TABLE OF CONTENTS

TITLE 64
PUBLIC AUTHORITIES AND QUASI-PUBLIC CORPORATIONS

PART I. PRELIMINARY PROVISIONS

Chapter 1. General Provisions (Reserved)

PART II. ECONOMIC DEVELOPMENT FINANCING

Chapter 11. Pennsylvania Industrial Development Authority

Subchapter A. General Provisions

§ 1101. Scope of chapter.
§ 1102. Definitions.

Subchapter B. Structures and Powers (Reserved)

Subchapter C. Program Management

§ 1120. Program management.
§ 1121. Common application process.
§ 1122. Regulations.
§ 1123. Certification of economic development organizations.
§ 1124. Transfer of funds.
§ 1125. Conflict of interest.

Subchapter D. Transfer of Loans

§ 1130. Transfer of loans from certain programs.

Chapter 13. Pennsylvania Economic Development Financing Authority (Reserved)

Chapter 15. Commonwealth Financing Authority

Subchapter A. General Provisions

§ 1501. Scope.
§ 1502. Construction.
§ 1503. Findings and declaration of policy.
§ 1504. Definitions.

Subchapter B. Structure and Powers

§ 1511. Authority.
§ 1512. Board.
§ 1513. Powers.
§ 1514. Limitation.

Subchapter C. Bonds

§ 1521. Bonds issuance.
§ 1522. Commonwealth taxation.
§ 1523. Federal taxation.
§ 1524. Validity of bonds; limitation on actions.
§ 1525. Provisions of bonds; trust agreements.
§ 1526. Validity of pledge.
§ 1527. Commonwealth pledges.

§ 1528. Bonds to be legal investments.
§ 1529. Rights and remedies of obligees.

Subchapter D. Accounts, Indebtedness and Use

§ 1541. Trust accounts.
§ 1542. Revolving loan program accounts.
§ 1543. Indebtedness.
§ 1544. Use.

Subchapter E. Programs

§ 1551. Business in Our Sites Program.
§ 1552. First Industries Program.
§ 1552.1. Dairy Investment Program.
§ 1553. Second Stage Loan Program.
§ 1554. New Pennsylvania Venture Guarantee Program.
§ 1555. Building Pennsylvania Program.
§ 1556. Tax Increment Financing Guarantee Program.
§ 1557. New Pennsylvania Venture Capital Investment Program.
§ 1558. Water Supply and Wastewater Infrastructure Program.

PART III. PUBLIC AUTHORITIES

Chapter 60. Pennsylvania Convention Center Authority

§ 6001. Scope of chapter.
§ 6002. Findings and declaration of policy.
§ 6003. Definitions.
§ 6004. Authority created; existing authority continued.
§ 6005. Governing board.
§ 6006. Purposes and powers; general.
§ 6007. Acquisition of lands.
§ 6008. Purposes and powers; bonds.
§ 6009. Provisions of bonds, trusts, indentures and mortgages.
§ 6010. Remedies of obligee of authority.
§ 6011. Additional remedies conferrable by authority.
§ 6012. Moneys of authority.
§ 6013. Capital and operating budgets.
§ 6014. Expansion financing.
§ 6015. Transfer of existing facilities or funds; making of annual grants and lease payments to authority; Commonwealth bonds.
§ 6016. Award of contracts.
§ 6017. Interests of public officers, public employees and party officers.
§ 6018. Sovereign immunity.
§ 6019. Use and operation of convention center.
§ 6020. Convention center performance audits; annual performance reports.
§ 6021. Limitation of powers.
§ 6022. Exemption from taxation.
§ 6023. Lease by authority.
§ 6024. Cooperation.
§ 6025. Hotel room rental tax; continuation of existing tax.
§ 6026. Pennsylvania Convention Center Assistance Fund.

Chapter 61. Pennsylvania Broadband Development Authority

Subchapter A. General Provisions

§ 6101. Scope of chapter.

§ 6102. Definitions.

