

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2677 Session of
2010

INTRODUCED BY DALEY, BELFANTI, CALTAGIRONE, HENNESSEY, JOSEPHS,
KOTIK, LEVDANSKY, MAHONEY, MICOZZIE, MURT, OLIVER, PYLE,
READSHAW, SIPTROTH AND YOUNGBLOOD, AUGUST 30, 2010

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, AUGUST 30, 2010

AN ACT

1 Providing for small disaster assistance to individuals,
2 businesses and municipalities; imposing surcharges on
3 insurers; establishing a fund; conferring powers and duties
4 on the Department of Community and Economic Development, the
5 Pennsylvania Emergency Management Agency, the Department of
6 Public Welfare and the Pennsylvania Housing Finance Agency;
7 and making an appropriation.

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1 Section 12. Training, administration and operations.

2 Section 13. Insurance coverage.

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4 Section 30. Effective date.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Small
9 Disaster Assistance Act.

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) Many communities in this Commonwealth are frequently
13 subject to natural and manmade disasters which cause
14 significant damage and disruption in the life of the
15 community but which are not of sufficient magnitude to
16 qualify for Federal disaster assistance programs.

17 (2) These losses are of considerable importance to those
18 directly affected and their communities and to the health and
19 welfare of the citizens of this Commonwealth's many small
20 communities.

21 Section 3. Definitions.

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

25 "Administering agency." The Commonwealth agency charged with
26 administration under section 5(b).

27 "Agency." The Pennsylvania Emergency Management Agency.

28 "Business." The term includes nonprofit organizations and
29 the nonsectarian portion of religious facilities.

30 "Cost-of-living increase." The increase in the Consumer

1 Price Index for All Urban Consumers for the calendar year prior
2 to the disaster event.

3 "Flood plain." A one-hundred year flood plain, as defined in
4 section 104 of the act of October 4, 1978 (P.L.851, No.166),
5 known as the Flood Plain Management Act.

6 "Fund." The Small Disaster Assistance Fund established in
7 section 4.

8 "Small disaster." An event which:

- 9 (1) occurred after June 30, 2010;
- 10 (2) results in total uninsured losses, for all affected
11 individuals and businesses, of not more than \$2,000,000;
- 12 (3) falls below the current Federal guidelines for
13 Federal disaster assistance; and
- 14 (4) involves:
 - 15 (i) damage exceeding 40% of the total value of a
16 structure and contents of each of at least five homes or
17 two businesses;
 - 18 (ii) loss of life; or
 - 19 (iii) total estimated damages of at least \$250,000
20 to public facilities.

21 Section 4. Fund.

22 (a) Establishment.--The Small Disaster Assistance Fund is
23 established as a separate fund in the State Treasury.

24 (b) Purpose.--

- 25 (1) The purpose of the fund is to assist the victims of
26 natural and manmade disasters with:
 - 27 (i) low-interest loans; and
 - 28 (ii) grants.
- 29 (2) Up to one-half of the money in the fund may be used
30 to pay the Commonwealth's matching share for any major

1 disaster declared eligible for Federal assistance by the
2 President of the United States. The need for Federal matching
3 funds for any specific major disaster event may not encumber
4 fund money in years beyond the year of the major event.

5 (3) The fund shall provide for staff under section
6 12(b). Expenditures under this paragraph shall not exceed 10%
7 of the revenue received by the fund in a fiscal year.

8 (c) Sources.--The following are the sources of the fund:

9 (1) Surcharges under section 5(a)(1).

10 (2) Appropriations.

11 (3) Loan repayments.

12 (4) Return on the money in the fund.

13 (d) Administration.--The fund shall be administered under
14 section 5.

15 (e) Nonlapse.--Money in the fund is continuously
16 appropriated into the fund. This appropriation shall not lapse
17 at the end of any fiscal year.

18 Section 5. Administration.

19 (a) Agency.--The agency has the following powers and duties:

20 (1) Impose a surcharge on each insurance policy on real
21 property in this Commonwealth of \$1 per \$100,000 of insured
22 value.

23 (2) Collect 95% of the surcharge from each insurer,
24 permitting the insurer to retain 5% to defray administrative
25 costs of collection.

26 (3) Coordinate the use of the fund.

27 (4) Report annually to the Secretary of the Senate and
28 the Chief Clerk of the House of Representatives on the
29 performance and needs of the fund.

30 (b) Administering agencies.--Program elements from the fund

1 shall be administered as follows:

2 (1) The Department of Community and Economic Development
3 shall administer assistance for all of the following:

4 (i) Businesses.

5 (ii) Municipalities.

6 (2) The Pennsylvania Housing Finance Agency shall
7 administer assistance for real property aspects of
8 residential housing.

9 (3) The Department of Public Welfare shall administer
10 assistance for personal property.

