

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 311

Session of
1981

INTRODUCED BY E. Z. TAYLOR, COWELL, BURNS, LIVENGOOD, RASCO,
WASS, MILLER, SIEMINSKI, LESCOVITZ, DAVIES, D. R. WRIGHT,
GALLAGHER, PETERSON, MAIALE, CESSAR AND O'DONNELL,
JANUARY 28, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 27, 1982

AN ACT

1 Amending the act of August 7, 1963 (P.L.549, No.290), entitled,
2 as amended, "An act creating the Pennsylvania Higher
3 Education Assistance Agency; defining its powers and duties;
4 conferring powers and imposing duties on the Governor,
5 President Pro Tempore of the Senate, Speaker of the House of
6 Representatives, Superintendent of Public Instruction and the
7 Department of Auditor General; and making appropriations,"
8 creating an Educational Loan Assistance Fund; authorizing the
9 Pennsylvania Higher Education Assistance Agency to borrow
10 money and issue bonds and other evidences of indebtedness
11 without pledging the credit of the Commonwealth; imposing
12 powers and duties upon and authorizing the agency TO FUND <—
13 LENDERS AND ELIGIBLE POSTSECONDARY INSTITUTIONS FOR LOANS TO <—
14 STUDENTS AND PARENTS AND to act as a lender ~~including~~ TO <—
15 PROVIDE ADEQUATE FINANCIAL AID FOR UNDERGRADUATE AN GRADUATE <—
16 STUDENTS INCLUDING AS an eligible lender under the provisions <—
17 of ~~Part C of the Health Professions Education Assistance Act~~ <—
18 ~~of 1976.~~ APPLICABLE FEDERAL LAW. <—

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 2, act of August 7, 1963 (P.L.549,
22 No.290), referred to as the Pennsylvania Higher Education
23 Assistance Act, amended January 18, 1968 (1967 P.L.952, No.424),
24 is amended to read:

1 Section 2. Purpose.--The purpose of such agency shall be to
2 improve the higher educational opportunities of persons who are
3 residents of this State and who are attending approved
4 institutions of higher education, in this State or elsewhere, by
5 ~~making, [guaranteeing], servicing or otherwise providing [loans~~ <—
6 ~~made]~~ to such persons to assist] ASSISTING them in meeting <—
7 their expenses of higher education in accordance with the
8 provisions of this act. ~~The term "resident," as used in this~~ <—
9 ~~act, shall include, but not be limited to, a student who is~~
10 ~~accepted for enrollment in or is attending an approved~~
11 ~~institution of higher education located in this Commonwealth.~~
12 AND BY ENABLING THE AGENCY, LENDERS AND POSTSECONDARY <—
13 INSTITUTIONS TO MAKE INITIAL OR SUPPLEMENTAL LOANS AVAILABLE TO
14 STUDENTS AND PARENTS FOR POSTSECONDARY EDUCATION PURPOSES.

15 Section 2. Section 4 of the act, amended May 8, 1965
16 (P.L.53, No.41), January 18, 1968 (1967 P.L.952, No.424),
17 December 30, 1970 (P.L.947, No.297), December 30, 1974
18 (P.L.1111, No.357) ~~and~~, December 21, 1977 (P.L.338, No.99), JULY <—
19 12, 1981 (P.L.264, NO.89) AND NOVEMBER 25, 1981 (P.L.417,
20 NO.130), is amended to read:

21 Section 4. Powers and Duties.--In furtherance of the
22 purposes set forth in this act, the board of directors shall
23 have the following powers:

24 (1) To make, guarantee, undertake commitments to make and
25 participate with lending OR POSTSECONDARY institutions in the <—
26 making of loans, service or otherwise provide loans of money
27 upon such terms and conditions as the board may prescribe within
28 the limitations contained herein or applicable Federal law, at
29 such rates of interest as are determined by the agency, to
30 lenders, POSTSECONDARY INSTITUTIONS and to persons who are <—

1 residents of this State and who plan to attend or are attending
2 any approved institution of higher education eligible under this
3 act or applicable Federal law, in this State or elsewhere to
4 assist them in meeting their expenses of higher education. No
5 such person shall receive any loan or loan guarantee in excess
6 of [one thousand five hundred dollars (\$1500) for any academic
7 year and no such person shall receive a total loan guarantee of
8 more than seventy-five hundred dollars (\$7500) except if such
9 loans are] annual and maximum limits as established by the board
10 of directors or in compliance with limits established for loans
11 funded, guaranteed or reinsured under Federal laws. Such loans
12 or loan guarantees shall become due and payable at the direction
13 of the board of directors [and the board of directors may extend
14 the repayment period not to exceed fifteen years from the date
15 of execution of the note or other written evidence of the loan
16 or as allowed under Federal law when the loan is guaranteed or
17 reinsured under Federal laws].