Subchapter B. Structure and Governance

§ 6111. Authority.
§ 6112. Board.
§ 6113. Audits.
§ 6114. Annual report.
§ 6115. Accounts.
§ 6116. Use of money of authority.

Subchapter C. Powers and Duties

§ 6121. Corporate powers and duties in general.
§ 6122. Specific powers and duties.
§ 6123. Grant awards generally.
§ 6124. Grant applications and process.

TITLE 64
PUBLIC AUTHORITIES AND QUASI-PUBLIC CORPORATIONS

Part
I. Preliminary Provisions
II. Economic Development Financing
III. Public Authorities

Enactment. Unless otherwise noted, the provisions of Title 64 were added February 5, 2004, P.L.7, No.3, effective February 5, 2004.

PART I
PRELIMINARY PROVISIONS

Chapter
1. General Provisions (Reserved)

Enactment. Part I was added February 5, 2004, P.L.7, No.3, effective February 5, 2004.

CHAPTER 1
GENERAL PROVISIONS
(Reserved)

Enactment. Chapter 1 (Reserved) was added February 5, 2004, P.L.7, No.3, effective February 5, 2004.

PART II
ECONOMIC DEVELOPMENT FINANCING

Chapter
11. Pennsylvania Industrial Development Authority
13. Pennsylvania Economic Development Financing Authority (Reserved)
15. Commonwealth Financing Authority

Enactment. Part II was added April 1, 2004, P.L.163, No.22, effective immediately.

CHAPTER 11
PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

Subchapter
A. General Provisions
B. Structures and Powers (Reserved)
C. Program Management
D. Transfer of Loans

Enactment. Chapter 11 (Reserved) was added April 1, 2004, P.L.163, No.22, effective immediately.

Chapter Heading. The heading of Chapter 11 was amended October 22, 2014, P.L.2569, No.161, effective November 1, 2014.

Cross References. Chapter 11 is referred to in sections 2305, 2907 of Title 12 (Commerce and Trade).

SUBCHAPTER A
GENERAL PROVISIONS

Enactment. Subchapter A was added October 22, 2014, P.L.2569, No.161, effective November 1, 2014.

Sec.
1101. Scope of chapter.
1102. Definitions.

§ 1101. Scope of chapter.
This chapter relates to the Pennsylvania Industrial Development Authority.

§ 1102. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Application." A request for financial assistance from the programs.

"Authority." The Pennsylvania Industrial Development Authority organized and existing under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

"Board." The board of directors of the authority.

"Certified economic development organization." An entity certified by the authority under section 1123 (relating to certification of economic development organizations).

"Department." The Department of Community and Economic Development of the Commonwealth.

"Industrial Development Fund." The fund established under section 8 of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

"Machinery and Equipment Loan Fund." The fund established under 12 Pa.C.S. § 2904 (relating to Machinery and Equipment Loan Fund).

"Machinery and Equipment Loan Program." The program authorized by 12 Pa.C.S. Ch. 29 (relating to machinery and equipment loans).

"Pennsylvania Industrial Development Program." The program authorized under 12 Pa.C.S. Ch. 30 (relating to Pennsylvania Industrial Development Program).

"Pollution Prevention Assistance Account." The account continued under 12 Pa.C.S. § 2304 (relating to fund and accounts).

"Programs." Any of the following:

(1) The Small Business First Program.

(2) The Machinery and Equipment Loan Program.

(3) The Pennsylvania Industrial Development Program.

(4) All programs authorized by the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

"Small Business First Fund." The fund continued under 12 Pa.C.S. § 2304 (relating to fund and accounts).

"Small Business First Program." The program authorized by 12 Pa.C.S. Ch. 23 (relating to small business first).

SUBCHAPTER B
STRUCTURES AND POWERS
(Reserved)

Enactment. Subchapter B (Reserved) was added October 22, 2014, P.L.2569, No.161, effective November 1, 2014.

SUBCHAPTER C
PROGRAM MANAGEMENT

Sec.

