and promoting entrepreneurial activity~~

1 ~~within the distressed community.~~

2 ~~(ii) The existence and sufficiency of collateral for~~
3 ~~the loan.~~

4 ~~(iii) Relevant criminal and credit history and~~
5 ~~ratings of the applicant as determined from outside~~
6 ~~credit reporting services and other sources.~~

7 ~~(2) If the department is satisfied that all requirements~~
8 ~~have been met, the department may approve the loan request in~~
9 ~~an amount not to exceed \$200,000 or 50% of the total capital~~
10 ~~development project costs, whichever is less. For the purpose~~
11 ~~of this paragraph, capital development project costs, except~~
12 ~~the costs related to working capital, incurred during the 12-~~
13 ~~month period prior to the date of submission of the~~
14 ~~application to the department shall be considered part of the~~
15 ~~total capital development project costs.~~

16 ~~(3) The department shall notify the community~~
17 ~~development institution and applicant of its decision.~~

18 ~~(d) Approvals. For applications which are approved, the~~
19 ~~department shall draw an advance equal to the principal amount~~
20 ~~of the loan from the fund and, prior to providing loan funds to~~
21 ~~the applicant, the department shall require the applicant to~~
22 ~~execute a note and to enter into a loan agreement. In addition~~
23 ~~to the requirements of subsection (e), the loan agreement shall~~
24 ~~include a provision requiring the recipient to use the loan~~
25 ~~proceeds to pay the costs of the capital development project.~~
26 ~~The department may impose other terms and conditions on the~~
27 ~~recipient if the department determines they are in the best~~
28 ~~interests of this Commonwealth, including a provision requiring~~
29 ~~collateral for any penalty imposed under subsection (g).~~

30 ~~(e) Loan terms. A loan agreement entered into in accordance~~

1 ~~with subsection (d) shall do all of the following:~~

2 ~~(1) State any collateral securing the loan. The~~
3 ~~department may use its best judgment to identify and secure~~
4 ~~collateral.~~

5 ~~(2) State the repayment period which may be flexible.~~

6 ~~(3) State the interest rate which may not be less than~~
7 ~~2% nor more than 5% for the term of the loan.~~

8 ~~(4) State that the recipient agrees to maintain, at a~~
9 ~~minimum, the number of jobs in existence as of the date of~~
10 ~~loan application.~~

11 ~~(f) Loan administration. A loan made under this section~~
12 ~~shall be administered in accordance with departmental policies~~
13 ~~and procedures.~~

14 ~~(g) Penalty.—~~

15 ~~(1) Except as provided in paragraph (2), the department~~
16 ~~shall impose a penalty upon a recipient if the recipient~~
17 ~~fails to preserve the number of employment opportunities~~
18 ~~specified in its approved application.~~

19 ~~(2) The department may waive the penalty required by~~
20 ~~paragraph (1) if the department determines that the failure~~
21 ~~was due to circumstances outside the control of the~~
22 ~~recipient.~~

23 ~~(3) The amount of any penalty imposed under paragraph~~
24 ~~(1) shall be equal to an increase in the interest rate to 2%~~
25 ~~greater than the current prime interest rate for the~~
26 ~~remainder of the loan.~~

27 ~~(h) Defaults. The department may take title by foreclosure~~
28 ~~to a capital development project which it financed where~~
29 ~~acquisition is necessary to protect a loan made under this~~
30 ~~section. The department shall pay all costs arising out of the~~

1 ~~foreclosure and acquisition from money held in the fund. The~~
2 ~~department may, in order to minimize financial losses and~~
3 ~~sustain employment, lease the capital development project. The~~
4 ~~department may withdraw money from the fund to purchase first~~
5 ~~mortgages and to make payments on first mortgages on any capital~~
6 ~~development project which it financed if purchase or payment is~~
7 ~~necessary to protect a loan made under this section. The~~
8 ~~department may sell, transfer, convey and assign the first~~
9 ~~mortgages and shall deposit in the fund money derived from the~~
10 ~~sale of any first mortgages.~~

11 ~~§ 2309. Pollution prevention assistance loans.~~

12 ~~(a) Application. A small business may submit an application~~
13 ~~and any application fee to a pollution prevention assistance~~
14 ~~agency requesting a loan for a pollution prevention~~
15 ~~infrastructure. The application shall be on the form required by~~
16 ~~the department and shall include or demonstrate all of the~~
17 ~~following:~~

18 ~~(1) The name and address of the applicant.~~

19 ~~(2) A statement of the amount of loan assistance sought.~~

20 ~~(3) A statement of the pollution prevention~~
21 ~~infrastructure, including a detailed statement of the cost of~~
22 ~~the infrastructure.~~

23 ~~(4) A financial commitment from a responsible source for~~
24 ~~the cost of the pollution prevention infrastructure in excess~~
25 ~~of the amount requested.~~

26 ~~(5) Any other information required by the department.~~

27 ~~(b) Pollution prevention assistance agency review.—~~

28 ~~(1) Upon receipt of a completed application, a pollution~~
29 ~~prevention assistance agency shall investigate and determine~~
30 ~~all of the following:~~

1 ~~(i) If the applicant is a small business.~~

2 ~~(ii) If the project is for pollution prevention~~
3 ~~infrastructure.~~

4 ~~(iii) If the applicant complied with all other~~
5 ~~criteria established by the department.~~

6 ~~(2) Upon being satisfied that all requirements have been~~
7 ~~met, the pollution prevention assistance agency shall~~
8 ~~recommend the applicant to the department and forward the~~
9 ~~application with all supporting documentation to the~~
10 ~~department for its review and approval.~~

11 ~~(c) Department review.—~~

12 ~~(1) Upon receipt of a recommendation and a completed~~
13 ~~application, the department shall investigate and determine~~
14 ~~all of the following:~~

15 ~~(i) If the pollution prevention infrastructure~~
16 ~~demonstrates a substantial likelihood of preventing or~~
17 ~~reducing pollution. The Department of Environmental~~
18 ~~Protection shall assist the department in reviewing the~~
19 ~~applications and provide technical assistance.~~

20 ~~(ii) The ability of the applicant to meet and~~
21 ~~satisfy the debt service as it becomes due and payable.~~
22 ~~In reviewing repayment obligations, loans shall not be~~
23 ~~approved on the basis of direct financial return on~~
24 ~~investment and shall not be held to the loan loss~~
25 ~~standards of private commercial lenders. Loans shall be~~
26 ~~reviewed for the purpose of reducing pollution through~~
27 ~~source reduction technologies or processes.~~

28 ~~(iii) The existence and sufficiency of collateral~~
29 ~~for the loan.~~

30 ~~(iv) Relevant criminal and credit history and~~

1 ratings of the applicant as determined from outside
2 credit reporting services and other sources.

3 ~~(2) If the department is satisfied that all requirements~~
4 ~~have been met, the department may approve the loan request. A~~
5 ~~loan approved under this subsection may not exceed the lesser~~
6 ~~of:~~

7 ~~(i) \$100,000; or~~

8 ~~(ii) 75% of infrastructure costs.~~

9 ~~(3) The department shall notify the pollution prevention~~
10 ~~assistance agency and applicant of its decision.~~

11 ~~(d) Approvals. For applications which are approved, the~~
12 ~~department shall draw an advance equal to the principal amount~~
13 ~~of the loan from the Pollution Prevention Assistance Account.~~
14 ~~Prior to providing loan funds to the applicant, the department~~
15 ~~shall require the applicant to execute a note and to enter into~~
16 ~~a loan agreement. In addition to the requirements of subsection~~
17 ~~(e), the loan agreement shall include a provision requiring the~~
18 ~~recipient to use the loan proceeds to pay the costs of the~~
19 ~~pollution prevention infrastructure. The department may impose~~
20 ~~other terms and conditions on the recipient if the department~~
21 ~~determines they are in the best interests of this Commonwealth,~~
22 ~~including a provision requiring collateral for any penalty~~
23 ~~imposed under subsection (g).~~

24 ~~(e) Loan terms. A loan agreement entered into in accordance~~
25 ~~with subsection (d) shall do all of the following:~~

26 ~~(1) State the collateral securing the loan. All loans~~
27 ~~shall be secured by lien positions on collateral at the~~
28 ~~highest level of priority as may be determined by the~~
29 ~~department.~~

30 ~~(2) State the repayment period which may not exceed 10~~

1 ~~years.~~

2 ~~(3) State that the interest rate is 2%.~~

3 ~~(4) State that any loan fee is not to exceed 5% of the~~
4 ~~loan amount.~~

5 ~~(f) Loan administration. A loan made under this section~~
6 ~~shall be administered in accordance with departmental policies~~
7 ~~and procedures.~~

8 ~~(g) Penalty.—~~

9 ~~(1) Except as provided in paragraph (2), the department~~
10 ~~shall impose a penalty upon a recipient if the recipient~~
11 ~~fails to carry out the pollution prevention infrastructure~~
12 ~~project as specified in its approved application.~~

13 ~~(2) The department may waive the penalty required by~~
14 ~~paragraph (1) if the department determines that the failure~~
15 ~~was due to circumstances outside the control of the~~
16 ~~recipient.~~

17 ~~(3) The amount of any penalty imposed under paragraph~~
18 ~~(1) shall be equal to an increase in the interest rate to 2%~~
19 ~~greater than the current prime interest rate for the~~
20 ~~remainder of the loan.~~

21 ~~(h) Defaults. The department may take title by foreclosure~~
22 ~~to a pollution prevention infrastructure which it financed if~~
23 ~~acquisition is necessary to protect a loan made under this~~
24 ~~section. The department shall pay all costs arising out of the~~
25 ~~foreclosure and acquisition from money held in the Pollution~~
26 ~~Prevention Assistance Account. The department may, in order to~~
27 ~~minimize financial losses and sustain employment, lease the~~
28 ~~pollution prevention infrastructure. The department may withdraw~~
29 ~~money from the Pollution Prevention Assistance Account to~~
30 ~~purchase first mortgages and to make payments on first mortgages~~

~~1 on any pollution prevention infrastructure which it financed if
2 the purchase or payment is necessary to protect a loan made
3 under this section. The department may sell, transfer, convey
4 and assign the first mortgages and shall deposit any money
5 derived from the sale of any first mortgages in the Pollution
6 Prevention Assistance Account.~~

~~7 § 2310. Export financing loans.~~

~~8 (a) Application. A person may submit an application and any
9 applicable application fee to the department or its area loan
10 organization requesting a loan for certain costs of a capital
11 development project which will be used in export activities. The
12 application must be on the form required by the department and
13 must include or demonstrate all of the following:~~

~~14 (1) The name and address of the applicant.~~

~~15 (2) A statement of the amount of loan assistance sought.~~

~~16 (3) A statement of the capital development project,
17 including a detailed statement of the cost of the project.~~

~~18 (4) A financial commitment from a responsible source for
19 any cost of the capital development project in excess of the
20 amount requested.~~

~~21 (5) A statement that the loan, if approved, would not
22 supplant funding from private sector sources on commercially
23 reasonable terms.~~

~~24 (6) Any other information required by the department.~~

~~25 (b) Review. Upon receipt of a completed application, the
26 department shall investigate and determine all of the following:~~

~~27 (1) If the applicant is an export business.~~

~~28 (2) If the project is a capital development project.~~

~~29 (3) The ability of the applicant to meet and satisfy the
30 debt service as it becomes due and payable.~~

1 ~~(4) The existence and sufficiency of collateral for the~~
2 ~~loan.~~

3 ~~(5) Relevant criminal and credit history and ratings of~~
4 ~~the applicant as determined from outside credit reporting~~
5 ~~services and other sources.~~

6 ~~(6) Number of employment opportunities to be created or~~
7 ~~preserved by the proposed capital development project.~~

8 ~~(7) If the applicant complied with all other criteria~~
9 ~~established by the department.~~

10 ~~(c) Approvals. If the department is satisfied that all~~
11 ~~requirements have been met, the department may approve the loan~~
12 ~~request. A loan approved under this section may not exceed~~
13 ~~\$350,000. The department shall notify the applicant and, if~~
14 ~~applicable, the area loan organization of its decision. The~~
15 ~~department shall reserve an amount equal to the principal amount~~
16 ~~of the loan within the fund or the special account authorized by~~
17 ~~section 2304(c) (2) (relating to fund and accounts). Prior to~~
18 ~~providing funds to the applicant, the department shall require~~
19 ~~the applicant to execute a note and enter into a loan agreement.~~
20 ~~In addition to the requirements of subsection (d), the loan~~
21 ~~agreement shall include a provision requiring the recipient to~~
22 ~~use the loan proceeds to pay the costs of the capital~~
23 ~~development project. The department may impose other terms and~~
24 ~~conditions on the recipient if the department determines they~~
25 ~~are in the best interests of this Commonwealth, including any of~~
26 ~~the following:~~

27 ~~(1) A provision requiring collateral for any penalty~~
28 ~~imposed under subsection (f).~~

29 ~~(2) A provision requiring the person to be eligible for~~
30 ~~an insurance policy.~~

1 ~~(3) A provision requiring the loan to be guaranteed by~~
2 ~~the Working Capital Guaranty Program offered by the Ex-Im~~
3 ~~Bank.~~

4 ~~(4) A provision requiring an export credit sales~~
5 ~~contract insured by an insurance policy.~~

6 ~~(d) Loan terms. A loan agreement entered into in accordance~~
7 ~~with subsection (c) shall do all of the following:~~

8 ~~(1) State the collateral securing the loan. All loans~~
9 ~~shall be secured by lien positions on collateral at the~~
10 ~~highest level of priority as may be determined by the~~
11 ~~department.~~

12 ~~(2) State the repayment period as determined by the~~
13 ~~department.~~

14 ~~(3) State the interest rate as determined by the~~
15 ~~department.~~

16 ~~(e) Loan administration. A loan made under this section~~
17 ~~shall be administered in accordance with departmental policies~~
18 ~~and procedures.~~

19 ~~(f) Penalty.—~~

20 ~~(1) Except as provided in paragraph (2), the department~~
21 ~~shall impose a penalty upon a recipient if the recipient~~
22 ~~fails to carry out the export activities specified in its~~
23 ~~approved application.~~

24 ~~(2) The department may waive the penalty required by~~
25 ~~paragraph (1) if the department determines that the failure~~
26 ~~was due to circumstances outside the control of the~~
27 ~~recipient.~~

28 ~~(3) The amount of the penalty imposed under paragraph~~
29 ~~(1) shall be equal to an increase in the interest rate to 2%~~
30 ~~greater than the current prime interest rate for the~~

1 remainder of the loan.

2 ~~(g) Defaults. The department may, by foreclosure, take~~
3 ~~title to a capital development project which it financed if~~
4 ~~acquisition is necessary to protect a loan made under this~~
5 ~~section. The department shall pay all costs arising out of the~~
6 ~~foreclosure and acquisition from money held in the fund or a~~
7 ~~special account authorized by section 2304(c) (2). The department~~
8 ~~may, in order to minimize financial losses and sustain~~
9 ~~employment, lease the capital development project. The~~
10 ~~department may withdraw money from the fund or a special account~~
11 ~~authorized by section 2304(c) (2) to purchase first mortgages and~~
12 ~~to make payments on first mortgages on any capital development~~
13 ~~project which it financed if purchase or payment is necessary to~~
14 ~~protect a loan made under this section. The department may sell,~~
15 ~~transfer, convey and assign the first mortgages and shall~~
16 ~~deposit any money derived from the sale of any first mortgages~~
17 ~~in the fund or a special account authorized by section 2304(c)~~
18 ~~(2).~~

19 ~~§ 2311. Reporting and inspection.~~

20 ~~(a) Inspection. An applicant or a recipient shall, upon~~
21 ~~request, permit authorized employees of the department or its~~
22 ~~agent to inspect the plant, books and records of the applicant~~
23 ~~or recipient.~~

24 ~~(b) Updating. An applicant or a recipient shall provide~~
25 ~~updated information to the department and its agents if~~
26 ~~conditions change or to the extent that the information~~
27 ~~originally given becomes inaccurate or misleading.~~

28 ~~(c) Periodic reports. A recipient shall provide the~~
29 ~~department and its agents with such periodic financial reports~~
30 ~~as the department may require until the loan is repaid in full.~~

1 ~~(d) Financial and performance audits. An agent of the~~
2 ~~department shall annually submit to the department, at the~~
3 ~~agent's expense, an independent financial audit. If the audit~~
4 ~~reveals misconduct of a material nature on the part of the~~
5 ~~agent, the department shall take appropriate action.~~

6 ~~§ 2312. Limitations.~~

7 ~~No loans shall be recommended or approved if the proceeds of~~
8 ~~the loan could do any of the following:~~

9 ~~(1) Cause, aid or assist directly in the relocation of~~
10 ~~any business operations from one part of this Commonwealth to~~
11 ~~another unless there is at least a 25% net increase in~~
12 ~~employment.~~

13 ~~(2) Refinance any portion of the total cost of a capital~~
14 ~~development project, pollution prevention infrastructure or~~
15 ~~other existing loans or debt.~~

16 ~~(3) Finance a capital development project or pollution~~
17 ~~prevention infrastructure located outside the geographic~~
18 ~~boundaries of this Commonwealth.~~

19 ~~(4) Provide funds, directly or indirectly, for payment~~
20 ~~distribution or as loan owners, partners or shareholders of a~~
21 ~~small business, except as ordinary compensation for services~~
22 ~~rendered.~~

23 ~~(5) Provide funds for speculation in real or personal~~
24 ~~property, whether tangible or intangible.~~

25 ~~CHAPTER 29~~

26 ~~MACHINERY AND EQUIPMENT LOANS~~

27 ~~-~~

28 ~~Sec.~~

29 ~~2901. Scope.~~

30 ~~2902. Definitions.~~

- 1 ~~2903. Establishment.~~
- 2 ~~2904. Machinery and Equipment Loan Fund.~~
- 3 ~~2905. Eligibility for loans; terms and conditions.~~
- 4 ~~2906. Application and administration.~~
- 5 ~~2907. Powers of secretary.~~
- 6 ~~2908. Reporting and inspection.~~
- 7 ~~2909. Nondiscrimination.~~
- 8 ~~2910. Conflict of interest.~~
- 9 ~~2911. Reports to General Assembly.~~
- 10 ~~2912. Guidelines.~~
- 11 ~~§ 2901. Scope.~~

12 ~~This chapter relates to the Machinery and Equipment Loan~~
13 ~~Program.~~

14 ~~§ 2902. Definitions.~~

15 ~~The following words and phrases when used in this chapter~~
16 ~~shall have the meanings given to them in this section unless the~~
17 ~~context clearly indicates otherwise:~~

18 ~~"Business enterprise." A for profit corporation, partnership~~
19 ~~or proprietorship. The term includes a medical facility.~~

20 ~~"Farm commodity." Any Pennsylvania grown agricultural,~~
21 ~~horticultural, aquacultural, vegetable, fruit and floricultural~~
22 ~~product of the soil, livestock and meats, wools, hides, furs,~~
23 ~~poultry, eggs, dairy products, nuts, mushrooms, honey products~~
24 ~~and forest products.~~

25 ~~"Fund." The Machinery and Equipment Loan Fund created and~~
26 ~~established by this chapter.~~

27 ~~"Medical facility." An entity licensed as a hospital under~~
28 ~~the act of June 13, 1967 (P.L.31, No.21), known as the Public~~
29 ~~Welfare Code, or the act of July 19, 1979 (P.L.130, No.48),~~
30 ~~known as the Health Care Facilities Act.~~

1 ~~"Normal agricultural operation." The term shall have the~~
2 ~~same meaning as given to it in section 2 of the act of June 10,~~
3 ~~1982 (P.L.454, No.133), entitled "An act protecting agricultural~~
4 ~~operations from nuisance suits and ordinances under certain~~
5 ~~circumstances."~~

6 ~~"Production agriculture." The management and use of a normal~~
7 ~~agricultural operation for the production of a farm commodity.~~
8 ~~§ 2903. Establishment.~~

9 ~~There is established within the department a program to be~~
10 ~~known as the Machinery and Equipment Loan Program. The program~~
11 ~~shall be administered by the department and provide loans to~~
12 ~~business enterprises for machinery and equipment.~~

13 ~~§ 2904. Machinery and Equipment Loan Fund.~~

14 ~~(a) Creation. There is created a special account in the~~
15 ~~Treasury Department, to be known as the Machinery and Equipment~~
16 ~~Loan Fund, to which shall be credited all program appropriations~~
17 ~~made by the General Assembly, all proceeds from loan repayments~~
18 ~~and any and all other deposits, payments or contributions from~~
19 ~~any other source made available to the fund. The fund shall~~
20 ~~operate as a revolving fund whereby all appropriations, payments~~
21 ~~and interest made thereto may be applied and reapplied to the~~
22 ~~purposes of this chapter.~~

23 ~~(b) Credits to fund. All appropriations, deposits and~~
24 ~~contributions made to the fund shall be immediately credited in~~
25 ~~full to the fund, and earnings on the moneys held in the fund~~
26 ~~shall also be credited to the fund for the purposes of this~~
27 ~~chapter.~~

28 ~~§ 2905. Eligibility for loans; terms and conditions.~~

29 ~~(a) Loans; general rules. The secretary may make advances~~
30 ~~from the fund, subject to the terms, conditions and restrictions~~

1 ~~provided under this chapter, for the purpose of making loans to~~
2 ~~business enterprises involved in industrial processes, mining,~~
3 ~~manufacturing, production agriculture, information technology,~~
4 ~~biotechnology, service as a medical facility or other industrial~~
5 ~~or technology sectors, as defined by the department, to acquire~~
6 ~~and install new machinery and equipment or upgrade existing~~
7 ~~machinery and equipment, including the acquisition, application~~
8 ~~and utilization of computer hardware and software.~~

9 ~~(1) All loans shall be subject to all of the following~~
10 ~~conditions:~~

11 ~~(i) Be made to eligible business enterprises under~~
12 ~~the provisions of this chapter.~~

13 ~~(ii) Have a maximum loan ceiling of \$5,000,000 or~~
14 ~~50% of the cost of the project, whichever is less.~~

15 ~~(iii) Be limited to the purchase and installation of~~
16 ~~new equipment and machinery or the upgrade of existing~~
17 ~~machinery and equipment. This subparagraph includes the~~
18 ~~acquisition, application and utilization of computer~~
19 ~~hardware and software.~~

20 ~~(iv) Be limited to projects that demonstrate the~~
21 ~~creation or retention of one job for every \$25,000~~
22 ~~received from the fund. This subparagraph does not apply~~
23 ~~to loans made to business enterprises involved in~~
24 ~~production agriculture or to loans made to medical~~
25 ~~facilities.~~

26 ~~(v) Have an interest rate which shall be established~~
27 ~~by the secretary.~~

28 ~~(vi) Have a term of not in excess of ten years.~~

29 ~~(2) For loans to medical facilities, loan funds may be~~
30 ~~used only to finance the acquisition, installation and~~

1 ~~utilization of machinery and equipment, including computer~~
2 ~~hardware and software components, to be used in the~~
3 ~~prescribing and dispensing of medication for medical facility~~
4 ~~patients.~~

5 ~~(b) Restrictions. No loans shall be made that do any of the~~
6 ~~following:~~

7 ~~(1) Cause, aid or assist in, directly or indirectly, the~~
8 ~~relocation of any business enterprise from one part of this~~
9 ~~Commonwealth to another unless there is at least a 25%~~
10 ~~increase in net employment.~~

11 ~~(2) Supplant funding that is otherwise available~~
12 ~~expeditiously from private sector sources on commercially~~
13 ~~reasonable terms.~~

14 ~~(3) Be for the purpose of refinancing any portion of the~~
15 ~~total project cost or other existing loans or debt.~~

16 ~~(4) Be for the purpose of financing projects located~~
17 ~~outside the geographic boundaries of this Commonwealth.~~

18 ~~(5) Be for the purpose of paying off a creditor that is~~
19 ~~inadequately secured and is in a position to sustain a loss.~~

20 ~~(6) Be for the purpose of repaying a debt owed to a~~
21 ~~small business investment company.~~

22 ~~(7) Provide funds for speculation in any kind of~~
23 ~~property, real or personal, tangible or intangible.~~

24 ~~(c) Security. All loans shall be secured by no less than a~~
25 ~~second lien position on the equipment purchased and other~~
26 ~~sufficient collateral as determined by the secretary.~~

27 ~~§ 2906. Application and administration.~~

28 ~~(a) Procedures. Application and administration procedures~~
29 ~~for fund loans shall be established by the secretary.~~

30 ~~(b) Receipt. The secretary shall receive applications from~~

1 ~~eligible business enterprises for machinery and equipment loans.~~
2 ~~Applications shall be made to the secretary in the form and~~
3 ~~manner as the department may require.~~

4 ~~(c) Investigation. Upon receipt of the application, the~~
5 ~~secretary shall investigate and review the application and~~
6 ~~either approve or disapprove the loan application by proper~~
7 ~~action of the department. The decision of the secretary shall be~~
8 ~~based, in whole or in part, upon the following criteria:~~

9 ~~(1) Ability of the applicant to meet and satisfy all~~
10 ~~debt service as it becomes due and payable.~~

11 ~~(2) Sufficiency of available collateral, including~~
12 ~~satisfactory lien positions on real and personal property.~~

13 ~~(3) Eligibility of the applicant as a business~~
14 ~~enterprise involved in industrial processes, manufacturing,~~
15 ~~mining, production agriculture, information technology,~~
16 ~~biotechnology, services as a medical facility or other~~
17 ~~industrial or technology sectors as defined by the secretary.~~

18 ~~(4) Sufficient evidence that funds shall be used only to~~
19 ~~acquire and install new equipment and machinery or upgrade~~
20 ~~existing equipment and machinery, including the acquisition,~~
21 ~~application and utilization of computer hardware and~~
22 ~~software.~~

23 ~~(5) Capital needs of the applicant.~~

24 ~~(6) Conformity of the project to the provisions of this~~
25 ~~chapter.~~

26 ~~(7) Relevant criminal and credit history and ratings of~~
27 ~~applicant as determined from outside credit reporting~~
28 ~~services and other sources.~~

29 ~~(8) Number of net employment opportunities created and~~
30 ~~retained by the proposed project. This paragraph does not~~

1 ~~apply to business enterprises involved in production~~
2 ~~agriculture or medical facilities.~~

3 ~~(9) Supporting evidence that the loan project will~~
4 ~~increase the firm's competitiveness and value added within~~
5 ~~its respective industry.~~

6 ~~(10) Explanation of how the loan will aid the~~
7 ~~Commonwealth in its efforts to assist business enterprises to~~
8 ~~increase their productivity and improve the future~~
9 ~~competitive position of this Commonwealth's industries.~~

10 ~~(11) Compliance with the loan amount limitations~~
11 ~~provided for machinery and equipment loans.~~

12 ~~(12) Payment to date of all tax obligations due and~~
13 ~~owing to the Commonwealth or any political subdivision~~
14 ~~thereof.~~

15 ~~(13) Conformity of all aspects of the loan transaction~~
16 ~~with the substantive and procedural provisions of this~~
17 ~~chapter and regulations promulgated hereunder.~~

18 ~~(14) Such information and documentation as the secretary~~
19 ~~shall require.~~

20 ~~(d) Notification. The secretary shall notify the applicant~~
21 ~~of final approval or disapproval of the loan application within~~
22 ~~a reasonable period of time following the receipt of the~~
23 ~~application. In the case of approval of a loan application, the~~
24 ~~secretary shall arrange to draw the loan amount from the fund~~
25 ~~and advance the sum to the recipient. The advance shall be made~~
26 ~~available in the form of a loan transaction, which loan shall be~~
27 ~~evidenced by a note executed by the recipient and secured in a~~
28 ~~manner as the secretary shall require in conformity in all~~
29 ~~respects to the loan as approved by the secretary.~~

30 ~~(e) Policy requirements and report. All loans shall be~~

1 ~~administered and monitored by the department in accordance with~~
2 ~~the policies and procedures prescribed by the secretary. On or~~
3 ~~before September 1 of each year, the secretary shall prepare a~~
4 ~~report that includes the following:~~

5 ~~(1) Each outstanding loan.~~

6 ~~(2) The date of approval.~~

7 ~~(3) The original principal balance.~~

8 ~~(4) The current principal balance.~~

9 ~~(5) The interest rate.~~

10 ~~(6) The purpose for which the loan was made.~~

11 ~~(7) An enumeration of any problems or issues which have~~
12 ~~arisen with regard to each loan.~~

13 ~~(8) A statement regarding the progress of the business~~
14 ~~enterprise in creating and retaining its requisite number of~~
15 ~~employment opportunities.~~

16 ~~(9) Such other information and documentation as the~~
17 ~~secretary shall require.~~

18 ~~(f) Penalty for noncompliance. In the event that a loan~~
19 ~~recipient shall not comply with its approved application by~~
20 ~~failing to create or preserve the number of employment~~
21 ~~opportunities specified in its approved application, the~~
22 ~~secretary shall impose a penalty equal to an increase in the~~
23 ~~interest rate to 2% greater than the current prime interest rate~~
24 ~~for the remainder of the loan unless the penalty is waived by~~
25 ~~the secretary because the failure is due to circumstances~~
26 ~~outside the control of the loan recipient. The penalty shall be~~
27 ~~payable in installments that the secretary deems appropriate.~~

28 ~~§ 2907. Powers of secretary.~~

29 ~~The secretary shall have and may exercise all powers and~~
30 ~~authority necessary to the proper administration and~~

1 ~~implementation of this chapter and shall have the authority to~~
2 ~~adopt policies, procedures and guidelines and promulgate rules~~
3 ~~and regulations necessary to effectuate the provisions of this~~
4 ~~chapter.~~

5 ~~§ 2908. Reporting and inspection.~~

6 ~~(a) Inspection. Each business enterprise which applies for~~
7 ~~or receives assistance under this chapter, upon reasonable~~
8 ~~request of the department, shall permit duly authorized~~
9 ~~employees of the department to inspect the plant, books and~~
10 ~~records of the business enterprise.~~

11 ~~(b) Updating. Each business enterprise shall update the~~
12 ~~information given to the department in its application if~~
13 ~~conditions change or to the extent that the information given~~
14 ~~originally becomes inaccurate or misleading.~~

15 ~~(c) Periodic reports. Each recipient of assistance under~~
16 ~~this chapter shall provide the department with periodic~~
17 ~~financial reports as the secretary may require until such time~~
18 ~~as the loan is paid off.~~

19 ~~§ 2909. Nondiscrimination.~~

20 ~~No loan shall be made to a business enterprise unless the~~
21 ~~business enterprise certifies to the department, in a form~~
22 ~~satisfactory to the department, that it shall not discriminate~~
23 ~~against any employee or any applicant for employment because of~~
24 ~~race, religion, color, national origin, sex or age. The business~~
25 ~~enterprise shall also certify to the department that it is not~~
26 ~~currently under citation for pollution violations and that in~~
27 ~~the future it will meet all applicable antipollution standards.~~

28 ~~§ 2910. Conflict of interest.~~

29 ~~No employee of the department shall, either directly or~~
30 ~~indirectly, be a party to or have any financial interest in any~~

1 ~~contract or agreement arising pursuant to this chapter.~~

2 ~~§ 2911. Reports to General Assembly.~~

3 ~~(a) Annual reports. On or before September 1 of each year,~~
4 ~~the secretary shall provide a report to the Secretary of the~~
5 ~~Senate and to the Chief Clerk of the House of Representatives.~~
6 ~~The report shall describe all relevant activities of the~~
7 ~~department pursuant to this chapter and shall include the~~
8 ~~following:~~

9 ~~(1) List of business enterprises receiving loans from~~
10 ~~the fund and the amounts and terms of this assistance.~~

11 ~~(2) Loan amounts repaid. Information under this~~
12 ~~paragraph may be reported in the aggregate.~~

13 ~~(3) Loans outstanding, balances due and any penalties~~
14 ~~imposed. Information under this paragraph may be reported in~~
15 ~~the aggregate.~~

16 ~~(4) Jobs created by businesses receiving funds in~~
17 ~~previous years. Information under this paragraph may be~~
18 ~~reported in the aggregate.~~

19 ~~(5) Other relevant information as determined by the~~
20 ~~secretary.~~

21 ~~(b) Availability of departmental reports. Reports prepared~~
22 ~~by the secretary under section 2906(e) (relating to application~~
23 ~~and administration) shall be made available upon request to~~
24 ~~members of the General Assembly.~~

25 ~~§ 2912. Guidelines.~~

26 ~~The department shall develop written guidelines for the~~
27 ~~implementation of this chapter.]~~

28 ~~Section 2. Section 1542(b) of Title 64 is amended to read:~~

29 ~~§ 1542. Revolving loan program accounts.~~

30 ~~***~~

1 ~~{(b) The First Industries Program account. The authority~~
2 ~~shall establish an account for the program established in~~
3 ~~section 1552 (relating to First Industries Program). Proceeds of~~
4 ~~bonds issued to fund the First Industries Program, any moneys~~
5 ~~received as loan repayments or in repayment or recovery of loan~~
6 ~~guarantees under the program, or moneys otherwise made available~~
7 ~~to the program, shall be deposited in the account and made~~
8 ~~available for additional planning grants or loans or used for~~
9 ~~additional loan guarantees as provided in section 1552, subject~~
10 ~~to the provisions of any pledge to or agreement made by the~~
11 ~~authority with obligees of the authority.}~~

12 ~~Section 3. Sections 1552 and 1553 of Title 64 are repealed:~~
13 ~~{§ 1552. First Industries Program.~~

14 ~~(a) Establishment. There is established a program to be~~
15 ~~known as the First Industries Program. The program shall provide~~
16 ~~financial assistance for projects related to tourism and~~
17 ~~agriculture located within this Commonwealth. The board shall~~
18 ~~allocate funds made available to the program among the different~~
19 ~~methods of financing authorized in this section.~~

20 ~~(b) Applications for planning grants. An applicant may~~
21 ~~submit an application to the authority requesting a planning~~
22 ~~grant in an amount not to exceed \$250,000 for the costs of~~
23 ~~predevelopment activities and feasibility studies for a project~~
24 ~~related to tourism or agriculture. The application shall be on~~
25 ~~the form required by the board and shall include or demonstrate~~
26 ~~all of the following:~~

27 ~~(1) The applicant's name and address.~~

28 ~~(2) The location of the project.~~

29 ~~(3) A description of the project.~~

30 ~~(4) An estimate of the cost of the predevelopment~~

1 ~~activities and feasibility studies and the goal to be~~
2 ~~achieved by carrying out the proposed activities or studies.~~

3 ~~(5) A statement of the amount of the planning grant~~
4 ~~sought.~~

5 ~~(6) Any other information required by the board.~~

6 ~~(c) Review and approval of planning grant applications.~~

7 ~~(1) The board shall review the application to determine~~
8 ~~that the project demonstrates one or more of the following:~~

9 ~~(i) The project will have a demonstrable impact on~~
10 ~~the economy or well being of the neighborhood, community~~
11 ~~or region where the project will be located.~~

12 ~~(ii) The project will promote research and~~
13 ~~development efforts leading to increased~~
14 ~~commercialization or utilization of farm commodities.~~

15 ~~(iii) The project will result in environmentally~~
16 ~~friendly or energy efficient operations related to~~
17 ~~agriculture, including projects authorized by the act of~~
18 ~~December 12, 1994 (P.L.888, No.128), known as the~~
19 ~~Agricultural By Product Management Technology Act.~~

20 ~~(iv) The project will result in more cost effective~~
21 ~~and efficient marketing of regional assets related to~~
22 ~~tourism or agriculture.~~

23 ~~(v) The project will result in a substantial~~
24 ~~increase in revenues for the Commonwealth or the host~~
25 ~~municipality.~~

26 ~~(vi) The project proposes to utilize Commonwealth~~
27 ~~owned natural resources for public/private development of~~
28 ~~tourism.~~

29 ~~(2) Upon being satisfied that the requirements of~~
30 ~~paragraph (1) have been met, the board may approve the~~

1 application, and, if approved, the authority shall award a
2 planning grant.

