
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,
FEBRUARY 10, 1981

AN ACT

1 Promoting the development and operation of small scale energy
2 projects using renewable alternative sources of energy;
3 providing for the establishment and operation of the
4 Pennsylvania Small Scale Local Energy Project Finance Agency
5 and establishing procedures for the sale of bonds and the
6 funding of qualified small scale energy projects.

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24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Short title.

27 This act shall be known and may be cited as the "Small Scale
28 Local Energy Project Finance Agency Law."

29 Section 2. Purpose.

30 (a) It is hereby determined and declared as a matter of

1 legislative finding:

2 (1) That the welfare of the Commonwealth is threatened
3 by the fact that there is an acute shortage of energy fuels
4 using renewable resources including but not limited to solar,
5 wind, geothermal, bio-mass, waste heat or water resources to
6 supply energy including heat, electricity and substitute
7 fuels to meet local community or regional energy needs in
8 this State.

9 (2) Because of higher energy-related costs, a scarcity
10 of financing available for development of small scale local
11 energy projects exists which in fact has not been able to
12 find economic expression in a market demand sufficient to
13 encourage greater production of such energy sources by
14 private industry.

15 (3) The relationship of a sufficient provision of
16 adequate and safe energy to the advancement of the public
17 health and morals is clear.

18 (b) Therefore, it is hereby declared to be the policy of the
19 Commonwealth of Pennsylvania to promote the health, safety and
20 welfare of its inhabitants by the creation of a body corporate
21 and politic to be known as the Pennsylvania Small Scale Local
22 Energy Project Finance Agency, which shall exist and operate for
23 the purpose of alleviating the hardship which results from
24 insufficient production of energy using renewable sources. Such
25 purposes are public purposes for which public money may be
26 spent.

27 Section 3. Definitions.

28 The following words and phrases when used in this act shall
29 have, unless the context clearly indicates otherwise, the
30 meanings given to them in this section:

1 "Agency." The Pennsylvania Small Scale Local Energy Project
2 Finance Agency created by this act.

3 "Board." The governing body of the agency.

4 "Small business." A sole proprietorship, partnership,
5 cooperative corporation or corporation domiciled in the state
6 organized for profit and employing less than 100 persons. Small
7 business does not include subsidiary firms of sole
8 proprietorships, partnerships, cooperative corporations or
9 corporations organized for profit and employing 100 or more
10 persons.

11 "Small scale local energy project." Any system, mechanism or
12 series of mechanisms located in the state that uses renewable
13 resources including, but not limited to solar, wind, geothermal,
14 bio-mass, waste heat or water resources to supply energy
15 including heat, electricity and substitute fuels to meet a local
16 community or regional energy need in this State.

17 Section 4. Agency creation.

18 A body corporate and politic known as the Pennsylvania Small
19 Scale Local Energy Project Finance Agency, is hereby created as
20 a public corporation and government instrumentality to have
21 continuing succession until its existence shall be terminated by
22 law.

23 Section 5. Agency membership.

24 The members of the agency shall be the Secretary of the
25 Department of Environmental Resources, the Secretary of
26 Community Affairs, the State Treasurer, the Secretary of
27 Commerce, the Secretary of Banking, a representative from the
28 Governor's Energy Council, and the respective successors in
29 office of each of them and six additional members whom the
30 Governor shall appoint, who shall represent the interest of the

1 citizens of this State and shall be knowledgeable in the areas
2 of small scale energy technology, natural resource development,
3 environmental protection, finance, agriculture, local government
4 operations and utility operations. The Secretary of the
5 Department of Environmental Resources shall serve as
6 chairperson. The members initially appointed shall serve for
7 terms of one, two, three, four, five and six years,
8 respectively, the particular term of each to be designated by
9 the Governor at the time of appointment. The terms of all their
10 successors shall be six years each, except that any person
11 appointed to fill a vacancy shall serve only for the unexpired
12 term. Every member's term shall extend until his successor is
13 appointed and qualified. Any appointment of a member of the
14 agency made hereafter shall be subject to the advice and consent
15 of a majority of all the members of the Senate. Any appointed
16 member of the agency shall be eligible for reappointment. The
17 members of the agency shall not receive compensation for their
18 services as members, but shall receive reimbursement for all
19 necessary expenses incurred in connection with the performance
20 of their duties as members.

