
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 370

Session of
1987

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FISCHER, FREEMAN AND MAINE, FEBRUARY 23, 1987

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 23, 1987

AN ACT

1 Providing for the establishment and operation of a Statewide
2 disaster assistance program and fund; and imposing additional
3 powers and duties on the Pennsylvania Emergency Management
4 Agency.

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania
7 Disaster Assistance Act.

8 Section 2. Findings and legislative intent.

9 (a) Findings.--

10 (1) Often individuals, businesses, farms and political
11 subdivisions which have suffered losses due to natural or
12 man-made disasters have received no Federal or State
13 financial assistance to aid in the restoration of homes,
14 businesses, farms and public facilities. This occurs, in
15 part, because the extent of damage has not been sufficient to
16 qualify for Federal declared disaster assistance.

17 (2) There are no State financial assistance programs
18 available to assist individuals, businesses, farms and
19 political subdivisions which have suffered losses due to
20 natural or man-made disasters which are non-Federally
21 declared disasters.

22 (3) There is a need to establish a State-funded disaster
23 assistance program to aid Pennsylvania's citizens,
24 businesses, farms and political subdivisions that suffer
25 losses during Federal and Commonwealth-declared disasters.

26 (4) It is in the public interest pursuant to section 17
27 of Article VIII of the Constitution of Pennsylvania to
28 provide additional aid to individuals, businesses, farms and
29 political subdivisions to supplement the compensation which
30 they receive from private insurance and the Federal

Government.

(b) Legislative intent.--It is the intent of the General Assembly to provide for comprehensive disaster assistance programs which will provide financial assistance to individuals, families, businesses, farms and political subdivisions in the event a natural or man-made disaster has occurred.

Section 3. Definitions.

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

"Adjusted loss." The total eligible loss excluding:

(1) Any amount received by or due the applicant from private insurance and Federal or State-subsidized funds, including, but not limited to, Small Business Administration loans, Federal Emergency Management Agency benefits and the Individual and Family Grant Program grants.

(2) An amount for which the applicant would have been eligible from Federal or State-subsidized funds had the applicant applied for or accepted the assistance.

"Agency." The Pennsylvania Emergency Management Agency.

"Business." Private and profit-making enterprises and private nonprofit educational, vocational, utilitarian, emergency medical and custodian care facilities.

"Business purposes." Real or personal property, or both, used to generate income in one's trade, occupation, employment or profession.

"Commonwealth-declared disaster." Those disasters declared as such by the Governor, on the recommendation of the Pennsylvania Emergency Management Agency, based on the agency's established criteria for determination of applicability and

1 suitability of disaster assistance.

2 "Disaster." A man-made or natural disaster.

3 "Family." An individual or a group of two or more
4 individuals related by birth, marriage or adoption and residing
5 together in their primary residence at the time of the disaster.

6 "Farm." Real or personal property, or both, used in the
7 operation of any type of farm, including dairy, crop and
8 livestock farms and farms for the raising of agricultural and
9 horticultural commodities and orchards.

10 "Federal declared disaster." Those disasters designated as
11 such by the President, by the Small Business Administration
12 (physical disaster declaration), or by the United States
13 Secretary of Agriculture.

14 "Fund." The Pennsylvania Disaster Assistance Fund.

15 "Gross income." The total annual cash receipts before taxes
16 from all sources and receipts from an individual's business or
17 farm after expense deductions, using 50 Fed. Reg. 9518 (1985)
18 for income exclusions.

19 "Homeowner." The legal owner at the time of the disaster of
20 residential property located in a disaster area.

21 "Man-made disaster." An industrial, nuclear or
22 transportation accident, explosion, conflagration, power
23 failure, natural resource shortage or other condition, except
24 enemy action, resulting from man-made causes, such as oil spills
25 and other injurious environmental contamination, which threatens
26 or causes substantial damage to property, human suffering,
27 hardship or loss of life.

28 "Natural disaster." A hurricane, tornado, storm, flood, high
29 water, wind-driven water, tidal wave, earthquake, landslide,
30 mudslide, snowstorm, drought, fire, explosion or other

1 catastrophe which results in substantial damage to property,
2 hardship, suffering or possible loss of life.