3 ~~(3) Copies of all reports and studies prepared with~~
4 ~~planning grant funds shall be filed with the authority and~~
5 ~~shall be made available to any person upon request.~~

6 ~~(d) Loans to applicants. If the department approves an~~
7 ~~application for a loan under the programs established in 12-~~
8 ~~Pa.C.S. Ch. 23 (relating to small business first) or 29-~~
9 ~~(relating to machinery and equipment loans), the department may~~
10 ~~request that the authority finance the loan. Upon being~~
11 ~~satisfied that the project is related to agriculture or tourism,~~
12 ~~the board may approve the request, and, if approved, the~~
13 ~~authority shall award a loan. Loans made under this subsection~~
14 ~~shall be administered by the department. Payments received shall~~
15 ~~be forwarded to the authority and credited to the account~~
16 ~~established in accordance with section 1542(b) (relating to~~
17 ~~revolving loan program accounts).~~

18 ~~(e) Loan guarantees.~~

19 ~~(1) An applicant may request a guarantee for a loan to~~
20 ~~be made by a commercial lending institution or community~~
21 ~~development financial institution to assist with the~~
22 ~~financing of a project related to tourism or agriculture. The~~
23 ~~applicant may be the commercial lending institution or~~
24 ~~community development financial institution applying on~~
25 ~~behalf of a borrower. The application must be on the form~~
26 ~~required by the board and must include or demonstrate all of~~
27 ~~the following:~~

28 ~~(i) The applicant's name and address. If the~~
29 ~~applicant is a commercial lending institution or~~
30 ~~community development financial institution, the~~

1 ~~borrower's name and address.~~

2 ~~(ii) A description of the project.~~

3 ~~(iii) A statement describing the anticipated~~
4 ~~economic impact to the Commonwealth and the host~~
5 ~~municipality as a result of the project.~~

6 ~~(iv) A description of the proposed project~~
7 ~~financing, including terms, conditions and the collateral~~
8 ~~or security required for the loan for which the guarantee~~
9 ~~is being requested.~~

10 ~~(v) A copy of the applicant's last two years of~~
11 ~~financial statements prepared or reported on by an~~
12 ~~independent certified public accountant. If the applicant~~
13 ~~is a commercial lending institution or a community~~
14 ~~development financial institution, a copy of the~~
15 ~~borrower's last two years of financial statements~~
16 ~~prepared or reported on by an independent certified~~
17 ~~public accountant.~~

18 ~~(vi) The amount of the loan guarantee that is being~~
19 ~~requested.~~

20 ~~(vii) The total project cost and the identification~~
21 ~~of all sources of capital for the project.~~

22 ~~(viii) Any other information required by the board.~~

23 ~~(2) The board shall review the application to determine~~
24 ~~all of the following:~~

25 ~~(i) (A) Except as set forth in clause (B), that the~~
26 ~~project has been awarded a planning grant under this~~
27 ~~section or that at least \$1,000,000 of private funds~~
28 ~~are being invested in the project.~~

29 ~~(B) Beginning on the effective date of this~~
30 ~~paragraph through July 15, 2015, that the project has~~

1 ~~been awarded a planning grant under this section or~~
2 ~~that at least \$500,000 of private funds are being~~
3 ~~invested in the project.~~

4 ~~(ii) That the value of the proposed collateral is~~
5 ~~sufficient to cover the full amount of the loan.~~

6 ~~(iii) That the applicant complied with all other~~
7 ~~criteria established by the board.~~

8 ~~(3) Upon being satisfied that all requirements have been~~
9 ~~met, the board may approve the guarantee, and, if approved,~~
10 ~~the authority shall execute a guarantee agreement in favor of~~
11 ~~the commercial lending institution or community development~~
12 ~~financial institution stating the terms and amounts of the~~
13 ~~guarantee. Except as provided in paragraph (3.1), the~~
14 ~~guarantee may not exceed 50% of the outstanding principal~~
15 ~~amount of the loan or \$2,500,000 at any point in time,~~
16 ~~whichever is less. In addition to any other terms and~~
17 ~~conditions required by the board, the guarantee agreement~~
18 ~~shall provide for all of the following:~~

19 ~~(i) The procedure for the submission by the~~
20 ~~commercial lending institution or community development~~
21 ~~financial institution of a claim for payment. This~~
22 ~~procedure shall require that the commercial lending~~
23 ~~institution or community development financial~~
24 ~~institution demonstrate that it has exhausted all~~
25 ~~available remedies against the borrower, other guarantors~~
26 ~~and collateral before seeking payment under the~~
27 ~~agreement.~~

28 ~~(ii) A requirement that a percentage of any moneys~~
29 ~~recovered subsequent to the payment of a claim by the~~
30 ~~authority be remitted to the authority.~~

1 ~~(iii) Periodic reporting requirements by the~~
2 ~~commercial lending institution or community development~~
3 ~~financial institution regarding itself and regarding the~~
4 ~~loans which have been awarded guarantees under this~~
5 ~~section.~~

6 ~~(3.1) Beginning on the effective date of this paragraph~~
7 ~~through July 15, 2015, a guarantee of 51% to 90% of the~~
8 ~~principal amount of the loan to assist with the financing of~~
9 ~~a project related to agriculture may be awarded by the board.~~
10 ~~The guarantee shall be subject to a one time fee of 2% of the~~
11 ~~amount of the loan multiplied by the percentage of the~~
12 ~~guarantee.~~

13 ~~(3.2) The amount of a guarantee under this subsection,~~
14 ~~if any, shall be set at the discretion of the board based~~
15 ~~upon its determination of the potential financial risk to the~~
16 ~~Commonwealth.~~

17 ~~(4) The board may establish a subcommittee composed of~~
18 ~~one or more board members and department staff to supervise~~
19 ~~the progress of projects for which loan guarantees have been~~
20 ~~awarded under this section.~~

21 ~~(e.1) Limitation. A Farm Credit Institution under the Farm~~
22 ~~Credit Act of 1971 (Public Law 92 181, 85 Stat. 583) shall only~~
23 ~~be permitted to participate in the First Industries Program~~
24 ~~established under this section and may not participate in any~~
25 ~~other loan guarantee program established under this chapter.~~

26 ~~(e.2) Sunset. After July 15, 2015, no Farm Credit~~
27 ~~Institution under the Farm Credit Act of 1971 shall be eligible~~
28 ~~for any loan guarantees under this chapter.~~

29 ~~(f) Limitations.~~

30 ~~(1) No more than \$10,000,000 of the funds available for~~

1 ~~the program authorized by this section may be used for~~
2 ~~planning grants awarded under subsection (c).~~

3 ~~(2) At least two thirds of the funds available for the~~
4 ~~program authorized by this section shall be used for~~
5 ~~financing of projects related to agriculture.~~

6 ~~§ 1553. Second Stage Loan Program.~~

7 ~~(a) Establishment. There is established a program to be~~
8 ~~known as the Second Stage Loan Program. The program shall~~
9 ~~provide loan guarantees to commercial lending institutions that~~
10 ~~make loans to life sciences, advanced technology or~~
11 ~~manufacturing businesses.~~

12 ~~(b) Application for enrollment. A commercial lending~~
13 ~~institution may apply for enrollment in the program authorized~~
14 ~~by this section. The application shall be on the form prescribed~~
15 ~~by the board and shall include or demonstrate all of the~~
16 ~~following:~~

17 ~~(1) The name and address of the commercial lending~~
18 ~~institution and the name and title of the individual who will~~
19 ~~serve as the point of contact for the commercial lending~~
20 ~~institution.~~

21 ~~(2) A statement defining the service area of the~~
22 ~~commercial lending institution.~~

23 ~~(3) A statement describing the commercial lending~~
24 ~~activities engaged in by the commercial lending institution~~
25 ~~and how the institution intends to expand those activities as~~
26 ~~a result of its participation in the program authorized by~~
27 ~~this section.~~

28 ~~(4) Any other information required by the board.~~

29 ~~(c) Enrollment approval. Upon being satisfied that all~~
30 ~~requirements have been met, the board may enroll the commercial~~

1 ~~lending institution in the program authorized by this section,~~
2 ~~and, if enrolled, the authority shall execute a master guarantee~~
3 ~~agreement in favor of the commercial lending institution. In~~
4 ~~addition to any other terms and conditions required by the~~
5 ~~board, the master guarantee agreement shall provide for the~~
6 ~~following:~~

7 ~~(1) The procedure for the submission of a claim for~~
8 ~~payment by the commercial lending institution. This procedure~~
9 ~~shall require that the commercial lending institution~~
10 ~~demonstrate that it has exhausted all available remedies~~
11 ~~against the borrower, other guarantors and collateral for the~~
12 ~~loan before seeking payment under the agreement.~~

13 ~~(2) A requirement that a percentage of any moneys~~
14 ~~recovered by the commercial lending institution subsequent to~~
15 ~~any payment made under the master guarantee agreement by the~~
16 ~~authority be remitted to the authority.~~

17 ~~(3) Periodic reporting requirements by the commercial~~
18 ~~lending institution regarding itself and regarding the loans~~
19 ~~for which guarantee certificates have been issued under this~~
20 ~~section.~~

21 ~~(d) Application for guarantee. A commercial lending~~
22 ~~institution enrolled in the program authorized by this section~~
23 ~~may submit an application to the authority for the guarantee of~~
24 ~~a proposed loan. The application shall be on the form prescribed~~
25 ~~by the board and shall include or demonstrate all of the~~
26 ~~following:~~

27 ~~(1) The name and address of the borrower, the type of~~
28 ~~business the borrower conducts, the location and age of the~~
29 ~~business and the names and addresses of the principals of the~~
30 ~~borrower.~~

1 ~~(2) The number of projected new or retained employees of~~
2 ~~the borrower as a result of the loan.~~

3 ~~(3) A copy of the borrower's last two years of financial~~
4 ~~statements prepared or reported on by an independent~~
5 ~~certified public accountant.~~

6 ~~(4) A statement describing the purpose of the loan, the~~
7 ~~requested amount of the loan, a copy of the commercial~~
8 ~~lending institution's commitment letter and applicable credit~~
9 ~~underwriting that supports the repayment of the loan, as well~~
10 ~~as the collateral and other guarantees offered by the~~
11 ~~borrower to support the loan.~~

12 ~~(5) Any other information required by the board.~~

13 ~~(c) Application review.~~

14 ~~(1) The board shall review the application to determine~~
15 ~~all of the following:~~

16 ~~(i) That the borrower owns and operates a life~~
17 ~~sciences, advanced technology or manufacturing business.~~

18 ~~(ii) That the borrower's business has been in~~
19 ~~existence for at least two years but no more than seven~~
20 ~~years at the time of application.~~

21 ~~(iii) That the borrower is financially responsible~~
22 ~~and has the ability to repay the loan.~~

23 ~~(iv) That the use of loan proceeds by the borrower~~
24 ~~will result in jobs being created or retained within this~~
25 ~~Commonwealth.~~

26 ~~(v) That the borrower's business is located within~~
27 ~~the commercial lending institution's service area and~~
28 ~~within this Commonwealth.~~

29 ~~(vi) That the borrower and the commercial lending~~
30 ~~institution have met all other requirements established~~

1 by the board.

2 ~~(2) Upon being satisfied that all requirements have been~~
3 ~~met, the board may approve the guarantee, and, if approved,~~
4 ~~the authority shall issue a guarantee certificate for the~~
5 ~~loan to the commercial lending institution stating the terms~~
6 ~~and amount of the guarantee.~~

7 ~~(3) The board may establish a subcommittee composed of~~
8 ~~one or more members of the board and staff of the department~~
9 ~~to review and approve applications for guarantees under this~~
10 ~~section.~~

11 ~~(f) Limitations.~~

12 ~~(1) During the first two years of the term of a loan for~~
13 ~~which a guarantee certificate has been issued, the guarantee~~
14 ~~may not exceed 50% of the outstanding principal amount of the~~
15 ~~loan. From the end of year two through either the end of year~~
16 ~~seven or the end of the term of the loan, whichever occurs~~
17 ~~first, the guarantee may not exceed 25% of the outstanding~~
18 ~~principal amount of the loan. The guarantee will terminate at~~
19 ~~the end of seven years.~~

20 ~~(2) At no time may a guarantee exceed \$1,000,000 for any~~
21 ~~one loan.]~~

22 Section 4. Title 64 is amended by adding a chapter to read:

23 CHAPTER 17

24 PENNSYLVANIA BUSINESS DEVELOPMENT AUTHORITY

25 Subchapter

26 A. General Provisions

27 B. Structure and Powers

28 C. Bonds

29 D. Accounts

30 E. Programs

1 ~~F. Miscellaneous Provisions~~

2 ~~SUBCHAPTER A~~

3 ~~GENERAL PROVISIONS~~

4 ~~Sec.~~

5 ~~1701. Scope of chapter.~~

6 ~~1702. Construction.~~

7 ~~1703. Findings and declaration of policy.~~

8 ~~1704. Definitions.~~

9 ~~§ 1701. Scope of chapter.~~

10 ~~This chapter relates to the Pennsylvania Business Development~~
11 ~~Authority.~~

12 ~~§ 1702. Construction.~~

13 ~~(a) General rule. This chapter shall be prudently construed~~
14 ~~in order to effect the legislative and public purposes as set~~
15 ~~forth in this subchapter.~~

16 ~~(b) Rights of obligees. The provisions of this chapter~~
17 ~~providing for security, rights and remedies of obligees of the~~
18 ~~authority shall be prudently construed to achieve the public~~
19 ~~policy set forth in this subchapter.~~

20 ~~(c) Limitation. If a provision of this chapter is judged to~~
21 ~~be invalid by a court of competent jurisdiction, the order or~~
22 ~~judgment shall be confined in its operation to the controversy~~
23 ~~in which it was rendered and shall not affect or invalidate a~~
24 ~~remaining provision of this chapter.~~

25 ~~§ 1703. Findings and declaration of policy.~~

26 ~~The General Assembly finds and declares as follows:~~

27 ~~(1) Many existing businesses in this Commonwealth could~~
28 ~~expand and become more competitive if provided with~~
29 ~~additional sources of financing for modernization, expansion~~
30 ~~and other capital needs. This, in turn, could increase~~

1 ~~employment levels, which would help to develop a stable and~~
2 ~~healthy economy and revitalize communities, thereby improving~~
3 ~~the health, safety and general welfare of the citizens of~~
4 ~~this Commonwealth.~~

5 ~~(2) A minimum level of unemployment and a maximum level~~
6 ~~of business opportunity can best be attained through the~~
7 ~~promotion, stimulation and revitalization of industrial,~~
8 ~~manufacturing, commercial, technological, agricultural and~~
9 ~~tourism activities in this Commonwealth. Through such~~
10 ~~efforts, the Commonwealth's competitiveness in the global and~~
11 ~~United States economies may be enhanced.~~

12 ~~(3) The Commonwealth has developed a great number of~~
13 ~~programs with the objective of furthering economic~~
14 ~~development within its borders. There have also been a~~
15 ~~correspondingly great number of boards and authorities to~~
16 ~~administer the various programs. While many of these economic~~
17 ~~development programs have been successful, others have fallen~~
18 ~~short.~~

19 ~~(4) The economic health of our communities will improve~~
20 ~~and efficiency and transparency will increase by eliminating~~
21 ~~programs that have not worked for this Commonwealth,~~
22 ~~consolidating the management of the successful programs that~~
23 ~~remain and adding new programs as needed.~~

24 ~~(5) The Pennsylvania Business Development Authority~~
25 ~~shall disburse the money for and administer the economic~~
26 ~~development programs encompassed in this chapter. It shall do~~
27 ~~so with the prudence, proficiency and transparency that the~~
28 ~~citizens of this Commonwealth expect, and will have as~~
29 ~~resources the expertise and administrative assistance of the~~
30 ~~Department of Community and Economic Development, as well as~~

~~the other State agencies. Resources will be more accessible to businesses in this Commonwealth, citizens will be able to see where their tax dollars are being invested and the overall health of this Commonwealth's economy will improve, beginning in individual communities and spreading throughout this Commonwealth.~~

~~§ 1704. Definitions.~~

~~The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Agricultural processor." An entity that adds value by subjecting one or more farm commodities to a process of manufacture, development or preparation for sale or a person that converts a farm product into a marketable form.~~

~~"Agricultural producer." A person or entity involved in the management and use of an agricultural operation for the production of a farm commodity.~~

~~"Agriculture." Any of the following:~~

~~(1) the management and use of an agricultural operation for the production of a farm commodity;~~

~~(2) the sale of farm commodities at wholesale;~~

~~(3) the sale of farm commodities at retail by urban and rural supermarkets in underserved areas or farmers' markets;~~

~~(4) energy related activities impacting production agriculture; or~~

~~(5) activities which implement best industry practices related to agricultural waste products, agriculture by products or fertilizer.~~

~~"Applicant." An eligible business or economic development organization that requests financial assistance from the~~

1 ~~authority.~~

2 ~~"Authority." The Pennsylvania Business Development Authority~~
3 ~~established in section 1711 (relating to authority).~~

4 ~~"Board." The board of the Pennsylvania Business Development~~
5 ~~Authority established in section 1712 (relating to board).~~

6 ~~"Bonds." Except where otherwise provided, bonds, notes,~~
7 ~~instruments, refunding notes and bonds and other evidences of~~
8 ~~indebtedness or obligations which the Pennsylvania Business~~
9 ~~Development Authority is authorized to issue or assume under~~
10 ~~this chapter.~~

11 ~~"Business." A corporation, partnership, sole proprietorship,~~
12 ~~limited liability company, business trust or other commercial~~
13 ~~entity.~~

14 ~~"Capital development project." The acquisition, development,~~
15 ~~construction, renovation or use of land, buildings, equipment~~
16 ~~and machinery and working capital by a business as part of:~~

17 ~~(1) A for profit venture not of a mercantile or service~~
18 ~~related nature, except for hospitality industry projects.~~

19 ~~(2) An effort to:~~

20 ~~(i) comply with Federal or State environmental laws~~
21 ~~or regulations;~~

22 ~~(ii) complete an approved remediation project; or~~

23 ~~(iii) adopt generally acceptable pollution~~
24 ~~prevention practices.~~

25 ~~(3) An effort to recycle municipal or commercial waste,~~
26 ~~or to use recycled municipal or commercial waste materials in~~
27 ~~manufacturing.~~

28 ~~(4) A for profit project or venture to manufacture~~
29 ~~products to be exported out of the United States, which will~~
30 ~~increase this Commonwealth's market share.~~

1 ~~"Commercial lending activities." The making of loans and the~~
2 ~~provision of deposit services to business entities, except that~~
3 ~~a farm credit system institution under the Farm Credit Act of~~
4 ~~1971 (Public Law 92 181, 85 Stat. 583) need not offer deposit~~
5 ~~services to qualify as a provider of commercial lending~~
6 ~~activities under this chapter.~~

7 ~~"Commercial lending institution." A federally chartered or~~
8 ~~State chartered bank, savings bank, savings and loan association~~
9 ~~or farm credit system institution under the Farm Credit Act of~~
10 ~~1971 (Public Law 92 181, 85 Stat. 583) which has a satisfactory~~
11 ~~rating from its primary regulator and which is engaged in~~
12 ~~commercial lending activities. The institution must operate at~~
13 ~~least one full service branch for deposit gathering and lending~~
14 ~~located within this Commonwealth or be a farm credit system~~
15 ~~institution under the Farm Credit Act of 1971.~~

16 ~~"Commonwealth agency." An agency, authority or other~~
17 ~~instrumentality of the Commonwealth.~~

18 ~~"Community development financial institution." A community~~
19 ~~development financial institution certified in accordance with~~
20 ~~the Community Development Banking and Financial Institutions Act~~
21 ~~of 1994 (Public Law 103 325, 108 Stat. 2163).~~

22 ~~"Comprehensive county plan" or "comprehensive municipal~~
23 ~~plan." The comprehensive plan adopted under applicable law by a~~
24 ~~county, municipality, city of the first class or city of the~~
25 ~~second class.~~

26 ~~"Cost of the project" or "cost." Any of the following:~~

27 ~~(1) Costs and expenses of acquisition of interests in~~
28 ~~land, infrastructure, buildings, structures, equipment,~~
29 ~~furnishings, fixtures and other tangible or intangible~~
30 ~~property.~~

1 ~~(2) Costs and expenses of construction, reconstruction,~~
2 ~~erection, equipping, expansion, extension, improvement,~~
3 ~~installation, rehabilitation, renovation or repair of the~~
4 ~~buildings, structures and equipment.~~

5 ~~(3) Costs and expenses of demolishing, removing or~~
6 ~~relocating buildings or structures on lands acquired or to be~~
7 ~~acquired and the expense of acquiring land to which buildings~~
8 ~~or structures may be moved or relocated.~~

9 ~~(4) Costs and expenses of preparing land for~~
10 ~~development.~~

11 ~~(5) Costs and expenses incidental to determining the~~
12 ~~feasibility or practicality of the project, including~~
13 ~~engineering, legal and accounting and financial services, as~~
14 ~~well as any necessary studies or surveys.~~

15 ~~(6) Working capital or other capital needs related to~~
16 ~~the project.~~

17 ~~"Department." Except where otherwise provided, the~~
18 ~~Department of Community and Economic Development of the~~
19 ~~Commonwealth.~~

20 ~~"Distressed community." Any of the following:~~

21 ~~(1) An area which is designated a subzone, expansion~~
22 ~~subzone or improvement subzone under the act of October 6,~~
23 ~~1998 (P.L.705, No.92), known as the Keystone Opportunity~~
24 ~~Zone, Keystone Opportunity Expansion Zone and Keystone~~
25 ~~Opportunity Improvement Zone Act.~~

26 ~~(2) Any other area designated as distressed according to~~
27 ~~standards adopted by the Pennsylvania Business Development~~
28 ~~Authority.~~

29 ~~"Economic development organization." A community development~~
30 ~~financial institution, an industrial development agency or a~~

1 ~~local development district that is certified by the authority as~~
2 ~~possessing the qualifications necessary to prepare, evaluate and~~
3 ~~approve applications to the authority for financial assistance.~~

4 ~~"Ex Im Bank." The Export Import Bank of the United States.~~

5 ~~"Exports." Goods or services to be sold or performed outside~~
6 ~~the United States.~~

7 ~~"Export business." Any for profit corporation, limited~~
8 ~~liability company, partnership, proprietorship or other business~~
9 ~~entity involving export activities and employing 250 or fewer~~
10 ~~individuals.~~

11 ~~"Farm commodity." Any agricultural, horticultural,~~
12 ~~aquacultural, vegetable, fruit and floricultural product of the~~
13 ~~soil, livestock and meats, wools, hides, furs, poultry, eggs,~~
14 ~~dairy products, nuts, mushrooms, honey products and forest~~
15 ~~products.~~

16 ~~"Federal agency." The United States of America, the~~
17 ~~President of the United States, the Congress of the United~~
18 ~~States and any department, corporation, agency or~~
19 ~~instrumentality designated or established by the United States~~
20 ~~of America.~~

21 ~~"Financial assistance." Loans, guarantees, lines of credit,~~
22 ~~letters of credit and other financial arrangements which the~~
23 ~~Pennsylvania Business Development Authority is authorized to~~
24 ~~undertake under Subchapter E (relating to programs).~~

25 ~~"Governing body." The body or board authorized by law to~~
26 ~~enact ordinances or adopt resolutions for a political~~
27 ~~subdivision.~~

28 ~~"Hazardous substance." Any element, compound or material~~
29 ~~which is:~~

30 ~~(1) Regulated as a hazardous air pollutant under section~~

~~6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787),
known as the Air Pollution Control Act.~~

~~(2) A hazardous waste, as defined under section 103 of
the act of July 7, 1980 (P.L.380, No.97), known as the Solid
Waste Management Act.~~

~~(3) Regulated under the act of December 7, 1990
(P.L.639, No.165), known as the Hazardous Material Emergency
Planning and Response Act.~~

~~"Hospitality industry project." A for profit project or
venture which involves a business that operates a hotel, motel
or other lodging facility, or a restaurant or other food service
operation that is open to the public.~~

~~"Industrial development agency." A nonprofit organization
which has as its purpose the promotion, encouragement,
construction, development and expansion of new or existing
industrial development projects.~~

~~"Industrial development project." A project involving the
acquisition or improvement of real property within this
Commonwealth to be occupied and operated by any of the
following:~~

~~(1) An industrial enterprise.~~

~~(2) A manufacturing enterprise.~~

~~(3) A research and development enterprise.~~

~~(4) An agricultural producer.~~

~~(5) An agricultural processor.~~

~~"Industrial enterprise." An enterprise other than a
mercantile, commercial or retail enterprise which has created or
will create substantial employment opportunities. The term may
include warehouses, distribution and terminal facilities and
office buildings utilized as national or regional headquarters~~

1 ~~or computer or clerical operations centers.~~

2 ~~"Industrial park project." A project sponsored by an~~
3 ~~economic development organization for the purpose of creating~~
4 ~~sites for the establishment of two or more industrial~~
5 ~~development projects.~~

6 ~~"Local development district." Multicounty economic and~~
7 ~~community development organizations established under the act of~~
8 ~~December 7, 1994 (P.L.845, No.120), known as the Local~~
9 ~~Development District Act, to provide regional planning and~~
10 ~~development services to improve the economy and quality of life~~
11 ~~in their respective regions through a variety of activities,~~
12 ~~including, but not limited to, the fostering of public and~~
13 ~~private partnerships and providing assistance to businesses.~~

14 ~~"Manufacturing enterprise." An enterprise which is engaged~~
15 ~~in the giving of new shapes, new qualities or new combinations~~
16 ~~to matter by the application of skill and labor.~~

17 ~~"Multiple tenancy building project." A project sponsored by~~
18 ~~an economic development organization involving the acquisition~~
19 ~~or construction of any land, site, structure or facility for~~
20 ~~occupancy by two or more industrial enterprises, manufacturing~~
21 ~~enterprises, research and development enterprises, agricultural~~
22 ~~producers or agricultural processors, as those terms are defined~~
23 ~~in this chapter.~~

24 ~~"Municipal authority." A public authority created under 53-~~
25 ~~Pa.C.S. Ch. 56 (relating to municipal authorities) or under the~~
26 ~~former act of May 2, 1945 (P.L.382, No.164), known as the~~
27 ~~Municipality Authorities Act of 1945.~~

28 ~~"Municipality." Any city, borough, town or township of the~~
29 ~~Commonwealth, each of which political subdivisions are separate~~
30 ~~incorporated municipalities of the Commonwealth for the purposes~~

1 ~~of this chapter.~~

2 ~~"Natural disaster." As defined in 35 Pa.C.S. § 7102-~~
3 ~~(relating to definitions).~~

4 ~~"Normal agricultural operation." As defined in the act of~~
5 ~~June 10, 1982 (P.L.454, No.133), referred to as the Right to~~
6 ~~Farm Law.~~

7 ~~"Obligee of the authority." Any of the following:~~

8 ~~(1) A holder or owner of bonds of the Pennsylvania~~
9 ~~Business Development Authority, the Pennsylvania Industrial~~
10 ~~Development Authority or the Pennsylvania Minority Business~~
11 ~~Development Authority.~~

12 ~~(2) A trustee or other fiduciary for any holder or owner~~
13 ~~of bonds of the Pennsylvania Business Development Authority~~
14 ~~or its predecessors.~~

15 ~~(3) A provider of a letter of credit, policy of~~
16 ~~municipal bond insurance or other credit enhancement or~~
17 ~~liquidity facility for bonds of the Pennsylvania Business~~
18 ~~Development Authority or its predecessors.~~

19 ~~(4) A lessor or installment seller demising property to~~
20 ~~the Pennsylvania Business Development Authority or its~~
21 ~~predecessors in connection with a project.~~

22 ~~(5) A provider of an interest rate management agreement~~
23 ~~or other agreement or arrangement authorized under section~~
24 ~~1714 (relating to powers).~~

25 ~~"Pennsylvania related company." A business entity which has~~
26 ~~significant operations in this Commonwealth or which will, as a~~
27 ~~condition of any agreement under this chapter, locate~~
28 ~~significant business operations in this Commonwealth.~~

29 ~~"Philadelphia metropolitan statistical area." The~~
30 ~~Philadelphia, Pennsylvania, metropolitan division of the~~

1 ~~Philadelphia Camden Wilmington, Pennsylvania New Jersey,~~
2 ~~Delaware Maryland metropolitan statistical area as announced on~~
3 ~~June 6, 2003, by the United States Office of Management and~~
4 ~~Budget under standards for defining metropolitan and~~
5 ~~micropolitan statistical areas by the Office of Management and~~
6 ~~Budget for the 2000 decennial census of the United States Bureau~~
7 ~~of the Census as published in the Federal Register, Vol. 65, No.~~
8 ~~249, on December 27, 2000, comprising the Pennsylvania counties~~
9 ~~of Philadelphia, Delaware, Bucks, Montgomery and Chester.~~

10 ~~"Pollution control technology project." The acquisition,~~
11 ~~construction or installation of pollution control technology and~~
12 ~~equipment that enables an electric generating unit or~~
13 ~~cogeneration unit to meet any of the following requirements:~~

14 ~~(1) Mercury emission reductions.~~

15 ~~(2) The regulations adopted by the United States~~
16 ~~Environmental Protection Agency known as the Clean Air~~
17 ~~Mercury Rule codified at 40 CFR Pts. 60 (relating to~~
18 ~~standards of performance for new stationary sources), 72~~
19 ~~(relating to permits regulation) and 75 (relating to~~
20 ~~continuous emission monitoring).~~

21 ~~(3) Nitrogen oxides and sulfur dioxide emission~~
22 ~~reduction under 25 Pa. Code Chs. 121 (relating to interstate~~
23 ~~pollution transport reduction) and 145 (relating to general~~
24 ~~provisions).~~

25 ~~(4) The Clean Air Interstate Rule in 40 CFR Pt. 96~~
26 ~~(relating to NOX budget trading program and CAIR NOX and SO2~~
27 ~~trading programs for state implementation plans).~~

28 ~~"Predecessors." The Pennsylvania Industrial Development~~
29 ~~Authority or the Pennsylvania Minority Business Development~~
30 ~~Authority.~~

1 ~~"Private developer." A person or entity engaged in the~~
2 ~~development of real estate and determined by the Pennsylvania~~
3 ~~Business Development Authority to be financially responsible to~~
4 ~~assume all obligations proposed to be undertaken.~~

5 ~~"Production agriculture." The management and use of a normal~~
6 ~~agricultural operation for the production of a farm commodity.~~

7 ~~"Project user." A person, political subdivision, municipal~~
8 ~~authority, Commonwealth agency or other entity that owns, leases~~
9 ~~or uses all or any part of a project.~~

10 ~~"Redevelopment authority." An entity created under the act~~
11 ~~of May 24, 1945 (P.L.991, No.385), known as the Urban~~
12 ~~Redevelopment Law.~~

13 ~~"Research and development enterprise." An enterprise for the~~
14 ~~discovery of new and the refinement of known substances,~~
15 ~~processes, products, theories and ideas. The term does not~~
16 ~~include enterprise activities directed primarily to the~~
17 ~~accumulation or analysis of commercial, financial or mercantile~~
18 ~~data.~~

19 ~~"Server." A device on a computer network that manages~~
20 ~~network resources, including devices to manage network traffic,~~
21 ~~store files or process database queries.~~

22 ~~"Server virtualization technology." The practice of hosting~~
23 ~~a software operating system within a virtual machine.~~

24 ~~"Site preparation project." The construction of water and~~
25 ~~sewer lines, storm water systems, excavation, construction of~~
26 ~~access roads, parking facilities, pipelines, transformers and~~
27 ~~utility transmission lines and traffic control devices.~~

28 ~~"Small business." An enterprise that employs fewer than 100~~
29 ~~persons, in the aggregate, on an annual basis.~~

30 ~~"Supermarket." A retail store operated on a self service~~

1 ~~basis, primarily selling groceries, fresh produce, meat, bakery~~
2 ~~and dairy products. The term does not include a convenience~~
3 ~~store.~~

4 ~~"Tourism." Any activity that promotes or encourages~~
5 ~~individuals or a group of individuals to travel to a location~~
6 ~~within this Commonwealth to engage in an activity or service for~~
7 ~~pleasure that is unavailable at home.~~

8 ~~"Virtual machine." A self-contained software operating~~
9 ~~environment that operates within a host operating system server~~
10 ~~and simulates a hardware device, such as a computer or a server.~~

11 ~~"Working capital." Capital used by a business for~~
12 ~~operations, excluding fixed assets and production machinery and~~
13 ~~equipment.~~

14 ~~SUBCHAPTER B~~

15 ~~STRUCTURE AND POWERS~~

16 ~~Sec.~~

17 ~~1711. Authority.~~

18 ~~1712. Board.~~

19 ~~1713. Duties.~~

20 ~~1714. Powers.~~

21 ~~1715. Operation, service and maintenance of a project or~~
22 ~~property.~~

23 ~~§ 1711. Authority.~~

24 ~~(a) Establishment. There is established an authority to be~~
25 ~~known as the Pennsylvania Business Development Authority. The~~
26 ~~authority shall be an instrumentality of the Commonwealth and a~~
27 ~~body corporate and politic, with corporate succession.~~

28 ~~(b) Governance. The authority shall be governed by the~~
29 ~~board. The powers of the authority shall be exercised by the~~
30 ~~board.~~

1 ~~(c) Indebtedness. The authority may incur indebtedness,~~
2 ~~including through the issuance of bonds. The term of~~
3 ~~indebtedness shall not exceed 30 years. Net proceeds from the~~
4 ~~sale of obligations incurred under this chapter shall be~~
5 ~~allocated for programs under Subchapter E (relating to programs)~~
6 ~~and for the payment of all reasonable costs and expenses related~~
7 ~~to the issuance.~~

8 ~~(d) Expenses. Expenses of the authority shall be paid from~~
9 ~~assets or income of the authority. Except as provided in this~~
10 ~~chapter or by other law, the Commonwealth shall not be~~
11 ~~responsible for funding the expenses of the authority.~~

12 ~~(e) Fiscal year. The fiscal year of the authority shall be~~
13 ~~the same as the fiscal year of the Commonwealth.~~

14 ~~(f) Existence and dissolution.~~

15 ~~(1) The authority shall exist until terminated by law.~~

16 ~~(2) The authority may be dissolved by law if all~~
17 ~~outstanding liabilities of the authority, including bonds and~~
18 ~~other contractual obligations, have been fully paid, retired,~~
19 ~~satisfied or discharged or provision has been made for~~
20 ~~payment of all outstanding liabilities of the authority,~~
21 ~~including bonds and other contractual obligations. Upon the~~
22 ~~dissolution of the authority, all funds, assets and other~~
23 ~~property of the authority shall vest in the Commonwealth.~~