1120. Program management.
1121. Common application process.
1122. Regulations.
1123. Certification of economic development organizations.
1124. Transfer of funds.
1125. Conflict of interest.

Enactment. Subchapter C was added October 22, 2014, P.L.2569, No.161, effective November 1, 2014.

§ 1120. Program management.

The authority shall operate the programs in a coordinated and integrated manner, utilizing to the maximum extent possible the same criteria and standards in defining and administering the projects to be funded under the programs.

§ 1121. Common application process.

(a) Preparation.--An application for assistance under the programs must be prepared and approved by a certified economic development organization before it is submitted to the authority, and the application shall comply with any additional requirements of the programs.

(b) Contents.--The application, which shall be in the form required by the authority, shall include the following information, where applicable:

(1) The applicant's name.

(2) The applicant's address.

(3) A description of the type and amount of financial assistance requested.

(4) A description of the applicant's business or, if the applicant is not the borrower, the borrower's business, including all of the following:

(i) The type of business conducted.

(ii) The location of the business.

(iii) The date the business was established.

(iv) The address of the business, including the address of all offices of the business located in this Commonwealth.

(v) The name and address of each principal.

(vi) The number of current employees and an estimate of future employees.

(5) A description of the project, including all of the following:

(i) The location of the project.

(ii) The total estimated cost of the project, as calculated by an engineer or other qualified professional.

(iii) An identification of all sources of capital for the project.

(iv) A legal description of all real property held or to be acquired for the establishment of the project.

(v) A general description and statement of value of any real or personal property of the applicant and, if applicable, the buyer or tenant of the project, to be applied to the establishment of the project.

(6) A statement that the project is consistent with any existing comprehensive county plan where the project is located.

(7) A firm commitment from the intended project user to use the project upon completion.

(8) A brief description of the anticipated economic impact to this Commonwealth and the host municipality and county as a result of the project.

(9) Any plans or other documents as may be required to show the type, structure and general character of the project.

(10) A statement that the applicant certifies to the authority that it will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex or age.

(11) A statement that the applicant certifies to the authority that it is not currently under citation for pollution violations and that in the future it will meet all applicable antipollution standards.

(12) Any information required by the program under which financial assistance may be provided.

(13) Any other information required by the authority.

(c) Review and approval.--

(1) In reviewing the application, the authority shall consider the following, where applicable:

(i) Whether the value of the proposed collateral and the financial resources offered by the applicant are sufficient to repay the loan.

(ii) Whether the project will enable future employment opportunities in or have a net positive economic impact on the surrounding community.

(iii) Whether the statement of the estimated cost of the project is reasonable.

(iv) Whether the sources of financial commitments for funds in excess of the amount requested under this subchapter are reliable.

(v) Whether the applicant has complied with terms required by the programs and under this subchapter.

(vi) Whether the applicant has a history of investment in Pennsylvania-related companies.

(vii) Whether the applicant has demonstrated strong relationships with organizations in this Commonwealth which foster economic development.

(viii) Whether the applicant has a strong performance record.

(ix) Whether the applicant has demonstrated an ability to meet and satisfy debt service, if applicable, as it becomes due and payable.

(x) Whether the applicant has any outstanding environmental violations.

(xi) Any other information deemed to be relevant by the authority.

(2) Subject to any applicable limitations under this subchapter, the amount, duration, interest rate, security required and any other terms of the loan shall be determined at the discretion of the authority based upon its determination of the potential financial risk to the Commonwealth.

(3) Financial assistance may not be approved if the proceeds would be used to:

(i) refinance any portion of the total cost of a capital development project, pollution prevention infrastructure or other existing loans or debt;

(ii) finance a project located outside the geographic boundaries of this Commonwealth;

(iii) relocate a business to another part of this Commonwealth, unless approved in advance by the authority which shall consider the negative economic impact on the community that the business is leaving; or

(iv) provide funds, directly or indirectly, for payment distribution or as a loan to owners, partners or shareholders of a small business, except as ordinary compensation for services rendered.