3 "Owner-occupied primary residence." A residence which was
4 the principal residence of its legal owner at the time of the
5 disaster.

6 "Political subdivisions." All counties, cities, boroughs,
7 incorporated towns, townships, school districts and municipal
8 authorities created under the act of May 2, 1945 (P.L.382,
9 No.164), known as the Municipality Authorities Act of 1945.

10 "Public facility." A publicly owned flood control,
11 navigation, irrigation, reclamation, public power, sewage
12 treatment and collection, water supply and distribution,
13 watershed development, or airport facility; a bridge, street,
14 road or highway which is not a subject of Federal aid; any other
15 public building, structure, or system, and any park.

16 "Recreation purposes." Real or personal property, or both,
17 used for the purpose of entertainment or amusement.

18 "Tenant." One who, at the time of the disaster, was renting
19 as his primary residence a premises located in a disaster area.

20 "Total eligible loss." Losses from damage to an owner-
21 occupied primary residence and losses from damages to the
22 personal property of a homeowner or tenant or of a member of his
23 family, excluding items used principally for business, farm or
24 recreational purposes.

25 Section 4. Federally declared disasters.

26 (a) General rule.--Disasters may occur within the
27 Commonwealth of Pennsylvania which cause sufficient damage to
28 qualify for a Federal Declared Disaster Declaration under the
29 Federal Disaster Relief Act of 1974 (Public Law 93-288, 42
30 U.S.C. § 5121). This declaration may initiate aid for

1 individuals, businesses and local governments through the
2 Federal Individual and Family Grant Program, the Public
3 Assistance Program, and the Small Business Administration's low-
4 interest loan program. When a Federal declaration of disaster
5 has been issued, the Commonwealth shall provide those State
6 matching funds that are required by either Federal law or
7 regulation from sources other than the Pennsylvania Disaster
8 Assistance Fund. All moneys received from the Federal Government
9 for the purpose of disaster relief assistance or for damages
10 caused by the disaster are hereby appropriated to the
11 departments, boards, commissions or agencies designated by the
12 Governor.

13 (b) Establishment of aid program.--In order to provide funds
14 for the Governor, in accordance with 35 Pa.C.S. Ch. 73 Subch. A
15 (relating to the Governor and disaster emergencies) to alleviate
16 the hardships and repair the damage caused by the disaster, the
17 following supplemental grant program is established to assist
18 victims of these disasters.

19 (c) Individual.--The agency shall administer a grant program
20 which provides emergency funds to residents of counties stricken
21 by disasters which were the subject of a Federal declaration of
22 disaster.

23 (d) Individual eligibility.--An applicant's request for
24 funding shall be subject to the following evaluation:

25 (1) Upon receipt and approval of a sworn application by
26 a homeowner for nonbusiness or nonfarm real property damaged
27 or destroyed, or a homeowner or tenant of premises he rents
28 as his primary residence for personal property damaged or
29 destroyed in a Federal declared disaster, the agency may make
30 an individual grant to cover a portion of the adjusted loss.

1 (2) The adjusted loss shall be the total eligible loss
2 minus any amount received by or due the applicant from
3 private insurance and Federal or State grants and shall not
4 include an insurance deductible paid by the applicant.

5 (3) Total eligible loss shall be the loss from damage to
6 an owner-occupied primary residence and the loss from damage
7 to personal property, including clothing, household
8 furnishings and appliances, incurred by a homeowner in his
9 owner-occupied primary residence or incurred by a tenant in
10 premises he rents as a primary residence. Eligible loss shall
11 not include an item used principally for recreational
12 purposes.

13 (4) An applicant whose previous year's income does not
14 exceed 300% of the previous year's poverty income guidelines
15 using gross income before taxes shall be eligible to
16 participate in this grant program. The applicant, in order to
17 be eligible for this program by reason of a loss in a
18 federally declared disaster, must have registered at a
19 disaster assistance center, unless extenuating circumstances
20 prevented registration. Extenuating circumstances shall be
21 determined by the agency on an individual case-by-case basis.
22 The determination shall be subject to appeal to the
23 Commonwealth Court.