24 ~~(g) Procurement. The authority shall be considered as an~~
25 ~~executive agency for the purposes of 62 Pa.C.S. Pt. I (relating~~
26 ~~to Commonwealth Procurement Code), except that the authority~~
27 ~~shall have the authority to procure its own services. When~~
28 ~~acting as its own purchasing agency for the procurement of~~
29 ~~services, the authority shall use the procedures provided under~~
30 ~~62 Pa.C.S. Pt. I.~~

~~(h) Commonwealth Attorneys Act. The authority shall be considered an executive agency for the purposes of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.~~

~~(i) Relationship with department.~~

~~(1) The department shall provide administrative services and staff, including staff legal counsel, to the authority and the board. The authority shall reimburse the department for the costs of such services and staff.~~

~~(2) The authority may enter into agreements with the department setting forth their respective rights and obligations in carrying out their respective duties under this chapter, as well as rates of reimbursement, as applicable, for providing services under this subsection.~~

~~(j) Applicability. The following acts shall apply to the authority and the board:~~

~~(1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.~~

~~(2) The act of February 14, 2008 (P.L.6, No.3), known as the Right to Know Law.~~

~~(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).~~

~~§ 1712. Board.~~

~~(a) Members.~~

~~(1) The authority shall be governed by a board consisting of 15 members.~~

~~(2) The following public officials shall serve as members of the board:~~

~~(i) The Secretary of Community and Economic~~

1 ~~Development.~~

2 ~~(ii) The Secretary of Agriculture.~~

3 ~~(iii) The Secretary of Banking.~~

4 ~~(iv) The Secretary of the Budget.~~

5 ~~(3) Eleven individuals from the private sector shall~~
6 ~~serve as members of the board. Members appointed under this~~
7 ~~paragraph shall not be members or staff of the General~~
8 ~~Assembly and shall not be otherwise employed by the~~
9 ~~Commonwealth. Seven members from the private sector shall be~~
10 ~~appointed by the Governor and one member shall be appointed~~
11 ~~by each of the following:~~

12 ~~(i) The President pro tempore of the Senate.~~

13 ~~(ii) The Minority Leader of the Senate.~~

14 ~~(iii) The Speaker of the House of Representatives.~~

15 ~~(iv) The Minority Leader of the House of~~

16 ~~Representatives.~~

17 ~~(b) Delegation of authority. Public officials who are~~
18 ~~members of the board pursuant to subsection (a) (2) may designate~~
19 ~~a member of their staff to serve in their absence.~~

20 ~~(c) Terms.~~

21 ~~(1) Public officials shall serve for the duration of~~
22 ~~their tenure in office.~~

23 ~~(2) Members appointed under subsection (a) (3) shall~~
24 ~~serve for terms of four years, subject to the pleasure of the~~
25 ~~appointing authority, except that board members appointed~~
26 ~~under subsection (a) (3) (i), (ii), (iii) and (iv) shall serve~~
27 ~~for initial terms of two years.~~

28 ~~(3) Members appointed to fill a vacancy created~~
29 ~~otherwise than by expiration of a term shall be appointed for~~
30 ~~the unexpired term of the preceding member.~~

1 ~~(d) Organization.~~

2 ~~(1) The Governor shall appoint one member of the board~~
3 ~~to act as chairperson.~~

4 ~~(2) The members shall select from among themselves and~~
5 ~~staff of the department such other officers of the board as~~
6 ~~they shall determine.~~

7 ~~(e) Board action.~~

8 ~~(1) The board shall meet at the call of the chairperson.~~

9 ~~(2) Eight members of the board shall constitute a~~
10 ~~quorum. When a quorum is present, a majority of those present~~
11 ~~shall be necessary to take any action on behalf of the~~
12 ~~authority.~~

13 ~~(f) Compensation. Members of the board shall be entitled to~~
14 ~~no compensation for their services, but shall be entitled to~~
15 ~~reimbursement for all necessary and reasonable expenses incurred~~
16 ~~in connection with the performance of their duties as members of~~
17 ~~the board.~~

18 ~~(g) Fiduciary relationship. The members of the board and~~
19 ~~the professional personnel of the board shall stand in a~~
20 ~~fiduciary relationship with the Commonwealth and the authority~~
21 ~~as to the moneys in the accounts of the authority and~~
22 ~~investments of the authority.~~

23 ~~(h) Standard of care. The members of the board, in~~
24 ~~performance of their duties under this chapter, shall exercise~~
25 ~~the standard of care required by 20 Pa.C.S. Ch. 73 (relating to~~
26 ~~municipalities investments).~~

27 ~~(i) Liability. Members of the board shall not be liable~~
28 ~~personally on any obligations of the authority, including bonds~~
29 ~~of the authority.~~

30 ~~(j) Definition. As used in this section, the term "member"~~

~~means an individual who serves on the board under subsection (a) as a public official or an individual from the private sector.~~

~~§ 1713. Duties.~~

~~(a) General rule. The authority shall:~~

~~(1) Administer the programs described in Subchapter E (relating to programs).~~

~~(2) Fund the programs described in Subchapter E using the resources available under this chapter.~~

~~(3) Adopt bylaws.~~

~~(4) Adopt and publish guidelines for each program listed in Subchapter E as proposed by the department and for the certification of economic development organizations.~~

~~Guidelines shall include applicable policies and procedures, criteria, application requirements and any other necessary and relevant information.~~

~~(5) Certify on an annual basis those economic development organizations that possess the qualifications necessary to evaluate and approve applications to the authority for financial assistance.~~

~~(b) Reports and publications.~~

~~(1) Within 90 days of the effective date of this chapter, the authority shall submit for publication in the Pennsylvania Bulletin and on the Internet website of the department notification of the programs to be administered under this chapter. The notification shall include the name and brief description of each program, the name of a contact person and the anticipated time that funding, applications and official guidelines will become available.~~

~~(2) The authority shall submit for publication in the Pennsylvania Bulletin the program guidelines adopted under~~

1 ~~subsections (c) and (d) and shall maintain the guidelines on~~
2 ~~the department's Internet website.~~

3 ~~(3) The authority shall, each year by the first day of~~
4 ~~March, publish and deliver to the Governor and the General~~
5 ~~Assembly a memorandum which shall outline the authority's~~
6 ~~goals and planned investments for the coming fiscal year.~~

7 ~~(4) The authority shall annually post and maintain on~~
8 ~~the Internet website of the department an annual report,~~
9 ~~which at a minimum shall include:~~

10 ~~(i) A list of all applications approved during the~~
11 ~~previous fiscal year.~~

12 ~~(ii) The name and business address of each~~
13 ~~recipient.~~

14 ~~(iii) The amount and terms of the assistance.~~

15 ~~(iv) A brief description of the project for which~~
16 ~~the assistance was awarded. The description shall include~~
17 ~~the commitment for the number of jobs created and~~
18 ~~retained and the total capital investment for the~~
19 ~~project.~~

20 ~~(c) Audit.~~

21 ~~(1) The authority shall have the accounts and books of~~
22 ~~the authority audited annually by an independent certified~~
23 ~~public accounting firm.~~

24 ~~(2) The authority shall, by December 31 of each year,~~
25 ~~file a copy of the audit required by paragraph (1) with the~~
26 ~~Secretary of the Senate, the Chief Clerk of the House of~~
27 ~~Representatives and the Office of the Budget.~~

28 ~~(d) Cooperation. The authority shall cooperate with the~~
29 ~~Office of Inspector General in the performance of its duties,~~
30 ~~including, but not limited to, the investigation of fraud,~~

1 ~~waste, misconduct or abuse in the programs, operations or~~
2 ~~contracting of the authority.~~

3 ~~§ 1714. Powers.~~

4 ~~The authority may:~~

5 ~~(1) Borrow money, issue and assume bonds, obtain lines~~
6 ~~and letters of credit, provide loan guarantees and incur~~
7 ~~debt.~~

8 ~~(2) Sue and be sued, implead and be impleaded,~~
9 ~~interplead, complain and defend in any court.~~

10 ~~(3) Establish new economic development programs and the~~
11 ~~corresponding accounts necessary or desirable for its~~
12 ~~corporate purposes.~~

13 ~~(4) Transfer funds among its accounts as necessary and~~
14 ~~desirable to effectuate the purposes of the programs set~~
15 ~~forth in Subchapter E (relating to programs).~~

16 ~~(5) Retain accountants, auditors and financial experts~~
17 ~~to render services and engage the services of other advisors,~~
18 ~~consultants and agents as necessary.~~

19 ~~(6) Acquire, accept, purchase, receive, collect, hold,~~
20 ~~convey and invest funds and property, whether tangible or~~
21 ~~intangible, from all sources, directly or by assignment,~~
22 ~~pledge or otherwise.~~

23 ~~(7) Invest money of the authority not required for~~
24 ~~immediate use, including proceeds from the sale of bonds, as~~
25 ~~the board determines, subject to any agreement with~~
26 ~~bondholders stated in the authorizing resolution providing~~
27 ~~for the issuance of bonds.~~

28 ~~(8) Contract and execute all instruments, including~~
29 ~~financing agreements, letter of credit agreements, liquidity~~
30 ~~agreements, guarantees, sureties, mortgages, loans, standby~~

1 ~~loan commitments and contracts of insurance which are~~
2 ~~necessary or appropriate for carrying on the business of the~~
3 ~~authority.~~

4 ~~(9) Impose and collect charges in connection with loan~~
5 ~~commitments and servicing, including reimbursement of costs~~
6 ~~of financing.~~

7 ~~(9.1) Impose interest rate penalties on borrowers who~~
8 ~~fail to fulfill commitments regarding job creation or~~
9 ~~retention, private investment and site location.~~

10 ~~(10) Pledge the credit of the authority and provide~~
11 ~~security and liquidity to obligees of the authority as the~~
12 ~~authority deems necessary or appropriate.~~

13 ~~(11) Use or pledge an account for a special purpose,~~
14 ~~including debt service reserves and other reserves, as may be~~
15 ~~necessary or desirable to carry out its powers and duties.~~

16 ~~(12) With the advice of a financial management firm~~
17 ~~selected by the board, negotiate and enter into interest rate~~
18 ~~cap agreements, interest rate management agreements, collar~~
19 ~~agreements, corridor agreements, ceiling agreements, floor~~
20 ~~agreements, forward agreements, float agreements and other~~
21 ~~similar arrangements which, in the judgment of the authority,~~
22 ~~will assist the authority in managing the interest costs of~~
23 ~~the authority.~~

24 ~~(13) Provide interest revenue sharing on a quarterly~~
25 ~~basis to the originating economic development organization on~~
26 ~~loans sponsored by the economic development organization to~~
27 ~~offset administrative expenses and the cost of fulfilling~~
28 ~~certification obligations.~~

29 ~~(14) Use moneys, excluding the proceeds of bonds, to pay~~
30 ~~the administrative expenses of the authority and of the~~

1 ~~department incurred under this chapter.~~

2 ~~(15) Employ an executive director.~~

3 ~~(16) Employ legal counsel and provide a reimbursement~~
4 ~~agreement for legal services by legal counsel for the~~
5 ~~Department of Community and Economic Development.~~

6 ~~(17) Adopt, use and alter a corporate seal.~~

7 ~~(18) Pay or satisfy obligations of the authority.~~

8 ~~(19) Negotiate modifications or alterations to financing~~
9 ~~agreements, mortgages or security interests.~~

10 ~~(20) Foreclose on a mortgage or security interest in~~
11 ~~default.~~

12 ~~(21) Commence any action necessary to protect or enforce~~
13 ~~any right conferred upon the authority by law, mortgage,~~
14 ~~security agreement, contract or other agreement.~~

15 ~~(22) Bid for or purchase property that was the subject~~
16 ~~of a mortgage or security interest at a foreclosure or other~~
17 ~~sale and acquire and take possession of that property.~~

18 ~~(23) Sell, mortgage, pledge, encumber, transfer, convey~~
19 ~~and dispose of any property, whether tangible or intangible.~~

20 ~~(24) Acquire and sell loans, mortgages and security~~
21 ~~interests at public or private sale.~~

22 ~~(25) Provide financial assistance to applicants and~~
23 ~~project users.~~

24 ~~(26) Agree to and comply with conditions attached to~~
25 ~~Federal or Commonwealth assistance not inconsistent with the~~
26 ~~provisions of this chapter.~~

27 ~~(27) Make rules regarding the operation of properties~~
28 ~~and facilities of the authority subject to agreements with~~
29 ~~obligees of the authority.~~

30 ~~(28) Develop, adopt and implement binding policies or~~

~~1 guidelines assuring that all persons are accorded equal
2 opportunity in employment and contracting associated with the
3 programs established under Subchapter E. This paragraph
4 includes the authority's contractors, subcontractors,
5 assignees, lessees, agents, vendors and suppliers.~~

~~6 (29) Exercise rights provided by law for the benefit or
7 protection of the authority or obligees of the authority.~~

~~8 (30) Procure insurance against any loss in connection
9 with its programs, property and other assets.~~

~~10 (31) Promulgate regulations and adopt guidelines and
11 statements of policy containing restrictions as it may deem
12 necessary and appropriate to effectuate the public purposes
13 of this chapter.~~

~~14 (32) Enter into agreements with applicants and project
15 users providing, among other things, for any of the
16 following:~~

~~17 (i) Financial assistance.~~

~~18 (ii) Loan, rental or purchase price payments or
19 other payments, sufficient to amortize the principal,
20 interest and premium, if any, of bonds and contractual
21 obligations of the authority incurred to provide funds to
22 pay the costs of the projects being financed.~~

~~23 (iii) The applicants or project users to pay or
24 cause to be paid all other costs of acquiring,
25 constructing, maintaining and operating the projects
26 being financed.~~

~~27 (iv) Financial assistance to an economic development
28 organization to fund a revolving loan fund created by the
29 economic development organization for projects that are
30 eligible for financing by the authority.~~

1 ~~(v) Conveyance with or without consideration of any~~
2 ~~part or all of a project being financed to the project~~
3 ~~user or applicant on or before payment of all bonds and~~
4 ~~contractual obligations of the authority incurred with~~
5 ~~respect to the project.~~

6 ~~(vi) Other matters as are customary or as are deemed~~
7 ~~necessary and appropriate by the authority.~~

8 ~~(33) Undertake any action appropriate or necessary to~~
9 ~~effectuate the purposes of this chapter, or to exercise the~~
10 ~~powers set forth in this section, including any act~~
11 ~~reasonably implied from those powers.~~

12 ~~Before a new policy or a change of policy takes effect, the~~
13 ~~board shall first approve it by a vote.~~

14 ~~§ 1715. Operation, service and maintenance of a project or~~
15 ~~property.~~

16 ~~The authority shall not approve an application or finance a~~
17 ~~project if it would be required to operate, service or maintain~~
18 ~~the project. The authority may operate, service or maintain a~~
19 ~~property in foreclosure or default.~~

20 ~~SUBCHAPTER C~~

21 ~~BONDS~~

22 ~~Sec.~~

23 ~~1721. Bond issuance.~~

24 ~~1722. Commonwealth and local taxation.~~

25 ~~1723. Federal taxation.~~

26 ~~1724. Validity of bonds, limitation on actions.~~

27 ~~1725. Provisions of bonds and trust agreements and issuance of~~
28 ~~bonds.~~

29 ~~1726. Validity of pledge.~~

30 ~~1727. Commonwealth pledges.~~

1 ~~1728. Bonds to be legal investments.~~

2 ~~1729. Rights and remedies of obligees.~~

3 ~~§ 1721. Bond issuance.~~

4 ~~(a) Authorization. The authority may issue limited~~
5 ~~obligation revenue bonds and other types of limited obligation~~
6 ~~revenue financing. Bonds of the authority shall be authorized by~~
7 ~~a resolution of the board, subject to subsection (c).~~

8 ~~(b) Taxability. The authority may issue both tax exempt~~
9 ~~bonds and taxable bonds to fund the authority's programs.~~

10 ~~(c) Bond requirements. Bonds issued by the authority shall:~~

11 ~~(1) Be of a series.~~

12 ~~(2) Bear a date or dates.~~

13 ~~(3) Be in denominations.~~

14 ~~(4) Be signed by, or bear the facsimile signature of the~~
15 ~~officer designated by the board.~~

16 ~~(5) Carry registration, exchangeability and~~
17 ~~interchangeability privileges.~~

18 ~~(6) Be payable in any medium of payment and at any place~~
19 ~~or places.~~

20 ~~(7) Mature on a date or dates not to exceed 30 years~~
21 ~~from the original issue date.~~

22 ~~(8) Be subject to terms of redemption, if any.~~

23 ~~(d) Issuance. Bonds issued by the authority may:~~

24 ~~(1) Be authenticated by an authenticating agent, fiscal~~
25 ~~agent or trustee.~~

26 ~~(2) Be in any form, either coupon or fully registered~~
27 ~~without coupons, or in certificated or book entry only form.~~

28 ~~(3) Bear or accrue interest at any rate or rates,~~
29 ~~whether fixed or variable.~~

30 ~~(4) Be issued and delivered notwithstanding the fact~~

1 ~~that the officer whose signature appears on a coupon may no~~
2 ~~longer be an authenticating officer at the time of actual~~
3 ~~delivery.~~

4 ~~(e) No debt or liability of the Commonwealth.~~

5 ~~(1) A bond issued by the authority shall not be a debt~~
6 ~~or liability of the Commonwealth and shall not create any~~
7 ~~indebtedness, liability or obligation on the part of the~~
8 ~~Commonwealth.~~

9 ~~(2) A bond shall be payable solely from revenues of the~~
10 ~~authority or accounts pledged or otherwise available for~~
11 ~~their repayment.~~

12 ~~(3) A bond shall contain on its face statements that:~~

13 ~~(i) The authority is obligated to pay the principal~~
14 ~~of or interest on the bond only from revenues, receipts~~
15 ~~or funds pledged or available for its payment as~~
16 ~~authorized in this chapter.~~

17 ~~(ii) Neither the Commonwealth nor any political~~
18 ~~subdivision is obligated to pay the principal or~~
19 ~~interest.~~

20 ~~(iii) Neither the faith and credit nor the taxing~~
21 ~~power of the Commonwealth or any political subdivision is~~
22 ~~pledged to the payment of the principal of or interest on~~
23 ~~the bonds.~~

24 ~~(f) Sale. Bonds may be sold at a public, invited or private~~
25 ~~sale at a price determined by the authority.~~

26 ~~(g) Interim receipts. Pending the preparation of the~~
27 ~~definitive bonds, interim receipts may be issued to the~~
28 ~~purchaser or purchasers of the bonds and shall contain the terms~~
29 ~~and conditions established by the authority.~~

30 ~~(h) Negotiable instruments. Bonds of the authority shall~~

1 ~~have the qualities of negotiable instruments under 13 Pa.C.S.~~
2 ~~(relating to commercial code).~~

3 ~~(i) Use. The authority may, as it deems necessary and~~
4 ~~desirable, use the proceeds of bonds to:~~

5 ~~(1) provide financial assistance;~~

6 ~~(2) purchase loans, mortgages, security interests or~~
7 ~~loan participations;~~

8 ~~(3) pay incidental expenses in connection with activity~~
9 ~~under paragraphs (1) and (2), including administrative costs~~
10 ~~of the authority and the department;~~

11 ~~(4) pay expenses of authorizing and issuing the bonds;~~

12 ~~(5) pay principal, redemption or purchase price and~~
13 ~~interest on bonds; or~~

14 ~~(6) fund reserves.~~

15 ~~(j) Refunding. Subject to the provisions of this chapter,~~
16 ~~terms of bonds and any contracts entered into pursuant to this~~
17 ~~chapter, the authority may refund any outstanding debt of the~~
18 ~~authority whether the debt represents principal or interest, in~~
19 ~~whole or in part, at any time. For the purposes of this~~
20 ~~subsection, the term "refund" means the issuance and sale of~~
21 ~~obligations the proceeds of which are used or are to be used for~~
22 ~~the payment or redemption of outstanding obligations upon or~~
23 ~~prior to maturity.~~

24 ~~§ 1722. Commonwealth and local taxation.~~

25 ~~(a) Authority. Because the authority, as a public~~
26 ~~instrumentality of the Commonwealth, will be performing~~
27 ~~essential governmental functions in effectuating the purposes of~~
28 ~~this chapter, the authority shall not be subject to State or~~
29 ~~local taxation or assessment upon any property acquired or used~~
30 ~~or permitted to be used by the authority for its purposes.~~

~~(b) Bonds. Bonds issued by the authority, the transfer and the income from the bonds, including any profit made on the sale of such bonds, shall be free from State and local taxation within this Commonwealth. The exclusion under this subsection shall not extend to gift, estate, succession or inheritance taxes, or any other taxes not levied or assessed directly on the bonds, their transfer, the income from the bonds or the realization of profits on their sale.~~

~~§ 1723. Federal taxation.~~

~~(a) Allocation. If the bonds issued by the authority for a project are tax exempt bonds for which Federal law requires an allocation, the department may issue an allocation upon receipt of a written request by the authority. An allocation must be issued by the department prior to the approval of the resolution authorizing the issuance of the bonds by the authority.~~

~~(b) Approval. If gubernatorial approval is required by Federal or State law, the Governor may approve the issuance of bonds upon receipt of written request for approval from the authority. The written request must contain all of the following, to the extent required by Federal law:~~

~~(1) A statement that the authority has conducted a public hearing, with appropriate public notice, concerning the purposes for which the bonds are to be issued.~~

~~(2) A description of the project or projects to be financed.~~

~~(3) A description of the method of financing the project or projects.~~

~~(4) A summary of the comments made and questions posed at the public hearing.~~

~~§ 1724. Validity of bonds, limitation on actions.~~

1 ~~(a) Presumption. Bonds reciting in substance that they have~~
2 ~~been issued by the authority to accomplish the public purposes~~
3 ~~of this chapter shall be conclusively deemed in any suit, action~~
4 ~~or proceeding involving the validity or enforceability of the~~
5 ~~bonds or their security to have been issued for the public~~
6 ~~purposes of this chapter.~~

7 ~~(b) Estoppel. After issuance, bonds shall be conclusively~~
8 ~~presumed to be fully authorized and issued under the laws of~~
9 ~~this Commonwealth, and any person shall be estopped from~~
10 ~~questioning their validity, sale, execution or delivery by the~~
11 ~~authority.~~

12 ~~§ 1725. Provisions of bonds and trust agreements and issuance~~
13 ~~of bonds.~~

14 ~~(a) Provisions. A resolution authorizing the issuance of~~
15 ~~bonds or any trust agreement approved in or by a resolution~~
16 ~~authorizing the issuance of bonds may contain provisions which~~
17 ~~do any of the following:~~

18 ~~(1) Secure the bonds.~~

19 ~~(2) Establish a covenant as to any of the following:~~

20 ~~(i) Additional bonds to be issued and terms,~~
21 ~~conditions and limitations on such bonds.~~

22 ~~(ii) Rank or priority of bonds with respect to liens~~
23 ~~or security interests.~~

24 ~~(iii) Limitations on the authority's right to sell,~~
25 ~~pledge or otherwise dispose of bonds or notes of~~
26 ~~governmental units, loan agreements or other property.~~

27 ~~(iv) Custody, application, investment and~~
28 ~~disposition of proceeds of bonds.~~

29 ~~(v) Incurring of other debts or obligations by the~~
30 ~~authority.~~

1 ~~(vi) Payment of principal of or interest on bonds.~~

2 ~~(vii) Sources and methods of payment.~~

3 ~~(viii) Redemption, purchase and tender of bonds by~~
4 ~~the authority or the bondholders and the privilege of~~
5 ~~exchange of the bonds for other bonds.~~

6 ~~(ix) Use, investment and disposition of the money~~
7 ~~held in special funds, accounts or reserves.~~

8 ~~(x) Use of any or all of the authority's real or~~
9 ~~personal property.~~

10 ~~(xi) Warrant of title to the authority's real or~~
11 ~~personal property.~~

12 ~~(xii) Pledging or granting a security interest in~~
13 ~~all or any part of the authority's revenues or any part~~
14 ~~of its property to which its right or title exists or~~
15 ~~which may later come into existence.~~

16 ~~(3) Establish a covenant against any of the following:~~

17 ~~(i) Permitting or suffering any lien on all or any~~
18 ~~part of its revenues or property.~~

19 ~~(ii) Extending the time for the payment of bonds or~~
20 ~~interest.~~

21 ~~(4) Provide for any of the following:~~

22 ~~(i) Replacement of lost, stolen, destroyed or~~
23 ~~mutilated bonds.~~

24 ~~(ii) Maintenance of the authority's real and~~
25 ~~personal property.~~

26 ~~(iii) Replacement of the authority's real and~~
27 ~~personal property.~~

28 ~~(iv) Insurance to be carried on the authority's real~~
29 ~~and personal property and the use and disposition of the~~
30 ~~insurance proceeds.~~

1 ~~(v) Rights, liabilities, powers and duties arising~~
2 ~~upon the breach of any covenant, condition or obligation.~~

3 ~~(vi) Letters of credit, bond insurance and other~~
4 ~~facilities for credit enhancement and liquidity.~~

5 ~~(5) Prescribe:~~

6 ~~(i) Procedures, if any, by which the terms of any~~
7 ~~contract with bondholders may be amended or abrogated.~~

8 ~~(ii) The percentage of the principal amount of bonds~~
9 ~~the holders of which must consent to the amendment or~~
10 ~~abrogation of any contract.~~

11 ~~(iii) The manner in which the consent under~~
12 ~~subparagraph (ii) may be given.~~

13 ~~(iv) Events of default.~~

14 ~~(v) Terms and conditions upon which any or all of~~
15 ~~the bonds become or may be declared due and payable~~
16 ~~before stated maturity following an event of default.~~

17 ~~(vi) Terms and conditions upon which the declaration~~
18 ~~of default and its consequence may be waived.~~

19 ~~(6) Create or authorize the creation of special funds or~~
20 ~~accounts to be held in trust or otherwise for the benefit of~~
21 ~~bondholders or of reserves for debt service or other~~
22 ~~purposes.~~

23 ~~(7) Vest in a trustee any property, rights, powers and~~
24 ~~duties in trust for the benefit of bondholders.~~

25 ~~(8) Limit the rights, powers and duties of a trustee,~~
26 ~~and the right of bondholders to appoint a trustee.~~

27 ~~(9) Establish the terms and conditions upon which a~~
28 ~~trustee or the bondholders may enforce a covenant or rights~~
29 ~~securing or relating to the bonds.~~

30 ~~(10) Exercise all or any part or combination of the~~

1 ~~powers granted in this chapter.~~

2 ~~(11) Do or refrain from doing any other act and thing~~
3 ~~necessary, convenient or desirable in order to better secure~~
4 ~~the bonds of the authority or, in the absolute discretion of~~
5 ~~the authority, as will tend to make bonds of the authority~~
6 ~~more marketable. This paragraph applies notwithstanding that~~
7 ~~the covenant, act or thing may not be specifically enumerated~~
8 ~~in this chapter as long as the covenant, act or thing is in~~
9 ~~accordance with the intent of this chapter.~~

10 ~~(12) Pay the costs or expenses incident to any of the~~
11 ~~foregoing.~~

12 ~~(b) Issuance of bonds. Bonds may be issued under one or~~
13 ~~more separate resolutions or trust agreements. A series of bonds~~
14 ~~may be separately secured from another series of bonds under the~~
15 ~~resolutions or trust agreements.~~

16 ~~§ 1726. Validity of pledge.~~

17 ~~A pledge of or grant of a security interest in revenues or~~
18 ~~instruments made by the authority shall be valid and binding~~
19 ~~from the time when the pledge is made or, where applicable, when~~
20 ~~the authority enters into a written agreement to request the~~
21 ~~applicable appropriation from the department. The revenues,~~
22 ~~receipts, money, funds or other property or instruments pledged~~
23 ~~and later received by the authority shall immediately be subject~~
24 ~~to the lien of the pledge or security interest without any~~
25 ~~physical delivery of the property pledged or further act. The~~
26 ~~lien of the pledge or security interest shall be valid and~~
27 ~~binding as against all parties having claims of any kind in~~
28 ~~tort, contract or otherwise against the authority irrespective~~
29 ~~of whether the parties have notice of the lien, pledge or~~
30 ~~security interest. No instrument by which a pledge or security~~

1 ~~interest is created, evidenced or noticed need be recorded or~~
2 ~~filed to perfect the pledge or security interest except in the~~
3 ~~records of the authority.~~

4 ~~§ 1727. Commonwealth pledges.~~

5 ~~(a) Bondholders. The Commonwealth pledges to and agrees~~
6 ~~with each obligee of the authority that the Commonwealth will~~
7 ~~not limit or alter the rights and powers vested in the authority~~
8 ~~or otherwise created by this chapter in any manner inconsistent~~
9 ~~with the obligations of the authority to its obligees until all~~
10 ~~bonds at any time issued, together with the interest on the~~
11 ~~bonds, are fully paid and discharged.~~

12 ~~(b) Lessees. The Commonwealth pledges and agrees with any~~
13 ~~person that, as owner of property which is leased or subleased~~
14 ~~to or from the authority, it will not limit or alter the rights~~
15 ~~and powers vested in the authority or otherwise created by this~~
16 ~~chapter in any manner which impairs the obligations of the~~
17 ~~authority until all the obligations of the authority under the~~
18 ~~lease or sublease are fully met and discharged.~~

19 ~~§ 1728. Bonds to be legal investments.~~

20 ~~(a) Investments. Bonds issued pursuant to this chapter~~
21 ~~shall constitute securities in which any person or entity may~~
22 ~~properly and legally invest funds, including capital, deposits~~
23 ~~or other funds in their control or belonging to them.~~

24 ~~(b) Deposits. Bonds issued by the authority are securities~~
25 ~~which may properly and legally be deposited with and received by~~
26 ~~a government agency for any purpose for which the deposit of~~
27 ~~bonds or other obligations of the Commonwealth are authorized by~~
28 ~~law.~~

29 ~~§ 1729. Rights and remedies of obligees.~~

30 ~~The rights and remedies conferred upon or granted to obligees~~

~~1 of the authority pursuant to this chapter shall be in addition
2 to and not in limitation of rights and remedies lawfully granted
3 to obligees of the authority by the resolution providing for the
4 issuance of bonds or by any trust agreement or other agreement
5 under which the bonds may be issued or secured.~~

~~6 SUBCHAPTER D~~

~~7 ACCOUNTS~~

~~8 Sec.~~

~~9 1731. Establishment of accounts.~~

~~10 1732. Deposits.~~

~~11 1733. Use.~~

~~12 1734. Account restrictions.~~

~~13 § 1731. Establishment of accounts.~~

~~14 In addition to other accounts that may be established by the
15 authority from time to time, there are established the following
16 accounts:~~

~~17 (1) The Small Business First Account.~~

~~18 (2) The Community Economic Development Account.~~

~~19 (3) The Export Financing Account.~~

~~20 (4) The Pennsylvania Industrial Development Account.~~

~~21 (5) The Machinery and Equipment Loan Account.~~

~~22 (6) The Disadvantaged Business Development Account.~~

~~23 (7) The First Industries Account.~~

~~24 (8) The Second Stage Loan Guarantee Account.~~

~~25 § 1732. Deposits.~~

~~26 Loan repayments, recaptured funds and bond proceeds from the
27 programs described in Subchapter E (relating to programs), as
28 well as appropriations, including, without limitation, those
29 appropriations made prior to the effective date of this act for
30 the same programs or similar programs to those described in~~

~~1 Subchapter E and any other available funds which are or may
2 become available, not pledged to be deposited or used elsewhere,
3 shall be deposited in the respective program accounts. Separate
4 subaccounts may be established in each program account for
5 purposes of pledging funds in the subaccounts to secure specific
6 bonds and other obligations of the authority.~~

~~7 § 1733. Use.~~

~~8 Funds deposited in each of the program accounts shall be made
9 available for additional loans, guarantees and other financing
10 tools as provided by the respective programs.~~

~~11 § 1734. Account restrictions.~~

~~12 (a) Pennsylvania Industrial Development Account.~~

~~13 (1) The Pennsylvania Industrial Development Account,
14 established in section 1731 (relating to establishment of
15 accounts), shall be a revolving fund, whereby all
16 appropriations and payments made into the account, including
17 repayment of loans or funds from mortgages and any other
18 agreements made and entered into by the authority under the
19 program, shall be applied and reapplied to the purposes of
20 the Pennsylvania Industrial Development Program.~~

~~21 (2) If at any time the authority determines that funds
22 held in the Pennsylvania Industrial Development Account
23 exceed the amount required to carry out the purposes of the
24 program, the authority shall take such action as may be
25 required to transfer the excess funds to the General Fund of
26 the State Treasury, subject to the provisions of section
27 1771.1 (relating to transfer from Pennsylvania Industrial
28 Development Authority to Pennsylvania Business Development
29 Authority).~~

~~30 (b) Export Financing Account. Funds in the Export Financing~~

~~1 Account must be continuously secured by a pledge of direct
2 obligations of the United States or of the Commonwealth having
3 an aggregate market value, exclusive of accrued interest, at
4 least equal to the balance on deposit in the account. The
5 securities shall be deposited with the authority to be held by a
6 trustee or agent satisfactory to the authority. Bank and trust
7 companies are authorized to give security under this subsection.~~

~~8 SUBCHAPTER E~~

~~9 PROGRAMS~~

~~10 Sec.~~

~~11 1750. Programs generally.~~

~~12 1751. Small Business First Program.~~

~~13 1752. Community Economic Development Program.~~

~~14 1753. Export Financing Program.~~

~~15 1754. Pennsylvania Industrial Development Program.~~

~~16 1755. Machinery and Equipment Loan Program.~~

~~17 1756. Disadvantaged Business Development Program.~~

~~18 1757. First Industries Program.~~

~~19 1758. Second Stage Loan Guarantee Program.~~

~~20 § 1750. Programs generally.~~

~~21 (a) Establishment of programs. In addition to the programs
22 described in this subchapter, the authority may from time to
23 time establish new programs that further economic development
24 within this Commonwealth.~~

~~25 (b) Application process. Applications for financial
26 assistance under this chapter must be prepared with the
27 assistance of a certified economic development organization that
28 shall approve the application before it is submitted to the
29 authority and shall comply with subsection (c) and with any
30 additional requirement of the applicable program or programs.~~

1 ~~Applications shall be in the form required by the authority and~~
2 ~~shall bear the applicant's name and address together with a~~
3 ~~description of the type and amount of financial assistance~~
4 ~~requested. Upon review of an application, the authority shall~~
5 ~~notify the applicant of its decision or request additional~~
6 ~~information or certifications prior to making its decision.~~

7 ~~(c) Application requirements. Applications shall include~~
8 ~~the following information, where applicable:~~

9 ~~(1) A description of the applicant's business or, if the~~
10 ~~applicant is not the borrower, the borrower's business,~~
11 ~~including:~~

12 ~~(i) The type of business conducted.~~

13 ~~(ii) The location and age of the business.~~

14 ~~(iii) A list of all offices of the applicant located~~
15 ~~in this Commonwealth.~~