21 Section 6. Agency governing body.

22 The governing body of the agency shall be a board, consisting
23 of the members of the agency. The board shall elect a chairman
24 from among its members at the first meeting of the board and at
25 its first meeting in each year thereafter. A majority of the
26 members shall constitute a quorum for the purpose of organizing
27 the agency, conducting its business and exercising all powers of
28 the agency. A vote of the majority of the members present shall
29 be sufficient for all actions of the board, unless the bylaws
30 require a greater number.

1 Section 7. Agency powers.

2 The agency shall have the following powers:

3 (1) To adopt, use and alter at will a corporate seal.

4 (2) To make and alter bylaws for the management and
5 regulation of its affairs and to make and from time to time
6 amend and repeal rules and regulations governing the various
7 programs of the agency pursuant to this act and the conduct
8 of its business.

9 (3) To enter into contracts of all kinds and to execute
10 all instruments necessary or convenient for carrying on its
11 operations.

12 (4) To accept grants and subsidies from and to enter
13 into agreements or other transactions with any Federal agency
14 or agency of the Commonwealth or other entity.

15 (5) To accept grants-in-aid, gifts, donations, legacies
16 or usages of money made or extended by individuals,
17 organizations, public or private corporations, departments or
18 instrumentalities of the Commonwealth, or the Federal
19 Government, and to return money advanced for its usage not
20 otherwise required for its purposes or for any capital
21 reserve fund created in accordance with section 23.

22 (6) To be a party litigant in any court having
23 jurisdiction according to law in any form of action
24 whatsoever.

25 (7) To acquire, hold and dispose of personal property,
26 tangible and intangible.

27 (8) To acquire, hold and dispose of real property, or
28 any interest therein, to be used by the agency for the
29 purpose of its offices and operations.

30 (9) To acquire by purchase, gift or foreclosure any real

1 or personal property or any interest therein, to enter into
2 any lease of property and to hold, sell, assign, lease,
3 encumber, mortgage or otherwise dispose of any real or
4 personal property, or any interest therein, or mortgage lien
5 interest owned by it or under its control, custody or in its
6 possession and release or relinquish any right, title, claim,
7 lien, interest, easement or demand however acquired,
8 including any equity or right of redemption, in property
9 foreclosed by it and to do any of the foregoing by public or
10 private sale, with or without public bidding, notwithstanding
11 the provisions of any other law.

12 (10) To borrow money for the operation and work of the
13 agency by the making of notes and by the issuance of bonds in
14 accordance with the provisions of this act.

15 (11) To invest any funds held in reserves or sinking
16 funds, or any funds not required for immediate disbursement,
17 in such investments as may be lawful for fiduciaries under
18 any law of the Commonwealth, including insured mortgages,
19 which for such temporary purposes alone, need not be made by
20 a mortgagor or involve real estate located in Pennsylvania.

21 (12) To conduct energy studies and to enter into
22 contracts with the Department of Environmental Resources and
23 to do all things necessary or convenient to carry out the
24 powers granted by this act or other acts.

25 (13) To employ an executive director and such other
26 officers, agents, employees, professional and business
27 advisers as may from time to time be necessary in its
28 judgment and to fix their compensation; and to promote and
29 discharge such officers, employees and agents.

30 (14) To appear in its own behalf before boards,

1 commissions, departments or other agencies of government,
2 municipal, State or Federal.

3 (15) To procure insurance against any loss in connection
4 with its property in such amounts, and from such insurers, as
5 may be necessary or desirable.

6 (16) To do all things necessary or convenient to carry
7 out the powers granted by this act or other acts.

8 (17) Subject to any agreement with bondholders or
9 noteholders, to collect, enforce the collection of, and
10 foreclose on any collateral securing its loans and acquire or
11 take possession of such collateral and sell the same at
12 public or private sale, with or without bidding, and
13 otherwise deal with such collateral as may be necessary to
14 protect the interests of the agency therein or in which the
15 agency has an interest.

16 (18) Subject to any agreement with bondholders or
17 noteholders and with the written approval of the Governor to
18 consent to any modification with respect to rate of interest,
19 time and payment of any installment of principal or interest,
20 security or any other term of any loan to a mortgage lender
21 or any bond or note, contract or agreement of any kind to
22 which the agency is a party.

23 Section 8. Agency moneys.

24 All moneys of the agency from whatever source derived shall
25 be paid to the treasurer of the agency and deposited in the
26 first instance in one or more banks or trust companies, in one
27 or more special accounts, each continuously secured by pledge of
28 direct obligations of the United States of America or of the
29 Commonwealth, or bonds of the agency, having an aggregate market
30 value, exclusive of accrued interest, at all times, at least

1 equal to the balance on deposit in the account. The security
2 shall be either deposited with the treasurer or held by a
3 trustee or agent satisfactory to the agency. All banks and trust
4 companies are authorized to give the security required. The
5 moneys of the agency shall be paid out on the warrant or other
6 order of the treasurer of the agency or of another person
7 authorized by the agency to execute warrants or orders.