24 (5) The amount of the grant shall be determined in
25 accordance with the following schedule:

- 26 (i) 50% of the first \$5,000 of adjusted loss.
- 27 (ii) 25% of the second \$5,000 of adjusted loss.
- 28 (iii) 10% of the remaining adjusted loss.
- 29 (iv) No grant shall exceed \$12,500.

30 (e) Limitation on eligibility.--If the real property is

1 condemned under eminent domain proceedings and the measure of
2 damage is calculated under section 602 of the act of June 22,
3 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,
4 the property owner shall not be eligible for a grant under
5 subsection (d)(5) for property for which compensation is granted
6 in the eminent domain proceedings.

7 (f) Administration.--The agency shall administer the grant
8 program in the following manner:

9 (1) Grants under this section shall be administered by
10 the agency in prompt fashion.

11 (2) Applications shall be made available to disaster
12 victims within 60 days of the Federal declaration of
13 disaster.

14 (3) If sufficient funds are not allocated under this
15 act, distribution of the grants shall be on a pro rata basis.

16 (4) Funds for this grant program shall come from the
17 fund.

18 Section 5. Commonwealth-declared disasters.

19 (a) General rule.--When the Governor declares that a
20 disaster has occurred within this Commonwealth the following
21 programs shall be used to assist the individual residents,
22 families, political subdivisions, businesses and farms within
23 the counties stricken by the disaster. These programs shall be
24 used to provide funding which is supplemental to Federal
25 funding.

26 (b) Individual--The department shall administer a loan
27 program which provides emergency funds to residents of counties
28 stricken by disasters which were the subject of a Commonwealth
29 declaration of disaster.

30 (1) Individual eligibility.--An applicant's request for

1 funding shall be subject to the following evaluation:

2 (i) Upon receipt and approval of a sworn application
3 by a homeowner for nonbusiness or nonfarm real property
4 damaged or destroyed or by a homeowner or tenant of
5 premises he rents as his primary residence for personal
6 property damaged or destroyed, in a Commonwealth-declared
7 disaster, the agency may make an individual loan to cover
8 a portion of the adjusted loss.

9 (ii) The adjusted loss shall be the total eligible
10 loss minus any amount received by or due the applicant
11 from private insurance and Federal or State grants and
12 shall not include any insurance deductible paid by the
13 applicant.

14 (iii) Total eligible loss shall be the loss from
15 damage to an owner-occupied primary residence and the
16 loss from damage to personal property, including
17 clothing, household furnishings and appliances, incurred
18 by a homeowner in his owner-occupied primary residence or
19 incurred by a tenant in premises he rents as a primary
20 residence. Eligible loss shall not include an item used
21 principally for recreational purposes.

22 (iv) An applicant whose previous year's income does
23 not exceed 300% of the previous year's poverty income
24 guidelines using gross income before taxes shall be
25 eligible to participate in this loan program.

26 (v) The amount of the loan shall be determined in
27 accordance with the following rules:

28 (A) Owner-occupied primary residence: Loans of
29 up to \$100,000 to cover adjusted losses to owner-
30 occupied primary residences shall be made for repairs

1 to or replacement of a primary residence. The loans
2 shall be repayable over a 30-year period at an
3 interest rate of 5%.

4 (B) Personal property: Loans of up to \$20,000 to
5 cover adjusted losses to personal property shall be
6 made for repairs to or replacement of personal
7 property. The loans shall be repayable over a 20-year
8 period at an interest rate of 5%.

9 (2) Limitation on individual eligibility.--If the real
10 property is condemned under eminent domain proceedings and
11 the measure of damage is calculated under section 602 of the
12 act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the
13 Eminent Domain Code, the property owner is not eligible for a
14 loan under paragraph (1)(v) for property for which
15 compensation is granted in the eminent domain proceedings.

16 (3) Administration of loans to individuals.--The agency
17 shall administer the program in the following manner:

18 (i) Loans under this section shall be administered
19 by the department in prompt fashion.