16 ~~(iv) The names and addresses of the principals.~~

17 ~~(v) The number of current employees and an estimate~~
18 ~~of future employment.~~

19 ~~(2) A description of the project, including:~~

20 ~~(i) The location.~~

21 ~~(ii) The total estimated project cost, prepared by~~
22 ~~an engineer or other qualified professional, where~~
23 ~~appropriate, and the identification of all sources of~~
24 ~~capital for the project.~~

25 ~~(iii) A legal description of all real property held~~
26 ~~or to be acquired for the establishment of the project.~~

27 ~~(iv) A general description and statement of value of~~
28 ~~any real or personal property of the applicant and, if~~
29 ~~applicable, the buyer or tenant of the project, to be~~
30 ~~applied to the establishment of the project.~~

1 ~~(3) A statement that the project is consistent with any~~
2 ~~existing comprehensive county plan where the project is~~
3 ~~located.~~

4 ~~(4) A firm commitment from the intended project user to~~
5 ~~use the project upon completion.~~

6 ~~(5) A brief description of the anticipated economic~~
7 ~~impact to this Commonwealth and the host municipality as a~~
8 ~~result of the project.~~

9 ~~(6) Any plans and other documents as may be required to~~
10 ~~show the type, structure and general character of the~~
11 ~~project.~~

12 ~~(7) Financial statements of the applicant, proposed~~
13 ~~guarantors and any other party whose credit is significant to~~
14 ~~the approval of the financial assistance. The authority may~~
15 ~~by guideline specify the period to be covered by the~~
16 ~~financial statements and whether they must be compiled,~~
17 ~~reviewed or prepared by a certified public accountant.~~

18 ~~(8) Any information required by the program or programs~~
19 ~~under which financial assistance may be provided.~~

20 ~~(9) Any other information required by the authority.~~
21 ~~(d) Review and approval.~~

22 ~~(1) In reviewing applications, the authority shall~~
23 ~~consider the following, where applicable:~~

24 ~~(i) Whether the value of the proposed collateral and~~
25 ~~the financial resources offered by the applicant are~~
26 ~~sufficient to repay the loan.~~

27 ~~(ii) Whether the project will enable future~~
28 ~~employment opportunities in or have a net positive~~
29 ~~economic impact on the surrounding community.~~

30 ~~(iii) Whether the statement of the estimated cost of~~

1 ~~the project is reasonable.~~

2 ~~(iv) Whether the sources of financial commitments~~
3 ~~for funds in excess of the amount requested under this~~
4 ~~chapter are reliable.~~

5 ~~(v) Whether the applicant has complied with terms~~
6 ~~required by the applicable program or programs listed~~
7 ~~under the corresponding sections of this chapter.~~

8 ~~(vi) Whether the applicant has a history of~~
9 ~~investment in Pennsylvania related companies.~~

10 ~~(vii) Whether the applicant has demonstrated strong~~
11 ~~relationships with organizations in this Commonwealth~~
12 ~~which foster economic development.~~

13 ~~(viii) Whether the applicant has a strong~~
14 ~~performance record.~~

15 ~~(ix) Whether the applicant has demonstrated an~~
16 ~~ability to meet and satisfy debt service, if applicable,~~
17 ~~as it becomes due and payable.~~

18 ~~(x) Any other information deemed relevant by the~~
19 ~~authority.~~

20 ~~(2) Subject to any applicable limitations under this~~
21 ~~chapter, the amount, duration, interest rate, security~~
22 ~~required and any other terms of the loan shall be set at the~~
23 ~~discretion of the authority based upon its determination of~~
24 ~~the potential financial risk to the Commonwealth.~~

25 ~~(3) No financial assistance shall be approved if the~~
26 ~~proceeds would be used to:~~

27 ~~(i) refinance any portion of the total cost of a~~
28 ~~capital development project, pollution prevention~~
29 ~~infrastructure or other existing loans or debt;~~

30 ~~(ii) finance a project located outside the~~

~~geographic boundaries of this Commonwealth;~~

~~(iii) relocate a business to another part of this Commonwealth, unless approved in advance by the authority which shall consider the negative economic impact on the community that the business is leaving; or~~

~~(iv) provide funds, directly or indirectly, for payment distribution or as a loan to owners, partners or shareholders of a small business, except as ordinary compensation for services rendered.~~

~~(4) (i) The terms of all agreements for financial assistance awarded under this chapter shall include any material terms, requirements or other conditions provided for agreements entered into under this chapter. The authority may impose other terms and conditions if it determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty which may be imposed.~~

~~(ii) Upon approving an application for a loan, the authority shall draw an advance equal to the principal amount of the loan from the appropriate account or accounts; and prior to providing loan funds to the applicant, the authority shall require the applicant to execute a note and to enter into a loan agreement and any other agreement as the authority shall require.~~

~~(e) Reporting and inspection. An applicant for or a recipient of financial assistance made under this chapter shall, upon request:~~

~~(1) Permit the authority to inspect its premises, books and records.~~

~~(2) Provide updated information to the authority if~~

~~conditions change to the extent that the information originally given becomes inaccurate or misleading.~~

~~(3) Provide the authority with any periodic financial reports and audits that the authority may require.~~

~~§ 1751. Small Business First Program.~~

~~(a) General rule. The Small Business First Program shall provide low interest loans and lines of credit to small businesses for capital development projects that will stimulate the expansion and assist in the viability of small businesses, thereby creating new jobs and retaining existing jobs in this Commonwealth.~~

~~(b) Application. In addition to the requirements listed in section 1750(b) (relating to programs generally), the application shall include the following:~~

~~(1) A description of the capital development project, including the following:~~

~~(i) The number of employment opportunities to be created or preserved by the proposed capital development project.~~

~~(ii) If the applicant is an agricultural producer, a demonstration that there is a substantial likelihood that the project will enhance the agricultural operation.~~

~~(2) A financial commitment from a responsible source for any cost of the project in excess of the amount requested.~~

~~(3) A demonstration of the ability of the applicant to meet and satisfy the debt service as it becomes due and payable.~~

~~(4) The existence and sufficiency of collateral for the loan.~~

~~(c) Conditions and restrictions. A loan made under this~~

1 ~~section may:~~

2 ~~(1) Finance the development, construction, renovation or~~
3 ~~acquisition of land, buildings, machinery or equipment,~~
4 ~~licenses for wholesalers and distributors to sell alcoholic~~
5 ~~beverages or may be used for working capital.~~

6 ~~(2) Not exceed 50% of the total capital development~~
7 ~~project costs. For the purposes of this paragraph, capital~~
8 ~~development project costs incurred during the 12 month period~~
9 ~~prior to the date of submission of the application to the~~
10 ~~authority shall be considered part of the total capital~~
11 ~~development project costs.~~

12 ~~(d) Loan terms. The following terms shall apply:~~

13 ~~(1) A loan for real property shall have a repayment~~
14 ~~period of up to 15 years.~~

15 ~~(2) A loan for machinery and equipment shall have a~~
16 ~~repayment period of up to ten years.~~

17 ~~(3) A loan or line of credit for working capital shall~~
18 ~~have a repayment period of up to three years.~~

19 ~~(4) If, in a capital development project, two or more~~
20 ~~uses are planned, the loan terms may be combined.~~

21 ~~(5) The interest rate shall be determined by the~~
22 ~~authority.~~

23 ~~(6) The authority shall determine the job retention or~~
24 ~~job creation requirements of each project financed in whole~~
25 ~~or in part through a loan made under this section.~~

26 ~~(7) All loans shall be secured by lien positions on~~
27 ~~collateral at the highest level of priority, as determined by~~
28 ~~the authority.~~

29 ~~(e) Penalty for noncompliance. In the event that a loan~~
30 ~~recipient fails to create or preserve the number of employment~~

~~1 opportunities specified in the approved application, the
2 authority may impose a penalty equal to an increase of up to 5%
3 above the existing loan interest rate for the remainder of the
4 loan, unless it determines that the failure is due to
5 circumstances outside the control of the loan recipient.~~

~~6 § 1752. Community Economic Development Program.~~

~~7 (a) General rule. The Community Economic Development
8 Program shall provide loans for small businesses located in
9 distressed communities which are involved in the business to
10 public service, mercantile, commercial or point of sale retail
11 sectors in order to enhance the economic well being of the
12 community by employing residents of the community and by
13 providing products or services to that community.~~

~~14 (b) Conditions and restrictions. The following shall apply:~~

~~15 (1) A loan for land, buildings, machinery, equipment or
16 working capital may not exceed 50% of the total capital
17 development project costs. For the purposes of this
18 paragraph, capital development project costs incurred during
19 the 12 month period prior to the date of submission of the
20 application to the authority shall be considered part of the
21 total capital development project costs.~~

~~22 (2) Each capital development project shall meet the job
23 retention or job creation requirements established by the
24 authority.~~

~~25 (3) The maximum loan amount available under this program
26 will be set by the authority.~~

~~27 (4) No loans shall be approved if the proceeds of the
28 loan would be used to provide funds for speculation in real
29 or personal property, whether tangible or intangible.~~

~~30 (c) Loan terms. The following terms shall apply:~~

1 ~~(1) A loan for real property shall have a repayment~~
2 ~~period of up to 15 years.~~

3 ~~(2) A loan for machinery and equipment shall have a~~
4 ~~repayment period of up to ten years.~~

5 ~~(3) A loan or line of credit for working capital shall~~
6 ~~have a repayment period of up to three years.~~

7 ~~(4) All loans shall be secured by lien positions on~~
8 ~~collateral at the highest level of priority, as determined by~~
9 ~~the authority.~~

10 ~~(d) Application. In addition to the requirements listed in~~
11 ~~section 1750(b) (relating to programs generally), the~~
12 ~~application shall include the following:~~

13 ~~(1) A financial commitment from a responsible source for~~
14 ~~the cost of the capital development project in excess of the~~
15 ~~amount requested.~~

16 ~~(2) A demonstration that the capital development project~~
17 ~~will have a direct impact on the community in which the~~
18 ~~capital development project is or will be located, on~~
19 ~~residents of that community or on the local and regional~~
20 ~~economy. The authority shall establish criteria that will~~
21 ~~assist in making this demonstration.~~

22 ~~(3) A projection of the number of employment~~
23 ~~opportunities to be created or preserved by the proposed~~
24 ~~capital development project.~~

25 ~~(e) Penalty for noncompliance. In the event that a loan~~
26 ~~recipient fails to create or preserve the number of employment~~
27 ~~opportunities specified in the approved application, the~~
28 ~~authority may impose a penalty equal to an increase of up to 5%~~
29 ~~above the existing rate for the remainder of the loan, unless it~~
30 ~~determines that the failure is due to circumstances outside the~~

1 ~~control of the loan recipient.~~

2 ~~§ 1753. Export Financing Program.~~

3 ~~(a) General rule. The Export Financing Program shall~~
4 ~~provide loans and lines of credit to export businesses for~~
5 ~~working capital and accounts receivable financing, in order to~~
6 ~~increase the level of foreign exports and the number of~~
7 ~~Pennsylvania companies exporting goods and services.~~

8 ~~(b) Application. In addition to the requirements listed in~~
9 ~~section 1750(b) (relating to programs generally), the~~
10 ~~application shall include the following:~~

11 ~~(1) The number of employment opportunities to be created~~
12 ~~or preserved by the proposed capital development project.~~

13 ~~(2) A financial commitment from a responsible source for~~
14 ~~any cost of the capital development project in excess of the~~
15 ~~amount requested.~~

16 ~~(3) A statement that the loan, if approved, would not~~
17 ~~supplant funding from private sector sources on commercially~~
18 ~~reasonable terms.~~

19 ~~(4) A demonstration that the applicant will be able to~~
20 ~~meet and satisfy the debt service as it becomes due and~~
21 ~~payable.~~

22 ~~(5) The existence and sufficiency of collateral for the~~
23 ~~loan.~~

24 ~~(c) Conditions and restrictions.—~~

25 ~~(1) The maximum loan amount, repayment period and~~
26 ~~interest rate available under this program will be set by the~~
27 ~~authority.~~

28 ~~(2) The authority may, in its discretion, require any of~~
29 ~~the following:~~

30 ~~(i) That the applicant be eligible for an export~~

~~credit insurance policy for small businesses offered by the Ex Im Bank.~~

~~(ii) That the export credit sales contract be insured by an export credit insurance policy offered by the Ex Im Bank.~~

~~(iii) That the loan be guaranteed by the working capital guaranty program offered by the Ex Im Bank.~~

~~(3) No loan shall be approved if the proceeds of the loan would be used to provide funds for speculation in real or personal property, whether tangible or intangible.~~

~~(4) All loans shall be secured by lien positions on collateral at the highest level of priority, as may be determined by the authority.~~

~~(d) Penalty for noncompliance. In the event that a loan recipient fails to create or preserve the number of employment opportunities specified in the approved application, the authority may impose a penalty equal to an increase of up to 5% above the existing loan interest rate for the remainder of the loan, unless it determines that the failure is due to circumstances outside the control of the loan recipient.~~

~~§ 1754. Pennsylvania Industrial Development Program.~~

~~(a) General rule. The Pennsylvania Industrial Development Program shall provide loans for industrial development projects, industrial parks and multiple tenancy building projects, in order to increase employment levels and the overall economic health of this Commonwealth.~~

~~(b) Loans for industrial development projects. The authority may contract to loan an amount not to exceed 50% of the cost of establishing the industrial development project, subject, however, to the following conditions:~~

1 ~~(1) Prior to the making of any loan under this~~
2 ~~paragraph, the authority shall determine that:~~

3 ~~(i) The borrower is responsible to assume all~~
4 ~~obligations imposed by the authority in connection with~~
5 ~~the project, financial or otherwise, and to undertake the~~
6 ~~operation of the project.~~

7 ~~(ii) The borrower has obtained from other~~
8 ~~independent and responsible sources a firm commitment for~~
9 ~~any funds which, in addition to the loan made pursuant to~~
10 ~~this paragraph and any other property or assets held by~~
11 ~~the borrower, shall be necessary for the completion and~~
12 ~~operation of the project.~~

13 ~~(2) The authority shall determine the interest rate and~~
14 ~~repayment period of any loan made under this section.~~

15 ~~(3) A loan made under this section shall be evidenced by~~
16 ~~note of the borrower, and secured by a mortgage on the~~
17 ~~project for which such loan was made, subordinate only to the~~
18 ~~mortgage securing the first lien obligation issued to secure~~
19 ~~the commitment of funds provided to pay the cost of the~~
20 ~~project from the aforesaid independent and responsible~~
21 ~~sources, and used in the financing of the project.~~

22 ~~(4) The authority may require such additional security~~
23 ~~it may deem necessary.~~

24 ~~(c) Loans for industrial parks. The authority may contract~~
25 ~~to loan an amount not to exceed 90% of the cost of establishing~~
26 ~~an industrial park project, subject to the following conditions:~~

27 ~~(1) (Reserved).~~

28 ~~(2) The authority shall determine the interest rate and~~
29 ~~repayment period of any loan made under this subsection.~~

30 ~~(3) A loan made under this section shall be evidenced by~~

~~note of the borrower and secured by a first mortgage on the industrial park or by participation in a first mortgage. If, however, a Federal agency is participating in the financing of the industrial park, the authority may take as security for its loan a mortgage on the industrial park which is second only to the mortgage given to the Federal agency.~~

~~(4) If a loan made under this section is secured by participation in a first mortgage on the industrial park, a portion of the loan, not to exceed 10% of the cost of the project, may be secured by a second mortgage on the industrial park which is second only to the participating first mortgage.~~

~~(d) Loans for multiple tenancy building projects. The authority may contract to loan an amount not to exceed 75% of the cost of establishing the multiple tenancy building project, subject, however, to the following conditions:~~

~~(1) (Reserved).~~

~~(2) The authority shall determine the interest rate and repayment period of any loan made under this section.~~

~~(3) A loan made under this section shall be evidenced by note of the borrower and secured by a first mortgage or participation in a first mortgage on the multiple tenancy building project.~~

~~(4) The authority may contract to loan an amount not to exceed 75% of the cost of the project if the loan is secured by a first mortgage or participation in a first mortgage on the project; otherwise, the authority may contract to loan an amount not to exceed 40% of the cost of the project.~~

~~(5) If a loan made under this section is secured by a participation in a first mortgage on the project, the~~

~~1 authority may permit a portion of its loan, not to exceed 10%~~
~~2 of the cost of the project, to be secured by a second~~
~~3 mortgage on the project which is second only to the~~
~~4 participating first mortgage.~~

~~5 (c) Application. In addition to the requirements listed in~~
~~6 section 1750(b) (relating to programs generally), the~~
~~7 application shall include the following:~~

~~8 (1) A general description of the type, classes and~~
~~9 number of employees employed or to be employed in the~~
~~10 operation of the project.~~

~~11 (2) The cost or estimate of the cost of establishing the~~
~~12 project. As used in this section, "cost" shall include~~
~~13 financing charges, including interest incurred prior to and~~
~~14 during construction, but shall not include the cost of any~~
~~15 machinery, equipment or fixtures necessary for the project or~~
~~16 the installation or maintenance of any such machinery,~~
~~17 equipment or fixtures.~~

~~18 (3) Evidence of the arrangement made by the borrower for~~
~~19 the financing of all costs of the project over and above the~~
~~20 participation of the authority.~~

~~21 (4) Evidence that the establishment of the project will~~
~~22 not cause the removal of an industrial enterprise,~~
~~23 manufacturing enterprise, research and development~~
~~24 enterprise, agricultural producer or agricultural processor~~
~~25 from one area of this Commonwealth to another area of this~~
~~26 Commonwealth, as determined by the authority.~~

~~27 (f) Employment projection audits. The authority shall~~
~~28 implement a procedure to determine whether the employment~~
~~29 projections set out in the loan application are achieved.~~

~~30 § 1755. Machinery and Equipment Loan Program.~~

1 ~~(a) General rule.—The Machinery and Equipment Loan Program~~
2 ~~shall provide loans to businesses involved in industrial~~
3 ~~processes, manufacturing, mining, production agriculture,~~
4 ~~information technology or biotechnology for the purchase,~~
5 ~~installation or upgrade of equipment and machinery, including~~
6 ~~computer hardware and software.~~

7 ~~(b) Application.—In addition to the requirements listed in~~
8 ~~section 1750(b) (relating to programs generally), the~~
9 ~~application shall include the following:~~

10 ~~(1) A demonstration that the applicant is able to meet~~
11 ~~and satisfy all debt service as it becomes due and payable.~~

12 ~~(2) Evidence of available and sufficient collateral,~~
13 ~~including satisfactory lien positions on real and personal~~
14 ~~property.~~

15 ~~(3) Sufficient evidence that funds shall be used only to~~
16 ~~acquire and install new equipment and machinery or upgrade~~
17 ~~existing equipment and machinery, including the acquisition,~~
18 ~~application and utilization of computer hardware and~~
19 ~~software.~~

20 ~~(4) The number of net employment opportunities to be~~
21 ~~created by the proposed project unless the business is~~
22 ~~involved in production agriculture.~~

23 ~~(5) Evidence that the loan project will increase the~~
24 ~~business's competitiveness within its respective industry.~~

25 ~~(c) Loan terms and limitations.—The following shall apply:~~

26 ~~(1) No loan shall exceed 50% of the cost of the project.~~

27 ~~(2) Loan terms shall not exceed ten years in duration.~~

28 ~~(3) Proceeds of loans made under this section may not be~~
29 ~~used for speculation in any kind of property, real or~~
30 ~~personal, tangible or intangible.~~

~~(4) Loans shall be made only for projects that demonstrate a significant likelihood of resulting in job creation or retention, as established by the authority. This paragraph does not apply to loans made to business enterprises involved in production agriculture.~~

~~(d) Security. All loans shall be secured by no less than a second lien position on the equipment purchased and other sufficient collateral as determined by the authority.~~

~~(e) Penalty for noncompliance. In the event that a loan recipient fails to create or preserve the number of employment opportunities specified in the approved application, the authority may impose a penalty equal to an increase of up to 5% above the existing rate for the remainder of the loan, unless it determines that the failure is due to circumstances outside the control of the loan recipient.~~

~~§ 1756. Disadvantaged Business Development Program.~~

~~(a) General rule. The Disadvantaged Business Development Program shall provide financial assistance to businesses owned by socially and economically disadvantaged persons.~~

~~(b) Application. In addition to the requirements listed in section 1750(b) (relating to programs generally), the application shall include the following:~~

~~(1) A statement that the applicant is a United States citizen, resident of this Commonwealth and member of a group or groups which have suffered disadvantages arising from chronic racial, ethnic or economic circumstances.~~

~~(2) An explanation as to how the applicant's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same or a similar line of business who are~~

1 ~~not socially and economically disadvantaged.~~

2 ~~(c) Loan terms and conditions. The authority shall have the~~
3 ~~power to lend money to and to guarantee, endorse or act as~~
4 ~~surety on the bonds, notes, contracts or other obligations of,~~
5 ~~or otherwise financially assist a business owned by a person who~~
6 ~~meets the criteria in subsection (a), and to establish and~~
7 ~~regulate the terms, security and conditions with respect to any~~
8 ~~such loans or financial assistance and the charges for interest~~
9 ~~and service connected therewith.~~

10 ~~§ 1757. First Industries Program.~~

11 ~~(a) General purpose. The First Industries Program shall~~
12 ~~provide financial assistance for projects related to tourism and~~
13 ~~agriculture located within this Commonwealth.~~

14 ~~(b) Loans. The First Industries Program shall provide loans~~
15 ~~to businesses involved in tourism and agriculture that would~~
16 ~~otherwise satisfy the requirements for a loan under section 1751-~~
17 ~~(relating to Small Business First Program), 1752 (relating to~~
18 ~~Community Economic Development Program) or 1755 (relating to~~
19 ~~Machinery and Equipment Loan Fund Program).~~

20 ~~(c) Loan guarantees. An applicant may request a guarantee~~
21 ~~for a loan to be made by a commercial lending institution or~~
22 ~~community development financial institution to assist with the~~
23 ~~financing of a project related to tourism or agriculture.~~

24 ~~(d) Application. In addition to the requirements listed in~~
25 ~~section 1750(b) (relating to programs generally), the~~
26 ~~application shall include the following:~~

27 ~~(1) A description of the proposed project financing,~~
28 ~~including terms, conditions and the collateral or security~~
29 ~~required for the loan for which the guarantee is being~~
30 ~~requested.~~

1 ~~(2) A copy of the borrower's last two years of financial~~
2 ~~statements.~~

3 ~~(c) Terms and limitations.~~

4 ~~(1) The maximum guarantee amount and percentage made~~
5 ~~under this section shall be determined by the authority.~~

6 ~~(2) No less than \$500,000 of private funds must be~~
7 ~~invested in the project.~~

8 ~~(3) In addition to any other terms and conditions~~
9 ~~required by the authority, the guarantee agreement shall~~
10 ~~provide for the following:~~

11 ~~(i) The procedure for the submission by the~~
12 ~~commercial lending institution or community development~~
13 ~~financial institution of a claim for payment. This~~
14 ~~procedure shall require that the commercial lending~~
15 ~~institution or community development financial~~
16 ~~institution demonstrate that it has exhausted all~~
17 ~~available remedies against the borrower, other guarantors~~
18 ~~and collateral before seeking payment under the~~
19 ~~agreement.~~

20 ~~(ii) A requirement that a percentage of any moneys~~
21 ~~recovered subsequent to the payment of a claim by the~~
22 ~~authority be remitted to the authority.~~

23 ~~(iii) Periodic reporting requirements by the~~
24 ~~commercial lending institution or community development~~
25 ~~financial institution regarding itself and the loans that~~
26 ~~have been awarded guarantees under this section.~~

27 ~~§ 1758. Second Stage Loan Guarantee Program.~~

28 ~~(a) General purpose. The Second Stage Loan Guarantee~~
29 ~~Program shall provide loan guarantees to commercial lending~~
30 ~~institutions that make loans to life sciences, advanced~~

1 ~~technology or manufacturing businesses located in this~~
2 ~~Commonwealth.~~

3 ~~(b) Application for enrollment. A commercial lending~~
4 ~~institution may apply for enrollment in the program authorized~~
5 ~~by this section. The application shall be in the form required~~
6 ~~by the authority and, in addition to the requirements listed in~~
7 ~~section 1750(b) (relating to programs generally), shall include~~
8 ~~the following:~~

9 ~~(1) The name and address of the commercial lending~~
10 ~~institution and the name and title of the individual who will~~
11 ~~serve as the point of contact for the commercial lending~~
12 ~~institution.~~

13 ~~(2) A statement defining the service area of the~~
14 ~~commercial lending institution.~~

15 ~~(3) A statement describing the commercial lending~~
16 ~~activities engaged in by the commercial lending institution~~
17 ~~and how the institution intends to expand those activities as~~
18 ~~a result of its participation in the program authorized by~~
19 ~~this section.~~

20 ~~(c) Enrollment approval. Upon approval of an application~~
21 ~~for enrollment, the authority shall execute a master guarantee~~
22 ~~agreement in favor of the commercial lending institution. In~~
23 ~~addition to any other terms and conditions required by the~~
24 ~~authority, the master guarantee agreement shall provide for the~~
25 ~~following:~~

26 ~~(1) The procedure for the submission of a claim for~~
27 ~~payment by the commercial lending institution. The procedure~~
28 ~~shall require that the commercial lending institution~~
29 ~~demonstrate that it has exhausted all available remedies~~
30 ~~against the borrower, other guarantors and collateral for the~~

1 ~~loan before seeking payment under the agreement.~~

2 ~~(2) A requirement that a percentage of any moneys~~
3 ~~recovered by the commercial lending institution subsequent to~~
4 ~~any payment made under the master guarantee agreement by the~~
5 ~~authority be remitted to the authority.~~

6 ~~(3) Periodic reporting requirements by the commercial~~
7 ~~lending institution regarding itself and regarding the loans~~
8 ~~for which guarantee certificates have been issued under this~~
9 ~~section.~~

10 ~~(d) Application for guarantee. A commercial lending~~
11 ~~institution enrolled in the program authorized by this section~~
12 ~~may submit an application to the authority for the guarantee of~~
13 ~~a proposed loan. The application shall be in the form required~~
14 ~~by the authority and, in addition to the requirements listed in~~
15 ~~section 1750(b), shall include the following:~~

16 ~~(1) A demonstration that the use of loan proceeds by the~~
17 ~~borrower will result in jobs being created or retained within~~
18 ~~this Commonwealth, and an estimate as to the number of~~
19 ~~projected new or retained employees as a result of the loan.~~

20 ~~(2) A statement that the borrower's business is located~~
21 ~~within the commercial lending institution's service area and~~
22 ~~within this Commonwealth.~~

23 ~~(3) A copy of the borrower's last two years of financial~~
24 ~~statements prepared or reported on by an independent~~
25 ~~certified public accountant.~~

26 ~~(4) A statement describing the purpose of the loan, the~~
27 ~~requested amount of the loan, a copy of the commercial~~
28 ~~lending institution's commitment letter and applicable credit~~
29 ~~underwriting that supports the repayment of the loan, as well~~
30 ~~as the collateral and other guarantees offered by the~~

~~borrower to support the loan.~~

~~(5) Certification that the borrower's business has been in existence for at least two years at the time of application.~~

~~(6) Demonstration that the borrower is financially responsible and has the ability to repay the loan.~~

~~(c) Limitations.~~

~~(1) The maximum guarantee amount and percentage shall be determined by the authority and shall terminate at the end of seven years.~~

~~(2) At no time may a guarantee exceed \$1,000,000 for any one loan.~~

SUBCHAPTER F

MISCELLANEOUS PROVISIONS

~~Sec.~~

~~1771. Definitions.~~

~~1771.1 Transfer from Pennsylvania Industrial Development~~

~~Authority to Pennsylvania Business Development~~

~~Authority.~~

~~1772. Transfer from Commonwealth Financing Authority to~~

~~Pennsylvania Business Development Authority for First~~

~~Industries Program and Second Stage Program.~~

~~1773. Transfer from Pennsylvania Minority Business Development~~

~~Authority to Pennsylvania Business Development~~

~~Authority.~~

~~1774. Successorship and transfer of assets and liabilities.~~

~~§ 1771. Definitions.~~

~~The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

1 ~~"Account." The Pennsylvania Industrial Development Account~~
2 ~~and any similar account established by a successor to the~~
3 ~~Pennsylvania Business Development Authority that assumes the~~
4 ~~obligations under the Pennsylvania Industrial Development~~
5 ~~Authority bond indenture.~~

6 ~~"Debt." Notes, instruments and other evidences of~~
7 ~~indebtedness or obligations which were issued prior to the~~
8 ~~effective date of this section for the same programs or similar~~
9 ~~programs to those described under Subchapter E (relating to~~
10 ~~programs) and under the following:~~

11 ~~(1) The act of May 17, 1956 (1955 P.L.1609, No.537),~~
12 ~~known as the Pennsylvania Industrial Development Authority~~
13 ~~Act.~~

14 ~~(2) The act of July 22, 1974 (P.L.598, No.206), known as~~
15 ~~the Pennsylvania Minority Business Development Authority Act.~~

16 ~~(3) 12 Pa.C.S. Chs. 23 (relating to small business~~
17 ~~first) and 29 (relating to machinery and equipment loans).~~

18 ~~"Debt instrument." Any trust instrument or indenture or~~
19 ~~other financial instrument pursuant to which debt was issued,~~
20 ~~incurred or secured.~~

21 ~~"Program." The Pennsylvania Industrial Development Program.~~
22 ~~The term shall include any similar program established by a~~
23 ~~successor to the Pennsylvania Business Development Authority~~
24 ~~that assumes the obligations under the Pennsylvania Industrial~~
25 ~~Development Authority bond indenture.~~

26 ~~"Prior programs." Except for programs transferred under~~
27 ~~sections 1771.1 (relating to transfer from Pennsylvania~~
28 ~~Industrial Development Authority to Pennsylvania Business~~
29 ~~Development Authority) and 1773 (relating to transfer from~~
30 ~~Pennsylvania Minority Business Development Authority to~~

~~1 Pennsylvania Business Development Authority), the same programs~~
~~2 or similar programs to those described under Subchapter E~~
~~3 (relating to programs) and created under the following acts~~
~~4 which are repealed, in whole or in part, pursuant to this~~
~~5 chapter:~~

~~6 (1) The act of May 17, 1956 (1955 P.L.1609, No.537),~~
~~7 known as the Pennsylvania Industrial Development Authority~~
~~8 Act.~~

~~9 (2) The act of July 22, 1974 (P.L.598, No.206), known as~~
~~10 the Pennsylvania Minority Business Development Authority Act.~~

~~11 (3) 12 Pa.C.S. Chs. 23 (relating to small business~~
~~12 first) and 29 (relating to machinery and equipment loans).~~

~~13 (4) Sections 1552 (relating to First Industries Program)~~
~~14 and 1553 (relating to Second Stage Loan Program).~~

~~15 § 1771.1. Transfer from Pennsylvania Industrial Development~~
~~16 Authority to Pennsylvania Business Development~~
~~17 Authority.~~

~~18 (a) (Reserved).~~

~~19 (b) Designation of Pennsylvania Business Development~~
~~20 Authority as successor to Pennsylvania Industrial Development~~
~~21 Authority. The Pennsylvania Business Development Authority, as~~
~~22 a public instrumentality of the Commonwealth, shall be and is~~
~~23 designated as successor to Pennsylvania Industrial Development~~
~~24 Authority. The separate existence of the Pennsylvania Industrial~~
~~25 Development Authority shall cease.~~

~~26 (c) Transfer of assets and liabilities of Pennsylvania~~
~~27 Industrial Development Authority. The following shall occur:~~

~~28 (1) The following shall be taken and deemed to be~~
~~29 transferred to and vested in the Pennsylvania Business~~
~~30 Development Authority, subject to any pledge in favor of the~~

1 holders of bonds:

2 ~~(i) All of the real, personal and mixed property and~~
3 ~~all interests in the property of the Pennsylvania~~
4 ~~Industrial Development Authority, including loans to~~
5 ~~industrial development agencies and property acquired as~~
6 ~~a result of foreclosures or in lieu of foreclosures of~~
7 ~~mortgages securing the loans.~~

8 ~~(ii) Any debts or amount due to the Pennsylvania~~
9 ~~Industrial Development Authority.~~

10 ~~(iii) The Pennsylvania Industrial Development~~
11 ~~Authority's right, title and interest in and to revenues~~
12 ~~pledged to secure bonds, the interests of the~~
13 ~~Pennsylvania Industrial Development Authority under trust~~
14 ~~instruments securing its bonds, including the right to~~
15 ~~issue obligations pursuant to and secured by the~~
16 ~~instruments, sinking funds on deposit and all funds~~
17 ~~deposited under trust instruments, leaseholds and rights~~
18 ~~and deposits under the trust instruments.~~

19 ~~(iv) Rights under interest rate exchange agreements~~
20 ~~and other financial instruments.~~

21 ~~(v) Appropriations.~~

22 ~~(vi) All other rights and assets of the Pennsylvania~~
23 ~~Industrial Development Authority of any nature.~~

24 ~~(2) (i) The Pennsylvania Business Development Authority~~
25 ~~shall succeed to, assume and become liable for all~~
26 ~~liabilities and obligations of the Pennsylvania~~
27 ~~Industrial Development Authority, including the bonds and~~
28 ~~the Pennsylvania Industrial Development Authority bond~~
29 ~~indenture, obligations under interest rate exchange~~
30 ~~agreements and other financial instruments, contracts for~~

~~purchase of goods or services and other liabilities of any nature.~~

~~(ii) The liabilities and obligations under subparagraph (i) shall be subject to the same limitations as were applicable to the Pennsylvania Industrial Development Authority prior to the transfer of assets and liabilities, including limitations as to payment source, pledges, assignments, liens, charges, terms and conditions.~~

~~(iii) The transfer of assets and liabilities to the Pennsylvania Business Development Authority as successor are assumed by the Pennsylvania Business Development Authority and shall not impair the rights or the security of holders of bonds or other creditors, persons dealing with Pennsylvania Industrial Development Authority, liens upon the property of Pennsylvania Industrial Development Authority or persons holding claims against Pennsylvania Industrial Development Authority.~~

~~(iv) Any claim existing or action or proceeding pending by or against the Pennsylvania Industrial Development Authority shall be prosecuted to judgment as if the transfer had not taken place or the Pennsylvania Business Development Authority may be proceeded against or substituted in its place.~~

~~(d) Rights and powers.—~~

~~(1) Nothing under this chapter shall alter or limit the rights and powers vested in the Pennsylvania Business Development Authority as successor to the Pennsylvania Industrial Development Authority or otherwise created under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, in any~~

1 ~~manner inconsistent with the obligations of the Pennsylvania~~
2 ~~Industrial Development Authority and, after the effective~~
3 ~~date of this section, the Pennsylvania Business Development~~
4 ~~Authority, to obligees of the Pennsylvania Industrial~~
5 ~~Development Authority until all bonds issued by the~~
6 ~~Pennsylvania Industrial Development Authority, together with~~
7 ~~the interest on the bonds, are fully paid and discharged.~~