8 Notwithstanding the provisions of this section, the agency shall
9 have power to contract with the holders of any of its bonds or
10 notes as to the custody, security and payment of any moneys of
11 the agency or any moneys held in trust or otherwise to secure
12 the payment of bonds or notes. Deposits of money held in trust
13 or otherwise to secure the payment of bonds or notes may be
14 secured in the same manner as moneys of the agency and all banks
15 and trust companies are authorized to give security for such
16 deposits.

17 Section 9. Agency audits and reports.

18 The accounts and books of the agency, including its receipts,
19 disbursements, contracts, mortgages, investments and other
20 matters relating to its finances, operations and affairs, shall
21 be examined and audited from time to time by the Auditor General
22 as provided in the act of April 9, 1929 (P.L.343, No.176), known
23 as "The Fiscal Code." Within 60 days after the end of each
24 fiscal year of the agency, the agency shall file an annual
25 financial statement consisting at least of a balance sheet,
26 profit and loss statement and general report of operations with
27 the Governor, the Auditor General and the General Assembly.

28 Section 10. Loan application.

29 (a) Any individual, small business, nonprofit cooperative
30 corporation, corporation or municipal corporation may file with

1 the agency an application to loan funds for a small scale local
2 energy project as provided by this act.

3 (b) Applications to obtain funds for a small scale local
4 energy project shall be made in writing on a form prescribed by
5 the agency. Applications submitted to the agency shall:

6 (1) Describe the nature and purpose of the proposed
7 small scale local energy project.

8 (2) State whether any purposes other than energy
9 production, but consistent therewith, will be served by the
10 proposed small scale local energy project and the nature of
11 such other purposes, if any.

12 (3) Include an evaluation of the potential of the small
13 scale local energy project to meet local community energy
14 needs.

15 (4) Include an evaluation of the potential environmental
16 impacts of the small scale local energy project.

17 (5) State whether any moneys other than those of the
18 agency are proposed to be used for the development of the
19 proposed small scale local energy project and whether any
20 other moneys are available or have been sought for the
21 project.

22 (6) Describe the source of funds for repayment of the
23 loan applied for.

24 (c) The agency shall charge and collect from the applicant
25 when the application is filed, a fee of \$100 or 1% of the amount
26 of the loan applied for, whichever is less. In addition, the
27 agency shall charge the applicant the amount required to
28 reimburse the agency for costs that exceed the application fee
29 incurred in connection with the application.

30 Section 11. Project standards.

1 (a) The standards and criteria promulgated by the agency
2 shall operate to encourage diversity in projects funded, give
3 preference to the maximum extent practical to projects proposed
4 by individuals and small businesses, assure acceptability of
5 environmental impacts and shall require consideration of the
6 potential contribution of a project if developed at other
7 suitable locations to meeting the energy needs of this State.

8 (b) All applications submitted under this act shall be
9 reviewed by the agency. The agency may request that the
10 applicant submit additional information or revise the
11 application. The agency shall:

12 (1) determine whether the application meets the
13 standards and criteria adopted under this section; and

14 (2) recommend approval or denial of the loan application
15 and if approval is recommended in what amount the loan should
16 be made.

17 (c) After concluding its initial review, the agency shall
18 notify the applicant of the date, time and place of any oral
19 presentation to the agency on the application. The agency shall
20 review the application again and shall then decide whether the
21 proposed small scale local energy project meets the criteria
22 established by the agency under this section, whether the
23 project should be financed with agency moneys and in what amount
24 the loan should be made if approved.

25 Section 12. Approval or rejection of the application.

26 (a) After final review, the agency may either approve or
27 reject the financing of a small scale local energy project
28 described in an application filed as provided in section 10.