(4) (i) The terms of all agreements for financial assistance awarded under this subchapter shall include any material terms, requirements or other conditions provided for agreements entered into under this subchapter. The authority may impose other terms and conditions if it determines that they are in the best interests of the Commonwealth, including a provision requiring collateral for any penalty which may be imposed.

(ii) Upon approving an application for a loan under the programs, the authority shall draw an advance equal to the principal amount of the loan from the appropriate account and, before disbursing loan funds to the applicant, require the applicant to execute a note and to enter into a loan agreement and any other agreement as the authority may require.

(d) Review and notice.--Upon reviewing the application, the authority shall notify the applicant and the certified economic development organization of its decision or request additional information or certifications before making its decision.

(e) Reporting and inspection.--An applicant or a recipient of financial assistance under the programs shall:

(1) permit the authority to inspect its premises, books and records;

(2) provide updated information to the authority if conditions change to the extent that the information originally given becomes inaccurate or misleading; and

(3) provide the authority with any periodic financial reports and audits that the authority may require.

(f) Employment projection audits.--The authority shall implement a procedure to determine whether the employment projections described in the application are achieved.

(g) Transition.--The board shall have all power and authority necessary to implement a transition and continuation

of consideration of pending applications and any other pending administrative actions under section 6 of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, that are submitted to the authority for consideration prior to the effective date of this section.

Cross References. Section 1121 is referred to in sections 2306, 2307, 2308, 2309, 2310, 2906, 3005 of Title 12 (Commerce and Trade).

§ 1122. Regulations.

The board shall promulgate regulations necessary to administer the programs.

§ 1123. Certification of economic development organizations.

(a) General rule.--The authority shall establish guidelines for the certification of eligible nonprofit organizations as certified economic development organizations.

(b) Eligible applicants.--The following nonprofit organizations may apply to be certified as a certified economic development organization:

(1) A local development district organized and existing under the act of December 7, 1994 (P.L.845, No.120), known as the Local Development District Act.

(2) An industrial development agency organized and existing under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) An industrial resource center organized and existing under the act of June 22, 2001 (P.L.400, No.31), known as the Industrial Resources Center Partnership Act.

(4) A redevelopment authority organized and existing under the act of May 24, 1945 (P.L.982, No.383), known as the Redevelopment Cooperation Law.

(5) A Community Development Financial Institution certified by the Community Development Financial Institution Fund established in section 104(a)(1) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Public Law 103-325, 12 U.S.C. § 4703(a)(1)).

(6) Any other nonprofit economic development organization determined by the authority as possessing the qualifications necessary to evaluate and administer the programs.

(c) Requirements.--The guidelines must, at minimum, set requirements for annual training and professional development for an organization's professional staff, standards for the organization's facilities and technical capabilities and require the organization to adopt a code of ethics.

(d) Audit.--A certified economic development organization must submit an audit to the authority every three years demonstrating that requirements continue to be satisfied.

(e) Approval.--If the authority determines that the application meets the requirements of the guidelines, the authority may, in its sole and final discretion, certify the applicant as a certified economic development organization.

Cross References. Section 1123 is referred to in section 1102 of this title; section 2302 of Title 12 (Commerce and Trade); section 3101 of Title 72 (Taxation and Fiscal Affairs).

§ 1124. Transfer of funds.

Except for funds in the Pollution Prevention Assistance Account, funds may be transferred by an action of the board between the Small Business First Fund, the Machinery and

Equipment Loan Fund and the Industrial Development Fund to maximize the effectiveness of the programs.

§ 1125. Conflict of interest.

A member of the board or an employee of the authority may not, either directly or indirectly, be a party to or have any financial interest in any contract or agreement arising pursuant to this chapter or the programs.

SUBCHAPTER D
TRANSFER OF LOANS

Sec.

1130. Transfer of loans from certain programs.

Enactment. Subchapter D was added October 22, 2014, P.L.2569, No.161, effective November 1, 2014.

§ 1130. Transfer of loans from certain programs.