8 ~~(2) Nothing under this chapter shall authorize personal~~
9 ~~recourse for any claim based on bonds or trust instruments~~
10 ~~securing the bonds or trust instruments, against any member,~~
11 ~~officer or employee of the Pennsylvania Industrial~~
12 ~~Development Authority, either directly or through the~~
13 ~~Pennsylvania Industrial Development Authority or the~~
14 ~~Pennsylvania Business Development Authority under any~~
15 ~~constitutional provision, statute or rule of law or by the~~
16 ~~enforcement of any assessment or penalty or otherwise.~~

17 ~~(c) Pennsylvania Industrial Development Account and~~
18 ~~Program.~~

19 ~~(1) The provisions of this chapter relating to the~~
20 ~~account and the program shall apply to the assets and~~
21 ~~revenues of the Pennsylvania Industrial Development Authority~~
22 ~~transferring to the Pennsylvania Business Development~~
23 ~~Authority as successor in addition to the assets and revenues~~
24 ~~arising from the continuing program subsequent to the~~
25 ~~transfer.~~

26 ~~(2) The pledge made by the trust instruments securing~~
27 ~~the Pennsylvania Industrial Development Authority bonds shall~~
28 ~~apply to revenues of the Pennsylvania Business Development~~
29 ~~Authority from the program and to assets held in the account.~~
30 ~~No withdrawals from the account may be made except in~~

~~1 compliance with the trust instruments securing the
2 Pennsylvania Industrial Development Authority bonds.~~

~~3 (f) Definition. As used in this section, the term "bond"
4 means any bond, note or other financial obligation of the
5 Pennsylvania Industrial Development Authority, including
6 interest rate exchange agreements or other financial instruments
7 related to bonds.~~

~~8 § 1772. Transfer from Commonwealth Financing Authority to the
9 Pennsylvania Business Development Authority for the
10 First Industries Program and Second Stage Loan
11 Program.~~

~~12 On the effective date of this chapter, the trust accounts
13 established by the Commonwealth Financing Authority under
14 sections 1541 (relating to trust accounts) and 1542(b) (relating
15 to revolving loan program accounts) for the First Industries
16 Program and the Second Stage Loan Program shall be transferred
17 to and vested in the authority without further act or deed.~~

~~18 § 1773. Transfer from Pennsylvania Minority Business
19 Development Authority to Pennsylvania Business
20 Development Authority.~~

~~21 (a) (Reserved).~~

~~22 (b) Designation of Pennsylvania Business Development
23 Authority as successor to the Pennsylvania Minority Business
24 Development Authority. The Pennsylvania Business Development
25 Authority, as a public instrumentality of the Commonwealth,
26 shall be and is designated as successor to the Pennsylvania
27 Minority Business Development Authority. The separate existence
28 of the Pennsylvania Minority Business Development Authority
29 shall cease.~~

~~30 (c) Transfer of assets and liabilities of the Pennsylvania~~

1 ~~Minority Business Development Authority. The following shall~~
2 ~~occur:~~

3 ~~(1) The following shall be taken and deemed to be~~
4 ~~transferred to and vested in the Pennsylvania Business~~
5 ~~Development Authority, subject to any pledge in favor of the~~
6 ~~holders of bonds:~~

7 ~~(i) All of the real, personal and mixed property and~~
8 ~~all interests in the property of the Pennsylvania~~
9 ~~Minority Business Development Authority, including loans~~
10 ~~and other debts owing to the Pennsylvania Minority~~
11 ~~Business Development Authority and amounts due to the~~
12 ~~Pennsylvania Minority Business Development Authority~~
13 ~~under the loans and debts.~~

14 ~~(ii) The right, title and interest of the~~
15 ~~Pennsylvania Minority Business Development Authority~~
16 ~~under bond indentures, including all revenues pledged as~~
17 ~~security for the right, title and interest and the right~~
18 ~~to issue obligations pursuant to and secured by the bond~~
19 ~~indentures, sinking funds on deposit and all funds~~
20 ~~deposited under bond indentures, leaseholds and rights~~
21 ~~and deposits under bond indentures.~~

22 ~~(iii) Appropriations.~~

23 ~~(iv) All other rights and assets of the Pennsylvania~~
24 ~~Minority Business Development Authority.~~

25 ~~(2) (i) The Pennsylvania Business Development Authority~~
26 ~~shall succeed to, assume and become liable for all~~
27 ~~liabilities and obligations of the Pennsylvania Minority~~
28 ~~Business Development Authority, including the bonds, bond~~
29 ~~indentures, contracts for purchase of goods or services~~
30 ~~and other liabilities.~~

1 ~~(ii) The liabilities and obligations under~~
2 ~~subparagraph (i) shall be subject to the same limitations~~
3 ~~as were applicable to the Pennsylvania Minority Business~~
4 ~~Development Authority prior to the transfer of assets and~~
5 ~~liabilities, including limitations as to payment source,~~
6 ~~pledges, assignments, liens, charges, terms and~~
7 ~~conditions.~~

8 ~~(iii) The transfer of assets and liabilities to the~~
9 ~~Pennsylvania Business Development Authority as successor~~
10 ~~are assumed by the Pennsylvania Business Development~~
11 ~~Authority and shall not impair the rights or the security~~
12 ~~of holders of bonds or other creditors of the~~
13 ~~Pennsylvania Minority Business Development Authority,~~
14 ~~persons dealing with the Pennsylvania Minority Business~~
15 ~~Development Authority, liens upon the property of the~~
16 ~~Pennsylvania Minority Business Development Authority or~~
17 ~~persons holding claims against the Pennsylvania Minority~~
18 ~~Business Development Authority.~~

19 ~~(iv) Any claim existing or action or proceeding~~
20 ~~pending by or against the Pennsylvania Minority Business~~
21 ~~Development Authority shall be prosecuted to judgment as~~
22 ~~if the transfer had not taken place or the Pennsylvania~~
23 ~~Business Development Authority may be proceeded against~~
24 ~~or substituted in its place.~~

25 ~~(d) Rights and powers.~~

26 ~~(1) Nothing under this chapter shall alter or limit the~~
27 ~~rights and powers vested in the Pennsylvania Business~~
28 ~~Development Authority as successor to the Pennsylvania~~
29 ~~Minority Business Development Authority or otherwise created~~
30 ~~by the act of July 22, 1974 (P.L.598, No.206), known as the~~

~~1 Pennsylvania Minority Business Development Authority Act,~~
~~2 and, after the effective date of this section, the~~
~~3 Pennsylvania Business Development Authority, to obligees of~~
~~4 the Pennsylvania Minority Business Development Authority~~
~~5 until all bonds issued by the Pennsylvania Minority Business~~
~~6 Development Authority, together with the interest on the~~
~~7 bonds, are fully paid and discharged.~~

~~8 (2) Nothing under this chapter shall authorize personal~~
~~9 recourse for any claim based on any obligation of the~~
~~10 Pennsylvania Minority Business Development Authority,~~
~~11 including its bonds or bond indentures, against any member,~~
~~12 officer or employee of the Pennsylvania Minority Business~~
~~13 Development Authority either directly or through the~~
~~14 Pennsylvania Minority Business Development Authority or the~~
~~15 Pennsylvania Business Development Authority under any~~
~~16 constitutional provision, statute or rule of law or by the~~
~~17 enforcement of any assessment or penalty or otherwise.~~

~~18 (c) Definition. As used in this section, the term "bond"~~
~~19 means bonds, notes and other evidences of indebtedness or~~
~~20 obligations which the Pennsylvania Minority Business Development~~
~~21 Authority issued under the act of July 22, 1974 (P.L.598,~~
~~22 No.206), known as the Pennsylvania Minority Business Development~~
~~23 Authority Act.~~

~~24 § 1774. Successorship and transfer of assets and liabilities.~~

~~25 (a) (Reserved).~~

~~26 (b) Transfer of assets and liabilities of prior programs.~~

~~27 The following shall occur:~~

~~28 (1) The following shall be taken and deemed to be~~
~~29 transferred to and vested in the Pennsylvania Business~~
~~30 Development Authority, subject to any pledge in favor of the~~

1 holders of debt:

2 (i) All of the real, personal and mixed property and
3 all interests in the property of the prior programs,
4 including loans and other debts owing to the prior
5 programs and amounts due to the prior programs under the
6 loans and other debts.

7 (ii) The right, title and interest of the prior
8 programs under debt instruments, including all revenues
9 pledged as security for the right, title and interest and
10 the right to issue obligations pursuant to and secured by
11 the debt instruments, sinking funds on deposit and all
12 funds deposited under debt instruments, leaseholds and
13 rights and deposits under the debt instruments.

14 (iii) Appropriations made with respect to the prior
15 programs.

16 (iv) All other rights and assets of the prior
17 programs.

18 (2) (i) The Pennsylvania Business Development Authority
19 shall succeed to, assume and become liable for all
20 liabilities and obligations of the prior programs,
21 including the debt, debt instruments, contracts for
22 purchase of goods or services, and other liabilities.

23 (ii) The liabilities and obligations under
24 subparagraph (i) shall be subject to the same limitations
25 as were applicable to the prior programs prior to the
26 transfer of assets and liabilities, including limitations
27 as to payment source, pledges, assignments, liens,
28 charges, terms and conditions.

29 (iii) The transfer of assets and liabilities to the
30 Pennsylvania Business Development Authority as successor

~~shall not impair the rights or the security of holders of debt or other creditors of the prior programs, persons dealing with the prior programs, liens upon the property of the prior programs or persons holding claims against the prior programs, all of which are assumed by the Pennsylvania Business Development Authority.~~

~~(iv) Any claim existing or action or proceeding pending by or against the prior programs shall be prosecuted to judgment as if the transfer had not taken place or the Pennsylvania Business Development Authority may be proceeded against or substituted in its place.~~

~~(c) Rights and powers.~~

~~(1) Nothing under this chapter shall alter or limit the rights and powers vested in the Pennsylvania Business Development Authority as successor to the prior programs or otherwise created by the acts under which the prior programs were initiated in any manner inconsistent with the obligations of the prior programs and, after the effective date of this section, the Pennsylvania Business Development Authority, to obligees of the prior programs until all debt at any time issued by the prior programs, together with the interest on the debt, are fully paid and discharged.~~

~~(2) Nothing under this chapter shall authorize personal recourse for any claim based on any obligation of the prior programs, including without limitation its debt or debt instruments, against any member, officer or employee of the prior programs whether directly or through the prior programs or the Pennsylvania Business Development Authority under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.~~

1 ~~Section 5. Any money that has been allocated or appropriated~~
2 ~~and has been expended prior to the effective date of this~~
3 ~~section for the same programs or similar programs to those~~
4 ~~described under 64 Pa.C.S. Ch. 17 Subch. E shall be deducted~~
5 ~~from the corresponding allocation or appropriation under 64~~
6 ~~Pa.C.S. Ch. 17.~~

7 ~~Section 6. Repeals are as follows:~~

8 ~~(1) The General Assembly declares that the repeal under~~
9 ~~paragraph (2) is necessary to effectuate the addition of the~~
10 ~~following provisions of 64 Pa.C.S.:~~

- 11 ~~(i) Ch. 17 Subch. C.~~
- 12 ~~(ii) Section 1731(4).~~
- 13 ~~(iii) Section 1734(a).~~
- 14 ~~(iv) Section 1754.~~
- 15 ~~(v) Section 1771.1.~~

16 ~~(2) The act of May 17, 1956 (1955 P.L.1609, No.537),~~
17 ~~known as the Pennsylvania Industrial Development Authority~~
18 ~~Act, is repealed.~~

19 ~~(3) The General Assembly declares that the repeal under~~
20 ~~paragraph (4) is necessary to effectuate the addition of the~~
21 ~~following provisions of 64 Pa.C.S.:~~

- 22 ~~(i) Ch. 17 Subch. C.~~
- 23 ~~(ii) Section 1731(6).~~
- 24 ~~(iii) Section 1756.~~
- 25 ~~(iv) Section 1773.~~

26 ~~(4) The act of July 22, 1974 (P.L.598, No.206), known as~~
27 ~~the Pennsylvania Minority Business Development Authority Act,~~
28 ~~is repealed.~~

29 ~~Section 7. This act continues repealed provisions of the~~
30 ~~Pennsylvania Consolidated Statutes as follows:~~

1 ~~(1) The addition of 64 Pa.C.S. §§ 1731(1) and 1751 is a~~
2 ~~continuation of 12 Pa.C.S. Ch. 23. Except as otherwise~~
3 ~~provided in 64 Pa.C.S. § 1731(1) or 1751, all activities~~
4 ~~initiated under 12 Pa.C.S. Ch. 23 shall continue and remain~~
5 ~~in full force and effect and may be completed under 64~~
6 ~~Pa.C.S. §§ 1731(1) and 1751. Orders, regulations, rules and~~
7 ~~decisions which were made under the 12 Pa.C.S. Ch. 23 and~~
8 ~~which are in effect on the effective date of section 1 (12~~
9 ~~Pa.C.S. Ch. 23) of this act shall remain in full force and~~
10 ~~effect until revoked, vacated or modified under 64 Pa.C.S. §~~
11 ~~1731(1) or 1751. Contracts, obligations and collective~~
12 ~~bargaining agreements entered into under 12 Pa.C.S. Ch. 23~~
13 ~~are not affected nor impaired by the repeal of 12 Pa.C.S. Ch.~~
14 ~~23.~~

15 ~~(2) The addition of 64 Pa.C.S. §§ 1731(5) and 1755 is a~~
16 ~~continuation of 12 Pa.C.S. Ch. 29. Except as otherwise~~
17 ~~provided in 64 Pa.C.S. § 1731(5) or 1755, all activities~~
18 ~~initiated under 12 Pa.C.S. Ch. 29 shall continue and remain~~
19 ~~in full force and effect and may be completed under 64~~
20 ~~Pa.C.S. §§ 1731(5) and 1755. Orders, regulations, rules and~~
21 ~~decisions which were made under the 12 Pa.C.S. Ch. 29 and~~
22 ~~which are in effect on the effective date of section 1 (12~~
23 ~~Pa.C.S. Ch. 29) of this act shall remain in full force and~~
24 ~~effect until revoked, vacated or modified under 64 Pa.C.S. §~~
25 ~~1731(5) or 1755. Contracts, obligations and collective~~
26 ~~bargaining agreements entered into under 12 Pa.C.S. Ch. 29~~
27 ~~are not affected nor impaired by the repeal of 12 Pa.C.S. Ch.~~
28 ~~29.~~

29 ~~(3) The addition of 64 Pa.C.S. §§ 1731(7), 1757 and 1772~~
30 ~~is a continuation of 64 Pa.C.S. §§ 1542(b) and 1552. Except~~

1 ~~as otherwise provided in 64 Pa.C.S. § 1731(7), 1757 or 1772,~~
2 ~~all activities initiated under 64 Pa.C.S. §§ 1542(b) and 1552~~
3 ~~shall continue and remain in full force and effect and may be~~
4 ~~completed under 64 Pa.C.S. §§ 1731(7), 1757 and 1772. Orders,~~
5 ~~regulations, rules and decisions which were made under 64~~
6 ~~Pa.C.S. §§ 1542(b) and 1552 and which are in effect on the~~
7 ~~effective date of sections 2 and 3 (64 Pa.C.S. §§ 1542(b) and~~
8 ~~1552) of this act shall remain in full force and effect until~~
9 ~~revoked, vacated or modified under 64 Pa.C.S. § 1731(7), 1757~~
10 ~~or 1772. Contracts, obligations and collective bargaining~~
11 ~~agreements entered into under 64 Pa.C.S. §§ 1542(b) and 1552~~
12 ~~are not affected nor impaired by the repeal of 64 Pa.C.S. §§~~
13 ~~1542(b) and 1552.~~

14 ~~(4) The addition of 64 Pa.C.S. §§ 1731(8), 1758 and 1772~~
15 ~~is a continuation of 64 Pa.C.S. § 1553. Except as otherwise~~
16 ~~provided in 64 Pa.C.S. § 1731(8), 1758 or 1772, all~~
17 ~~activities initiated under 64 Pa.C.S. § 1553 shall continue~~
18 ~~and remain in full force and effect and may be completed~~
19 ~~under 64 Pa.C.S. §§ 1731(8), 1758 and 1772. Orders,~~
20 ~~regulations, rules and decisions which were made under 64~~
21 ~~Pa.C.S. § 1553 and which are in effect on the effective date~~
22 ~~of section 3 (64 Pa.C.S. § 1553) of this act shall remain in~~
23 ~~full force and effect until revoked, vacated or modified~~
24 ~~under 64 Pa.C.S. § 1731(7), 1757 or 1772. Contracts,~~
25 ~~obligations and collective bargaining agreements entered into~~
26 ~~under 64 Pa.C.S. § 1553 are not affected nor impaired by the~~
27 ~~repeal of 64 Pa.C.S. § 1553.~~

28 ~~Section 8. The addition of 64 Pa.C.S. Ch. 17 Subch. C is a~~
29 ~~continuation of the act of May 17, 1956 (1955 P.L.1609, No.537),~~
30 ~~known as the Pennsylvania Industrial Development Authority Act~~

1 ~~and the act of July 22, 1974 (P.L.598, No.206), known as the~~
2 ~~Pennsylvania Minority Business Development Authority Act. The~~
3 ~~following apply:~~

4 ~~(1) Except as otherwise provided in 64 Pa.C.S. Ch. 17-~~
5 ~~Subch. C, all activities related to bonds initiated under the~~
6 ~~Pennsylvania Industrial Development Authority Act or the~~
7 ~~Pennsylvania Minority Business Development Authority Act~~
8 ~~shall continue and remain in full force and effect and may be~~
9 ~~completed under 64 Pa.C.S. Ch. 17 Subch. C. Orders,~~
10 ~~regulations, rules and decisions which were related to bonds,~~
11 ~~which were made under the Pennsylvania Industrial Development~~
12 ~~Authority Act or the Pennsylvania Minority Business~~
13 ~~Development Authority Act and which are in effect on the~~
14 ~~effective date of section 7 of this act shall remain in full~~
15 ~~force and effect until revoked, vacated or modified under 64-~~
16 ~~Pa.C.S. Ch. 17 Subch. C. Contracts, obligations and~~
17 ~~collective bargaining agreements which are related to bonds-~~
18 ~~and which were entered into under the the Pennsylvania-~~
19 ~~Industrial Development Authority Act or the Pennsylvania-~~
20 ~~Minority Business Development Authority Act are not affected-~~
21 ~~nor impaired by the repeal of the the Pennsylvania Industrial-~~
22 ~~Development Authority Act or the Pennsylvania Minority-~~
23 ~~Business Development Authority Act.~~

24 ~~(2) Any difference in language between 64 Pa.C.S. Ch. 17-~~
25 ~~Subch C and the Pennsylvania Industrial Development Authority-~~
26 ~~Act or the Pennsylvania Minority Business Development-~~
27 ~~Authority Act is intended only to conform to the style of the~~
28 ~~Pennsylvania Consolidated Statutes and is not intended to~~
29 ~~change or affect the legislative intent, judicial-~~
30 ~~construction or administration and implementation of the~~

1 ~~Pennsylvania Industrial Development Authority Act or the~~
2 ~~Pennsylvania Minority Business Development Authority Act.~~
3 ~~Section 9. The addition of 64 Pa.C.S. §§ 1731(4), 1734(a),~~
4 ~~1754 and 1771.1 is a continuation of the act of May 17, 1956~~
5 ~~(1955 P.L.1609, No.537), known as the Pennsylvania Industrial~~
6 ~~Development Authority Act. The following apply:~~

7 ~~(1) Except as otherwise provided in 64 Pa.C.S. §~~
8 ~~1731(4), 1734(a), 1754 or 1771.1, all activities initiated~~
9 ~~under the Pennsylvania Industrial Development Authority Act~~
10 ~~shall continue and remain in full force and effect and may be~~
11 ~~completed under 64 Pa.C.S. § 1731(4), 1734(a), 1754 or~~
12 ~~1771.1. Orders, regulations, rules and decisions which were~~
13 ~~made under the Pennsylvania Industrial Development Authority~~
14 ~~Act and which are in effect on the effective date of section~~
15 ~~7(2) of this act shall remain in full force and effect until~~
16 ~~revoked, vacated or modified under 64 Pa.C.S. § 1731(4),~~
17 ~~1734(a), 1754 or 1771.1. Contracts, obligations and~~
18 ~~collective bargaining agreements entered into under the~~
19 ~~Pennsylvania Industrial Development Authority Act are not~~
20 ~~affected nor impaired by the repeal of the Pennsylvania~~
21 ~~Industrial Development Authority Act.~~

22 ~~(2) Any difference in language between 64 Pa.C.S. §~~
23 ~~1731(4), 1734(a), 1754 or 1771.1 and the Pennsylvania~~
24 ~~Industrial Development Authority Act is intended only to~~
25 ~~conform to the style of the Pennsylvania Consolidated~~
26 ~~Statutes and is not intended to change or affect the~~
27 ~~legislative intent, judicial construction or administration~~
28 ~~and implementation of the Pennsylvania Industrial Development~~
29 ~~Authority Act.~~

30 ~~Section 10. The addition of 64 Pa.C.S. §§ 1731(6), 1756 and~~

1 ~~1773 is a continuation of the act of July 22, 1974 (P.L.598,~~
2 ~~No.206), known as the Pennsylvania Minority Business Development~~
3 ~~Authority Act. The following apply:~~

4 ~~(1) Except as otherwise provided in 64 Pa.C.S. §~~
5 ~~1731(6), 1756 or 1773, all activities initiated under the~~
6 ~~Pennsylvania Minority Business Development Authority Act~~
7 ~~shall continue and remain in full force and effect and may be~~
8 ~~completed under 64 Pa.C.S. §§ 1731(6), 1756 and 1773. Orders,~~
9 ~~regulations, rules and decisions which were made under the~~
10 ~~the Pennsylvania Minority Business Development Authority Act~~
11 ~~and which are in effect on the effective date of section~~
12 ~~7(4) of this act shall remain in full force and effect until~~
13 ~~revoked, vacated or modified under 64 Pa.C.S. §§ 1731(6),~~
14 ~~1756 and 1773. Contracts, obligations and collective~~
15 ~~bargaining agreements entered into under the Pennsylvania~~
16 ~~Minority Business Development Authority Act are not affected~~
17 ~~nor impaired by the repeal of the Pennsylvania Minority~~
18 ~~Business Development Authority Act.~~

19 ~~(2) Any difference in language between 64 Pa.C.S. §§~~
20 ~~1731(6), 1756 and 1773 and the Pennsylvania Minority Business~~
21 ~~Development Authority Act is intended only to conform to the~~
22 ~~style of the Pennsylvania Consolidated Statutes and is not~~
23 ~~intended to change or affect the legislative intent, judicial~~
24 ~~construction or administration and implementation of the~~
25 ~~Pennsylvania Minority Business Development Authority Act.~~
26 ~~Section 11. This act shall take effect in 60 days.~~

27 SECTION 1. SECTION 302 OF TITLE 12 OF THE PENNSYLVANIA
28 CONSOLIDATED STATUTES IS AMENDED TO READ:
29 § 302. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

<--

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "ECONOMIC DEVELOPMENT PROGRAM." A PROGRAM WHICH IS
4 ADMINISTERED BY THE DEPARTMENT, INCLUDING PROGRAMS ADMINISTERED
5 OR STAFFED BY THE DEPARTMENT, AND WHICH PROVIDES FINANCIAL
6 ASSISTANCE FOR ECONOMIC DEVELOPMENT TO PERSONS. THE TERM
7 INCLUDES ALL OF THE FOLLOWING:

8 (1) ANY PROGRAM CREATED UNDER PART III (RELATING TO
9 ECONOMIC DEVELOPMENT PROGRAMS).

10 (2) ANY PROGRAM OF AN ENTITY CREATED UNDER [PART IV] 64
11 P.A.C.S. PT. II (RELATING TO ECONOMIC DEVELOPMENT FINANCING).

12 (3) THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY.

13 (4) THE PENNSYLVANIA MINORITY BUSINESS DEVELOPMENT
14 AUTHORITY.

15 (5) THE INFRASTRUCTURE DEVELOPMENT PROGRAM.

16 (6) THE INDUSTRIAL SITES REUSE PROGRAM.

17 (7) THE TAX CREDIT PROGRAMS ESTABLISHED IN ARTICLES
18 XVII-B AND XVIII-B OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
19 KNOWN AS THE TAX REFORM CODE OF 1971.

20 SECTION 1.1. THE DEFINITIONS OF "AREA LOAN ORGANIZATION,"
21 "COMMUNITY DEVELOPMENT INSTITUTION," "DISTRESSED COMMUNITY,"
22 "EDA LOAN," "HOSPITALITY INDUSTRY PROJECT" AND "POLLUTION
23 PREVENTION ASSISTANCE AGENCY" IN SECTION 2302 OF TITLE 12 ARE
24 AMENDED AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO
25 READ:

26 § 2302. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 * * *

1 ["AREA LOAN ORGANIZATION." A LOCAL DEVELOPMENT DISTRICT, AN
2 INDUSTRIAL DEVELOPMENT AGENCY ORGANIZED AND EXISTING UNDER THE
3 ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537), KNOWN AS THE
4 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT, OR ANY OTHER
5 NONPROFIT ECONOMIC DEVELOPMENT ORGANIZATION CERTIFIED BY THE
6 DEPARTMENT AS POSSESSING THE QUALIFICATIONS NECESSARY TO
7 EVALUATE AND ADMINISTER LOANS MADE UNDER THIS CHAPTER.]

8 "AUTHORITY." THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT
9 AUTHORITY ORGANIZED AND EXISTING UNDER THE ACT OF MAY 17, 1956
10 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
11 DEVELOPMENT AUTHORITY ACT.

12 "BOARD." THE BOARD OF DIRECTORS OF THE AUTHORITY.

13 * * *

14 "CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION." AN ENTITY
15 CERTIFIED BY THE AUTHORITY UNDER 64 PA.C.S. § 1123 (RELATING TO
16 CERTIFICATION OF ECONOMIC DEVELOPMENT ORGANIZATIONS).

17 * * *

18 ["COMMUNITY DEVELOPMENT INSTITUTION." ANY OF THE FOLLOWING:

19 (1) AN AREA LOAN ORGANIZATION FOR A DISTRESSED
20 COMMUNITY.

21 (2) A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION
22 LOCATED IN A DISTRESSED COMMUNITY AND APPROVED BY THE
23 DEPARTMENT.]

24 "DISTRESSED COMMUNITY." A COMMUNITY WHICH HAS ANY OF THE
25 FOLLOWING:

26 (1) A CENSUS TRACT OR OTHER SPECIFICALLY DEFINED
27 GEOGRAPHIC AREA IN WHICH THERE IS ANY OF THE FOLLOWING:

28 (I) A MEDIAN INCOME BELOW 80% OF THE MEDIAN INCOME
29 FOR THE UNITED STATES OR THIS COMMONWEALTH.

30 (II) TWENTY PERCENT OR MORE OF THE POPULATION IS

1 BELOW THE POVERTY LEVEL BY FAMILY SIZE PUBLISHED BY THE
2 BUREAU OF THE CENSUS.

3 (III) AN UNEMPLOYMENT RATE 50% HIGHER THAN THE
4 NATIONAL AVERAGE.

5 (2) AN AREA WHICH IS DESIGNATED A SUBZONE, EXPANSION
6 SUBZONE OR IMPROVEMENT SUBZONE UNDER THE ACT OF OCTOBER 6,
7 1998 (P.L.705, NO.92), KNOWN AS THE KEYSTONE OPPORTUNITY ZONE
8 AND KEYSTONE OPPORTUNITY EXPANSION ZONE ACT.

9 (3) ANY OTHER GEOGRAPHIC AREA DESIGNATED BY THE
10 [DEPARTMENT] AUTHORITY AS DISTRESSED. THE DESIGNATION SHALL
11 BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.

12 "EDA LOAN." A LOAN MADE UNDER THIS CHAPTER UTILIZING FUNDS
13 MADE AVAILABLE TO THE DEPARTMENT OR THE AUTHORITY UNDER THE
14 PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 (PUBLIC LAW
15 89-136, 42 U.S.C. § 3121 ET SEQ.).

16 * * *

17 "HOSPITALITY INDUSTRY PROJECT." A FOR-PROFIT PROJECT OR
18 VENTURE WHICH INVOLVES A SMALL BUSINESS THAT OPERATES A HOTEL,
19 MOTEL OR OTHER LODGING FACILITY AND THAT EMPLOYS AT LEAST FIVE
20 FULL-TIME EQUIVALENT EMPLOYEES AT THE TIME AN APPLICATION IS
21 SUBMITTED TO THE [DEPARTMENT] AUTHORITY FOR FINANCING. THE TERM
22 INCLUDES A FOR-PROFIT PROJECT OR VENTURE WHICH INVOLVES A SMALL
23 BUSINESS THAT OPERATES A RESTAURANT OR FOOD SERVICE OPERATION
24 OPEN TO THE PUBLIC, THAT HAS BEEN IN CONTINUOUS OPERATION FOR AT
25 LEAST FIVE YEARS AND THAT EMPLOYS AT LEAST FIVE FULL-TIME
26 EQUIVALENT EMPLOYEES AT THE TIME AN APPLICATION IS SUBMITTED.

27 * * *

28 ["POLLUTION PREVENTION ASSISTANCE AGENCY." ANY OF THE
29 FOLLOWING:

30 (1) AN AREA LOAN ORGANIZATION.

1 (2) AN INDUSTRIAL RESOURCE CENTER CREATED PURSUANT TO
2 THE ACT OF JUNE 22, 2001 (P.L.400, NO.31), KNOWN AS THE
3 INDUSTRIAL RESOURCES CENTER PARTNERSHIP ACT.]

4 * * *

5 SECTION 2. SECTIONS 2303 AND 2304(A)(1) AND (6), (B)(1) AND
6 (5), (C) AND (D) OF TITLE 12 ARE AMENDED TO READ:

7 § 2303. ESTABLISHMENT.

8 THERE IS ESTABLISHED [WITHIN THE DEPARTMENT] A PROGRAM TO BE
9 KNOWN AS THE SMALL BUSINESS FIRST PROGRAM. THE PROGRAM SHALL BE
10 ADMINISTERED BY THE [DEPARTMENT] AUTHORITY AND PROVIDE LOANS TO
11 ELIGIBLE PERSONS FOR CERTAIN PROJECTS WHICH ENCOURAGE JOB-
12 CREATING AND JOB-PRESERVING ECONOMIC DEVELOPMENT WITHIN THIS
13 COMMONWEALTH.

14 § 2304. FUND AND ACCOUNTS.

15 (A) FUND.--THE SMALL BUSINESS FIRST FUND, CREATED UNDER
16 SECTION 1302(A) OF THE ACT OF JUNE 29, 1996 (P.L.434, NO.67),
17 KNOWN AS THE JOB ENHANCEMENT ACT, IS CONTINUED. THE TREASURY
18 DEPARTMENT SHALL CREDIT THE FOLLOWING TO THE FUND:

19 (1) APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO THE
20 DEPARTMENT OR AUTHORITY FOR THE PROGRAM.

21 * * *

22 (6) ANY OTHER DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM
23 ANY OTHER SOURCE MADE AVAILABLE TO THE DEPARTMENT OR
24 AUTHORITY FOR THE PROGRAM.

25 (B) POLLUTION PREVENTION ASSISTANCE.--THE POLLUTION
26 PREVENTION ASSISTANCE ACCOUNT, CREATED UNDER THE ACT OF JUNE 29,
27 1996 (P.L.434, NO.67), KNOWN AS THE JOB ENHANCEMENT ACT, IS
28 CONTINUED. THE TREASURY DEPARTMENT SHALL CREDIT THE FOLLOWING TO
29 THIS ACCOUNT:

30 (1) APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO THE

1 DEPARTMENT OR AUTHORITY FOR POLLUTION PREVENTION ASSISTANCE.

2 * * *

3 (5) ANY OTHER DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM
4 ANY OTHER SOURCE MADE AVAILABLE TO THE DEPARTMENT OR
5 AUTHORITY FOR POLLUTION PREVENTION ASSISTANCE.

6 (C) USE OF FUND.--

7 (1) MONEY IN THE FUND MAY BE USED AS FOLLOWS:

8 (I) BY THE [DEPARTMENT] AUTHORITY TO MAKE LOANS IN
9 ACCORDANCE WITH THIS CHAPTER AND FOR ADMINISTRATIVE COSTS
10 OF THE [DEPARTMENT] AUTHORITY IN ADMINISTERING THE
11 PROGRAM.

12 (II) BY [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT
13 ORGANIZATIONS FOR ADMINISTRATIVE COSTS ASSOCIATED WITH
14 THE PROGRAM WHICH ARE APPROVED BY THE [DEPARTMENT]
15 AUTHORITY.

16 (2) MONEY FROM THE FUND DERIVED FROM APPROPRIATIONS
17 SPECIFIED FOR EXPORT FINANCING ASSISTANCE MAY BE DEPOSITED BY
18 THE [DEPARTMENT] AUTHORITY IN BANKS OR TRUST COMPANIES IN
19 SPECIAL ACCOUNTS. THE SPECIAL ACCOUNTS MUST BE CONTINUOUSLY
20 SECURED BY A PLEDGE OF DIRECT OBLIGATIONS OF THE UNITED
21 STATES OR OF THE COMMONWEALTH HAVING AN AGGREGATE MARKET
22 VALUE, EXCLUSIVE OF ACCRUED INTEREST, AT LEAST EQUAL TO THE
23 BALANCE ON DEPOSIT IN THE ACCOUNT. THE SECURITIES SHALL BE
24 DEPOSITED WITH THE [DEPARTMENT] AUTHORITY TO BE HELD BY A
25 TRUSTEE OR AGENT SATISFACTORY TO THE [DEPARTMENT] AUTHORITY.
26 BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SECURITY
27 UNDER THIS PARAGRAPH. MONEY IN THESE SPECIAL ACCOUNTS SHALL
28 BE PAID OUT ON ORDER OF THE [DEPARTMENT] AUTHORITY.

29 (D) USE OF POLLUTION PREVENTION ASSISTANCE ACCOUNT.--MONEY
30 IN THE POLLUTION PREVENTION ASSISTANCE ACCOUNT MAY BE USED BY

1 THE [DEPARTMENT] AUTHORITY TO PROVIDE LOANS TO SMALL BUSINESSES
2 FOR THE ADOPTION OR INSTALLATION OF POLLUTION-PREVENTION OR
3 ENERGY-EFFICIENT EQUIPMENT OR PROCESSES IN ACCORDANCE WITH
4 SECTION 2309 (RELATING TO POLLUTION PREVENTION ASSISTANCE
5 LOANS).

6 SECTION 3. SECTION 2305 HEADING, (A) INTRODUCTORY PARAGRAPH,
7 (4) AND (5), (B) INTRODUCTORY PARAGRAPH, (1) AND (3)
8 INTRODUCTORY PARAGRAPH OF TITLE 12 ARE AMENDED, SUBSECTION (A)
9 IS AMENDED BY ADDING A PARAGRAPH AND THE SECTION IS AMENDED BY
10 ADDING A SUBSECTION TO READ:

11 § 2305. [DEPARTMENT] AUTHORITY RESPONSIBILITIES.