29 (b) Approval of a loan by the agency shall include a
30 certification of the amount of the loan. The agency's approval

1 shall be based on a finding that:

2 (1) the proposed small scale local energy project meets
3 established criteria under section 11;

4 (2) the proposed project is consistent with the
5 preservation and enhancement of environmental quality;

6 (3) the proposed project is feasible and a reasonable
7 risk from practical and economic standpoints;

8 (4) the plan for development of the project is
9 satisfactory;

10 (5) the applicant is qualified, credit worthy and
11 responsible and is willing and able to enter into a contract
12 with the agency for development and repayment as provided in
13 this act;

14 (6) there is a need for the proposed small scale local
15 energy project and the applicant's financial resources are
16 adequate to provide the working capital to maintain the
17 project after completion; and

18 (7) agency funds are or will be available for the
19 development of the proposed small scale local energy project.

20 (c) The agency shall notify the applicant of its action and
21 of the reasons for such action. The agency shall inform the
22 applicant of the review procedure established in section 13.
23 Section 13. Review procedure.

24 (a) If the agency rejects a loan application or approves a
25 loan amount different than that requested by the applicant, the
26 applicant may request that the agency review its action in
27 regard to the application.

28 (b) The agency may review its action on its own motion or at
29 the request of the applicant.

30 (c) An appeal of the agency's action shall be initiated by

1 the agency no later than 45 days after the date that the
2 applicant receives notice of the agency's action under section
3 12.

4 Section 14. Terms of the loan contract.

5 If the agency approves the financing of a small scale local
6 energy project, the agency on behalf of the State and the
7 applicant may enter into a loan contract, secured by a first
8 lien or by other good and sufficient collateral in the manner
9 provided in sections 15 and 16, which shall set forth, among
10 other matters:

11 (1) That the agency, on behalf of the State, must
12 approve the arrangements made by the applicant for the
13 development, operation and maintenance of the small scale
14 local energy project, using agency moneys for the project
15 development.

16 (2) A plan for repayment by the applicant to the agency
17 of moneys borrowed from the agency for the development of the
18 small scale local energy project and interest on those moneys
19 used at a rate of interest to be determined by the agency at
20 a rate necessary to provide adequate funds to recover the
21 administrative expenses incurred under this act. The
22 repayment plan, among other matters:

23 (i) Shall provide for commencement of repayment by
24 the applicant of moneys used for project development and
25 interest thereon no later than two years after the date
26 of the loan contract or at any other time as the agency
27 may provide.

28 (ii) May provide for reasonable extension of the
29 time for making any repayment in emergency or hardship
30 circumstances, if approved by the agency.

1 (iii) Shall provide for evidence of debt assurance
2 of and security for repayment by the applicant considered
3 necessary or proper by the agency.

4 (iv) Shall set forth a schedule of payments and the
5 period of loan which shall not exceed the usable life of
6 the completed project or 30 years from the date of the
7 loan contract, whichever is less, and shall also set
8 forth the manner of determining when loan payments are
9 delinquent. The payment schedule shall include repayment
10 of interest which accrues during any period of delay in
11 repayment authorized in subparagraph (i) and the payment
12 schedule may require payments of varying amounts for
13 collection of the accrued interest.

14 (v) Shall set forth a procedure for formal
15 declaration of default of payment by the agency,
16 including formal notification of all relevant Federal,
17 State and local agencies; and further, a procedure for
18 notification of all relevant Federal, State and local
19 agencies that declaration of default has been rescinded
20 when appropriate.

21 (3) Provisions satisfactory to the agency for field
22 inspection, the agency to be the final judge of completion of
23 the project.

24 (4) Any further provisions that the agency considers
25 necessary to insure expenditure of the funds for the purposes
26 set forth in the approved application.

27 (5) That the agency may institute an appropriate action
28 or suit to prevent the use of the project financed by the
29 agency by any person who is delinquent in the repayment of
30 any money due to the agency.

1 Section 15. Liens.

2 (a) (1) When a loan is made to a nonprofit cooperative
3 corporation or corporation for the development of small scale
4 local energy project under this act, the State has a lien for
5 the amount of the unpaid balance of the loan. The lien
6 created by this subsection attaches to the real property of
7 the applicant and to any income realized by the applicant
8 from the project.

9 (2) The existence or foreclosure of the lien created by
10 this subsection shall not require the acceleration of
11 payments on affected real property. Such payments shall
12 continue to be made as they become due.

13 (b) (1) When a loan is made under this act to an applicant
14 other than a nonprofit cooperative corporation, corporation
15 or a municipal corporation, the loan shall be secured by a
16 mortgage or security agreement in the full amount of the loan
17 which mortgage or security agreement shall be a lien upon
18 such real property of the applicant as the agency shall
19 require for adequate security.

20 (2) The existence or foreclosure of the lien created by
21 this subsection shall not require the acceleration of
22 payments on affected real property. Such payments shall
23 continue to be made as they become due.