18 (1.1) As a public corporation and body politic subject to
19 examination by the Auditor General of the Commonwealth, the
20 agency shall be deemed an "eligible lender" as defined in Part B
21 of Title IV of the Federal Higher Education Act of 1965 and in
22 Part C of the Health Professions Educational Assistance Act of
23 1976, and pursuant to the provisions of [the act] those acts and
24 any subsequent amendments thereto or other applicable Federal
25 programs, be entitled to exercise all the authority, rights and
26 privileges of an "eligible lender." Such authority, rights and
27 privileges shall include but not be limited to the following:

28 (i) To do whatever is necessary to enable students [with
29 whom the agency makes an insured loan] who are parties to loans
30 made, FUNDED or guaranteed under this act to qualify for Federal

<—

1 interest subsidy [and], special allowance, loan forgiveness or
2 other applicable benefits.

3 (ii) To charge and collect premiums for insurance on loans
4 and other appropriate charges and pay to the Secretary of
5 Health, Education and Welfare such insurance premiums or other
6 charges as are appropriate or required by applicable Federal
7 statutes or agreements.

8 ~~(iii) To enter into contracts with schools, lenders,~~ <—
9 ~~individuals, and the Student Loan Marketing Association and~~
10 ~~other agencies of the Commonwealth, other states and the Federal~~

11 (III) TO ENTER INTO CONTRACTS WITH SCHOOLS, LENDERS, <—
12 INDIVIDUALS, CORPORATIONS, THE STUDENT LOAN MARKETING
13 ASSOCIATION, OTHER AGENCIES OF THE COMMONWEALTH, OTHER STATES
14 AND THE FEDERAL Government to make, service, invest in,
15 PURCHASE, make commitments to purchase, take assignments of, or <—
16 administer student loans made or insured under this act, the
17 Health Professions Educational Assistance Act of 1976, or other
18 programs approved by the board of directors and to provide for
19 loan forgiveness, loan consolidation, loan referral service and
20 graduated repayment. Loans to lenders OR POSTSECONDARY <—

21 INSTITUTIONS made under this subsection may be made under terms
22 and conditions requiring that the funds so loaned be used for
23 the making of loans to categories of students as defined and
24 established by the agency. ANY SUCH CONTRACT OF THE AGENCY TO <—
25 SERVICE STUDENT LOANS SHALL NOT BE SUBJECT TO THE PROVISIONS OF
26 THE ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS THE
27 RIGHT-TO-KNOW LAW. FOR PURPOSES OF THIS CLAUSE, CONTRACT SHALL
28 INCLUDE SCHEDULES OR EXHIBITS RELATING TO PRICING OR SCHEDULES
29 RELATING TO EQUIPMENT, TIME CHARGES, SERVICE CHARGES OR OTHER
30 CHARGES PERTINENT TO AN AGENCY CONTRACT TO SERVICE STUDENT

1 LOANS. ANY CITIZEN OF THE COMMONWEALTH OF PENNSYLVANIA WHO
2 DESIRES TO EXAMINE, INSPECT OR COPY ANY SUCH CONTRACT SHALL
3 APPLY TO THE ATTORNEY GENERAL. UPON RECEIPT OF ANY SUCH
4 APPLICATION, THE ATTORNEY GENERAL SHALL CAUSE A REVIEW OF THE
5 CONTRACT TO DETERMINE IF THE DISCLOSURE OF THE CONTENTS OF THE
6 CONTRACT COULD CAUSE A LOSS OF REVENUE TO ANY COMMONWEALTH FUND
7 OR TO THE AGENCY. IF THE ATTORNEY GENERAL DETERMINES THAT IT IS
8 UNLIKELY THAT A LOSS OF REVENUE TO ANY COMMONWEALTH FUND OR THE
9 AGENCY COULD OCCUR, THE ATTORNEY GENERAL MAY GRANT THE
10 APPLICATION AND ORDER THE AGENCY TO PERMIT THE CITIZEN TO
11 EXAMINE, INSPECT OR COPY THE CONTRACT. OTHERWISE, THE ATTORNEY
12 GENERAL SHALL DENY THE APPLICATION. THE ATTORNEY GENERAL SHALL
13 ALSO HAVE THE POWER TO DETERMINE THAT PORTIONS OF THE CONTRACT
14 MAY BE EXAMINED, INSPECTED OR COPIED AND OTHER PORTIONS MAY NOT.
15 THE AGENCY MAY ADOPT AND ENFORCE REASONABLE RULES, SUBJECT TO
16 THE APPROVAL OF THE ATTORNEY GENERAL, GOVERNING THE EXAMINATION,
17 INSPECTION OR COPYING OF ANY SUCH CONTRACTS. THE ATTORNEY
18 GENERAL SHALL MAKE A DETERMINATION FOR ANY APPLICATION WITHIN
19 THIRTY DAYS OF RECEIPT THEREOF.