12 (A) GENERAL RULE.--THE [DEPARTMENT] AUTHORITY SHALL DO ALL
13 OF THE FOLLOWING:

14 * * *

15 (4) APPROVE STANDARDS FOR [AREA LOAN] CERTIFIED ECONOMIC
16 DEVELOPMENT ORGANIZATION APPLICATION FEES.

17 [(5) APPROVE COMMUNITY DEVELOPMENT FINANCIAL
18 INSTITUTIONS.]

19 (6) EXCEPT AS PROVIDED UNDER SECTION 2306(C)(III)
20 (RELATING TO CAPITAL DEVELOPMENT LOANS), DETERMINE THE JOB
21 RETENTION OR JOB CREATION REQUIREMENTS FOR EACH PROJECT
22 FINANCED IN WHOLE OR IN PART THROUGH A LOAN OR LINE OF CREDIT
23 MADE UNDER THIS CHAPTER.

24 (B) PROGRAM.--IN ADMINISTERING THE PROGRAM, THE [DEPARTMENT]
25 AUTHORITY MAY DO ANY OF THE FOLLOWING:

26 (1) PROVIDE GRANTS OR OTHER FINANCIAL ASSISTANCE TO
27 [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS FOR
28 ANY OF THE FOLLOWING PURPOSES:

29 (I) TO ESTABLISH LOAN RESERVE FUNDS.

30 (II) TO REIMBURSE LOAN LOSSES TO COMMERCIAL BANKS

1 AND OTHER FINANCIAL INSTITUTIONS AS A MEANS OF
2 ENCOURAGING THE EXPANSION AND FINANCING OF SMALL
3 BUSINESSES.

4 * * *

5 (3) UTILIZE THE OUTSTANDING PORTFOLIO OF LOANS AND LINES
6 OF CREDIT MADE UNDER THIS CHAPTER TO RAISE ADDITIONAL FUNDS
7 BY SELLING, SECURING, HYPOTHECATING OR OTHERWISE USING SUCH
8 LOAN PROCEEDS AS A FINANCING VEHICLE IF THE FUNDS RAISED ARE
9 USED BY THE [DEPARTMENT] AUTHORITY FOR EITHER OF THE
10 FOLLOWING PURPOSES:

11 * * *

12 (C) ADDITIONAL POWERS.--IN ADDITION TO THE POWERS AUTHORIZED
13 UNDER THIS CHAPTER AND 64 PA.C.S. CH. 11 (RELATING TO
14 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY), THE BOARD MAY
15 ADMINISTER THE PROGRAM BY EXERCISING THE POWERS GRANTED TO IT
16 UNDER THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537), KNOWN AS
17 THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT.

18 SECTION 4. SECTIONS 2306(A), (B) (1) (VIII) AND (2), (C), (D),
19 (E) (1) AND (2) (III), (F) INTRODUCTORY PARAGRAPH AND (9), (G) (1)
20 AND (2) AND (H), 2307, 2308(A), (B) (1) (I), (III) AND (V) AND
21 (2), (C) HEADING (1) INTRODUCTORY PARAGRAPH, (2) AND (3), (D),
22 (E) (1) AND (2), (F), (G) (1) AND (2) AND (H), 2309(A), (B), (C)
23 (1) INTRODUCTORY PARAGRAPH AND (I), (2) INTRODUCTORY PARAGRAPH
24 AND (3), (D), (E) (1), (F), (G) (1) AND (2) AND (H) AND 2310(A),
25 (B) INTRODUCTORY PARAGRAPH AND (7), (C) INTRODUCTORY PARAGRAPH,
26 (D), (E), (F) (1) AND (2) AND (G) OF TITLE 12 ARE AMENDED TO
27 READ:

28 § 2306. CAPITAL DEVELOPMENT LOANS.

29 (A) APPLICATION.--A SMALL BUSINESS MAY SUBMIT AN APPLICATION
30 AND ANY APPLICABLE APPLICATION FEE TO [ITS AREA LOAN] A

1 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION REQUESTING A LOAN OR
2 LINE OF CREDIT FOR CERTAIN COSTS OF A CAPITAL DEVELOPMENT
3 PROJECT UNDER 64 PA.C.S. § 1121 (RELATING TO COMMON APPLICATION
4 PROCESS). THE APPLICATION SHALL BE ON THE FORM REQUIRED BY THE
5 [DEPARTMENT] AUTHORITY AND SHALL INCLUDE OR DEMONSTRATE ALL OF
6 THE FOLLOWING, IN ADDITION TO THE CONTENTS REQUIRED UNDER 64
7 PA.C.S. § 1121(B):

8 (1) THE NAME AND ADDRESS OF THE APPLICANT.

9 (2) A STATEMENT OF THE TYPE AND AMOUNT OF [LOAN]
10 ASSISTANCE SOUGHT.

11 (3) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT,
12 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

13 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR
14 ANY COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE
15 AMOUNT REQUESTED.

16 (5) ANY OTHER INFORMATION REQUIRED BY THE [DEPARTMENT]
17 AUTHORITY.

18 (B) [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION
19 REVIEW.--

20 (1) UPON RECEIPT OF A COMPLETED APPLICATION, [AN AREA
21 LOAN] A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION SHALL
22 INVESTIGATE AND DETERMINE ALL OF THE FOLLOWING:

23 * * *

24 (VIII) IF THE APPLICANT COMPLIED WITH ALL OTHER
25 CRITERIA ESTABLISHED BY THE [DEPARTMENT] AUTHORITY.

26 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
27 MET, THE [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT
28 ORGANIZATIONS SHALL RECOMMEND THE APPLICANT TO THE
29 [DEPARTMENT] AUTHORITY AND FORWARD THE APPLICATION WITH ALL
30 SUPPORTING DOCUMENTATION TO THE [DEPARTMENT] AUTHORITY FOR

1 ITS REVIEW AND APPROVAL.

2 (C) [DEPARTMENT] AUTHORITY REVIEW.--

3 (1) WITHIN 30 DAYS OF RECEIVING A RECOMMENDATION AND A
4 COMPLETED APPLICATION, THE [DEPARTMENT] AUTHORITY SHALL
5 REVIEW THE APPLICATION. IF THE [DEPARTMENT] AUTHORITY IS
6 SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE
7 [DEPARTMENT] AUTHORITY MAY APPROVE THE LOAN REQUEST IN
8 ACCORDANCE WITH THE FOLLOWING:

9 (I) A LOAN FOR LAND, BUILDINGS AND MACHINERY AND
10 EQUIPMENT MAY NOT EXCEED [\$200,000] \$400,000 OR 50% OF
11 THE TOTAL CAPITAL DEVELOPMENT PROJECT COSTS, WHICHEVER IS
12 LESS. FOR THE PURPOSES OF THIS SUBPARAGRAPH, CAPITAL
13 DEVELOPMENT PROJECT COSTS INCURRED DURING THE 12-MONTH
14 PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION
15 TO THE [DEPARTMENT] AUTHORITY SHALL BE CONSIDERED PART OF
16 THE TOTAL CAPITAL DEVELOPMENT PROJECT COSTS.

17 (II) A LOAN OR LINE OF CREDIT FOR WORKING CAPITAL
18 MAY NOT EXCEED \$100,000 [OR 50% OF THE TOTAL CAPITAL
19 DEVELOPMENT PROJECT COSTS, WHICHEVER IS LESS].

20 (III) EXCEPT FOR LOANS TO AGRICULTURAL PRODUCERS, A
21 LOAN MUST CREATE OR PRESERVE ONE JOB FOR EVERY \$25,000
22 LOANED. THE AUTHORITY MAY, BY SUBMITTING NOTICE TO THE
23 LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE
24 PENNSYLVANIA BULLETIN, PERIODICALLY UPDATE THE AMOUNT
25 UNDER THIS SUBPARAGRAPH, BASED ON CHANGES IN UNEMPLOYMENT
26 STATISTICS, INFLATION, THE AUTHORITY'S CASH FLOW AND THE
27 NEED TO KEEP THIS COMMONWEALTH AND THE BUSINESSES OF THIS
28 COMMONWEALTH COMPETITIVE.

29 (2) THE [DEPARTMENT] AUTHORITY SHALL NOTIFY THE [AREA
30 LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION AND

1 APPLICANT OF ITS DECISION.

2 (D) APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE
3 [DEPARTMENT] AUTHORITY SHALL DRAW AN ADVANCE EQUAL TO THE
4 PRINCIPAL AMOUNT OF THE LOAN FROM THE FUND. THE ADVANCE SHALL BE
5 FORWARDED TO THE [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT
6 ORGANIZATION AND, UPON RECEIPT BY THE [AREA LOAN] CERTIFIED
7 ECONOMIC DEVELOPMENT ORGANIZATION, SHALL BECOME AN OBLIGATION OF
8 THE [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION.
9 PRIOR TO PROVIDING LOAN FUNDS TO THE APPLICANT, THE [AREA LOAN]
10 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION SHALL REQUIRE THE
11 APPLICANT TO EXECUTE A NOTE AND TO ENTER INTO A LOAN AGREEMENT.
12 IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (E), THE LOAN
13 AGREEMENT SHALL INCLUDE A PROVISION REQUIRING THE RECIPIENT TO
14 USE THE LOAN PROCEEDS TO PAY THE COSTS OF THE CAPITAL
15 DEVELOPMENT PROJECT. THE [DEPARTMENT] AUTHORITY MAY REQUIRE THE
16 [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION TO
17 IMPOSE OTHER TERMS AND CONDITIONS ON THE RECIPIENT IF THE
18 [DEPARTMENT] AUTHORITY DETERMINES THAT THEY ARE IN THE BEST
19 INTERESTS OF THIS COMMONWEALTH, INCLUDING A PROVISION REQUIRING
20 COLLATERAL FOR ANY PENALTY IMPOSED UNDER SUBSECTION (G).

21 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE
22 WITH SUBSECTION (C) SHALL DO ALL OF THE FOLLOWING:

23 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS
24 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE
25 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE [AREA
26 LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION WITH THE
27 APPROVAL OF THE [DEPARTMENT] AUTHORITY.

28 (2) STATE THE REPAYMENT PERIOD IN ACCORDANCE WITH THE
29 FOLLOWING:

30 * * *

1 (III) A LOAN OR LINE OF CREDIT FOR WORKING CAPITAL
2 SHALL HAVE A REPAYMENT PERIOD OF UP TO THREE YEARS. A
3 LINE OF CREDIT MAY BE RENEWED FOR AN ADDITIONAL THREE-
4 YEAR PERIOD AT THE DISCRETION OF THE AUTHORITY.

5 * * *

6 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION
7 SHALL BE ADMINISTERED IN ACCORDANCE WITH [DEPARTMENTAL]
8 AUTHORITY POLICIES AND PROCEDURES BY THE [AREA LOAN] CERTIFIED
9 ECONOMIC DEVELOPMENT ORGANIZATION WHICH MADE THE LOAN. EACH
10 [AREA LOAN] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION SHALL
11 SUBMIT AN ANNUAL REPORT ON THE FORM REQUIRED BY THE [DEPARTMENT]
12 AUTHORITY AND WHICH INCLUDES OR DEMONSTRATES ALL OF THE
13 FOLLOWING:

14 * * *

15 (9) ANY OTHER INFORMATION OR DOCUMENTATION REQUIRED BY
16 THE [DEPARTMENT] AUTHORITY.

17 (G) PENALTY.--

18 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE
19 [DEPARTMENT] AUTHORITY SHALL IMPOSE A PENALTY UPON A
20 RECIPIENT IF THE RECIPIENT FAILS TO CREATE OR PRESERVE THE
21 NUMBER OF EMPLOYMENT OPPORTUNITIES SPECIFIED IN ITS APPROVED
22 APPLICATION.

23 (2) THE [DEPARTMENT] AUTHORITY MAY WAIVE THE PENALTY
24 REQUIRED BY PARAGRAPH (1) IF THE [DEPARTMENT] AUTHORITY
25 DETERMINES THAT THE FAILURE WAS DUE TO CIRCUMSTANCES OUTSIDE
26 THE CONTROL OF THE RECIPIENT.

27 * * *

28 (H) DEFAULTS.--THE [DEPARTMENT] AUTHORITY MAY BY FORECLOSURE
29 TAKE TITLE TO A CAPITAL DEVELOPMENT PROJECT WHICH IT FINANCED IF
30 ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS

1 SECTION. THE [DEPARTMENT] AUTHORITY SHALL PAY ALL COSTS ARISING
2 OUT OF THE FORECLOSURE AND ACQUISITION FROM MONEYS HELD IN THE
3 FUND. THE [DEPARTMENT] AUTHORITY MAY, IN ORDER TO MINIMIZE
4 FINANCIAL LOSSES AND SUSTAIN EMPLOYMENT, LEASE THE CAPITAL
5 DEVELOPMENT PROJECT. THE [DEPARTMENT] AUTHORITY MAY WITHDRAW
6 MONEYS FROM THE FUND TO PURCHASE FIRST MORTGAGES AND TO MAKE
7 PAYMENTS ON FIRST MORTGAGES ON ANY CAPITAL DEVELOPMENT PROJECT
8 WHICH IT FINANCED WHERE PURCHASE OR PAYMENT IS NECESSARY TO
9 PROTECT A LOAN MADE UNDER THIS SECTION. THE [DEPARTMENT]
10 AUTHORITY MAY SELL, TRANSFER, CONVEY AND ASSIGN THE FIRST
11 MORTGAGES AND SHALL DEPOSIT ANY MONEYS DERIVED FROM THE SALE OF
12 ANY FIRST MORTGAGES IN THE FUND.

13 § 2307. EDA LOANS.

14 (A) APPLICATION AND ADMINISTRATION PROCEDURES.--THE
15 [DEPARTMENT] AUTHORITY SHALL ESTABLISH APPLICATION AND
16 ADMINISTRATION PROCEDURES TO BE USED FOR EDA LOANS. THE
17 PROCEDURES SHALL BE ESTABLISHED BY GUIDELINES AND SHALL CONFORM
18 IN ALL RESPECTS TO THOSE PROCEDURES REQUIRED OR ESTABLISHED BY
19 THE ECONOMIC DEVELOPMENT ADMINISTRATION FOR USE OF FEDERAL FUNDS
20 UNDER THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965
21 (PUBLIC LAW 89-136, 42 U.S.C. § 3121 ET SEQ.) AND, IF
22 APPLICABLE, 64 PA.C.S. § 1121 (RELATING TO COMMON APPLICATION
23 PROCESS).

24 (B) ELIGIBILITY FOR EDA LOANS.--THE [DEPARTMENT] AUTHORITY
25 SHALL ESTABLISH ELIGIBILITY REQUIREMENTS TO BE USED FOR EDA
26 LOANS. THE REQUIREMENTS SHALL BE ESTABLISHED BY GUIDELINES AND
27 SHALL CONFORM IN ALL RESPECTS TO THOSE PROCEDURES REQUIRED OR
28 ESTABLISHED BY THE ECONOMIC DEVELOPMENT ADMINISTRATION FOR USE
29 OF FEDERAL FUNDS UNDER THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT
30 ACT OF 1965.

1 § 2308. LOANS IN DISTRESSED COMMUNITIES.

2 (A) APPLICATION.--A SMALL BUSINESS LOCATED IN A DISTRESSED
3 COMMUNITY MAY SUBMIT AN APPLICATION AND ANY APPLICABLE
4 APPLICATION FEE TO A [COMMUNITY DEVELOPMENT INSTITUTION]
5 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION REQUESTING A LOAN OR
6 LINE OF CREDIT FOR CERTAIN COSTS OF A CAPITAL DEVELOPMENT
7 PROJECT UNDER 64 PA.C.S. § 1121(A) (RELATING TO COMMON
8 APPLICATION PROCESS). THE APPLICATION SHALL BE ON THE FORM
9 REQUIRED BY THE [DEPARTMENT] AUTHORITY AND SHALL INCLUDE OR
10 DEMONSTRATE ALL OF THE FOLLOWING, IN ADDITION TO THE CONTENTS
11 REQUIRED UNDER 64 PA.C.S. § 1121(B):

12 (1) THE NAME AND ADDRESS OF THE APPLICANT.

13 (2) A STATEMENT THAT THE SMALL BUSINESS IS ENGAGED IN
14 BUSINESS-TO-PUBLIC SERVICE OR IN THE MERCANTILE, COMMERCIAL
15 OR POINT-OF-SALE RETAIL BUSINESS SECTORS.

16 (3) A STATEMENT OF THE TYPE AND AMOUNT OF [LOAN]
17 ASSISTANCE SOUGHT.

18 (4) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT,
19 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

20 (5) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR
21 THE COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE
22 AMOUNT REQUESTED.

23 (6) ANY OTHER INFORMATION REQUIRED BY THE [DEPARTMENT]
24 AUTHORITY.

25 (B) [COMMUNITY DEVELOPMENT INSTITUTION] CERTIFIED ECONOMIC
26 DEVELOPMENT ORGANIZATION REVIEW.--

27 (1) UPON RECEIPT OF A COMPLETED APPLICATION, A
28 [COMMUNITY DEVELOPMENT INSTITUTION] CERTIFIED ECONOMIC
29 DEVELOPMENT ORGANIZATION SHALL INVESTIGATE AND DETERMINE ALL
30 OF THE FOLLOWING:

1 (I) IF THE APPLICANT IS A SMALL BUSINESS WHICH IS
2 ENGAGED IN BUSINESS-TO-PUBLIC SERVICE OR IN THE
3 MERCANTILE, COMMERCIAL OR POINT-OF-SALE RETAIL BUSINESS
4 SECTORS IN ACCORDANCE WITH CONDITIONS OR CRITERIA
5 ESTABLISHED BY THE [DEPARTMENT] AUTHORITY.

6 * * *

7 (III) IF THE APPLICANT HAS DEMONSTRATED A DIRECT
8 IMPACT ON THE COMMUNITY IN WHICH THE CAPITAL DEVELOPMENT
9 PROJECT IS OR WILL BE LOCATED, ON RESIDENTS OF THAT
10 COMMUNITY OR ON THE LOCAL AND/OR REGIONAL ECONOMY. THE
11 [DEPARTMENT] AUTHORITY SHALL ESTABLISH CRITERIA THAT WILL
12 ASSIST IN MAKING THIS DEMONSTRATION.

13 * * *

14 (V) IF THE APPLICANT COMPLIED WITH ALL OTHER
15 CRITERIA ESTABLISHED BY THE [DEPARTMENT] AUTHORITY.

16 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
17 MET, THE [COMMUNITY DEVELOPMENT INSTITUTION] CERTIFIED
18 ECONOMIC DEVELOPMENT ORGANIZATION SHALL RECOMMEND THE
19 APPLICANT TO THE [DEPARTMENT] AUTHORITY AND FORWARD THE
20 APPLICATION WITH ALL SUPPORTING DOCUMENTATION TO THE
21 [DEPARTMENT] AUTHORITY FOR ITS REVIEW AND APPROVAL.

22 (C) [DEPARTMENT] AUTHORITY REVIEW.--

23 (1) UPON RECEIPT OF A RECOMMENDATION AND A COMPLETED
24 APPLICATION, THE [DEPARTMENT] AUTHORITY SHALL INVESTIGATE AND
25 DETERMINE ALL OF THE FOLLOWING:

26 * * *

27 (2) IF THE [DEPARTMENT] AUTHORITY IS SATISFIED THAT ALL
28 REQUIREMENTS HAVE BEEN MET, THE [DEPARTMENT] AUTHORITY MAY
29 APPROVE THE LOAN OR LINE OF CREDIT REQUEST IN AN AMOUNT NOT
30 TO EXCEED \$200,000 OR 50% OF THE TOTAL CAPITAL DEVELOPMENT

1 PROJECT COSTS, WHICHEVER IS LESS. FOR THE PURPOSE OF THIS
2 PARAGRAPH, CAPITAL DEVELOPMENT PROJECT COSTS, EXCEPT THE
3 COSTS RELATED TO WORKING CAPITAL, INCURRED DURING THE 12-
4 MONTH PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE
5 APPLICATION TO THE [DEPARTMENT] AUTHORITY SHALL BE CONSIDERED
6 PART OF THE TOTAL CAPITAL DEVELOPMENT PROJECT COSTS.

7 (3) THE [DEPARTMENT] AUTHORITY SHALL NOTIFY THE
8 [COMMUNITY DEVELOPMENT INSTITUTION] CERTIFIED ECONOMIC
9 DEVELOPMENT ORGANIZATION AND APPLICANT OF ITS DECISION.

10 (D) APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE
11 [DEPARTMENT] AUTHORITY SHALL DRAW AN ADVANCE EQUAL TO THE
12 PRINCIPAL AMOUNT OF THE LOAN FROM THE FUND AND, PRIOR TO
13 PROVIDING LOAN FUNDS TO THE APPLICANT, THE [DEPARTMENT]
14 AUTHORITY SHALL REQUIRE THE APPLICANT TO EXECUTE A NOTE AND TO
15 ENTER INTO A LOAN AGREEMENT. IN ADDITION TO THE REQUIREMENTS OF
16 SUBSECTION (E), THE LOAN AGREEMENT SHALL INCLUDE A PROVISION
17 REQUIRING THE RECIPIENT TO USE THE LOAN PROCEEDS TO PAY THE
18 COSTS OF THE CAPITAL DEVELOPMENT PROJECT. THE [DEPARTMENT]
19 AUTHORITY MAY IMPOSE OTHER TERMS AND CONDITIONS ON THE RECIPIENT
20 IF THE [DEPARTMENT] AUTHORITY DETERMINES THEY ARE IN THE BEST
21 INTERESTS OF THIS COMMONWEALTH, INCLUDING A PROVISION REQUIRING
22 COLLATERAL FOR ANY PENALTY IMPOSED UNDER SUBSECTION (G).

23 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE
24 WITH SUBSECTION (D) SHALL DO ALL OF THE FOLLOWING:

25 (1) STATE ANY COLLATERAL SECURING THE LOAN. THE
26 [DEPARTMENT] AUTHORITY MAY USE ITS BEST JUDGMENT TO IDENTIFY
27 AND SECURE COLLATERAL.

28 (2) STATE THE REPAYMENT PERIOD WHICH MAY BE FLEXIBLE[.]
29 EXCEPT THAT A LINE OF CREDIT MAY NOT HAVE A TERM OF MORE THAN
30 THREE YEARS. A LINE OF CREDIT MAY BE RENEWED FOR AN

1 ADDITIONAL THREE-YEAR PERIOD AT THE DISCRETION OF THE
2 AUTHORITY.

3 * * *

4 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION
5 SHALL BE ADMINISTERED IN ACCORDANCE WITH [DEPARTMENTAL]
6 AUTHORITY POLICIES AND PROCEDURES.

7 (G) PENALTY.--

8 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE
9 [DEPARTMENT] AUTHORITY SHALL IMPOSE A PENALTY UPON A
10 RECIPIENT IF THE RECIPIENT FAILS TO PRESERVE THE NUMBER OF
11 EMPLOYMENT OPPORTUNITIES SPECIFIED IN ITS APPROVED
12 APPLICATION.

13 (2) THE [DEPARTMENT] AUTHORITY MAY WAIVE THE PENALTY
14 REQUIRED BY PARAGRAPH (1) IF THE [DEPARTMENT] AUTHORITY
15 DETERMINES THAT THE FAILURE WAS DUE TO CIRCUMSTANCES OUTSIDE
16 THE CONTROL OF THE RECIPIENT.

17 * * *

18 (H) DEFAULTS.--THE [DEPARTMENT] AUTHORITY MAY TAKE TITLE BY
19 FORECLOSURE TO A CAPITAL DEVELOPMENT PROJECT WHICH IT FINANCED
20 WHERE ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS
21 SECTION. THE [DEPARTMENT] AUTHORITY SHALL PAY ALL COSTS ARISING
22 OUT OF THE FORECLOSURE AND ACQUISITION FROM MONEY HELD IN THE
23 FUND. THE [DEPARTMENT] AUTHORITY MAY, IN ORDER TO MINIMIZE
24 FINANCIAL LOSSES AND SUSTAIN EMPLOYMENT, LEASE THE CAPITAL
25 DEVELOPMENT PROJECT. THE [DEPARTMENT] AUTHORITY MAY WITHDRAW
26 MONEY FROM THE FUND TO PURCHASE FIRST MORTGAGES AND TO MAKE
27 PAYMENTS ON FIRST MORTGAGES ON ANY CAPITAL DEVELOPMENT PROJECT
28 WHICH IT FINANCED IF PURCHASE OR PAYMENT IS NECESSARY TO PROTECT
29 A LOAN MADE UNDER THIS SECTION. THE [DEPARTMENT] AUTHORITY MAY
30 SELL, TRANSFER, CONVEY AND ASSIGN THE FIRST MORTGAGES AND SHALL

1 DEPOSIT IN THE FUND MONEY DERIVED FROM THE SALE OF ANY FIRST
2 MORTGAGES.

3 § 2309. POLLUTION PREVENTION ASSISTANCE LOANS.

4 (A) APPLICATION.--A SMALL BUSINESS MAY SUBMIT AN APPLICATION
5 AND ANY APPLICATION FEE TO A [POLLUTION PREVENTION ASSISTANCE
6 AGENCY] CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION REQUESTING A
7 LOAN FOR A POLLUTION PREVENTION INFRASTRUCTURE UNDER 64 PA.C.S.
8 § 1121(A) (RELATING TO COMMON APPLICATION PROCESS). THE
9 APPLICATION SHALL BE ON THE FORM REQUIRED BY THE [DEPARTMENT]
10 AUTHORITY AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE FOLLOWING,
11 IN ADDITION TO THE CONTENTS REQUIRED UNDER 64 PA.C.S. § 1121(B):

12 (1) THE NAME AND ADDRESS OF THE APPLICANT.

13 (2) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

14 (3) A STATEMENT OF THE POLLUTION PREVENTION
15 INFRASTRUCTURE, INCLUDING A DETAILED STATEMENT OF THE COST OF
16 THE INFRASTRUCTURE.

17 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR
18 THE COST OF THE POLLUTION PREVENTION INFRASTRUCTURE IN EXCESS
19 OF THE AMOUNT REQUESTED.

20 (5) ANY OTHER INFORMATION REQUIRED BY THE [DEPARTMENT]
21 AUTHORITY.

22 (B) [POLLUTION PREVENTION ASSISTANCE AGENCY] CERTIFIED
23 ECONOMIC DEVELOPMENT ORGANIZATION REVIEW.--

24 (1) UPON RECEIPT OF A COMPLETED APPLICATION, A
25 [POLLUTION PREVENTION ASSISTANCE AGENCY] CERTIFIED ECONOMIC
26 DEVELOPMENT ORGANIZATION SHALL INVESTIGATE AND DETERMINE ALL
27 OF THE FOLLOWING:

28 (I) IF THE APPLICANT IS A SMALL BUSINESS.

29 (II) IF THE PROJECT IS FOR POLLUTION PREVENTION
30 INFRASTRUCTURE.

1 (III) IF THE APPLICANT COMPLIED WITH ALL OTHER
2 CRITERIA ESTABLISHED BY THE [DEPARTMENT] AUTHORITY.

3 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
4 MET, THE [POLLUTION PREVENTION ASSISTANCE AGENCY] CERTIFIED
5 ECONOMIC DEVELOPMENT ORGANIZATION SHALL RECOMMEND THE
6 APPLICANT TO THE DEPARTMENT AND FORWARD THE APPLICATION WITH
7 ALL SUPPORTING DOCUMENTATION TO THE [DEPARTMENT] AUTHORITY
8 FOR ITS REVIEW AND APPROVAL.

9 (C) [DEPARTMENT] AUTHORITY REVIEW.--

10 (1) UPON RECEIPT OF A RECOMMENDATION AND A COMPLETED
11 APPLICATION, THE [DEPARTMENT] AUTHORITY SHALL INVESTIGATE AND
12 DETERMINE ALL OF THE FOLLOWING:

13 (I) IF THE POLLUTION PREVENTION INFRASTRUCTURE
14 DEMONSTRATES A SUBSTANTIAL LIKELIHOOD OF PREVENTING OR
15 REDUCING POLLUTION. THE DEPARTMENT OF ENVIRONMENTAL
16 PROTECTION SHALL ASSIST THE [DEPARTMENT] AUTHORITY IN
17 REVIEWING THE APPLICATIONS AND PROVIDE TECHNICAL
18 ASSISTANCE.

19 * * *

20 (2) IF THE [DEPARTMENT] AUTHORITY IS SATISFIED THAT ALL
21 REQUIREMENTS HAVE BEEN MET, THE [DEPARTMENT] AUTHORITY MAY
22 APPROVE THE LOAN REQUEST. A LOAN APPROVED UNDER THIS
23 SUBSECTION MAY NOT EXCEED THE LESSER OF:

24 * * *

25 (3) THE [DEPARTMENT] AUTHORITY SHALL NOTIFY THE
26 [POLLUTION PREVENTION ASSISTANCE AGENCY] CERTIFIED ECONOMIC
27 DEVELOPMENT ORGANIZATION AND APPLICANT OF ITS DECISION.

28 (D) APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE
29 [DEPARTMENT] AUTHORITY SHALL DRAW AN ADVANCE EQUAL TO THE
30 PRINCIPAL AMOUNT OF THE LOAN FROM THE POLLUTION PREVENTION

1 ASSISTANCE ACCOUNT. PRIOR TO PROVIDING LOAN FUNDS TO THE
2 APPLICANT, THE [DEPARTMENT] AUTHORITY SHALL REQUIRE THE
3 APPLICANT TO EXECUTE A NOTE AND TO ENTER INTO A LOAN AGREEMENT.
4 IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (E), THE LOAN
5 AGREEMENT SHALL INCLUDE A PROVISION REQUIRING THE RECIPIENT TO
6 USE THE LOAN PROCEEDS TO PAY THE COSTS OF THE POLLUTION
7 PREVENTION INFRASTRUCTURE. THE [DEPARTMENT] AUTHORITY MAY IMPOSE
8 OTHER TERMS AND CONDITIONS ON THE RECIPIENT IF THE [DEPARTMENT]
9 AUTHORITY DETERMINES THEY ARE IN THE BEST INTERESTS OF THIS
10 COMMONWEALTH, INCLUDING A PROVISION REQUIRING COLLATERAL FOR ANY
11 PENALTY IMPOSED UNDER SUBSECTION (G).

12 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE
13 WITH SUBSECTION (D) SHALL DO ALL OF THE FOLLOWING:

14 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS
15 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE
16 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE
17 [DEPARTMENT] AUTHORITY.

18 * * *

19 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION
20 SHALL BE ADMINISTERED IN ACCORDANCE WITH [DEPARTMENTAL]
21 AUTHORITY POLICIES AND PROCEDURES.

22 (G) PENALTY.--

23 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE
24 [DEPARTMENT] AUTHORITY SHALL IMPOSE A PENALTY UPON A
25 RECIPIENT IF THE RECIPIENT FAILS TO CARRY OUT THE POLLUTION
26 PREVENTION INFRASTRUCTURE PROJECT AS SPECIFIED IN ITS
27 APPROVED APPLICATION.

28 (2) THE [DEPARTMENT] AUTHORITY MAY WAIVE THE PENALTY
29 REQUIRED BY PARAGRAPH (1) IF THE [DEPARTMENT] AUTHORITY
30 DETERMINES THAT THE FAILURE WAS DUE TO CIRCUMSTANCES OUTSIDE

1 THE CONTROL OF THE RECIPIENT.

2 * * *

3 (H) DEFAULTS.--THE [DEPARTMENT] AUTHORITY MAY TAKE TITLE BY
4 FORECLOSURE TO A POLLUTION PREVENTION INFRASTRUCTURE WHICH IT
5 FINANCED IF ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE
6 UNDER THIS SECTION. THE [DEPARTMENT] AUTHORITY SHALL PAY ALL
7 COSTS ARISING OUT OF THE FORECLOSURE AND ACQUISITION FROM MONEY
8 HELD IN THE POLLUTION PREVENTION ASSISTANCE ACCOUNT. THE
9 [DEPARTMENT] AUTHORITY MAY, IN ORDER TO MINIMIZE FINANCIAL
10 LOSSES AND SUSTAIN EMPLOYMENT, LEASE THE POLLUTION PREVENTION
11 INFRASTRUCTURE. THE [DEPARTMENT] AUTHORITY MAY WITHDRAW MONEY
12 FROM THE POLLUTION PREVENTION ASSISTANCE ACCOUNT TO PURCHASE
13 FIRST MORTGAGES AND TO MAKE PAYMENTS ON FIRST MORTGAGES ON ANY
14 POLLUTION PREVENTION INFRASTRUCTURE WHICH IT FINANCED IF THE
15 PURCHASE OR PAYMENT IS NECESSARY TO PROTECT A LOAN MADE UNDER
16 THIS SECTION. THE [DEPARTMENT] AUTHORITY MAY SELL, TRANSFER,
17 CONVEY AND ASSIGN THE FIRST MORTGAGES AND SHALL DEPOSIT ANY
18 MONEY DERIVED FROM THE SALE OF ANY FIRST MORTGAGES IN THE
19 POLLUTION PREVENTION ASSISTANCE ACCOUNT.

20 § 2310. EXPORT FINANCING LOANS.

21 (A) APPLICATION.--A PERSON MAY SUBMIT AN APPLICATION AND ANY
22 APPLICABLE APPLICATION FEE TO [THE DEPARTMENT OR ITS AREA LOAN]
23 A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION REQUESTING A LOAN
24 FOR CERTAIN COSTS OF A CAPITAL DEVELOPMENT PROJECT WHICH WILL BE
25 USED IN EXPORT ACTIVITIES UNDER 64 PA.C.S. § 1121(A) (RELATING
26 TO COMMON APPLICATION PROCESS). THE APPLICATION MUST BE ON THE
27 FORM REQUIRED BY THE [DEPARTMENT] AUTHORITY AND MUST INCLUDE OR
28 DEMONSTRATE ALL OF THE FOLLOWING, IN ADDITION TO THE CONTENTS
29 REQUIRED UNDER 64 PA.C.S. § 1121(B):

30 (1) THE NAME AND ADDRESS OF THE APPLICANT.

1 (2) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

2 (3) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT,
3 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

4 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR
5 ANY COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE
6 AMOUNT REQUESTED.

7 (5) A STATEMENT THAT THE LOAN, IF APPROVED, WOULD NOT
8 SUPPLANT FUNDING FROM PRIVATE SECTOR SOURCES ON COMMERCIALY
9 REASONABLE TERMS.

10 (6) ANY OTHER INFORMATION REQUIRED BY THE [DEPARTMENT]
11 AUTHORITY.

12 (B) REVIEW.--UPON RECEIPT OF A COMPLETED APPLICATION, THE
13 [DEPARTMENT] AUTHORITY SHALL INVESTIGATE AND DETERMINE ALL OF
14 THE FOLLOWING:

15 * * *

16 (7) IF THE APPLICANT COMPLIED WITH ALL OTHER CRITERIA
17 ESTABLISHED BY THE [DEPARTMENT] AUTHORITY.