24 (c) (1) When a loan is made to a municipal corporation for
25 the development of a small scale local energy project under
26 this act, the agency shall obtain adequate and sufficient
27 security for the amount of the unpaid balance of the loan.
28 The security may be in the form of a lien, mortgage or other
29 form of security acceptable to the agency and the municipal
30 corporation.

1 (2) The existence or foreclosure of a lien, mortgage or
2 other form of security created by this subsection shall not
3 cause the acceleration of payments on affected real property.
4 Such payments shall continue to be made as they become due.

5 (d) When a loan made under this act is secured by a lien on
6 the real property of the applicant, the agency shall file notice
7 of the loan with recorder of deeds of each county in which is
8 situated real property of the applicant. The notice shall
9 contain a description of the real property of the applicant, the
10 amount of the loan and a statement that the State has a lien
11 against such real property as provided in subsection (a), (b) or
12 (c).

13 (e) Upon payment of all amounts loaned to an applicant
14 pursuant to this act, the agency shall file with each recorder
15 of deeds referred to in subsection (d) a notice of satisfaction
16 that indicates repayment of the loan.

17 (f) The agency may cause to be instituted appropriate
18 proceedings to foreclose liens for delinquent loan payments.

19 Section 16. Municipal corporations and State revenues.

20 In addition to any other remedy available to the agency, if a
21 municipal corporation entitled by law to share in the
22 apportionment of any State revenues or funds defaults on any
23 payments due to the State under a loan contract entered into
24 under section 14, the agency shall certify that fact to the
25 appropriate agency, board, commission or department, and such
26 agency, board, commission or department shall withhold payments
27 of any revenues or funds in the State Treasury to which the
28 municipal corporation is entitled until the agency certifies
29 that the default has been remedied.

30 Section 17. Applicant's failure to comply with the contract.

1 If an applicant fails to comply with a contract entered into
2 with the agency and repayment as provided in section 14, the
3 agency, in addition to remedies provided in sections 15 and 16,
4 may seek other appropriate legal remedies to secure the loan and
5 may contract as provided in section 14 with any other person for
6 continuance of development and for repayment of moneys from the
7 agency used therefor and interest thereon.

8 Section 18. Refinancing of a project or funds from
9 other sources.

10 If any small scale local energy project is refinanced, or
11 financial assistance is obtained from other sources after the
12 execution of the loan from the agency, all such funds shall be
13 first used to repay the agency.

14 Section 19. Loan limited to amount not funded by other sources.

15 If the applicant receives from any source other than the
16 agency any funds to assist in the development of the project,
17 the amount of the loan to the applicant from the agency shall be
18 limited to that amount necessary for the development of those
19 portions of the project not funded by other sources.

20 Section 20. Issuance of bonds and notes.

21 (a) The agency shall have the power and is hereby authorized
22 from time to time by resolution of the members and subject to
23 the written approval by the Governor to issue its negotiable
24 bonds, either as serial bonds maturing in annual installments or
25 as term bonds, or any combination thereof, and notes in such
26 principal amount as, in the opinion of the agency, shall be
27 necessary to provide sufficient funds for achieving its
28 corporate purposes, including the energy programs established
29 under this act, the payment of interest on bonds and notes of
30 the agency, establishment of reserves to secure such bonds and

1 notes, and all other expenditures of the agency incident to and
2 necessary or convenient to carry out its corporate purposes and
3 powers. The agency shall have the power, from time to time, by
4 resolution of the members and subject to the written approval of
5 the Governor to issue renewal notes, to issue bonds to pay notes
6 and whenever it deems refunding expedient to refund any bonds by
7 the issuance of new bonds, whether the bonds to be refunded have
8 or have not matured, and to issue bonds partly to refund bonds
9 then outstanding and partly for any other purpose. The refunding
10 bonds shall be sold and the proceeds applied to the purchase,
11 redemption or payment of the bonds to be refunded. The agency
12 shall not have the power to issue bond anticipation notes:

13 Provided, however, That renewal bond anticipation notes may be
14 issued for the sole purpose of redeeming any issue or portion of
15 any issue of bond anticipation notes heretofore issued by the
16 agency which have not been retired through the sale of bonds.