20 (ii) Applications shall be made available to
21 disaster victims within 60 days of the Commonwealth-
22 declared disaster declaration.

23 (iii) If sufficient funds are not allocated under
24 this act, distribution of the loans shall be on a pro
25 rata basis.

26 (iv) Funds for this loan program shall come from the
27 fund.

28 (v) Repayments of loans under this program shall be
29 returned to the fund.

30 (c) Political subdivisions.--The agency shall coordinate and

1 administer a grant and loan program which provides emergency
2 funds to political subdivisions stricken by disasters which were
3 the subject of a Commonwealth declaration of disaster.

4 (1) Political subdivision eligibility.--A political
5 subdivision request for funding shall be subject to the
6 following evaluation:

7 (i) Upon receipt and approval of a sworn application
8 by an authorized official of a political subdivision for
9 public facilities damaged or destroyed in a Commonwealth-
10 declared disaster, the agency may make a grant, loan, or
11 both, to cover a portion of the adjusted loss.

12 (ii) The adjusted loss shall be the total eligible
13 loss minus any amount received by or due the applicant
14 from private insurance and Federal grants and shall not
15 include an insurance deductible paid by the applicant.

16 (iii) Total eligible loss shall be any loss from
17 damages to public facilities.

18 (iv) Only political subdivisions which are
19 designated as distressed under the act of July 2, 1984
20 (P.L.520, No.105), known as the Business Infrastructure
21 Development Act, shall be eligible for assistance in the
22 form of grants. Other local governments shall receive
23 assistance in the form of no-interest loans, including
24 provisions for deferrals of repayments with a maximum
25 term of 10 years.

26 (v) The amount of a grant shall be determined by
27 multiplying the adjusted losses for each municipality by
28 the ratio of the total funds available under the program
29 to the total adjusted losses of all governments applying
30 for assistance. However, no local government may receive

1 a grant for more than 50% of its adjusted losses.

2 (2) Limitation on eligibility of political
3 subdivisions.--If the real property was condemned under
4 eminent domain proceedings and where the measure of damage is
5 calculated under section 602 of the Eminent Domain Code, the
6 property owner is not eligible for a grant or loan under
7 paragraph (1)(iv) for property for which compensation is
8 granted in the eminent domain proceedings.

9 (3) Administration of political subdivision grant and
10 loan program.--The agency shall administer the program in the
11 following manner:

12 (i) Grants and loans to political subdivisions shall
13 be administered by the agency in prompt fashion.

14 (ii) Applications shall be made available to
15 political subdivisions within 60 days of the
16 Commonwealth-declared disaster.

17 (iii) If sufficient funds are not allocated under
18 this section, distribution of the grants and loans shall
19 be on a pro rata basis.

20 (iv) Funds for this program shall come from the
21 fund.

22 (v) Repayment of loans under this program shall be
23 returned to the fund.

24 (d) Businesses and farm.--The agency shall administer a loan
25 program which provides emergency funds to qualifying businesses
26 and farms located in areas covered by a Commonwealth-declared
27 disaster.

28 (1) Business and farm eligibility.--An applicant's
29 request for funding shall be subject to the following
30 evaluation:

1 (i) Upon receipt and approval of a sworn application
2 by an owner of business or farm real property damaged or
3 destroyed in a Commonwealth-declared disaster, the agency
4 may make a loan to cover a portion of the adjusted loss.

5 (ii) The adjusted loss shall be total eligible loss
6 minus any amount received by or due the applicant from
7 private insurance and Federal or State grants and shall
8 not include any insurance deductible paid by the
9 applicant.

10 (iii) Total eligible loss shall be the loss from
11 damages to business or farm. Eligible loss shall not
12 include an item used principally for recreational
13 purposes.

14 (iv) An applicant whose previous year's income does
15 not exceed 300% of the previous year's poverty income
16 guidelines, using gross income before taxes, shall be
17 eligible to participate in this loan program.

18 (v) An applicant may be eligible to receive a low-
19 interest loan of up to \$500,000 for repair,
20 reconstruction or replacement of the applicant's business
21 or farm.

