

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2516

Session of
1988

INTRODUCED BY MORRIS, SIRIANNI, HONAMAN, WASS, JOHNSON, BUSH,
BROUJOS, COY, LLOYD, LaGROTTA, SHOWERS, MAINE, BOWLEY,
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S. H. SMITH, BATTISTO, STAIRS, PETRARCA AND ROBBINS,
JUNE 6, 1988

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 22, 1988

AN ACT

1 Amending the act of July 2, 1984 (P.L.545, No.109), entitled "An
2 act establishing a loan program for capital development
3 projects; providing for the use of funds made available under
4 the Appalachian Regional Development Act of 1965 and the
5 Public Works and Economic Development Act of 1965; providing
6 for loans, loan guarantees and other programs for capital
7 development projects of small businesses; creating the
8 Capital Loan Fund; providing standards for and requirements
9 of the program; and making appropriations," further providing
10 for loans to agricultural processors.

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

13 Section 1. The definition of "Class III loans" in section 2
14 of the act of July 2, 1984 (P.L.545, No.109), known as the
15 Capital Loan Fund Act, amended July 9, 1986 (P.L.1226, No.111),
16 is amended and the section is amended by adding definitions to
17 read:

18 Section 2. Definitions.

19 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Agricultural processor." A person or entity that adds value
4 by subjecting one or more farm commodities to a process of
5 manufacture, development or preparation for sale; a person or
6 entity that converts a farm product into a marketable form,
7 including, but not limited to, livestock by slaughtering, fruits
8 and vegetables by canning and freezing, and ~~hardwood~~ FOREST <—
9 PRODUCTS by secondary processing.

10 * * *

11 "Class III loans." All loans made under the provisions of
12 this act other than Class I, Class II, Class IV, apparel
13 industry loans or export assistance loans.

14 "Class IV loans." Loans made to agricultural processors from
15 the Capital Loan Fund under the provisions of this act.

16 * * *

17 "Farm commodity." Any Pennsylvania grown agricultural,
18 horticultural, aquacultural, vegetable, fruit and floricultural
19 product of the soil, livestock and meats, wools, hides, furs,
20 poultry, eggs, dairy products, nuts, mushrooms, honey products
21 and ~~hardwoods~~ FOREST PRODUCTS. <—

22 * * *

23 Section 2. Sections 4 and 5 of the act are amended by adding
24 subsections to read:

25 Section 4. Eligibility for loans; terms and conditions.

26 * * *

27 (f) Class IV loans.--

28 (1) The secretary shall make advances from the Capital
29 Loan Fund subject to the terms, conditions and restrictions
30 provided under this act to area loan organizations for the

1 purpose of making loans to agricultural processors for
2 capital development projects which demonstrate a need to
3 either maintain or increase market position and produce new
4 employment opportunities. Class IV loans will:

5 (i) Be for agricultural processors with 50 or fewer
6 employees.

7 (ii) Have a maximum loan ceiling of \$100,000 or 50%
8 of the cost of the project whichever is less. The
9 department may blend loan funds from other Capital Loan
10 Fund classes in amounts not to exceed \$200,000 if the
11 applicant can meet the required eligibility criteria for
12 those classes.

13 (iii) Be limited to physical plant equipment,
14 machinery, buildings and associated lands.

15 (iv) Require a private source of matching funds.

16 (2) No loans shall be made which do any of the
17 following:

18 (i) Cause, aid or assist in, directly or indirectly,
19 the relocation of any business operations from one part
20 of the Commonwealth to another, unless there is at least
21 a 25% increase in employment.

22 (ii) Supplant funding that is otherwise available
23 expeditiously from private sector sources on commercially
24 reasonable terms.

25 (iii) Be for the purpose of refinancing any portion
26 of the total project cost or other existing loans or
27 debt.

28 (iv) Be for the purpose of financing projects
29 located outside the geographic boundaries of this
30 Commonwealth.

1 (v) Be for the purpose of paying off a creditor
2 which is inadequately secured and is in a position to
3 sustain a loss.

4 (vi) Provide funds, directly or indirectly, for
5 payment, distribution, or as a loan to owners, partners
6 or shareholders of the small enterprise, except as
7 ordinary compensation for services rendered.

8 (vii) Be for the purpose of repaying a debt owed to
9 a small business investment company.

10 (viii) Provide funds for speculation in any kind of
11 property, real or personal, tangible or intangible.