17 (b) The notes and bonds of the agency shall bear such date
18 or dates, and shall mature at such time or times, in the case of
19 any such note, or any renewals thereof, not exceeding five years
20 from the date of issue of such original note, and in the case of
21 any such bond not exceeding 50 years from the date of issue, as
22 such resolution or resolutions may provide. The notes and bonds
23 shall bear interest at such rate or rates, be in such
24 denominations, be in such form, either coupon or registered,
25 carry such registration privileges, contain such terms and
26 provisions relating to, but not limited to, pledges of the
27 agency's assets, setting aside of reserves, limitations on
28 additional notes and bonds, and such other matters as may affect
29 the security or protection of the notes and bonds, be executed
30 in such manner, be payable in such medium of payment, at such

1 place or places and be subject to such terms of redemption as
2 such resolution or resolutions may provide. The notes and bonds
3 of the agency may be sold at public or private sale, at such
4 price or prices as the agency shall determine.

5 (c) Neither the members of the agency nor any person
6 executing the notes or bonds shall be liable personally on the
7 notes or bonds or be subject to any personal liability or
8 accountability by reason of the issuance thereof.

9 (d) The agency, subject to such agreement with noteholders
10 or bondholders as may then exist, shall have power out of any
11 funds available therefor to purchase its notes or bonds, which
12 shall thereupon be cancelled, at a price not exceeding:

13 (1) if the notes or bonds are then redeemable, the
14 redemption price then applicable plus accrued interest to the
15 next interest payment date thereupon; or

16 (2) if the notes or bonds are not then redeemable, the
17 redemption price applicable on the first date after such
18 purchase upon which the notes or bonds become subject to
19 redemption plus accrued interest to such date.

20 Section 21. Credit of Commonwealth or any subdivision thereof
21 not pledged.

22 Except as may otherwise be expressly provided by the agency,
23 its bonds and notes shall be general obligations of the agency
24 payable out of any moneys or revenues of the agency, including
25 the proceeds of loans made under this act, reserve funds created
26 therefor by the agency, any mortgage insurance contracts
27 pertaining thereto and other lawfully available money, subject
28 only to any agreements with holders of the bonds or notes
29 pledging any receipts or revenues. Bonds and notes issued under
30 the provisions of this act shall not be deemed to constitute a

1 debt of the Commonwealth or of any political subdivision thereof
2 or a pledge of the faith and credit of the Commonwealth or of
3 any such political subdivision. All such bonds and notes shall
4 contain on the face thereof a statement to the effect that
5 neither the agency nor the Commonwealth nor any political
6 subdivision thereof shall be obligated to pay the same or the
7 interest thereon except from such proceeds, reserve fund or
8 mortgage insurance contracts and that neither the faith and
9 credit nor the taxing power of the Commonwealth or any political
10 subdivision thereof is pledged to the payment of the principal
11 of or the interest on such bonds.

12 Section 22. Funds and accounts.

13 The agency shall create such funds and accounts as may be
14 necessary or desirable for its corporate purposes and shall pay
15 into each such fund or account any moneys appropriated and made
16 available by the Commonwealth for the purposes of such fund or
17 account. Nothing contained herein shall be construed as
18 prohibiting the agency from creating within any fund one or more
19 accounts which may be used or pledged by the agency for a
20 specific purpose.

21 Section 23. Reserve funds and appropriations.

22 (a) The agency may create and establish one or more special
23 funds, herein referred to as "capital reserve funds," and shall
24 pay into each such capital reserve fund:

25 (1) any moneys appropriated and made available by the
26 Commonwealth for the purpose of such fund;

27 (2) any proceeds of sale of notes or bonds to the extent
28 provided in the resolution or resolutions of the agency
29 authorizing the issuance thereof; and

30 (3) any other moneys which may be available to the

1 agency for the purpose of such fund from any other source or
2 sources.

3 All moneys held in any capital reserve fund, except as
4 hereinafter provided, shall be used, as required, solely for the
5 payment of the principal of bonds secured in whole or in part by
6 such fund or of the sinking fund payments with respect to such
7 bonds, the purchase or redemption of such bonds, the payment of
8 interest on such bonds or the payment of any redemption premium
9 required to be paid when such bonds are redeemed prior to
10 maturity. Moneys in any such fund shall not be withdrawn
11 therefrom at any time in such amount as would reduce the amount
12 of such fund to less than the minimum capital reserve fund
13 requirement established for such fund, as hereinafter provided,
14 except for the purpose of making, with respect to bonds secured
15 in whole or in part by such fund, payment when due, of
16 principal, interest, redemption premiums and the sinking fund
17 payments with respect to such bonds for the payment of which
18 other moneys of the agency are not available. Any income or
19 interest earned by, or increments to, any capital reserve fund
20 due to the investment thereof may be transferred by the agency
21 to other funds or accounts of the agency to the extent it does
22 not reduce the amount that capital reserve fund below the
23 minimum capital reserve fund requirement for such fund.