20 (iv) To purchase stocks, securities, and the obligations
21 issued by the Student Loan Marketing Association, and to use its
22 insured and other student loans as security for loans and other
23 forms of advances from the Student Loan Marketing Association or
24 others, including lenders participating or investing in loans
25 made under this act.

26 (v) To be issued certificates of loan insurance by the <—
27 Secretary of Health, Education and Welfare as set forth in
28 Section 732, Part C, Title IV, of the Health Professions
29 Educational Assistance Act of 1976 or other appropriate Federal
30 legislation.

1 ~~(1.2) To pay such interest and costs or any parts thereof as~~ <—
2 ~~may be established by the agency and on loans guaranteed for~~
3 ~~individual students who are unable to qualify for payment of~~
4 ~~interest in their behalf by the Federal Government or other~~
5 ~~sources of interest subsidy until such time as the individual~~
6 ~~student qualifies for payment of interest in [his] the student's~~
7 ~~behalf by the Federal Government of other sources of interest~~
8 ~~subsidy [or] and over a period and in a manner to be determined~~
9 ~~by the agency [or as allowed under Federal law when the loan is~~
10 ~~guaranteed or reinsured under Federal law, graduates, withdraws,~~
11 ~~is expelled or dismissed, or otherwise ceases to be enrolled on~~
12 ~~at least a half time basis at an approved institution].~~

13 (1.2) TO GUARANTEE LOANS TO PARENTS AS AUTHORIZED BY FEDERAL <—
14 LAW PART B, TITLE IV, OF THE FEDERAL HIGHER EDUCATION ACT, AS
15 AMENDED, AND TO OTHER PERSONS FOR PURPOSES OF ATTENDING
16 POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM FUNDS OTHER THAN
17 THOSE APPROPRIATED BY THE COMMONWEALTH AND TO PAY SUCH INTEREST
18 AND COSTS OR ANY PARTS THEREOF AND FOR SUCH PERIOD OF TIME AS
19 MAY BE AUTHORIZED BY THE BOARD OF DIRECTORS OF THE AGENCY AND ON
20 LOANS GUARANTEED FOR INDIVIDUAL STUDENTS AND PARENTS WHO
21 OTHERWISE WOULD NOT QUALIFY FOR FEDERAL OR OTHER INTEREST
22 SUBSIDY.

23 (2) To [provide for monthly payments during this extended
24 period] pay costs and fees incurred by lenders and others in
25 making loans, advancing funds representing loans issued through
26 a line of credit advanced by the agency or the lender and
27 performing other functions on behalf of the agency.

28 (3) To take, hold [and], administer, assign, lend, encumber,
29 mortgage, invest or otherwise dispose of, at public or private
30 sale, on behalf of the agency and for any of its purposes, real

1 property, personal property and moneys or any interest therein
2 including any mortgage or loan interest owned by it or under its
3 control or in its possession, and the income therefrom either
4 absolutely or in trust. The board may acquire property or moneys
5 for such purpose by purchase or lease and by the acceptance of
6 gifts, grants, bequests, devises or loans, ~~and may.~~ THE BOARD
7 MAY, WITH THE APPROVAL OF THE GOVERNOR, borrow moneys by making
8 an issuing notes, bonds, and other evidences of indebtedness of
9 the agency and by making and issuing refunding notes, bonds, and
10 other evidences of indebtedness, as the agency may from time to
11 time determine necessary to make and issue FOR THE PURPOSE OF
12 PURCHASING, MAKING OR GUARANTEEING LOANS TO STUDENTS, PARENTS,
13 OR TO LENDING INSTITUTIONS OR TO POSTSECONDARY INSTITUTIONS FOR
14 THE PURPOSE OF STUDENT LOANS but no obligation of the agency
15 shall be a debt of the State and it shall have no power to
16 pledge the credit or taxing power of the State nor to make its
17 debts payable out of any moneys except those of the corporation.
18 All accrued and future earnings [up to a maximum of six hundred
19 thousand dollars (\$600,000)] from funds invested by the board of
20 directors are hereby appropriated to the agency [to guarantee
21 the loans of moneys as provided in this act and for payment of
22 expenses in] for carrying out all of the functions of the agency
23 [for the fiscal year commencing July 1, 1970. The payment of
24 expenses in carrying out the provisions of this act shall be
25 from funds appropriated by the General Assembly for that purpose
26 and for the fiscal year commencing July 1, 1970 one per cent of
27 all funds appropriated by the General Assembly for scholarships
28 to be administered by the agency are hereby appropriated to the
29 agency up to a maximum of three hundred ninety-four thousand
30 dollars (\$394,000) and may be used by it for the payment of