11 Section 6. Declaration.

12 (a) Petition.--A county emergency management director must
13 petition the agency for a declaration of a small disaster.

14 (b) Determination.--The agency's determination on the
15 petition shall be deemed a final order, subject to review under
16 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of
17 Commonwealth agency action).

18 (c) Effect.--A declaration of small disaster shall extend
19 the assistance available under this act.

20 (d) Eligibility.--

21 (1) Except as set forth in paragraph (2), to be eligible
22 for assistance under this act, a person must meet all of the
23 following:

24 (i) Own property in a flood plain.

25 (ii) Maintain flood insurance.

26 (iii) Be a victim of a small disaster.

27 (2) Paragraph (1)(ii) does not apply to a residential
28 claimant with a family income of less than 200% of the
29 Federal poverty level.

30 Section 7. Low-interest loans to small disaster victims.

1 (a) Availability.--A low-interest loan may be extended to a
2 person eligible under section 6(d) to cover the portion of a
3 loss due to a small disaster which is not covered by insurance.
4 The loan shall be extended to incorporate existing debt on real
5 property and contents.

6 (b) Eligibility.--

7 (1) Except as set forth in paragraph (2), an individual
8 who has lost personal property from a primary residence as
9 the result of a small disaster is eligible for a low-interest
10 loan.

11 (2) This subsection does not apply to the loss of:

12 (i) jewelry;

13 (ii) art;

14 (iii) sports equipment; or

15 (iv) an item determined by the administering agency
16 to be a luxury item.

17 (c) Principal.--

18 (1) Except as set forth in paragraph (2), all of the
19 following apply:

20 (i) The amount of the loan shall not exceed:

21 (A) \$7,500 per person in multiperson households;

22 nor

23 (B) \$15,000 in single-person households.

24 (ii) The total amount of a loan per household shall
25 not exceed \$35,000.

26 (iii) The amount of the loan shall not exceed one-
27 third of the estimated market value of the residence
28 prior to the small disaster.

29 (2) For a documentable loss exceeding the amounts
30 specified in paragraph (1)(i) or (ii), the administering

agency may make loans to individuals at an interest rate twice the rate under subsection (d).

(d) Rate.--Except as set forth in subsection (c)(2), a loan under this section shall bear interest for the entire term at a rate no greater than the cost-of-living increase.

Section 8. Business loans.

(a) Term.--

(1) Except as set forth in paragraph (2), a business loan shall be for a term of no more than 15 years.

(2) The term of a loan may be:

- (i) extended by hardship suspension of payment; or
- (ii) shortened under section 13(c)(1).

(b) Security.--A business loan must be secured by:

- (1) a mortgage on real property of the business; or
- (2) other suitable collateral.

(c) Use.--A business loan may be used to repair or replace any of the following when lost or seriously damaged due to a small disaster:

- (1) Fixed equipment.
- (2) Major moveable equipment.
- (3) Furnishings.
- (4) Real property.
- (5) A leasehold improvement.
- (6) Inventory, if it can be shown that an insurance policy at a reasonable premium in relation to value was not available to replace the inventory.

(d) Principal.--

(1) At the discretion of the Department of Community and Economic Development, an individual business loan may be increased up to 150% of eligible repair or replacement costs

1 to assist in business retention and recovery.

2 (2) The sum of all business loans may not exceed more
3 than one-half of all funds available for expenditure in the
4 fund in any fiscal year.

5 Section 9. Municipal loans.

6 (a) Term.--

7 (1) Except as set forth in paragraph (2), a municipal
8 loan shall be for a term of no more than 15 years.

9 (2) The term of a loan may be:

10 (i) extended by hardship suspension of payment; or

11 (ii) shortened under section 13(c)(1).

12 (b) Use.--

13 (1) A municipal loan may be used for repairing or
14 replacing any of the following when lost or seriously damaged
15 due to a small disaster:

16 (i) A building.

17 (ii) Major equipment other than vehicles, plows,
18 backhoes and similar gasoline-powered or diesel-powered
19 mobile machinery.

20 (iii) Office machinery.

21 (iv) A street.

22 (v) A water and sewer line.

23 (vi) A public utility.

24 (vii) A recreational facility.

25 (2) A municipality affected by a small disaster may
26 apply for a loan to rectify conditions or inadequate public
27 facilities that led directly to the small disaster or
28 contributed substantially to its occurrence or the inability
29 of local officials to bring the damage under control. This
30 paragraph includes the following:

1 (i) Missing or inadequate storm sewers or other
2 water management structures, including work within stream
3 channels.

4 (ii) Inadequate fire hydrants or related water
5 lines.

6 (iii) Watershed plans.

7 (iv) Engineering studies and designs necessary to
8 effect mitigation improvements.

9 (c) Limitation.--

10 (1) Small-disaster mitigation assistance may be used
11 only for municipally owned or controlled improvements.