24 (b) The agency shall not at any time issue bonds, secured in
25 whole or in part by a capital reserve fund; if upon the issuance
26 of such bonds, the amount in such capital reserve fund will be
27 less than the minimum capital reserve fund requirement for such
28 fund, unless the agency at the time of issuance of such bonds,
29 shall deposit in such fund from the proceeds of the bonds to be
30 issued, or from other sources, an amount which, together with

1 the amount then in such fund, will not be less than the minimum
2 capital reserve fund requirement for such fund. For the purposes
3 of this section, the term "minimum capital reserve fund
4 requirement" shall mean, as of any particular date of
5 computation, an amount of money, as provided in the resolution
6 or resolutions of the agency authorizing the bonds with respect
7 to which such fund is established. In no event, however, shall
8 such capital reserve fund requirement exceed an amount equal to
9 not more than the greatest of the respective amounts, for the
10 current or any future fiscal year of the agency, of annual debt
11 service on the bonds of the agency secured in whole or in part
12 by such fund, such annual debt service for any fiscal year being
13 the amount of money equal to the aggregate of all interest and
14 principal payable on such bonds during such fiscal year,
15 calculated on the assumption that all such bonds are paid at
16 maturity or if any amount of such bonds is required to be
17 redeemed on any earlier date by operation of a sinking fund,
18 then on the assumption that such amount of bonds is redeemed on
19 such earlier date and that such amount is considered principal
20 payable on such bonds during the year they are to be redeemed
21 for purposes of this calculation.

22 (c) To assure the continued operation and solvency of the
23 agency, for the carrying out of its corporate purposes,
24 provision is made in subsection (a) for the accumulation in each
25 capital reserve fund of an amount equal to the minimum capital
26 reserve fund requirement for such fund. In order further to
27 assure the maintenance of such capital reserve funds, the
28 agency, at least 30 days before the beginning of each
29 legislative session, shall submit to the Governor and the
30 General Assembly a written statement of the obligations of the

1 agency falling due within the succeeding 12-month period and of
2 the manner in which the agency anticipates providing for such
3 obligations by way of payment, extension, renewal or otherwise
4 and an estimate of the funds, if any, expected to be necessary
5 during the following year to restore to each such capital
6 reserve fund any deficiencies in the minimum capital reserve
7 fund requirement for such fund or otherwise to avoid default in
8 the payment of interest or principal upon bonds or notes issued
9 by the agency, or in sinking fund payments required to be made,
10 and the Governor shall cause the amount of such moneys, if any,
11 to be placed in the budget of the Commonwealth for the next
12 succeeding fiscal year, so that the General Assembly shall be
13 enabled to provide appropriations sufficient to restore any such
14 deficiencies or otherwise to avoid any default. Such
15 appropriations, if any, shall be repaid to the Commonwealth as
16 soon as possible by the agency from moneys of the agency in
17 excess of the amount required to make and keep the agency self-
18 supporting.

19 (d) In computing the amount of any capital reserve fund for
20 the purposes of this section, securities in which all or a
21 portion of such fund are invested shall be valued at par if
22 purchased at par, or if purchased at other than par, at
23 amortized value, which when used with respect to securities
24 purchased at a premium above or a discount below par, shall mean
25 the value as of any given date obtained by dividing the total
26 amount of the premium or discount at which such securities were
27 purchased by the number of days remaining to maturity on such
28 securities at the time of such purchase and by multiplying the
29 amount so calculated by the number of days having passed since
30 the date of such purchase; and:

1 (1) in the case of securities purchased at a premium, by
2 deducting the product thus obtained from the purchase price;
3 and

4 (2) in the case of securities purchased at a discount,
5 by adding the product thus obtained to the purchase price.

6 Section 24. Trust agreement.

7 (a) In the discretion of the agency, bonds and notes issued
8 by it shall be secured by a trust agreement by and between the
9 agency and a trustee, which may be any trust company or bank
10 within the Commonwealth having the powers of a trust company.
11 Either the resolution providing for the issuance of bonds and
12 notes or such trust agreement may contain such provisions for
13 protecting and enforcing the rights and remedies of the
14 bondholders as may be reasonable and proper and not in violation
15 of law, including covenants setting forth the duties of the
16 agency in relation to the custody, safeguarding and application
17 of all moneys.