<—

<—

1 expenses of carrying out the provisions of this act]; such <—
2 appropriations shall]. ~~Appropriations to the agency may, at the~~ <—
3 ~~discretion of the board,~~ be augmented by such ~~earnings and~~ other <—
4 funds as shall become available from time to time ~~including~~ <—
5 ~~those~~ from the Federal government, insurance premiums and
6 charges assessed by the agency, ~~earnings of the agency,~~ or <—
7 contributions for the same purpose. For the purpose of
8 administration, the agency shall be subject to the following
9 provisions of "The Administrative Code of 1929:" sections [601,
10 602, 603 and 604] 610, 613, 614 and 615.

11 (4) To enter into contracts with or provide funds to
12 approved ~~and~~ OR eligible institutions of higher education upon <—
13 such terms as may be agreed upon between the board and any such
14 institution, to provide for the administration by such
15 institutions of any [guarantee of a] loan made, guaranteed or
16 serviced by the agency including applications therefor and
17 [repayment] disbursement and payment thereof, and to acquire
18 Federal moneys to establish loan programs for students attending
19 such institutions.

20 (5) To establish and from time to time revise and publish a
21 list of approved ~~and~~ OR eligible institutions of higher <—
22 education.

23 (6) To adopt rules and regulations not inconsistent with law
24 governing matters relating to its activities and to adopt such
25 other rules and regulations and to perform such other acts as
26 may be necessary or appropriate to comply with applicable
27 Federal legislation.

28 (7) To perform such other acts as may be necessary or
29 appropriate to carry out effectively the objects and purposes of
30 the agency as specified in this act.

1 (8) To take, hold and administer for the purpose of
2 [granting scholarships,] the agency, real property, personal
3 property and moneys, or any interest therein, and the income
4 therefrom, either absolutely or in trust, by the acceptance of
5 gifts, grants, bequests, devises or loans, but no obligation of
6 the agency shall be a debt of the [State] Commonwealth and it
7 shall have no power to pledge the credit or taxing power of the
8 [State] Commonwealth or to make [their] the agency's debts
9 payable out of any moneys except those of the agency.

10 (9) To conduct investigations to determine whether
11 applications or income tax and other data submitted to the
12 agency contain any misrepresentations or false statements made
13 for the purpose of cheating or defrauding. Whoever, by any false
14 pretense, knowingly and with intent to defraud, procures,
15 obtains, or attempts to obtain, or aids, assists, or abets, in
16 obtaining or attempting to obtain from or through the
17 Pennsylvania Higher Education Assistance Agency or under this
18 act any moneys, scholarship awards, educational assistance
19 grants, loans or loan guarantees shall be liable to the agency
20 for an amount equal to three times the amount obtained.

21 (10) To establish an investigation unit which shall have the
22 power and duty to:

23 (i) investigate alleged violations of all criminal statutes
24 related to fraud or a breach of fiduciary obligation committed
25 by any person who has obtained or attempted to obtain, or aids,
26 assists, or abets in obtaining or attempting to obtain,
27 scholarship awards, educational assistance grants, loans or loan
28 guarantees or other moneys from the agency; ~~and~~

29 (ii) work in conjunction with the appropriate prosecuting
30 authorities in the prosecution of cases where it is determined

<—

1 that evidence of criminal activity exists. In the enforcement of
2 criminal statutes OR INVESTIGATIONS related to fraud or a breach <—
3 of fiduciary obligation under this clause, the staff of the
4 investigation unit shall have the powers of law enforcement
5 officers; AND <—