(a) Loan transfer.--On the effective date of this section, outstanding loans executed under the Small Business First Program and the Machinery and Equipment Loan Program and approved loan commitments that have not been executed by the effective date of this section, including necessary documentation and collateral security associated with the loans, shall be transferred from the department to the authority.

(b) Loan commitments.--An approved loan commitment transferred under subsection (a) shall be executed in accordance with 12 Pa.C.S. Chs. 23 (relating to small business first) and 29 (relating to machinery and equipment loans).

(c) Legal actions.--On the effective date of this section, each legal action relating to a loan under the Small Business First Program or the Machinery and Equipment Loan Program shall be transferred to the authority.

(d) Security or collateral.--No money deposited or to be deposited into the Small Business First Fund or the Machinery and Equipment Loan Fund may serve as security or collateral for any debt incurred by the board before the effective date of this section, unless proceeds made available by the debt are used by the board to fund loans or other financial assistance under the Small Business First Program or the Machinery and Equipment Loan Program to effectively carry out the purposes of the programs.

CHAPTER 13
PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY
(Reserved)

Enactment. Chapter 13 (Reserved) was added April 1, 2004, P.L.163, No.22, effective immediately.

CHAPTER 15
COMMONWEALTH FINANCING AUTHORITY

Subchapter

A. General Provisions
B. Structure and Powers
C. Bonds
D. Accounts, Indebtedness and Use
E. Programs

Enactment. Chapter 15 was added April 1, 2004, P.L.163, No.22, effective immediately.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
1501. Scope.
1502. Construction.
1503. Findings and declaration of policy.
1504. Definitions.

Special Provisions in Appendix. See section 3 of Act 22 of 2004 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1501. Scope.

This chapter relates to the Commonwealth Financing Authority.

§ 1502. Construction.

(a) General rule.--This chapter shall be liberally construed in order to effect the legislative and public purposes as set forth in this subchapter.

(b) Rights of obligees.--The provisions of this chapter providing for security, rights and remedies of obligees of the authority shall be liberally construed to achieve the legislative and public purposes as set forth in this subchapter.

(c) Limitation.--If any provision of this chapter is judged to be invalid by a court of competent jurisdiction, the order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate any remaining provision of this chapter.

§ 1503. Findings and declaration of policy.

The General Assembly finds and declares as follows:

(1) Activities which lead to the creation and retention of jobs within this Commonwealth, the establishment of economically viable Pennsylvania communities, the development of a stable tax base within Pennsylvania communities, the reuse of abandoned industrial, commercial and other previously utilized sites, the promotion and commercialization of Pennsylvania products and services and the investment of private capital in Pennsylvania enterprises and Pennsylvania communities will improve the health, safety and general welfare of the people of this Commonwealth by increasing employment of Pennsylvania workers, by developing a stable State economy, by revitalizing communities, by reducing, eliminating and preventing blight and eliminating certain environmental hazards.

(2) Many existing industrial, commercial and other economic activities throughout this Commonwealth could become more competitive and could expand more rapidly if additional means of financing were available for modern buildings, plant facilities, modern machinery and equipment and other capital needs. Additional activities could be attracted to this Commonwealth if additional means of financing were available to acquire, construct, rehabilitate and expand facilities. Financing for cost-saving activities related to buildings, plants, machinery and equipment and other facilities would further the purposes of this paragraph.

(3) A minimum level of unemployment and a maximum level of business opportunity can best be provided by the promotion, attraction, stimulation, rehabilitation and

revitalization of industrial, commercial, technological, tourist, agricultural and other economic activities in this Commonwealth. The promotion of these activities will also enhance Pennsylvania's competitiveness in the global economy.

(4) The provisions of the Constitution of Pennsylvania guaranteeing the residents of this Commonwealth clean air and water and the preservation of the environment and the implementation of those provisions through the establishment of quality standards relating to abatement or elimination of pollution have resulted in the need for additional means of financing to assist and encourage compliance with standards on air, water, solid and liquid waste disposal, sewage disposal and pollution control.