18 (b) It shall be lawful for any bank or trust company
19 incorporated under the laws of the Commonwealth to act as
20 depository of the proceeds of bonds and notes or of revenues and
21 to furnish such indemnifying bonds or to pledge such securities
22 as may be required by the agency. Such trust agreement may set
23 forth the rights and remedies of the bondholders and noteholders
24 and of the trustee, and may restrict the individual right of
25 action by bondholders and noteholders. In addition to the
26 foregoing, such trust agreement may contain such other provision
27 as the agency may deem reasonable and proper for the security of
28 the bondholders and noteholders. All expenses incurred in
29 carrying out the provisions of such trust agreement may be
30 treated as a part of the cost of the operation of the agency.

1 Section 25. Bonds and notes tax exempt.

2 The creation of the agency is in all respects for the benefit
3 of the people of the Commonwealth and for the improvement of
4 their health, safety, welfare, comfort and security, and its
5 purposes are public purposes and the agency will be performing
6 an essential governmental function. The Commonwealth covenants
7 with the purchasers and all subsequent holders and transferees
8 of the notes and bonds issued by the agency, in consideration of
9 the acceptance of any payment for the notes and bonds, that the
10 notes and bonds of the agency, issued pursuant to this act and
11 the income therefrom, the income and revenues of the agency, and
12 the agency and its property shall at all times be free from
13 taxation or assessment of every kind and nature except for
14 inheritance, estate, gift and transfer taxes.

15 Section 26. Notes and bonds as legal investments.

16 The notes and bonds of the agency are securities in which all
17 public officers and bodies of the Commonwealth and all
18 municipalities and municipal subdivisions, all insurance
19 companies and associations, and other persons carrying on an
20 insurance business, all banks, trust companies, savings banks
21 and savings associations, saving and loan associations,
22 investment companies, all administrators, guardians, executors,
23 trustees and other fiduciaries, and all other persons whatsoever
24 who are now or may hereafter be authorized to invest in bonds or
25 other obligations of the Commonwealth, may properly and legally
26 invest funds, including capital, in their control or belonging
27 to them.

28 Section 27. Covenant by Commonwealth not to limit or alter
29 powers vested in agency.

30 The Commonwealth does hereby pledge to and covenant and agree

1 with the holders of any bonds, bond anticipation notes or other
2 obligations issued pursuant to the authority of this act that
3 the Commonwealth will not limit or alter the rights or powers
4 hereby vested in the agency to perform and fulfill the terms of
5 any agreement made with the holders of such bonds, bond
6 anticipation notes or other obligations, or in any way impair
7 the rights or remedies of such holders, until such bonds, bond
8 anticipation notes and other obligations, together with interest
9 thereon, with interest on any unpaid installments of interest,
10 and all costs and expenses in connection with any action or
11 proceedings by or in behalf of such holders, are fully met and
12 discharged or provided for. The agency may include this pledge
13 and agreement of the Commonwealth in any agreement with the
14 holders of bonds, bond anticipation notes and other obligations
15 issued by the agency.

16 Section 28. Liberal construction.

17 This act, being necessary for the welfare of the Commonwealth
18 and its inhabitants, shall be liberally construed to effect the
19 purposes thereof.

20 Section 29. Fraud penalty.

21 Any person who attempts to or obtains financial aid for a
22 small scale local energy project hereunder by false or
23 misleading information or who shall violate this act or who
24 shall by fraud attempt to obtain moneys from the agency or its
25 approval for the payment of moneys or shall fraudulently attempt
26 to or does prevent the collection of any moneys due to the
27 agency shall, for each offense, be guilty of a misdemeanor of
28 the third degree, and, upon conviction thereof, shall be
29 sentenced to pay a fine not exceeding \$300 or undergo
30 imprisonment not exceeding one year, or both.

1 Section 30. Effective date; proclamation.

2 This act shall take effect in 60 days but shall not be
3 implemented until the Governor by proclamation declares that
4 sufficient funds are available to administer this act. For the
5 purposes of this determination and then thereafter, in addition
6 to any appropriations as are made to the agency, the
7 Commonwealth is authorized to accept for the account of the
8 agency grants-in-aid, donations and gifts of every manner and
9 type from the Federal Government or from any other private or
10 public corporation or person. Upon such declaration, such funds
11 as have been collected shall immediately be paid to the
12 treasurer of the agency, or if a treasurer has not been
13 appointed, to such other person as the Governor may designate as
14 acting treasurer.