6 (III) PRESENT TO THE BOARD OF DIRECTORS OF THE AGENCY,
7 EVIDENCE OF PROBABLE VIOLATIONS OF CRIMINAL STATUTES RELATED TO
8 FRAUD OR A BREACH OF FIDUCIARY OBLIGATION AND REQUEST THE BOARD
9 TO ISSUE AN ORDER OF SUBPOENA DUCES TECUM TO OBTAIN ORIGINAL
10 DOCUMENTS SUBMITTED BY INDIVIDUALS FOR THE PURPOSE OF OBTAINING
11 LOANS OR LOAN GUARANTEES OR OTHER MONEYS FROM THE AGENCY. THE
12 BOARD OF DIRECTORS SHALL HAVE THE POWER TO ISSUE A SUBPOENA
13 DUCES TECUM FOR SUCH PURPOSES UNDER THE HAND OF ITS CHAIRMAN
14 UPON A MAJORITY VOTE OF ITS MEMBERSHIP OF A FINDING THAT A
15 PROBABLE VIOLATION OF SUCH CRIMINAL STATUTES HAS OCCURRED.

16 (11) To execute by writ of execution upon wages, salaries or
17 commissions in the hands of an employer or any other person in
18 order to enforce money judgments for the repayment of all loans
19 authorized, serviced, insured, made, FUNDED or guaranteed under <—
20 this act or Federal Law: Provided, however, That such power of
21 execution may not be assigned to any other person or agency nor
22 be employed for any other purpose by the agency. Such power of
23 execution may be exercised at the discretion of the agency, but
24 under no circumstances may an amount in excess of ten percent of
25 the pay of an obligor be subject to execution during any given
26 pay period.

27 Section 3. Section 5 of the act, amended January 18, 1968
28 (1967 P.L.952, No.424), is amended to read:

29 Section 5. Capacity of Minors.--Any person otherwise
30 qualifying for a loan made, guaranteed, serviced, or otherwise

1 provided for by the agency, shall not be disqualified by reason
2 of [his] being under the age of [twenty-one] eighteen years
3 and[, for the purpose of applying for, and receiving such
4 guarantee,] any such person shall be deemed to have full legal
5 capacity to act and shall have all the rights, powers,
6 privileges and obligations of a person of full age with respect
7 thereto.

8 Section 4. The act is amended by adding sections to read:

9 Section 5.1. Educational Loan Assistance Fund.--There is
10 hereby created a fund within the State Treasury to be known as
11 the Educational Loan Assistance Fund. The fund shall be a
12 continuing fund in which may be deposited moneys received from
13 repayments of principal on loans from the fund, and payments of
14 interest and other fees and charges with respect to loans made
15 pursuant to this act, insurance premiums and charges assessed
16 and collected by the agency on loans made from the fund,
17 appropriations made to the fund by the General Assembly,
18 proceeds of the sale of notes, bonds or other indebtedness to
19 the extent and in the manner provided in the resolution of the
20 agency authorizing issuance thereof, other moneys received from
21 any other source for the purpose of the fund, and moneys
22 received from the Federal Government of the United States for
23 the purposes of the fund or this act. Except as otherwise
24 provided for in any contract with the bondholders all
25 appropriations and payments made into the fund may be applied
26 and reapplied as the agency shall direct and shall not be
27 subject to lapsing.

28 Section 5.2. Bonds, Notes and other Indebtedness.--(a)
29 Subject to the limitations contained in this section, the agency
30 may from time to time by resolution AND WITH THE APPROVAL OF THE <—

1 GOVERNOR authorize the issuance of ~~its~~ negotiable bonds, notes <—
2 and other evidences of indebtedness, including certificates of
3 participation, in such amounts, bearing such interest rates and
4 terms and maturing in such amounts and at such times as the
5 board of directors may prescribe by resolution. THE PROCEEDS <—
6 REALIZED FROM THE SALE OF NOTES, BONDS OR SIMILAR INDEBTEDNESS
7 SHALL BE USED FOR THE PURPOSE OF PURCHASING, MAKING OR
8 GUARANTEEING LOANS TO STUDENTS OR PARENTS, OR TO LENDING
9 INSTITUTIONS OR POSTSECONDARY INSTITUTIONS FOR THE PURPOSE OF
10 STUDENT LOANS AND THE COST OF ISSUANCE OF THE INDEBTEDNESS, THE
11 ESTABLISHMENT OF RESERVE FUNDS FROM THE PROCEEDS OF THE
12 INDEBTEDNESS, ADMINISTRATION OF THE LOANS PURCHASED, MADE OR
13 GUARANTEED AND OTHER COSTS ASSOCIATED WITH LOANS PURCHASED, MADE
14 OR GUARANTEED WITH FUNDS FROM THE PROCEEDS OF THE INDEBTEDNESS.
15 THE AGGREGATE PRINCIPAL AMOUNT OF BONDS, NOTES AND SIMILAR
16 EVIDENCES OF INDEBTEDNESS OF THE AGENCY SHALL NOT EXCEED TEN PER
17 CENT OF THE TOTAL LOANS GUARANTEED BY THE AGENCY.