22 (A) Loans in excess of \$100,000 shall be
23 repayable over a 30-year period at an interest rate
24 of 5%.

25 (B) Loans for less than \$100,000 shall be
26 repayable over a 20-year period at an interest rate
27 of 5%.

28 (2) Limitation on eligibility of business or farm.--If
29 the real property was condemned under eminent domain
30 proceedings and where the measure of damage is calculated

1 under section 602 of the Eminent Domain Code, the property
2 owner is not eligible for a loan under paragraph (1)(v) for
3 property for which compensation is granted in the eminent
4 domain proceedings.

5 (3) Administration of business and farm program.--The
6 agency shall administer the program in the following manner:

7 (i) Loans under this section shall be administered
8 by the agency in prompt fashion.

9 (ii) Application shall be made available to disaster
10 victims within 60 days of the Commonwealth declaration of
11 disaster.

12 (iii) If sufficient funds are not allocated under
13 this act, distribution of the funds shall be on a pro
14 rata basis.

15 (iv) Funds for this loan program shall come from the
16 fund.

17 (v) Repayments of loans under this program shall be
18 returned to the fund.

19 Section 6. Criteria.

20 The agency shall develop and promulgate, within 90 days of
21 the effective date of this act, the criteria on which it makes
22 its recommendation to the Governor regarding a Commonwealth
23 declaration of disaster.

24 Section 7. Rules and regulations.

25 The agency shall promulgate rules and regulations necessary
26 to carry out the provisions of this act and cause them to be
27 published in the Pennsylvania Bulletin. Regulations shall be
28 subject to review pursuant to the act of June 25, 1982 (P.L.633,
29 No.181), known as the Regulatory Review Act.

30 Section 8. Penalty.

1 A person or political subdivision making a false claim under
2 the provisions of this act shall be subject to a penalty in the
3 amount of three times the amount of the loan with interest of 6%
4 from the effective date of the loan. This penalty may be
5 enforced by the Attorney General in an assumpsit action and
6 collected in the manner that other debts due and owing the
7 Commonwealth are collected.

8 Section 9. Funding.

9 (a) Creation of Pennsylvania Disaster Assistance Fund.--

10 There is hereby created a restricted revenue account in the
11 General Fund to be known as the Pennsylvania Disaster Assistance
12 Fund. This fund shall be maintained with a minimum balance of
13 \$15,000,000 each fiscal year by transferring up to \$15,000,000
14 of the real property transfer tax to this account to fund the
15 programs provided for in this act.

16 (b) Nonlapsing allocation.--Allocations to the fund shall
17 not lapse to the General Fund if not used during the fiscal
18 year.

19 (c) Repayment of loans.--When and as the amounts granted or
20 loaned by the agency to individuals, political subdivisions,
21 businesses and farms are repaid to the agency pursuant to the
22 terms of the agreements made and entered into with the agency,
23 it shall pay such amounts into the fund, which shall operate as
24 a revolving fund, whereby all allocations, appropriations and
25 repayments made to the fund may be applied and reapplied to the
26 purpose of this act.

27 Section 10. Severability.

28 The provisions of this act are severable. If any provision of
29 this act or its application to any person or circumstance is
30 held invalid, the invalidity shall not affect other provisions

1 or applications of this act which can be given effect without
2 the invalid provision or application.

3 Section 11. Repeals.

4 All acts and parts of acts are repealed insofar as they are
5 inconsistent with this act.

6 Section 12. Applicability.

7 This act shall apply to disasters occurring in this
8 Commonwealth on or after January 1, 1987, which were the subject
9 of either a Federal or Commonwealth-disaster declaration.
10 Political subdivisions suffering losses which were a result of a
11 disaster occurring between January 1, 1986, and the effective
12 date of this act but which were not the subject of a Federal
13 declaration of disaster by the President or a Commonwealth
14 declaration of disaster by the Governor, and where funding or
15 reimbursement for such repairs and replacements cannot be
16 obtained under other State or Federal programs, shall have 60
17 days from the development of criteria under section 6 in which
18 to apply for the relief provided under this act.

19 Section 13. Effective date.

20 This act shall take effect immediately.