12 (2) Firefighting apparatus and other emergency services
13 equipment and vehicles, including trucks, tankers and other
14 vehicles, are not eligible for mitigation assistance.

15 (d) Chronic flooding.--

16 (1) The agency may consult with the Department of
17 Environmental Protection to identify areas of chronic
18 flooding that result in frequent damage to communities but
19 which do not rise to the level of a small disaster.

20 (2) The agency, in conjunction with the Department of
21 Environmental Protection, may use up to 25% of the annual
22 revenue of the fund, exclusive of carryover reserves, to
23 provide municipal loans to correct conditions described in
24 paragraph (1).

25 (e) Hazard mitigation.--Hazard mitigation loans shall be
26 subject to the following:

27 (1) A low-interest loan shall be available for the
28 balance of project work not covered by a grant under section
29 11(a). The maximum total assistance of loans and grants shall
30 not be more than \$10,000,000.

(2) A hazard mitigation loan shall be for a term of 20 years.

(3) The interest rate shall be determined under section 7(d).

(f) Formula.--

(1) A municipality shall be eligible for a mitigation grant of 50% of total project cost if, for the preceding year, its median per capita personal income exceeds the State median per capita personal income by more than 20%.

(2) A municipality shall be eligible for a mitigation grant of 60% of total project cost if, for the preceding year, its median per capita personal income is in the following range:

(i) Is less than the State median per capita personal income by no more than 20%.

(ii) Exceeds the State median per capita personal income by no more than 20%.

(3) A municipality shall be eligible for a mitigation grant of 70% of total project cost if, for the preceding year, its median per capita personal income is less than the State median per capita personal income by more than 20%.

Section 10. Residential loans.

(a) Use.--

(1) Except as set forth in paragraph (2), a residential loan:

(i) may be made only for the replacement or repair of the structure of a primary residence; and

(ii) may not be made for repairs to landscaping, ponds, pools or outbuildings.

(2) Paragraph (1)(ii) does not apply to a repair

1 necessary to respond to serious hazards resulting from small
2 disaster damage.

3 (3) An individual who has been forced from a primary
4 rental residence by a small disaster is eligible for a
5 residential loan to purchase a home approximately equivalent
6 to the prior residence in size but no smaller than 400 square
7 feet per individual of interior living space.

8 (b) Security.--A residential loan must be secured by a
9 mortgage on the real property that is the subject of the loan.

10 (c) Condition.--Section 13(c)(1) applies to a residential
11 loan.

12 Section 11. Grants.

13 (a) Hazard mitigation.--A municipality may receive a grant
14 for hazard mitigation work in an amount of no more than
15 \$5,000,000 per event.

16 (b) Conversion.--If individual financial circumstances
17 indicate that a person eligible for a loan under this act does
18 not reasonably have the ability to repay the loan, the
19 administering agency may convert some or all of the amount of
20 the loan to a grant.

21 Section 12. Training, administration and operations.

22 (a) Specialized staff.--The agency and each administering
23 agency shall recruit, train and develop staff specializing in
24 small disaster assistance in their respective program areas. The
25 staff sections shall be deployed by each administering agency in
26 response to a declared small disaster, as directed by the
27 agency. These personnel shall also be available to the agency at
28 the direction of the Governor to respond to any major disaster
29 in this Commonwealth.

30 (b) Funding for staff.--The agency and each administering

1 agency shall receive up to \$1,000,000 annually from the fund to
2 establish a permanently staffed small disaster response team.
3 When the small disaster response team is deployed on assignment,
4 the agency shall reimburse the administering agency from the
5 fund for standard and necessary travel and living costs for each
6 team deployed to the small disaster.

7 (c) Authority to approve expenditures.--In response to a
8 small disaster, the agency shall have final authority to approve
9 expenditures from the fund for additional purposes it deems
10 necessary to small disaster recovery unless the uses are
11 specifically prohibited by this act.

12 Section 13. Insurance coverage.

13 (a) Loans.--A loan recipient must maintain adequate property
14 insurance coverage for the full value of the subject property
15 for the term of the disaster assistance loan, including flood
16 insurance coverage, if the property is located within a flood
17 plain.

18 (b) Grants.--Grant recipients must maintain adequate
19 insurance coverage for 20 years.

20 (c) Violation.--

21 (1) If a recipient violates subsection (a), the
22 principal and interest on the loan shall become due
23 immediately.

24 (2) If a recipient violates subsection (b), the amount
25 of the grant shall be repaid to the fund.

26 Section 29. Appropriation.

27 The sum of \$10,000,000, or as much thereof as may be
28 necessary, is hereby appropriated to the Small Disaster
29 Assistance Fund for the fiscal year July 1, 2010, to June 30,
30 2011, to carry out the provisions of this act.

1 Section 30. Effective date.

2 This act shall take effect in 60 days.