(5) Industrial and commercial facilities should be promoted, whether by the financing of these facilities or by the encouragement of other activities deemed appropriate which will eliminate blight or otherwise improve an area for industrial, commercial or other economic activity.

(6) To protect the health, safety and general welfare of the people of this Commonwealth and to further encourage economic development and efficiency within this Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternative means of financing infrastructure facilities, transportation systems, industrial parks, energy conversion facilities, facilities for the furnishing of energy, water and telecommunications, facilities for the collection or treatment of wastewater and storm water, tourism, parking facilities, health care facilities and other basic service and related facilities which are conducive to economic activity within this Commonwealth and which are consistent with the purposes of this chapter.

(7) To protect the health, safety and general welfare of the people of this Commonwealth, it is desirable to build, improve and finance facilities owned by municipalities, municipal authorities and other authorities and instrumentalities of the Commonwealth, including publicly owned roads and other transportation systems and waste treatment and disposal facilities.

(8) Industrial, commercial, technological, tourist, agricultural and other economic activity should be promoted through the development of new businesses and the expansion of existing businesses, the revitalization of real estate assets, the acquisition and preparation of sites for future use and the support of tax increment financing.

(9) It is the policy of this Commonwealth to promote the health, safety, employment, business opportunities, economic activity and general welfare of the people by:

(i) establishing an authority to exist and operate as a public instrumentality of the Commonwealth; and

(ii) establishing the programs under this chapter and authorizing financial assistance, regardless of whether the applicant or the project user is public or private or whether the project is undertaken with a profit or not-for-profit purpose.

§ 1504. Definitions.

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

"Agriculture." Any of the following:

(1) Production agriculture.

(2) Agribusiness.

(3) The sale of farm commodities at wholesale.

(4) The sale of farm commodities at retail by urban and rural supermarkets located or to be located in underserved areas.

(5) Farmers' markets.

(6) Energy-related activities impacting production agriculture or agribusiness.

(7) Activities which implement best practices related to agricultural waste, agricultural waste products, agricultural by-products or fertilizer.

(8) Any other activity deemed by the Commonwealth Financing Authority to involve agriculture.

"Applicant." A person that submits an application in accordance with Subchapter E (relating to programs).

"Authority." The Commonwealth Financing Authority established in section 1511 (relating to authority).

"Board." The board of the Commonwealth Financing Authority established in section 1512 (relating to board).

"Bonds." Bonds, notes, instruments, refunding notes and bonds and other evidences of indebtedness or obligations which the authority is authorized to issue pursuant to this chapter.

"Commercial lending activities." The making of loans and the provision of deposit services to business entities, except that a farm credit system institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) need not offer deposit services to qualify as a provider of commercial lending activities under this chapter.

"Commercial lending institutions." A federally chartered or state-chartered bank, savings bank, savings and loan association or farm credit system institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) which has a satisfactory rating from its primary regulator and which is engaged in commercial lending activities. The institution must operate at least one full-service branch for deposit gathering and lending located within this Commonwealth or be a farm credit system institution under the Farm Credit Act of 1971.

"Commonwealth agency." An agency, authority or other instrumentality of the Commonwealth.

"Community development financial institution." A community development financial institution certified in accordance with the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163).

"Comprehensive county plan" or **"comprehensive municipal plan."** The comprehensive plan adopted pursuant to applicable law by:

(1) A county or a municipality.

(2) A city of the first class.

(3) A city of the second class.

"Cost of the project" or **"cost."** Any of the following:

(1) Costs and expenses of acquisition of interests in land, infrastructure, buildings, structures, equipment, furnishings, fixtures and other tangible or intangible property, which comprise the project.

(2) Costs and expenses of construction, reconstruction, erection, equipping, expansion, extension, improvement, installation, rehabilitation, renovation or repair of the buildings, structures and equipment, which comprise the project.

(3) Costs and expenses of demolishing, removing or relocating buildings or structures on lands acquired or to be acquired and the expense of acquiring land to which the buildings or structures may be moved or relocated.

(4) Costs and expenses of preparing land for development.