18 (b) Except as otherwise required by the agency, the bonds,
19 notes and other evidences of indebtedness of the agency shall be
20 general obligations of the agency payable out of the proceeds of
21 loans made under this act, reserve funds created therefor by the
22 agency, any insurance contracts pertaining thereto, and other
23 lawfully available money, subject only to any agreements with
24 the holders of the bonds, notes or other evidences of
25 indebtedness of the agency, pledging any particular receipts or
26 revenues. Bonds, notes or other evidences of indebtedness issued
27 under the provisions of this act shall not be deemed to
28 constitute a debt of the Commonwealth or a pledge of the faith
29 and credit of the Commonwealth. All such bonds, notes and other
30 evidences of indebtedness shall contain on the face thereof a

1 statement to the foregoing effect and to the effect that the
2 agency shall be obligated to pay the same or the interest
3 thereon only from such moneys or revenues, proceeds, reserve
4 funds, insurance contracts, and such other moneys of the agency,
5 and that neither the faith and credit nor the taxing power of
6 the Commonwealth is pledged to the payment of the principal of
7 or the interest on such bonds, notes or other evidences of
8 indebtedness.

9 (c) To secure payment of such bonds, notes or other
10 evidences of indebtedness, the agency may establish one or more
11 reserve funds and prescribe by resolution the sources of
12 deposits therein, the investment of amounts therein, and the
13 limitations on withdrawals from such funds. Among others, the
14 agency may create one or more debt service reserve funds wherein
15 specified deposits may be made and may require that such
16 deposits shall be used solely for the payment of principal of,
17 redemption premium, if any, and interest on the agency's bonds,
18 notes or other obligations. The agency may require that
19 withdrawals of amounts in any such debt service reserve fund not
20 be made at any time in such amount as to reduce the amount in
21 such reserve fund to less than the amount which the agency shall
22 determine by resolution to be reasonably necessary for the
23 purposes of such reserve fund (referred to herein as the debt
24 service fund requirement), except for the purpose of paying
25 principal of, redemption premium, if any, and interest on the
26 bonds, notes or any obligations secured by such reserve fund for
27 the payment of which other specified moneys of the agency are
28 not available, and except that any income or interest earned by,
29 or any increment to, any such reserve fund by reason of
30 investment of amounts therein may be transferred to any other

1 fund or account of the agency to the extent such transfer does
2 not reduce the amount in such debt service reserve fund below
3 the amount of its debt service reserve fund requirement.

4 (d) The bonds, notes and other evidences of indebtedness of
5 the agency shall be signed by the chairman who may use a
6 facsimile signature for this purpose. The bonds may be issued as
7 serial bonds payable in annual installments or as term bonds or
8 as a combination thereof. The obligations of the agency shall
9 bear interest at such rate or rates, be in such denominations,
10 have such registration privileges, be executed in such manner,
11 be payable in such medium of payment, at such place or places
12 within or without the Commonwealth, be subject to such terms of
13 redemption and maturity, and contain such other terms as the
14 board of directors may determine. The notes and bonds of the
15 agency may be sold by the agency at public or private sale at
16 such price or prices as the board of directors determines. If
17 the CHAIRMAN OF THE board of directors whose signature appears <—
18 on any notes or bonds or coupons ceases to act in that capacity
19 before the delivery of such notes or bonds, his signature is
20 valid and sufficient for all purposes as if he had remained in
21 office until such delivery.

22 (e) The agency may issue refunding obligations to refund any
23 obligations then outstanding which have been issued under the
24 provisions of this act, including the payment of any redemption
25 premium thereon and any interest accrued or to accrue to the
26 date of redemption of such obligations and for any statutory
27 purpose of the agency.

28 (f) No director of the agency nor any person executing
29 bonds, notes or other evidences of indebtedness of the agency
30 shall be subject to personal liability or accountability solely

1 by reason of his execution of such obligations or the issuance
2 thereof.