18 (C) APPROVALS.--IF THE [DEPARTMENT] AUTHORITY IS SATISFIED
19 THAT ALL REQUIREMENTS HAVE BEEN MET, THE [DEPARTMENT] AUTHORITY
20 MAY APPROVE THE LOAN REQUEST. A LOAN APPROVED UNDER THIS SECTION
21 MAY NOT EXCEED \$350,000. THE [DEPARTMENT] AUTHORITY SHALL NOTIFY
22 THE APPLICANT AND, IF APPLICABLE, THE [AREA LOAN] CERTIFIED
23 ECONOMIC DEVELOPMENT ORGANIZATION OF ITS DECISION. THE
24 [DEPARTMENT] AUTHORITY SHALL RESERVE AN AMOUNT EQUAL TO THE
25 PRINCIPAL AMOUNT OF THE LOAN WITHIN THE FUND OR THE SPECIAL
26 ACCOUNT AUTHORIZED BY SECTION 2304(C) (2) (RELATING TO FUND AND
27 ACCOUNTS). PRIOR TO PROVIDING FUNDS TO THE APPLICANT, THE
28 [DEPARTMENT] AUTHORITY SHALL REQUIRE THE APPLICANT TO EXECUTE A
29 NOTE AND ENTER INTO A LOAN AGREEMENT. IN ADDITION TO THE
30 REQUIREMENTS OF SUBSECTION (D), THE LOAN AGREEMENT SHALL INCLUDE

1 A PROVISION REQUIRING THE RECIPIENT TO USE THE LOAN PROCEEDS TO
2 PAY THE COSTS OF THE CAPITAL DEVELOPMENT PROJECT. THE
3 [DEPARTMENT] AUTHORITY MAY IMPOSE OTHER TERMS AND CONDITIONS ON
4 THE RECIPIENT IF THE [DEPARTMENT] AUTHORITY DETERMINES THEY ARE
5 IN THE BEST INTERESTS OF THIS COMMONWEALTH, INCLUDING ANY OF THE
6 FOLLOWING:

7 * * *

8 (D) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE
9 WITH SUBSECTION (C) SHALL DO ALL OF THE FOLLOWING:

10 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS
11 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE
12 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE
13 [DEPARTMENT] AUTHORITY.

14 (2) STATE THE REPAYMENT PERIOD AS DETERMINED BY THE
15 [DEPARTMENT] AUTHORITY.

16 (3) STATE THE INTEREST RATE AS DETERMINED BY THE
17 [DEPARTMENT] AUTHORITY.

18 (E) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION
19 SHALL BE ADMINISTERED IN ACCORDANCE WITH [DEPARTMENTAL]
20 AUTHORITY POLICIES AND PROCEDURES.

21 (F) PENALTY.--

22 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE
23 [DEPARTMENT] AUTHORITY SHALL IMPOSE A PENALTY UPON A
24 RECIPIENT IF THE RECIPIENT FAILS TO CARRY OUT THE EXPORT
25 ACTIVITIES SPECIFIED IN ITS APPROVED APPLICATION.

26 (2) THE [DEPARTMENT] AUTHORITY MAY WAIVE THE PENALTY
27 REQUIRED BY PARAGRAPH (1) IF THE [DEPARTMENT] AUTHORITY
28 DETERMINES THAT THE FAILURE WAS DUE TO CIRCUMSTANCES OUTSIDE
29 THE CONTROL OF THE RECIPIENT.

30 * * *

1 (G) DEFAULTS.--THE [DEPARTMENT] AUTHORITY MAY, BY
2 FORECLOSURE, TAKE TITLE TO A CAPITAL DEVELOPMENT PROJECT WHICH
3 IT FINANCED IF ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE
4 UNDER THIS SECTION. THE [DEPARTMENT] AUTHORITY SHALL PAY ALL
5 COSTS ARISING OUT OF THE FORECLOSURE AND ACQUISITION FROM MONEY
6 HELD IN THE FUND OR A SPECIAL ACCOUNT AUTHORIZED BY SECTION
7 2304(C)(2). THE [DEPARTMENT] AUTHORITY MAY, IN ORDER TO MINIMIZE
8 FINANCIAL LOSSES AND SUSTAIN EMPLOYMENT, LEASE THE CAPITAL
9 DEVELOPMENT PROJECT. THE [DEPARTMENT] AUTHORITY MAY WITHDRAW
10 MONEY FROM THE FUND OR A SPECIAL ACCOUNT AUTHORIZED BY SECTION
11 2304(C)(2) TO PURCHASE FIRST MORTGAGES AND TO MAKE PAYMENTS ON
12 FIRST MORTGAGES ON ANY CAPITAL DEVELOPMENT PROJECT WHICH IT
13 FINANCED IF PURCHASE OR PAYMENT IS NECESSARY TO PROTECT A LOAN
14 MADE UNDER THIS SECTION. THE [DEPARTMENT] AUTHORITY MAY SELL,
15 TRANSFER, CONVEY AND ASSIGN THE FIRST MORTGAGES AND SHALL
16 DEPOSIT ANY MONEY DERIVED FROM THE SALE OF ANY FIRST MORTGAGES
17 IN THE FUND OR A SPECIAL ACCOUNT AUTHORIZED BY SECTION 2304(C)
18 (2).

19 SECTION 5. TITLE 12 IS AMENDED BY ADDING A SECTION TO READ:
20 § 2310.1. DELEGATION.

21 FOR LOANS AUTHORIZED UNDER SECTION 2306 (RELATING TO CAPITAL
22 DEVELOPMENT LOANS), 2307 (RELATING TO EDA LOANS), 2308 (RELATING
23 TO LOANS IN DISTRESSED COMMUNITIES), 2309 (RELATING TO POLLUTION
24 PREVENTION ASSISTANCE LOANS) OR 2310 (RELATING TO EXPORT
25 FINANCING LOANS), THE BOARD MAY DELEGATE THE REVIEW AND APPROVAL
26 OF APPLICATIONS TOTALING LESS THAN \$200,000 TO THE AUTHORIZED
27 STAFF OF THE AUTHORITY BY ADOPTING A RESOLUTION AUTHORIZING THE
28 DELEGATION, SUBJECT TO ANY CONDITIONS ESTABLISHED BY THE BOARD.
29 THE RESOLUTION MUST DO ALL OF THE FOLLOWING:

30 (1) ENUMERATE THE QUALIFICATIONS AND TRAINING REQUIRED

1 FOR AUTHORITY STAFF TO BE AUTHORIZED TO REVIEW AND APPROVE
2 APPLICATIONS.

3 (2) SET LOAN GUIDELINES AND UNDERWRITING STANDARDS FOR
4 THE AUTHORIZED STAFF TO FOLLOW DURING THE REVIEW AND APPROVAL
5 OF APPLICATIONS.

6 (3) REQUIRE AUTHORIZED STAFF TO PROVIDE A MONTHLY REPORT
7 TO THE BOARD OF ALL ACTIONS TO A PENDING OR APPROVED
8 APPLICATION TAKEN DURING THE REPORTING PERIOD.

9 SECTION 6. SECTION 2311 OF TITLE 12 IS AMENDED TO READ:

10 § 2311. REPORTING AND INSPECTION.

11 (A) INSPECTION.--AN APPLICANT OR A RECIPIENT SHALL, UPON
12 REQUEST, PERMIT AUTHORIZED EMPLOYEES OF THE [DEPARTMENT]
13 AUTHORITY OR ITS AGENT TO INSPECT THE PLANT, BOOKS AND RECORDS
14 OF THE APPLICANT OR RECIPIENT.

15 (B) UPDATING.--AN APPLICANT OR A RECIPIENT SHALL PROVIDE
16 UPDATED INFORMATION TO THE [DEPARTMENT] AUTHORITY AND ITS AGENTS
17 IF CONDITIONS CHANGE OR TO THE EXTENT THAT THE INFORMATION
18 ORIGINALLY GIVEN BECOMES INACCURATE OR MISLEADING.

19 (C) PERIODIC REPORTS.--A RECIPIENT SHALL PROVIDE THE
20 [DEPARTMENT] AUTHORITY AND ITS AGENTS WITH SUCH PERIODIC
21 FINANCIAL REPORTS AS THE [DEPARTMENT] AUTHORITY MAY REQUIRE
22 UNTIL THE LOAN IS REPAYED IN FULL.

23 (D) FINANCIAL AND PERFORMANCE AUDITS.--AN AGENT OF THE
24 [DEPARTMENT] AUTHORITY SHALL ANNUALLY SUBMIT TO THE [DEPARTMENT]
25 AUTHORITY, AT THE AGENT'S EXPENSE, AN INDEPENDENT FINANCIAL
26 AUDIT. IF THE AUDIT REVEALS MISCONDUCT OF A MATERIAL NATURE ON
27 THE PART OF THE AGENT, THE [DEPARTMENT] AUTHORITY SHALL TAKE
28 APPROPRIATE ACTION.

29 SECTION 7. SECTION 2902 OF TITLE 12 IS AMENDED BY ADDING
30 DEFINITIONS TO READ:

1 § 2902. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
3 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "AUTHORITY." THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT
6 AUTHORITY ORGANIZED AND EXISTING UNDER THE ACT OF MAY 17, 1956
7 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
8 DEVELOPMENT AUTHORITY ACT.

9 "BOARD." THE BOARD OF DIRECTORS OF THE AUTHORITY.

10 * * *

11 "PROGRAM." THE MACHINERY AND EQUIPMENT LOAN PROGRAM
12 ESTABLISHED UNDER SECTION 2903 (RELATING TO ESTABLISHMENT).

13 SECTION 8. SECTIONS 2903, 2905(A) INTRODUCTORY PARAGRAPH AND
14 (1)(IV) AND (V) AND (C), 2906(A), (B), (C) INTRODUCTORY
15 PARAGRAPH AND (14), (D), (E) AND (F), 2907, 2908, 2909, 2910,
16 2911 AND 2912 OF TITLE 12 ARE AMENDED TO READ:

17 § 2903. ESTABLISHMENT.

18 THERE IS ESTABLISHED [WITHIN THE DEPARTMENT] A PROGRAM TO BE
19 KNOWN AS THE MACHINERY AND EQUIPMENT LOAN PROGRAM. THE PROGRAM
20 SHALL BE ADMINISTERED BY THE [DEPARTMENT] AUTHORITY AND PROVIDE
21 LOANS TO BUSINESS ENTERPRISES FOR MACHINERY AND EQUIPMENT.

22 § 2905. ELIGIBILITY FOR LOANS; TERMS AND CONDITIONS.

23 (A) LOANS; GENERAL RULES.--THE [SECRETARY] AUTHORITY MAY
24 MAKE ADVANCES FROM THE FUND, SUBJECT TO THE TERMS, CONDITIONS
25 AND RESTRICTIONS PROVIDED UNDER THIS CHAPTER, FOR THE PURPOSE OF
26 MAKING LOANS TO BUSINESS ENTERPRISES INVOLVED IN INDUSTRIAL
27 PROCESSES, MINING, MANUFACTURING, PRODUCTION AGRICULTURE,
28 INFORMATION TECHNOLOGY, BIOTECHNOLOGY, SERVICE AS A MEDICAL
29 FACILITY OR OTHER INDUSTRIAL OR TECHNOLOGY SECTORS, AS DEFINED
30 BY THE [DEPARTMENT] AUTHORITY, TO ACQUIRE AND INSTALL NEW

1 MACHINERY AND EQUIPMENT OR UPGRADE EXISTING MACHINERY AND
2 EQUIPMENT, INCLUDING THE ACQUISITION, APPLICATION AND
3 UTILIZATION OF COMPUTER HARDWARE AND SOFTWARE.

4 (1) ALL LOANS SHALL BE SUBJECT TO ALL OF THE FOLLOWING
5 CONDITIONS:

6 * * *

7 (IV) BE LIMITED TO PROJECTS THAT DEMONSTRATE THE
8 CREATION OR RETENTION OF ONE JOB FOR EVERY \$25,000
9 RECEIVED FROM THE FUND. THIS SUBPARAGRAPH DOES NOT APPLY
10 TO LOANS MADE TO BUSINESS ENTERPRISES INVOLVED IN
11 PRODUCTION AGRICULTURE OR TO LOANS MADE TO MEDICAL
12 FACILITIES. THE AUTHORITY MAY, BY SUBMITTING NOTICE TO
13 THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE
14 PENNSYLVANIA BULLETIN, PERIODICALLY UPDATE THE AMOUNT
15 UNDER THIS SUBPARAGRAPH, BASED ON CHANGES IN UNEMPLOYMENT
16 STATISTICS, INFLATION, THE AUTHORITY'S CASH FLOW AND THE
17 NEED TO KEEP THIS COMMONWEALTH AND THE BUSINESSES OF THIS
18 COMMONWEALTH COMPETITIVE.

19 (V) HAVE AN INTEREST RATE WHICH SHALL BE ESTABLISHED
20 BY THE [SECRETARY] AUTHORITY.

21 * * *

22 (C) SECURITY.--ALL LOANS SHALL BE SECURED BY NO LESS THAN A
23 SECOND LIEN POSITION ON THE EQUIPMENT PURCHASED AND OTHER
24 SUFFICIENT COLLATERAL AS DETERMINED BY THE [SECRETARY]
25 AUTHORITY.

26 § 2906. APPLICATION AND ADMINISTRATION.

27 (A) PROCEDURES.--APPLICATION AND ADMINISTRATION PROCEDURES
28 FOR FUND LOANS SHALL BE ESTABLISHED BY THE [SECRETARY] AUTHORITY
29 UNDER 64 PA.C.S. § 1121 (RELATING TO COMMON APPLICATION
30 PROCESS).

1 (B) RECEIPT.--THE [SECRETARY] AUTHORITY SHALL RECEIVE
2 APPLICATIONS FROM ELIGIBLE BUSINESS ENTERPRISES FOR MACHINERY
3 AND EQUIPMENT LOANS. APPLICATIONS SHALL BE MADE TO THE
4 [SECRETARY] AUTHORITY IN THE FORM AND MANNER AS THE [DEPARTMENT]
5 AUTHORITY MAY REQUIRE.

6 (C) INVESTIGATION.--UPON RECEIPT OF THE APPLICATION, THE
7 [SECRETARY] AUTHORITY SHALL INVESTIGATE AND REVIEW THE
8 APPLICATION AND EITHER APPROVE OR DISAPPROVE THE LOAN
9 APPLICATION BY PROPER ACTION OF THE [DEPARTMENT] AUTHORITY. THE
10 DECISION OF THE [SECRETARY] AUTHORITY SHALL BE BASED, IN WHOLE
11 OR IN PART, UPON THE FOLLOWING CRITERIA:

12 * * *

13 (14) SUCH INFORMATION AND DOCUMENTATION AS THE
14 [SECRETARY] AUTHORITY SHALL REQUIRE.

15 (D) NOTIFICATION.--THE [SECRETARY] AUTHORITY SHALL NOTIFY
16 THE APPLICANT OF FINAL APPROVAL OR DISAPPROVAL OF THE LOAN
17 APPLICATION WITHIN A REASONABLE PERIOD OF TIME FOLLOWING THE
18 RECEIPT OF THE APPLICATION. IN THE CASE OF APPROVAL OF A LOAN
19 APPLICATION, THE [SECRETARY] AUTHORITY SHALL ARRANGE TO DRAW THE
20 LOAN AMOUNT FROM THE FUND AND ADVANCE THE SUM TO THE RECIPIENT.
21 THE ADVANCE SHALL BE MADE AVAILABLE IN THE FORM OF A LOAN
22 TRANSACTION, WHICH LOAN SHALL BE EVIDENCED BY A NOTE EXECUTED BY
23 THE RECIPIENT AND SECURED IN A MANNER AS THE [SECRETARY]
24 AUTHORITY SHALL REQUIRE IN CONFORMITY IN ALL RESPECTS TO THE
25 LOAN AS APPROVED BY THE [SECRETARY] AUTHORITY.

26 (E) POLICY REQUIREMENTS [AND REPORT].--ALL LOANS SHALL BE
27 ADMINISTERED AND MONITORED BY THE [DEPARTMENT] AUTHORITY IN
28 ACCORDANCE WITH THE POLICIES AND PROCEDURES PRESCRIBED BY THE
29 [SECRETARY] AUTHORITY. [ON OR BEFORE SEPTEMBER 1 OF EACH YEAR,
30 THE SECRETARY SHALL PREPARE A REPORT THAT INCLUDES THE

1 FOLLOWING:

2 (1) EACH OUTSTANDING LOAN.

3 (2) THE DATE OF APPROVAL.

4 (3) THE ORIGINAL PRINCIPAL BALANCE.

5 (4) THE CURRENT PRINCIPAL BALANCE.

6 (5) THE INTEREST RATE.

7 (6) THE PURPOSE FOR WHICH THE LOAN WAS MADE.

8 (7) AN ENUMERATION OF ANY PROBLEMS OR ISSUES WHICH HAVE
9 ARISEN WITH REGARD TO EACH LOAN.

10 (8) A STATEMENT REGARDING THE PROGRESS OF THE BUSINESS
11 ENTERPRISE IN CREATING AND RETAINING ITS REQUISITE NUMBER OF
12 EMPLOYMENT OPPORTUNITIES.

13 (9) SUCH OTHER INFORMATION AND DOCUMENTATION AS THE
14 SECRETARY SHALL REQUIRE.]

15 (F) PENALTY FOR NONCOMPLIANCE.--IN THE EVENT THAT A LOAN
16 RECIPIENT [SHALL] DOES NOT COMPLY WITH ITS APPROVED APPLICATION
17 BY FAILING TO CREATE OR PRESERVE THE NUMBER OF EMPLOYMENT
18 OPPORTUNITIES SPECIFIED IN ITS APPROVED APPLICATION, THE
19 [SECRETARY] AUTHORITY SHALL IMPOSE A PENALTY EQUAL TO AN
20 INCREASE IN THE INTEREST RATE TO 2% GREATER THAN THE CURRENT
21 PRIME INTEREST RATE FOR THE REMAINDER OF THE LOAN UNLESS THE
22 PENALTY IS WAIVED BY THE [SECRETARY] AUTHORITY BECAUSE THE
23 FAILURE IS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE LOAN
24 RECIPIENT. THE PENALTY SHALL BE PAYABLE IN INSTALLMENTS THAT THE
25 [SECRETARY] AUTHORITY DEEMS APPROPRIATE.

26 § 2907. POWERS OF [SECRETARY] AUTHORITY.

27 THE [SECRETARY] AUTHORITY SHALL HAVE AND MAY EXERCISE ALL
28 POWERS AND AUTHORITY NECESSARY TO THE PROPER ADMINISTRATION AND
29 IMPLEMENTATION OF THIS CHAPTER AND SHALL HAVE THE AUTHORITY TO
30 ADOPT POLICIES, PROCEDURES AND GUIDELINES AND PROMULGATE RULES

1 AND REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS
2 CHAPTER. IN ADDITION TO ANY POWERS AUTHORIZED UNDER THIS CHAPTER
3 AND 64 PA.C.S. CH.11 (RELATING TO PENNSYLVANIA INDUSTRIAL
4 DEVELOPMENT AUTHORITY), THE BOARD MAY ADMINISTER THE PROGRAM BY
5 EXERCISING THE POWERS GRANTED TO IT UNDER THE ACT OF MAY 17,
6 1956 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA
7 INDUSTRIAL DEVELOPMENT AUTHORITY ACT.

8 § 2908. REPORTING AND INSPECTION.

9 (A) INSPECTION.--EACH BUSINESS ENTERPRISE WHICH APPLIES FOR
10 OR RECEIVES ASSISTANCE UNDER THIS CHAPTER, UPON REASONABLE
11 REQUEST OF THE [DEPARTMENT] AUTHORITY, SHALL PERMIT DULY
12 AUTHORIZED EMPLOYEES OF THE DEPARTMENT OR THE AUTHORITY TO
13 INSPECT THE PLANT, BOOKS AND RECORDS OF THE BUSINESS ENTERPRISE.

14 (B) UPDATING.--EACH BUSINESS ENTERPRISE SHALL UPDATE THE
15 INFORMATION GIVEN TO THE [DEPARTMENT] AUTHORITY IN ITS
16 APPLICATION IF CONDITIONS CHANGE OR TO THE EXTENT THAT THE
17 INFORMATION GIVEN ORIGINALLY BECOMES INACCURATE OR MISLEADING.

18 (C) PERIODIC REPORTS.--EACH RECIPIENT OF ASSISTANCE UNDER
19 THIS CHAPTER SHALL PROVIDE THE [DEPARTMENT] AUTHORITY WITH
20 PERIODIC FINANCIAL REPORTS AS THE [SECRETARY] AUTHORITY MAY
21 REQUIRE UNTIL SUCH TIME AS THE LOAN IS PAID OFF.

22 [§ 2909. NONDISCRIMINATION.

23 NO LOAN SHALL BE MADE TO A BUSINESS ENTERPRISE UNLESS THE
24 BUSINESS ENTERPRISE CERTIFIES TO THE DEPARTMENT, IN A FORM
25 SATISFACTORY TO THE DEPARTMENT, THAT IT SHALL NOT DISCRIMINATE
26 AGAINST ANY EMPLOYEE OR ANY APPLICANT FOR EMPLOYMENT BECAUSE OF
27 RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX OR AGE. THE BUSINESS
28 ENTERPRISE SHALL ALSO CERTIFY TO THE DEPARTMENT THAT IT IS NOT
29 CURRENTLY UNDER CITATION FOR POLLUTION VIOLATIONS AND THAT IN
30 THE FUTURE IT WILL MEET ALL APPLICABLE ANTIPOLLUTION STANDARDS.

1 § 2910. CONFLICT OF INTEREST.

2 NO EMPLOYEE OF THE DEPARTMENT SHALL, EITHER DIRECTLY OR
3 INDIRECTLY, BE A PARTY TO OR HAVE ANY FINANCIAL INTEREST IN ANY
4 CONTRACT OR AGREEMENT ARISING PURSUANT TO THIS CHAPTER.]

5 § 2911. REPORTS TO GENERAL ASSEMBLY.

6 (A) ANNUAL REPORTS.--ON OR BEFORE SEPTEMBER 1 OF EACH YEAR,
7 THE [SECRETARY] AUTHORITY SHALL PROVIDE A REPORT TO THE
8 SECRETARY OF THE SENATE AND TO THE CHIEF CLERK OF THE HOUSE OF
9 REPRESENTATIVES. THE REPORT SHALL DESCRIBE ALL RELEVANT
10 ACTIVITIES OF THE [DEPARTMENT] AUTHORITY PURSUANT TO THIS
11 CHAPTER AND SHALL INCLUDE THE FOLLOWING:

12 (1) LIST OF BUSINESS ENTERPRISES RECEIVING LOANS FROM
13 THE FUND AND THE AMOUNTS AND TERMS OF THIS ASSISTANCE.

14 (2) LOAN AMOUNTS REPAYED. INFORMATION UNDER THIS
15 PARAGRAPH MAY BE REPORTED IN THE AGGREGATE.

16 (3) LOANS OUTSTANDING, BALANCES DUE AND ANY PENALTIES
17 IMPOSED. INFORMATION UNDER THIS PARAGRAPH MAY BE REPORTED IN
18 THE AGGREGATE.

19 (4) JOBS CREATED BY BUSINESSES RECEIVING FUNDS IN
20 PREVIOUS YEARS. INFORMATION UNDER THIS PARAGRAPH MAY BE
21 REPORTED IN THE AGGREGATE.

22 (5) OTHER RELEVANT INFORMATION AS DETERMINED BY THE
23 [SECRETARY] AUTHORITY.

24 (B) AVAILABILITY OF DEPARTMENTAL REPORTS.--REPORTS PREPARED
25 BY THE SECRETARY UNDER SECTION 2906(E) (RELATING TO APPLICATION
26 AND ADMINISTRATION) SHALL BE MADE AVAILABLE UPON REQUEST TO
27 MEMBERS OF THE GENERAL ASSEMBLY.

28 § 2912. GUIDELINES.

29 THE [DEPARTMENT] AUTHORITY SHALL DEVELOP WRITTEN GUIDELINES
30 FOR THE IMPLEMENTATION OF THIS CHAPTER.

1 SECTION 8.1. TITLE 12 IS AMENDED BY ADDING A CHAPTER TO
2 READ:

3 CHAPTER 30

4 PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM

5 SEC.

6 3001. SCOPE OF CHAPTER.

7 3002. DEFINITIONS.

8 3003. ESTABLISHMENT.

9 3004. INDUSTRIAL DEVELOPMENT FUND.

10 3005. APPLICATION.

11 3006. LOANS FOR INDUSTRIAL DEVELOPMENT PROJECTS.

12 3007. LOANS FOR INDUSTRIAL PARKS.

13 3008. LOANS FOR MULTIPLE-TENANCY BUILDING PROJECTS.

14 3009. REPORTING AND INSPECTION.

15 3010. LIMITATIONS.

16 3011. JOB CREATION.

17 § 3001. SCOPE OF CHAPTER.

18 THIS CHAPTER RELATES TO THE PENNSYLVANIA INDUSTRIAL
19 DEVELOPMENT PROGRAM.

20 § 3002. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
22 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "AGRICULTURAL PROCESSOR." AN ENTITY THAT ADDS VALUE BY
25 SUBJECTING ONE OR MORE FARM COMMODITIES TO A PROCESS OF
26 MANUFACTURE, DEVELOPMENT OR PREPARATION FOR SALE OR A PERSON
27 THAT CONVERTS A FARM PRODUCT INTO A MARKETABLE FORM.

28 "AGRICULTURAL PRODUCER." A PERSON OR ENTITY INVOLVED IN THE
29 MANAGEMENT AND USE OF AN AGRICULTURAL OPERATION FOR THE
30 PRODUCTION OF A FARM COMMODITY.

1 "AGRICULTURE." ANY OF THE FOLLOWING:

2 (1) THE MANAGEMENT AND USE OF AN AGRICULTURAL OPERATION
3 FOR THE PRODUCTION OF A FARM COMMODITY.

4 (2) THE SALE OF A FARM COMMODITY AT WHOLESALE.

5 (3) THE SALE OF A FARM COMMODITY AT RETAIL BY AN URBAN
6 AND RURAL SUPERMARKET IN AN UNDERSERVED AREA OR FARMERS'
7 MARKETS.

8 (4) AN ENERGY-RELATED ACTIVITY IMPACTING PRODUCTION
9 AGRICULTURE.

10 (5) AN ACTIVITY WHICH IMPLEMENTS BEST INDUSTRY PRACTICES
11 RELATED TO AN AGRICULTURAL WASTE PRODUCT, AGRICULTURE BY-
12 PRODUCT OR FERTILIZER.

13 "AUTHORITY." THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT
14 AUTHORITY ORGANIZED AND EXISTING UNDER THE ACT OF MAY 17, 1956
15 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
16 DEVELOPMENT AUTHORITY ACT.

17 "BOARD." THE BOARD OF DIRECTORS OF THE AUTHORITY.

18 "FUND." THE INDUSTRIAL DEVELOPMENT FUND.

19 "INDUSTRIAL DEVELOPMENT PROJECT." A PROJECT SPONSORED BY A
20 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION INVOLVING THE
21 ACQUISITION OR IMPROVEMENT OF REAL PROPERTY WITHIN THIS
22 COMMONWEALTH WHICH WILL BE OCCUPIED AND OPERATED BY ANY OF THE
23 FOLLOWING:

24 (1) AN INDUSTRIAL ENTERPRISE.

25 (2) A MANUFACTURING ENTERPRISE.

26 (3) A RESEARCH AND DEVELOPMENT ENTERPRISE.

27 (4) AN AGRICULTURAL PRODUCER.

28 (5) AN AGRICULTURAL PROCESSOR.

29 "INDUSTRIAL ENTERPRISE." AN ENTERPRISE WHICH HAS CREATED OR
30 WILL CREATE SUBSTANTIAL EMPLOYMENT OPPORTUNITIES. THE TERM MAY

1 INCLUDE A WAREHOUSE, DISTRIBUTION AND TERMINAL FACILITY AND
2 OFFICE BUILDING UTILIZED AS NATIONAL OR REGIONAL HEADQUARTERS OR
3 COMPUTER OR CLERICAL OPERATIONS CENTERS. THE TERM SHALL NOT
4 INCLUDE A MERCANTILE, COMMERCIAL OR RETAIL ENTERPRISE.

5 "INDUSTRIAL PARK PROJECT." A PROJECT SPONSORED BY A
6 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION FOR THE PURPOSE OF
7 CREATING SITES FOR THE ESTABLISHMENT OF TWO OR MORE INDUSTRIAL
8 DEVELOPMENT PROJECTS.

9 "MANUFACTURING ENTERPRISE." AN ENTERPRISE WHICH IS ENGAGED
10 IN THE GIVING OF A NEW SHAPE, NEW QUALITY OR NEW COMBINATION TO
11 MATTER BY THE APPLICATION OF SKILL AND LABOR.

12 "MULTIPLE-TENANCY BUILDING PROJECT." A PROJECT SPONSORED BY
13 A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION INVOLVING THE
14 ACQUISITION OR CONSTRUCTION OF LAND, SITE, STRUCTURE OR FACILITY
15 FOR OCCUPANCY BY TWO OR MORE INDUSTRIAL ENTERPRISES,
16 MANUFACTURING ENTERPRISES, RESEARCH AND DEVELOPMENT ENTERPRISES,
17 AGRICULTURAL PRODUCERS OR AGRICULTURAL PROCESSORS.

18 "PROGRAM." THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM
19 ESTABLISHED UNDER SECTION 3003 (RELATING TO ESTABLISHMENT).

20 "RESEARCH AND DEVELOPMENT ENTERPRISE." AN ENTERPRISE FOR THE
21 DISCOVERY OF NEW AND THE REFINEMENT OF KNOWN SUBSTANCES,
22 PROCESSES, PRODUCTS, THEORIES AND IDEAS. THE TERM DOES NOT
23 INCLUDE AN ENTERPRISE ACTIVITY DIRECTED PRIMARILY TO THE
24 ACCUMULATION OR ANALYSIS OF COMMERCIAL, FINANCIAL OR MERCANTILE
25 DATA.

26 § 3003. ESTABLISHMENT.

27 THERE IS ESTABLISHED WITHIN THE AUTHORITY A PROGRAM TO BE
28 KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM. THE
29 PROGRAM SHALL BE ADMINISTERED BY THE AUTHORITY TO PROVIDE LOANS
30 FOR INDUSTRIAL DEVELOPMENT PROJECTS, INDUSTRIAL PARKS AND

1 MULTIPLE-TENANCY BUILDING PROJECTS, TO INCREASE EMPLOYMENT
2 LEVELS AND TO IMPROVE THE OVERALL ECONOMIC HEALTH OF THIS
3 COMMONWEALTH.

4 § 3004. INDUSTRIAL DEVELOPMENT FUND.

5 (RESERVED).

6 § 3005. APPLICATION.

7 A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION MAY SUBMIT AN
8 APPLICATION FOR ASSISTANCE UNDER THIS CHAPTER AND UNDER 64
9 PA.C.S. § 1121(A) (RELATING TO COMMON APPLICATION PROCESS). THE
10 APPLICATION SHALL BE ON THE FORM REQUIRED BY THE AUTHORITY AND
11 SHALL INCLUDE OR DEMONSTRATE ALL OF THE FOLLOWING, IN ADDITION
12 TO THE CONTENTS REQUIRED UNDER 64 PA.C.S. § 1121(B):

13 (1) A GENERAL DESCRIPTION OF THE TYPE, CLASSES AND
14 NUMBER OF EMPLOYEES EMPLOYED OR TO BE EMPLOYED IN THE
15 OPERATION OF THE PROJECT.

16 (2) THE COST OR ESTIMATE OF THE COST OF ESTABLISHING THE
17 PROJECT. AS USED IN THIS PARAGRAPH, THE TERM "COST" SHALL
18 INCLUDE FINANCING CHARGES, INCLUDING INTEREST INCURRED BEFORE
19 AND DURING CONSTRUCTION, BUT SHALL NOT INCLUDE THE COST OF
20 ANY MACHINERY, EQUIPMENT OR FIXTURES NECESSARY FOR THE
21 PROJECT OR THE INSTALLATION OR MAINTENANCE OF ANY OF THE
22 MACHINERY, EQUIPMENT OR FIXTURES.

23 (3) FINANCIAL STATEMENTS OF THE APPLICANT, PROPOSED
24 GUARANTORS AND ANY OTHER PARTY WHOSE CREDIT IS SIGNIFICANT TO
25 THE APPROVAL OF THE FINANCIAL ASSISTANCE. BY GUIDELINE, THE
26 AUTHORITY MAY SPECIFY THE PERIOD TO BE COVERED BY THE
27 FINANCIAL STATEMENTS AND WHETHER THEY MUST BE COMPILED,
28 REVIEWED OR PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT.

29 (4) EVIDENCE OF THE ARRANGEMENT MADE BY THE BORROWER FOR
30 THE FINANCING OF ALL COSTS OF THE PROJECT EXCEEDING THE

1 AMOUNT TO BE FINANCED BY THE AUTHORITY.

2 (5) EVIDENCE THAT THE ESTABLISHMENT OF THE PROJECT WILL
3 NOT CAUSE THE REMOVAL OF AN INDUSTRIAL ENTERPRISE,
4 MANUFACTURING ENTERPRISE, RESEARCH AND DEVELOPMENT
5 ENTERPRISE, AGRICULTURAL PRODUCER OR AGRICULTURAL PROCESSOR
6 FROM ONE AREA OF THIS COMMONWEALTH TO ANOTHER AREA OF THIS
7 COMMONWEALTH, AS DETERMINED BY THE AUTHORITY.

8 (6) EVIDENCE THAT THE PROPOSED PROJECT LOCATION HAS
9 UNDERGONE AN ENVIRONMENTAL ASSESSMENT.

10 (7) ANY OTHER INFORMATION REQUIRED BY THE AUTHORITY.
11 § 3006. LOANS FOR INDUSTRIAL DEVELOPMENT PROJECTS.

12 THE AUTHORITY MAY CONTRACT TO LOAN AN AMOUNT NOT TO EXCEED
13 50% OF THE COST OF ESTABLISHING AN INDUSTRIAL DEVELOPMENT
14 PROJECT, SUBJECT TO THE FOLLOWING CONDITIONS:

15 (1) BEFORE MAKING THE LOAN, THE AUTHORITY SHALL
16 DETERMINE THAT:

17 (I) THE BORROWER IS RESPONSIBLE TO ASSUME ALL
18 OBLIGATIONS IMPOSED BY THE AUTHORITY IN CONNECTION WITH
19 THE PROJECT, FINANCIAL OR OTHERWISE, AND TO UNDERTAKE THE
20 OPERATION OF THE PROJECT; AND

21 (II) THE BORROWER HAS OBTAINED FROM OTHER
22 INDEPENDENT AND RESPONSIBLE SOURCES A FIRM COMMITMENT FOR
23 ANY FUNDS WHICH, IN ADDITION TO THE LOAN AND ANY OTHER
24 PROPERTY OR ASSETS HELD BY THE BORROWER, ARE NECESSARY
25 FOR THE COMPLETION AND OPERATION OF THE PROJECT.

26 (2) THE AUTHORITY SHALL DETERMINE THE INTEREST RATE AND
27 REPAYMENT PERIOD OF THE LOAN.