12 (3) All loans shall be secured by lien positions on
13 collateral at the highest level of priority which can
14 accommodate the borrower's ability to raise sufficient debt
15 and equity capital and be made for such period and shall bear
16 such interest as may be determined by the area loan
17 organization with the approval of the secretary. Provided,
18 however, That:

19 (i) The interest rate shall be established by the
20 secretary.

21 (ii) The term of any loan shall not exceed five
22 years for machinery and equipment or ten years for
23 building loans.

24 Section 5. Application and administration.

25 * * *

26 (e) Class IV loans.--

27 (1) The secretary shall designate an area loan
28 organization to receive loan applications from agricultural
29 processors. Applications shall be made to the area loan
30 organization in the form and manner as the secretary and

1 organization may require.

2 (2) Upon receipt of the application the area loan
3 organization shall investigate and review the application and
4 either approve or disapprove the loan application by proper
5 action of the governing body of the organization. The
6 decision action of the organization shall be based, in whole
7 or in part, upon the following criteria:

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

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

13 (iii) Eligibility of the applicant as an
14 agricultural processor.

15 (iv) Capital need of the applicant.

16 (v) Conformity or nonconformity of the project, in
17 all respects, to the provisions of this act.

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

20 (vii) Relevant criminal and credit history and
21 ratings of applicant as determined from outside credit
22 reporting services and other sources.

23 (viii) Number of net new employment opportunities
24 created by the proposed project.

25 (3) Area loan organizations may establish and charge
26 reasonable fees for processing loans or guarantees under this
27 act with the approval of the secretary. Area loan
28 organizations may not receive administrative expenses from
29 funds provided for Class IV loans.

30 (4) Upon approval of the loan application, the area loan

1 organization shall forward the application and all supporting
2 documentation to the Secretary of Agriculture and the
3 Secretary of Commerce for review. Each application and
4 supporting documentation shall be reviewed to ensure the
5 following:

6 (i) Loans will assist small agricultural processing
7 firms to increase their market share and enhance their
8 competitive advantage.

9 (ii) Loans will enable the Commonwealth to meet
10 changing agricultural market demands and increased
11 productivity requirements in the future.

12 (iii) Eligibility of the agricultural processor and
13 the project for which proceeds will be used.

14 (iv) Creation or preservation of a satisfactory
15 number of net employment opportunities within this
16 Commonwealth.

17 (v) Compliance with the loan amount limitations
18 provided by this act.

19 (vi) Payment to date of all tax obligations due and
20 owing to the Commonwealth or any political subdivision
21 thereof.

22 (vii) Conformity of all aspects of the loan
23 transaction with the substantive and procedural
24 provisions of this act and regulations promulgated
25 hereunder.

26 (5) The secretary shall, to the extent practicable,
27 notify the area loan organization and the applicant
28 agricultural processor of his or her final approval or
29 disapproval of the loan application within 30 business days
30 after the receipt of the application. In the case of approval

1 of a loan application, the secretary shall arrange to draw
2 the loan amount from the Capital Loan Fund and advance the
3 sum to the area loan organization. The advance shall be a
4 debt obligation of the organization to the Commonwealth and
5 shall be evidenced by a note or bond issued by the
6 organization in an amount equal to the amount actually
7 advanced and secured in a manner as the secretary shall
8 require. Upon receipt of the advance, the area loan
9 organization shall make the advance available to the
10 agricultural processor in the form of a loan transaction,
11 which loan shall be evidenced by a note executed by the
12 agricultural processor, secured in a manner as the
13 organization and the secretary shall require and conform in
14 all respects to the loan package as approved by the
15 organization and the secretary.

16 (6) All loans shall be administered and monitored by the
17 appropriate area loan organization in accordance with
18 policies and procedures prescribed by the secretary. Each
19 area loan organization shall submit reports to the Department
20 of Agriculture and the Department of Commerce as the
21 secretary shall require, but in no case less than twice a
22 year. The report shall show the following:

23 (i) Each outstanding loan.

24 (ii) The date approved.

25 (iii) The original principal amount.

26 (iv) The current principal balance.

27 (v) The interest rate.

28 (vi) The purpose for which the loan was made.

29 (vii) An enumeration of any problems or issues which
30 have arisen with regard to each loan.

1 (viii) A statement regarding the progress of the
2 agricultural processor in creating its requisite number
3 of new long-term employment opportunities.

4 (ix) Such other information and documentation as the
5 secretary shall require.

6 (f) Finality of decision.--All decisions of the Secretary of
7 Commerce regarding the approval or disapproval of loans under
8 this act, including eligibility of agricultural processors and
9 loan projects, shall be final.

10 Section 3. This act shall take effect in 60 days.