3 (G) ALL BOND MANAGERS OR BOND CO-MANAGERS SHALL EMPLOY AT <—
4 LEAST ONE HUNDRED PERSONS OR FOUR PERCENT OF THE TOTAL NUMBER OF
5 THEIR PERSONNEL IN THE COMMONWEALTH DURING THE TIME THEY ARE
6 MANAGERS OR CO-MANAGERS OF THE BOND ISSUE. AS USED IN THIS
7 SUBSECTION, THE TERM "BOND MANAGERS" DOES NOT INCLUDE BOND
8 UNDERWRITERS.

9 Section 5.3. Agreements with Bondholders; Lien of Pledge.--

10 (a) The agency in issuing any bonds, notes or other obligations
11 may contract with the holders thereof as to:

12 (1) Pledging revenues of the agency to secure the payment of
13 the bonds, notes or other obligations subject to such agreements
14 with holders of obligations of the agency as may then exist.

15 (2) Pledging assets of the agency to secure the payment of
16 the bonds, notes or other obligations subject to such agreements
17 with holders of obligations of the agency as may then exist.

18 (3) The setting aside of reserves or sinking funds and the
19 regulation and disposition thereof.

20 (4) Limitations on the purpose to which the proceeds of sale
21 of bonds, notes or other obligations may be applied and pledging
22 such proceeds to secure the payment of the bonds, notes or other
23 obligations or of any issue thereof.

24 (5) Limitations on the issuance and terms of additional
25 bonds, notes or other obligations, and the refunding of
26 outstanding or other bonds, notes or other obligations.

27 (6) The procedure, if any, by which the terms of any
28 contract with noteholders or bondholders may be amended or
29 abrogated, the amount of bonds, notes or other obligations the
30 holder of which must consent thereto, and the manner in which

1 such consent may be given.

2 (7) Vesting in a trustee or trustees such property, rights,
3 powers and duties in trust as the board of directors may
4 determine, which may include any or all of the rights, powers
5 and duties of the trustee appointed by the bondholders pursuant
6 to this act and limiting or abrogating the right of the
7 bondholders to appoint a trustee under this act or limiting the
8 rights, powers and duties of such trustee.

9 (8) Defining the acts which shall constitute a default in
10 the obligations and duties of the agency to the holders of the
11 bonds, notes or other obligations and providing for the rights
12 and remedies of the holders of the bonds, notes and other
13 obligations in case of such default, but such rights and
14 remedies shall not be inconsistent with the general laws of this
15 Commonwealth and the other provisions of this act.

16 (9) Any other matters, of like or different character, which
17 in any way affect the security or protection of the holders of
18 the bonds, notes or other obligations.

19 (b) Any pledge made by the agency is valid and binding from
20 the time when the pledge is made. The revenues, moneys or
21 property so pledged and thereafter received by the agency are
22 immediately subject to the lien of such pledge without any
23 physical delivery thereof or further act, and the lien of any
24 such pledge is valid and binding as against all persons having
25 claims of any kind in tort, contract or otherwise against the
26 agency, whether or not such persons have notice thereof. Neither
27 the proceedings of the agency relating to the bonds, notes or
28 other obligations nor any other instrument by which a pledge is
29 created need be recorded.

30 Section 5.4. Trust Indenture.--Bonds, notes or other

1 evidence of indebtedness issued by the agency may be secured by
2 a trust indenture or trust indentures by and between the agency
3 and a corporate trustee, which may be any trust company or bank
4 having the power of a trust company within or outside this
5 Commonwealth. Such trust indenture may contain such provisions
6 for protecting and enforcing the rights and remedies of the
7 holders thereof, as may be reasonable and proper and not in
8 violation of law, including covenants setting forth the duties
9 of the agency in relation to the exercise of its statutory
10 powers and the custody, safeguarding and application of all
11 moneys. The agency may provide by such trust indenture for the
12 payment of the proceeds of such obligations of the agency and
13 the revenues to the trustee under such trust indenture or other
14 depository, and for the method of disbursement thereof, with
15 such safeguards and restrictions as the board of directors may
16 determine. All expenses incurred in carrying out such trust
17 indenture may be treated as part of the operating expenses of
18 the agency. Such trust indenture may limit or abrogate the right
19 of the holders of any bonds, notes or other obligations of the
20 agency to appoint a trustee under this act or limit the rights,
21 powers and duties of such trustee.