28 (3) THE LOAN MUST BE EVIDENCED BY NOTE OF THE BORROWER,
29 AND SECURED BY A MORTGAGE ON THE PROJECT FOR WHICH THE LOAN
30 WAS MADE, SUBORDINATE ONLY TO THE MORTGAGE SECURING THE FIRST

1 LIEN OBLIGATION ISSUED TO SECURE THE COMMITMENT OF FUNDS
2 PROVIDED TO PAY THE COST OF THE PROJECT FROM THE INDEPENDENT
3 AND RESPONSIBLE SOURCES, AND USED IN THE FINANCING OF THE
4 PROJECT.

5 (4) THE AUTHORITY MAY REQUIRE ADDITIONAL SECURITY AS IT
6 MAY DEEM NECESSARY.

7 § 3007. LOANS FOR INDUSTRIAL PARKS.

8 THE AUTHORITY MAY CONTRACT TO LOAN AN AMOUNT NOT TO EXCEED
9 75% OF THE COST OF ESTABLISHING AN INDUSTRIAL PARK PROJECT,
10 SUBJECT TO THE FOLLOWING CONDITIONS:

11 (1) THE AUTHORITY SHALL DETERMINE THE INTEREST RATE AND
12 REPAYMENT PERIOD OF THE LOAN.

13 (2) THE LOAN MUST BE EVIDENCED BY NOTE OF THE BORROWER
14 AND SECURED BY A FIRST MORTGAGE ON THE INDUSTRIAL PARK OR BY
15 PARTICIPATION IN A FIRST MORTGAGE. IF A FEDERAL AGENCY
16 PARTICIPATES IN THE FINANCING OF THE INDUSTRIAL PARK, THE
17 AUTHORITY MAY TAKE AS SECURITY FOR ITS LOAN A MORTGAGE ON THE
18 INDUSTRIAL PARK WHICH IS SECOND ONLY TO THE MORTGAGE GIVEN TO
19 THE FEDERAL AGENCY.

20 (3) IF THE LOAN IS SECURED BY PARTICIPATION IN A FIRST
21 MORTGAGE ON THE INDUSTRIAL PARK, A PORTION OF THE LOAN, NOT
22 TO EXCEED 10% OF THE COST OF THE PROJECT, MAY BE SECURED BY A
23 SECOND MORTGAGE ON THE INDUSTRIAL PARK WHICH IS SECOND ONLY
24 TO THE PARTICIPATING FIRST MORTGAGE.

25 § 3008. LOANS FOR MULTIPLE-TENANCY BUILDING PROJECTS.

26 THE AUTHORITY MAY CONTRACT TO LOAN AN AMOUNT NOT TO EXCEED
27 50% OF THE COST OF ESTABLISHING A MULTIPLE-TENANCY BUILDING
28 PROJECT, SUBJECT TO THE FOLLOWING CONDITIONS:

29 (1) THE AUTHORITY SHALL DETERMINE THE INTEREST RATE AND
30 REPAYMENT PERIOD OF THE LOAN.

1 (2) THE LOAN MUST BE EVIDENCED BY NOTE OF THE BORROWER
2 AND SECURED BY A FIRST MORTGAGE OR PARTICIPATION IN A FIRST
3 MORTGAGE ON THE MULTIPLE-TENANCY BUILDING PROJECT.

4 (3) THE AUTHORITY MAY CONTRACT TO LOAN AN AMOUNT NOT TO
5 EXCEED 50% OF THE COST OF THE PROJECT IF THE LOAN IS SECURED
6 BY A FIRST MORTGAGE OR PARTICIPATION IN A FIRST MORTGAGE ON
7 THE PROJECT. IF THE LOAN IS NOT SECURED BY A FIRST MORTGAGE
8 OR PARTICIPATION IN A FIRST MORTGAGE ON THE PROJECT, THE
9 AUTHORITY MAY CONTRACT TO LOAN AN AMOUNT NOT TO EXCEED 40% OF
10 THE COST OF THE PROJECT.

11 (4) IF THE LOAN IS SECURED BY A PARTICIPATION IN A FIRST
12 MORTGAGE ON THE PROJECT, THE AUTHORITY MAY PERMIT A PORTION
13 OF ITS LOAN, NOT TO EXCEED 10% OF THE COST OF THE PROJECT, TO
14 BE SECURED BY A SECOND MORTGAGE ON THE PROJECT WHICH IS
15 SECOND ONLY TO THE PARTICIPATING FIRST MORTGAGE.

16 § 3009. REPORTING AND INSPECTION.

17 (A) INSPECTION.--AN APPLICANT OR A RECIPIENT SHALL, UPON
18 REQUEST, PERMIT AUTHORIZED EMPLOYEES OF THE AUTHORITY OR ITS
19 AGENT TO INSPECT THE PLANT, BOOKS AND RECORDS OF THE APPLICANT
20 OR RECIPIENT.

21 (B) UPDATING.--AN APPLICANT OR A RECIPIENT SHALL PROVIDE
22 UPDATED INFORMATION TO THE AUTHORITY AND ITS AGENTS IF
23 CONDITIONS CHANGE OR TO THE EXTENT THAT THE INFORMATION
24 ORIGINALLY GIVEN BECOMES INACCURATE OR MISLEADING.

25 (C) PERIODIC REPORTS.--A RECIPIENT SHALL PROVIDE THE
26 AUTHORITY AND ITS AGENTS WITH PERIODIC FINANCIAL REPORTS AS THE
27 AUTHORITY MAY REQUIRE UNTIL THE LOAN IS REPAID IN FULL.

28 (D) FINANCIAL AND PERFORMANCE AUDITS.--A RECIPIENT SHALL
29 ANNUALLY SUBMIT TO THE AUTHORITY, AT THE RECIPIENT'S EXPENSE, AN
30 INDEPENDENT FINANCIAL AUDIT. IF THE AUDIT REVEALS MISCONDUCT OF

1 A MATERIAL NATURE ON THE PART OF THE RECIPIENT, THE AUTHORITY
2 SHALL TAKE APPROPRIATE ACTION.

3 § 3010. LIMITATIONS.

4 A LOAN MAY NOT BE RECOMMENDED OR APPROVED IF THE PROCEEDS OF
5 THE LOAN COULD DO ANY OF THE FOLLOWING:

6 (1) CAUSE, AID OR ASSIST DIRECTLY IN THE RELOCATION OF
7 ANY BUSINESS OPERATIONS FROM ONE PART OF THIS COMMONWEALTH TO
8 ANOTHER UNLESS THERE IS AT LEAST A 25% NET INCREASE IN
9 EMPLOYMENT.

10 (2) REFINANCE ANY PORTION OF THE TOTAL COST OF AN
11 INDUSTRIAL DEVELOPMENT PROJECT, INDUSTRIAL PARK OR MULTIPLE-
12 TENANCY BUILDING PROJECT OR OTHER EXISTING LOANS OR DEBT.

13 (3) FINANCE AN INDUSTRIAL DEVELOPMENT PROJECT,
14 INDUSTRIAL PARK OR MULTIPLE-TENANCY BUILDING PROJECT LOCATED
15 OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THIS COMMONWEALTH.

16 (4) PROVIDE FUNDS, DIRECTLY OR INDIRECTLY, FOR PAYMENT
17 DISTRIBUTION OR AS LOAN OWNERS, PARTNERS OR SHAREHOLDERS OF A
18 SMALL BUSINESS, EXCEPT AS ORDINARY COMPENSATION FOR SERVICES
19 RENDERED.

20 (5) PROVIDE FUNDS FOR SPECULATION IN REAL OR PERSONAL
21 PROPERTY, WHETHER TANGIBLE OR INTANGIBLE.

22 § 3011. JOB CREATION.

23 THE AUTHORITY SHALL ESTABLISH MINIMUM LEVELS OF JOB CREATION
24 FOR LOANS UNDER THIS CHAPTER, OR A REQUIREMENT THAT ONE NEW JOB
25 BE CREATED FOR A CERTAIN AMOUNT OF FUNDS LOANED. IN ESTABLISHING
26 THE MINIMUM LEVELS OF JOB CREATION, THE AUTHORITY SHALL CONSIDER
27 UNEMPLOYMENT STATISTICS, INFLATION, THE AUTHORITY'S CASH FLOW
28 AND THE NEED TO KEEP THIS COMMONWEALTH AND THE BUSINESSES OF
29 THIS COMMONWEALTH COMPETITIVE. NOTICE OF JOB CREATION
30 REQUIREMENTS MUST BE SUBMITTED TO THE LEGISLATIVE REFERENCE

1 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN.

2 SECTION 8.2. TITLE 12 IS AMENDED BY ADDING A PART HEADING
3 IMMEDIATELY PRECEDING CHAPTER 51 TO READ:

4 PART IV
5 COMMERCIAL PROTECTION

6 CHAPTER
7 51. FRAUDULENT TRANSFERS

8 53. TRADE SECRETS

9 SECTION 8.3. THE HEADING OF PART IV OF TITLE 12 IS REPEALED:

10 [PART IV
11 ECONOMIC DEVELOPMENT AND FINANCING (RESERVED)]

12 SECTION 9. THE HEADING OF CHAPTER 11 OF TITLE 64 IS AMENDED
13 TO READ:

14 CHAPTER 11
15 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY
16 [(RESERVED)]

17 SECTION 9.1. CHAPTER 11 OF TITLE 64 IS AMENDED BY ADDING
18 SUBCHAPTERS TO READ:

19 SUBCHAPTER A
20 GENERAL PROVISIONS

21 SEC.

22 1101. SCOPE OF CHAPTER.

23 1102. DEFINITIONS.

24 § 1101. SCOPE OF CHAPTER.

25 THIS CHAPTER RELATES TO THE PENNSYLVANIA INDUSTRIAL
26 DEVELOPMENT AUTHORITY.

27 § 1102. DEFINITIONS.

28 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
29 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
30 CONTEXT CLEARLY INDICATES OTHERWISE:

1 "APPLICATION." A REQUEST FOR FINANCIAL ASSISTANCE FROM THE
2 PROGRAMS.

3 "AUTHORITY." THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT
4 AUTHORITY ORGANIZED AND EXISTING UNDER THE ACT OF MAY 17, 1956
5 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
6 DEVELOPMENT AUTHORITY ACT.

7 "BOARD." THE BOARD OF DIRECTORS OF THE AUTHORITY.

8 "CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION." AN ENTITY
9 CERTIFIED BY THE AUTHORITY UNDER SECTION 1123 (RELATING TO
10 CERTIFICATION OF ECONOMIC DEVELOPMENT ORGANIZATIONS).

11 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
12 DEVELOPMENT OF THE COMMONWEALTH.

13 "INDUSTRIAL DEVELOPMENT FUND." THE FUND ESTABLISHED UNDER
14 SECTION 8 OF THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537),
15 KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT.

16 "MACHINERY AND EQUIPMENT LOAN FUND." THE FUND ESTABLISHED
17 UNDER 12 PA.C.S. § 2904 (RELATING TO MACHINERY AND EQUIPMENT
18 LOAN FUND).

19 "MACHINERY AND EQUIPMENT LOAN PROGRAM." THE PROGRAM
20 AUTHORIZED BY 12 PA.C.S. CH. 29 (RELATING TO MACHINERY AND
21 EQUIPMENT LOANS).

22 "PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM." THE PROGRAM
23 AUTHORIZED UNDER 12 PA.C.S. CH. 30 (RELATING TO PENNSYLVANIA
24 INDUSTRIAL DEVELOPMENT PROGRAM).

25 "POLLUTION PREVENTION ASSISTANCE ACCOUNT." THE ACCOUNT
26 CONTINUED UNDER 12 PA.C.S. § 2304 (RELATING TO FUND AND
27 ACCOUNTS).

28 "PROGRAMS." ANY OF THE FOLLOWING:

29 (1) THE SMALL BUSINESS FIRST PROGRAM.

30 (2) THE MACHINERY AND EQUIPMENT LOAN PROGRAM.

1 (3) THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT PROGRAM.

2 (4) ALL PROGRAMS AUTHORIZED BY THE ACT OF MAY 17, 1956
3 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
4 DEVELOPMENT AUTHORITY ACT.

5 "SMALL BUSINESS FIRST FUND." THE FUND CONTINUED UNDER 12
6 PA.C.S. § 2304 (RELATING TO FUND AND ACCOUNTS).

7 "SMALL BUSINESS FIRST PROGRAM." THE PROGRAM AUTHORIZED BY 12
8 PA.C.S. CH. 23 (RELATING TO SMALL BUSINESS FIRST).

9 SUBCHAPTER B

10 STRUCTURES AND POWERS

11 (RESERVED)

12 SUBCHAPTER C

13 PROGRAM MANAGEMENT

14 SEC.

15 1120. PROGRAM MANAGEMENT.

16 1121. COMMON APPLICATION PROCESS.

17 1122. REGULATIONS.

18 1123. CERTIFICATION OF ECONOMIC DEVELOPMENT ORGANIZATIONS.

19 1124. TRANSFER OF FUNDS.

20 1125. CONFLICT OF INTEREST.

21 § 1120. PROGRAM MANAGEMENT.

22 THE AUTHORITY SHALL OPERATE THE PROGRAMS IN A COORDINATED AND
23 INTEGRATED MANNER, UTILIZING TO THE MAXIMUM EXTENT POSSIBLE THE
24 SAME CRITERIA AND STANDARDS IN DEFINING AND ADMINISTERING THE
25 PROJECTS TO BE FUNDED UNDER THE PROGRAMS.

26 § 1121. COMMON APPLICATION PROCESS.

27 (A) PREPARATION.--AN APPLICATION FOR ASSISTANCE UNDER THE
28 PROGRAMS MUST BE PREPARED AND APPROVED BY A CERTIFIED ECONOMIC
29 DEVELOPMENT ORGANIZATION BEFORE IT IS SUBMITTED TO THE
30 AUTHORITY, AND THE APPLICATION SHALL COMPLY WITH ANY ADDITIONAL

1 REQUIREMENTS OF THE PROGRAMS.

2 (B) CONTENTS.--THE APPLICATION, WHICH SHALL BE IN THE FORM
3 REQUIRED BY THE AUTHORITY, SHALL INCLUDE THE FOLLOWING
4 INFORMATION, WHERE APPLICABLE:

5 (1) THE APPLICANT'S NAME.

6 (2) THE APPLICANT'S ADDRESS.

7 (3) A DESCRIPTION OF THE TYPE AND AMOUNT OF FINANCIAL
8 ASSISTANCE REQUESTED.

9 (4) A DESCRIPTION OF THE APPLICANT'S BUSINESS OR, IF THE
10 APPLICANT IS NOT THE BORROWER, THE BORROWER'S BUSINESS,
11 INCLUDING ALL OF THE FOLLOWING:

12 (I) THE TYPE OF BUSINESS CONDUCTED.

13 (II) THE LOCATION OF THE BUSINESS.

14 (III) THE DATE THE BUSINESS WAS ESTABLISHED.

15 (IV) THE ADDRESS OF THE BUSINESS, INCLUDING THE
16 ADDRESS OF ALL OFFICES OF THE BUSINESS LOCATED IN THIS
17 COMMONWEALTH.

18 (V) THE NAME AND ADDRESS OF EACH PRINCIPAL.

19 (VI) THE NUMBER OF CURRENT EMPLOYEES AND AN ESTIMATE
20 OF FUTURE EMPLOYEES.

21 (5) A DESCRIPTION OF THE PROJECT, INCLUDING ALL OF THE
22 FOLLOWING:

23 (I) THE LOCATION OF THE PROJECT.

24 (II) THE TOTAL ESTIMATED COST OF THE PROJECT, AS
25 CALCULATED BY AN ENGINEER OR OTHER QUALIFIED
26 PROFESSIONAL.

27 (III) AN IDENTIFICATION OF ALL SOURCES OF CAPITAL
28 FOR THE PROJECT.

29 (IV) A LEGAL DESCRIPTION OF ALL REAL PROPERTY HELD
30 OR TO BE ACQUIRED FOR THE ESTABLISHMENT OF THE PROJECT.

1 (V) A GENERAL DESCRIPTION AND STATEMENT OF VALUE OF
2 ANY REAL OR PERSONAL PROPERTY OF THE APPLICANT AND, IF
3 APPLICABLE, THE BUYER OR TENANT OF THE PROJECT, TO BE
4 APPLIED TO THE ESTABLISHMENT OF THE PROJECT.

5 (6) A STATEMENT THAT THE PROJECT IS CONSISTENT WITH ANY
6 EXISTING COMPREHENSIVE COUNTY PLAN WHERE THE PROJECT IS
7 LOCATED.

8 (7) A FIRM COMMITMENT FROM THE INTENDED PROJECT USER TO
9 USE THE PROJECT UPON COMPLETION.

10 (8) A BRIEF DESCRIPTION OF THE ANTICIPATED ECONOMIC
11 IMPACT TO THIS COMMONWEALTH AND THE HOST MUNICIPALITY AND
12 COUNTY AS A RESULT OF THE PROJECT.

13 (9) ANY PLANS OR OTHER DOCUMENTS AS MAY BE REQUIRED TO
14 SHOW THE TYPE, STRUCTURE AND GENERAL CHARACTER OF THE
15 PROJECT.

16 (10) A STATEMENT THAT THE APPLICANT CERTIFIES TO THE
17 AUTHORITY THAT IT WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE
18 OR ANY APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, RELIGION,
19 COLOR, NATIONAL ORIGIN, SEX OR AGE.

20 (11) A STATEMENT THAT THE APPLICANT CERTIFIES TO THE
21 AUTHORITY THAT IT IS NOT CURRENTLY UNDER CITATION FOR
22 POLLUTION VIOLATIONS AND THAT IN THE FUTURE IT WILL MEET ALL
23 APPLICABLE ANTIPOLLUTION STANDARDS.

24 (12) ANY INFORMATION REQUIRED BY THE PROGRAM UNDER WHICH
25 FINANCIAL ASSISTANCE MAY BE PROVIDED.

26 (13) ANY OTHER INFORMATION REQUIRED BY THE AUTHORITY.

27 (C) REVIEW AND APPROVAL.--

28 (1) IN REVIEWING THE APPLICATION, THE AUTHORITY SHALL
29 CONSIDER THE FOLLOWING, WHERE APPLICABLE:

30 (I) WHETHER THE VALUE OF THE PROPOSED COLLATERAL AND

1 THE FINANCIAL RESOURCES OFFERED BY THE APPLICANT ARE
2 SUFFICIENT TO REPAY THE LOAN.

3 (II) WHETHER THE PROJECT WILL ENABLE FUTURE
4 EMPLOYMENT OPPORTUNITIES IN OR HAVE A NET POSITIVE
5 ECONOMIC IMPACT ON THE SURROUNDING COMMUNITY.

6 (III) WHETHER THE STATEMENT OF THE ESTIMATED COST OF
7 THE PROJECT IS REASONABLE.

8 (IV) WHETHER THE SOURCES OF FINANCIAL COMMITMENTS
9 FOR FUNDS IN EXCESS OF THE AMOUNT REQUESTED UNDER THIS
10 SUBCHAPTER ARE RELIABLE.

11 (V) WHETHER THE APPLICANT HAS COMPLIED WITH TERMS
12 REQUIRED BY THE PROGRAMS AND UNDER THIS SUBCHAPTER.

13 (VI) WHETHER THE APPLICANT HAS A HISTORY OF
14 INVESTMENT IN PENNSYLVANIA-RELATED COMPANIES.

15 (VII) WHETHER THE APPLICANT HAS DEMONSTRATED STRONG
16 RELATIONSHIPS WITH ORGANIZATIONS IN THIS COMMONWEALTH
17 WHICH FOSTER ECONOMIC DEVELOPMENT.

18 (VIII) WHETHER THE APPLICANT HAS A STRONG
19 PERFORMANCE RECORD.

20 (IX) WHETHER THE APPLICANT HAS DEMONSTRATED AN
21 ABILITY TO MEET AND SATISFY DEBT SERVICE, IF APPLICABLE,
22 AS IT BECOMES DUE AND PAYABLE.

23 (X) WHETHER THE APPLICANT HAS ANY OUTSTANDING
24 ENVIRONMENTAL VIOLATIONS.

25 (XI) ANY OTHER INFORMATION DEEMED TO BE RELEVANT BY
26 THE AUTHORITY.

27 (2) SUBJECT TO ANY APPLICABLE LIMITATIONS UNDER THIS
28 SUBCHAPTER, THE AMOUNT, DURATION, INTEREST RATE, SECURITY
29 REQUIRED AND ANY OTHER TERMS OF THE LOAN SHALL BE DETERMINED
30 AT THE DISCRETION OF THE AUTHORITY BASED UPON ITS

1 DETERMINATION OF THE POTENTIAL FINANCIAL RISK TO THE
2 COMMONWEALTH.

3 (3) FINANCIAL ASSISTANCE MAY NOT BE APPROVED IF THE
4 PROCEEDS WOULD BE USED TO:

5 (I) REFINANCE ANY PORTION OF THE TOTAL COST OF A
6 CAPITAL DEVELOPMENT PROJECT, POLLUTION PREVENTION
7 INFRASTRUCTURE OR OTHER EXISTING LOANS OR DEBT;

8 (II) FINANCE A PROJECT LOCATED OUTSIDE THE
9 GEOGRAPHIC BOUNDARIES OF THIS COMMONWEALTH;

10 (III) RELOCATE A BUSINESS TO ANOTHER PART OF THIS
11 COMMONWEALTH, UNLESS APPROVED IN ADVANCE BY THE AUTHORITY
12 WHICH SHALL CONSIDER THE NEGATIVE ECONOMIC IMPACT ON THE
13 COMMUNITY THAT THE BUSINESS IS LEAVING; OR

14 (IV) PROVIDE FUNDS, DIRECTLY OR INDIRECTLY, FOR
15 PAYMENT DISTRIBUTION OR AS A LOAN TO OWNERS, PARTNERS OR
16 SHAREHOLDERS OF A SMALL BUSINESS, EXCEPT AS ORDINARY
17 COMPENSATION FOR SERVICES RENDERED.

18 (4) (I) THE TERMS OF ALL AGREEMENTS FOR FINANCIAL
19 ASSISTANCE AWARDED UNDER THIS SUBCHAPTER SHALL INCLUDE
20 ANY MATERIAL TERMS, REQUIREMENTS OR OTHER CONDITIONS
21 PROVIDED FOR AGREEMENTS ENTERED INTO UNDER THIS
22 SUBCHAPTER. THE AUTHORITY MAY IMPOSE OTHER TERMS AND
23 CONDITIONS IF IT DETERMINES THAT THEY ARE IN THE BEST
24 INTERESTS OF THE COMMONWEALTH, INCLUDING A PROVISION
25 REQUIRING COLLATERAL FOR ANY PENALTY WHICH MAY BE
26 IMPOSED.

27 (II) UPON APPROVING AN APPLICATION FOR A LOAN UNDER
28 THE PROGRAMS, THE AUTHORITY SHALL DRAW AN ADVANCE EQUAL
29 TO THE PRINCIPAL AMOUNT OF THE LOAN FROM THE APPROPRIATE
30 ACCOUNT AND, BEFORE DISBURSING LOAN FUNDS TO THE

1 APPLICANT, REQUIRE THE APPLICANT TO EXECUTE A NOTE AND TO
2 ENTER INTO A LOAN AGREEMENT AND ANY OTHER AGREEMENT AS
3 THE AUTHORITY MAY REQUIRE.

4 (D) REVIEW AND NOTICE.--UPON REVIEWING THE APPLICATION, THE
5 AUTHORITY SHALL NOTIFY THE APPLICANT AND THE CERTIFIED ECONOMIC
6 DEVELOPMENT ORGANIZATION OF ITS DECISION OR REQUEST ADDITIONAL
7 INFORMATION OR CERTIFICATIONS BEFORE MAKING ITS DECISION.

8 (E) REPORTING AND INSPECTION.--AN APPLICANT OR A RECIPIENT
9 OF FINANCIAL ASSISTANCE UNDER THE PROGRAMS SHALL:

10 (1) PERMIT THE AUTHORITY TO INSPECT ITS PREMISES, BOOKS
11 AND RECORDS;

12 (2) PROVIDE UPDATED INFORMATION TO THE AUTHORITY IF
13 CONDITIONS CHANGE TO THE EXTENT THAT THE INFORMATION
14 ORIGINALLY GIVEN BECOMES INACCURATE OR MISLEADING; AND

15 (3) PROVIDE THE AUTHORITY WITH ANY PERIODIC FINANCIAL
16 REPORTS AND AUDITS THAT THE AUTHORITY MAY REQUIRE.

17 (F) EMPLOYMENT PROJECTION AUDITS.--THE AUTHORITY SHALL
18 IMPLEMENT A PROCEDURE TO DETERMINE WHETHER THE EMPLOYMENT
19 PROJECTIONS DESCRIBED IN THE APPLICATION ARE ACHIEVED.

20 (G) TRANSITION.--THE BOARD SHALL HAVE ALL POWER AND
21 AUTHORITY NECESSARY TO IMPLEMENT A TRANSITION AND CONTINUATION
22 OF CONSIDERATION OF PENDING APPLICATIONS AND ANY OTHER PENDING
23 ADMINISTRATIVE ACTIONS UNDER SECTION 6 OF THE ACT OF MAY 17,
24 1956 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA
25 INDUSTRIAL DEVELOPMENT AUTHORITY ACT, THAT ARE SUBMITTED TO THE
26 AUTHORITY FOR CONSIDERATION PRIOR TO THE EFFECTIVE DATE OF THIS
27 SECTION.

28 § 1122. REGULATIONS.

29 THE BOARD SHALL PROMULGATE REGULATIONS NECESSARY TO
30 ADMINISTER THE PROGRAMS.

1 § 1123. CERTIFICATION OF ECONOMIC DEVELOPMENT ORGANIZATIONS.

2 (A) GENERAL RULE.--THE AUTHORITY SHALL ESTABLISH GUIDELINES
3 FOR THE CERTIFICATION OF ELIGIBLE NONPROFIT ORGANIZATIONS AS
4 CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS.

5 (B) ELIGIBLE APPLICANTS.--THE FOLLOWING NONPROFIT
6 ORGANIZATIONS MAY APPLY TO BE CERTIFIED AS A CERTIFIED ECONOMIC
7 DEVELOPMENT ORGANIZATION:

8 (1) A LOCAL DEVELOPMENT DISTRICT ORGANIZED AND EXISTING
9 UNDER THE ACT OF ACT OF DECEMBER 7, 1994 (P.L.845, NO.120),
10 KNOWN AS THE LOCAL DEVELOPMENT DISTRICT ACT.

11 (2) AN INDUSTRIAL DEVELOPMENT AGENCY ORGANIZED AND
12 EXISTING UNDER THE ACT OF MAY 17, 1956 (1955 P.L.1609,
13 NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT
14 AUTHORITY ACT.

15 (3) AN INDUSTRIAL RESOURCE CENTER ORGANIZED AND EXISTING
16 UNDER THE ACT OF JUNE 22, 2001 (P.L.400, NO.31), KNOWN AS THE
17 INDUSTRIAL RESOURCES CENTER PARTNERSHIP ACT.

18 (4) A REDEVELOPMENT AUTHORITY ORGANIZED AND EXISTING
19 UNDER THE ACT OF MAY 24, 1945 (P.L.982, NO.383), KNOWN AS THE
20 REDEVELOPMENT COOPERATION LAW.

21 (5) A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION
22 CERTIFIED BY THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION
23 FUND ESTABLISHED IN SECTION 104(A)(1) OF THE RIEGLE COMMUNITY
24 DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994 (PUBLIC
25 LAW 103-325, 12 U.S.C. § 4703(A)(1)).

26 (6) ANY OTHER NONPROFIT ECONOMIC DEVELOPMENT
27 ORGANIZATION DETERMINED BY THE AUTHORITY AS POSSESSING THE
28 QUALIFICATIONS NECESSARY TO EVALUATE AND ADMINISTER THE
29 PROGRAMS.

30 (C) REQUIREMENTS.--THE GUIDELINES MUST, AT MINIMUM, SET

1 REQUIREMENTS FOR ANNUAL TRAINING AND PROFESSIONAL DEVELOPMENT
2 FOR AN ORGANIZATION'S PROFESSIONAL STAFF, STANDARDS FOR THE
3 ORGANIZATION'S FACILITIES AND TECHNICAL CAPABILITIES, AND
4 REQUIRE THE ORGANIZATION TO ADOPT A CODE OF ETHICS.

5 (D) AUDIT.--A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION
6 MUST SUBMIT AN AUDIT TO THE AUTHORITY EVERY THREE YEARS
7 DEMONSTRATING THAT REQUIREMENTS CONTINUE TO BE SATISFIED.

8 (E) APPROVAL.--IF THE AUTHORITY DETERMINES THAT THE
9 APPLICATION MEETS THE REQUIREMENTS OF THE GUIDELINES, THE
10 AUTHORITY MAY, IN ITS SOLE AND FINAL DISCRETION, CERTIFY THE
11 APPLICANT AS A CERTIFIED ECONOMIC DEVELOPMENT ORGANIZATION.

12 § 1124. TRANSFER OF FUNDS.

13 EXCEPT FOR FUNDS IN THE POLLUTION PREVENTION ASSISTANCE
14 ACCOUNT, FUNDS MAY BE TRANSFERRED BY AN ACTION OF THE BOARD
15 BETWEEN THE SMALL BUSINESS FIRST FUND, THE MACHINERY AND
16 EQUIPMENT LOAN FUND AND THE INDUSTRIAL DEVELOPMENT FUND TO
17 MAXIMIZE THE EFFECTIVENESS OF THE PROGRAMS.

18 § 1125. CONFLICT OF INTEREST.

19 A MEMBER OF THE BOARD OR AN EMPLOYEE OF THE AUTHORITY MAY
20 NOT, EITHER DIRECTLY OR INDIRECTLY, BE A PARTY TO OR HAVE ANY
21 FINANCIAL INTEREST IN ANY CONTRACT OR AGREEMENT ARISING PURSUANT
22 TO THIS CHAPTER OR THE PROGRAMS.

23 SUBCHAPTER D

24 TRANSFER OF LOANS

25 SEC.

26 1130. TRANSFER OF LOANS FROM CERTAIN PROGRAMS.

27 § 1130. TRANSFER OF LOANS FROM CERTAIN PROGRAMS.

28 (A) LOAN TRANSFER.--ON THE EFFECTIVE DATE OF THIS SECTION,
29 OUTSTANDING LOANS EXECUTED UNDER THE SMALL BUSINESS FIRST
30 PROGRAM AND THE MACHINERY AND EQUIPMENT LOAN PROGRAM AND

1 APPROVED LOAN COMMITMENTS THAT HAVE NOT BEEN EXECUTED BY THE
2 EFFECTIVE DATE OF THIS SECTION, INCLUDING NECESSARY
3 DOCUMENTATION AND COLLATERAL SECURITY ASSOCIATED WITH THE LOANS,
4 SHALL BE TRANSFERRED FROM THE DEPARTMENT TO THE AUTHORITY.

5 (B) LOAN COMMITMENTS.--AN APPROVED LOAN COMMITMENT
6 TRANSFERRED UNDER SUBSECTION (A) SHALL BE EXECUTED IN ACCORDANCE
7 WITH 12 PA.C.S. CHS. 23 (RELATING TO SMALL BUSINESS FIRST) AND
8 29 (RELATING TO MACHINERY AND EQUIPMENT LOANS).

9 (C) LEGAL ACTIONS.--ON THE EFFECTIVE DATE OF THIS SECTION,
10 EACH LEGAL ACTION RELATING TO A LOAN UNDER THE SMALL BUSINESS
11 FIRST PROGRAM OR THE MACHINERY AND EQUIPMENT LOAN PROGRAM SHALL
12 BE TRANSFERRED TO THE AUTHORITY.

13 (D) SECURITY OR COLLATERAL.--NO MONEY DEPOSITED OR TO BE
14 DEPOSITED INTO THE SMALL BUSINESS FIRST FUND OR THE MACHINERY
15 AND EQUIPMENT LOAN FUND MAY SERVE AS SECURITY OR COLLATERAL FOR
16 ANY DEBT INCURRED BY THE BOARD BEFORE THE EFFECTIVE DATE OF THIS
17 SECTION, UNLESS PROCEEDS MADE AVAILABLE BY THE DEBT ARE USED BY
18 THE BOARD TO FUND LOANS OR OTHER FINANCIAL ASSISTANCE UNDER THE
19 SMALL BUSINESS FIRST PROGRAM OR THE MACHINERY AND EQUIPMENT LOAN
20 PROGRAM TO EFFECTIVELY CARRY OUT THE PURPOSES OF THE PROGRAMS.

21 SECTION 10. REPEALS ARE AS FOLLOWS:

22 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEALS UNDER
23 PARAGRAPH (2) ARE NECESSARY TO EFFECTUATE THE ADDITION OF 12
24 PA.C.S. CH. 30.

25 (2) THE FOLLOWING PROVISIONS OF THE ACT OF MAY 17, 1956
26 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
27 DEVELOPMENT AUTHORITY ACT, ARE REPEALED:

28 (I) THE DEFINITION OF "CRITICAL ECONOMIC AREA" IN
29 SECTION 3.

30 (II) SECTION 6.

1 (III) SECTION 7.

2 (IV) SECTION 7.1.

3 SECTION 11. THE ADDITION OF 12 PA.C.S. CH. 30 IS A
4 CONTINUATION OF SECTIONS 6, 7 AND 7.1 OF THE ACT OF MAY 17, 1956
5 (1955 P.L.1609, NO.537), KNOWN AS THE PENNSYLVANIA INDUSTRIAL
6 DEVELOPMENT AUTHORITY ACT. EXCEPT AS OTHERWISE PROVIDED IN 12
7 PA.C.S. CH. 30, ALL ACTIVITIES INITIATED UNDER SECTIONS 6, 7 AND
8 7.1 OF THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT
9 SHALL CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE
10 COMPLETED UNDER 12 PA.C.S. CH. 30. ORDERS, REGULATIONS, RULES
11 AND DECISIONS WHICH WERE MADE UNDER SECTIONS 6, 7 AND 7.1 OF THE
12 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT AND WHICH ARE
13 IN EFFECT ON THE EFFECTIVE DATE OF SECTION 10(2)(II), (III) AND
14 (IV) OF THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL
15 REVOKED, VACATED OR MODIFIED UNDER 12 PA.C.S. CH. 30. CONTRACTS,
16 OBLIGATIONS AND COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO
17 UNDER SECTIONS 6, 7 AND 7.1 OF THE PENNSYLVANIA INDUSTRIAL
18 DEVELOPMENT AUTHORITY ACT ARE NOT AFFECTED NOR IMPAIRED BY THE
19 REPEAL OF SECTIONS 6, 7 AND 7.1 OF THE PENNSYLVANIA INDUSTRIAL
20 DEVELOPMENT AUTHORITY ACT.

21 SECTION 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

22 (1) THE FOLLOWING SHALL TAKE EFFECT IN 60 DAYS:

23 (I) THE AMENDMENT OF 12 PA.C.S. § 302.

24 (II) THE ADDITION OF PART IV HEADING IMMEDIATELY
25 PRECEDING CHAPTER 51 OF TITLE 12.

26 (III) THE REPEAL OF PART IV HEADING OF TITLE 12.

27 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

28 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1,
29 2014, OR IMMEDIATELY, WHICHEVER IS LATER.