22 Section 5.5. Rules and Regulations.--The rules and
23 regulations of the agency under section 4 (6) relating to the
24 making of loans to lending institutions shall require that such
25 loans (i) be evidenced by instruments delivered by each lending
26 institution to the agency constituting such loan indebtedness a
27 general obligation of such lending institution, and (ii) be
28 secured as to payment by a pledge of and lien upon collateral
29 security. The agency may require that any such security be
30 lodged with a bank or trust company, located within or outside

1 the Commonwealth, designated by the agency as custodian
2 therefor.

3 Section 5.6. Bonds, Notes and Obligations as Legal
4 Investments.--The bonds, notes and other evidences of
5 indebtedness of the agency are securities in which all public
6 officers and bodies of the Commonwealth and all municipalities
7 and municipal subdivisions, all insurance companies and
8 associations, and other persons carrying on an insurance
9 business, all banks, trust companies, savings banks and savings
10 associations, savings and loan associations, investment
11 companies, all administrators, guardians, executors, trustees
12 and other fiduciaries, and all other persons whatsoever who are
13 now or may hereafter be authorized to invest in bonds or other
14 obligations of the Commonwealth may properly and legally invest
15 funds, including capital in their control or belonging to them.

16 Section 5.7. Remedies of Bondholders and Noteholders.--

17 (1) In the event that the agency shall default in the
18 payment of principal of or interest on any issue of bonds, notes
19 or other obligations after the same shall become due, whether at
20 maturity or upon call for redemption, and such default shall
21 continue for a period of thirty days, or in the event that the
22 agency shall fail or refuse to comply with the provisions of
23 this act, or shall default in any agreement made with the
24 holders of any issue of bonds, notes or other obligations, the
25 holders of twenty-five per cent in aggregate principal amount of
26 the bonds, notes or other obligations of such issue then
27 outstanding, by instrument or instruments filed in the office of
28 the clerk of the county in which the principal office of the
29 agency is located, and proved or acknowledged in the same manner
30 as a deed to be recorded, may appoint a trustee to represent the

holders of such bonds, notes or other obligations for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five percent in the principal amount of such issue of bonds, notes or other obligations then outstanding shall, in his or its own name, (i) by suit, action or proceeding, enforce all rights of the holders of such obligations to require the agency to carry out its agreements with the holders thereof and to perform its duties under this act; (ii) bring suit upon such bonds, notes or other obligations; (iii) by action, suit or proceeding, require the agency to account as if it were the trustee of an express trust for the holders of such bonds, notes or other obligations; (iv) by action, suit or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, notes or other obligations; and (v) declare all such bonds, notes or other obligations to be immediately due and payable and, if all defaults shall be made good then with the consent of the holders of twenty-five per cent of the principal amount of such issue of bonds, notes or other obligations then outstanding, annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of holders of such obligations in the enforcement and protection of their rights.

Section 5.8. Tax Exemption.--It is hereby determined that the creation of the agency is in all respects for the benefit of the people of the Commonwealth, for the improvement of their health and welfare, and for the promotion of the economy, and

that said purposes are public purposes and the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this act, and the Commonwealth covenants with the purchasers and all subsequent holders and transferees of bonds, notes and other obligations that the bonds, notes and other obligations of the agency issued pursuant to this act and the income therefrom shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers.

Section 5.9. Covenant by Commonwealth Not to Limit or Alter Powers Vested in Agency.--The Commonwealth of Pennsylvania does hereby pledge to, covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authority of this act, that the Commonwealth will not limit or alter the rights or powers hereby vested in the agency to perform and fulfill the terms of any agreement made with the holders of such bonds, notes or other obligations, or in any way impair the rights or remedies of such holders.

Section 5.10. Severability.--~~The~~ (A) EXCEPT AS PROVIDED IN SUBSECTION (B), THE provisions of this act are severable, and if any part or provisions hereof, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this act or the application of such provision to any other person or circumstance, but shall be confined in its operation to the provision, person or circumstance directly involved in the controversy in which such judgment shall have been rendered.

(B) THE PROVISIONS OF SECTION 5.2 WHICH STATE THAT THE BONDS, NOTES OR EVIDENCES OF INDEBTEDNESS OF THE AGENCY SHALL

1 NOT BE DEEMED TO CONSTITUTE A DEBT OF THE COMMONWEALTH OR A
2 PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE
3 COMMONWEALTH ARE EXPRESSLY MADE NONSEVERABLE.

4 Section 5.11. Venue.--Venue for all legal actions in which
5 the agency is a party shall be proper in Dauphin County and, in
6 the discretion of the agency, in any other county authorized by
7 law.

8 Section 5. This act shall take effect immediately.