(5) Costs and expenses of engineering services, financial services, accounting services and legal services, plans, specifications, studies and surveys necessary or incidental to determining the feasibility or practicability of the project.

(6) Working capital or other capital needs related to the project.

(7) Other costs and expenses deemed necessary by the Commonwealth Financing Authority.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth. The term does not include any court or other officer or agency of the Unified Judicial System, the General Assembly and its officers and agencies, an independent agency or a State-affiliated entity.

"Farm commodities." Agricultural, horticultural, aquacultural, vegetable, fruit and floricultural products of the soil; livestock and meats; wools; hides; furs; poultry, eggs, dairy products, nuts, mushrooms, honey products and forest products.

"Farmer." A person engaged in the business of production agriculture.

"Federal agency." The United States of America, the President of the United States of America, the Congress and any department, corporation, agency or instrumentality designated or established by the United States of America.

"Finance." The term shall have the broadest possible meaning. The term includes refinance.

"Financial assistance." Loans, grants, guarantees, sales, leases, investments authorized in Subchapter E (relating to programs), lines of credit, letters of credit and other financial arrangements which the Commonwealth Financing Authority is authorized to undertake under Subchapter E (relating to programs).

"Financing." The term shall have the broadest possible meaning. The term includes refinancing.

"Fund manager." An organization which has as its primary purpose the managing of capital for real estate investments.

"Government agency." A Commonwealth agency; the Unified Judicial System and its courts, officers and agencies; the General Assembly and its officers and agencies; a political subdivision; a municipal authority or other local authority; a local, regional or metropolitan transportation authority; or a board, commission or other agency or instrumentality of a political subdivision, a municipal authority or other local authority.

"Governing body." The body or board authorized by law to enact ordinances or adopt resolutions for a political subdivision.

"Independent agency." A board, commission or other agency or officer of the Commonwealth which is not subject to the policy, supervision and control of the Governor. The term does not include a State-affiliated entity, any court or other officer or agency of the Unified Judicial System, the General Assembly and its officers and agencies, a State-related institution, a political subdivision or a local, regional or metropolitan transportation authority.

"Industrial development corporation." An entity which has been certified as an industrial development agency by the Pennsylvania Industrial Development Authority Board under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

"Investor-owned water or wastewater enterprise." A nonpublic entity which supplies water or provides wastewater services to the public for a fee.

"Issuing authority." As defined in section 3 of the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act.

"Managing partner." A general partner, a manager, a managing member or another person designated as the manager of a venture capital partnership.

"Municipal authority." A public authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

"Obligee of the authority." Any of the following:

(1) A holder or owner of bonds of the Commonwealth Financing Authority.

(2) A trustee or other fiduciary for any holder or owner of bonds of the Commonwealth Financing Authority.

(3) A provider of a letter of credit, policy of municipal bond insurance or other credit enhancement or liquidity facility for bonds of the Commonwealth Financing Authority.

(4) A lessor or installment seller demising property to the Commonwealth Financing Authority in connection with a project.

(5) A provider of an interest rate management agreement or other agreement or arrangement authorized under section 1513(a)(28) (relating to powers).

"Pennsylvania-related company." An entity with operations located in this Commonwealth or an entity willing to locate significant business operations in this Commonwealth.

"Philadelphia Metropolitan Statistical Area." The Philadelphia, Pennsylvania, Metropolitan Division of the Philadelphia-Camden-Wilmington, Pennsylvania-New Jersey, Delaware-Maryland Metropolitan Statistical Area as announced on June 6, 2003, by the United States Office of Management and Budget pursuant to Standards for Defining Metropolitan and Micropolitan Statistical Areas by the Office of Management and Budget for the 2000 Decennial Census of the United States Bureau of the Census as published in the Federal Register, Vol. 65, No. 249, on December 27, 2000, comprising the Pennsylvania counties of Philadelphia, Delaware, Bucks, Montgomery and Chester.

"Private developer." A person that is all of the following:

(1) Engaged in the development of real estate.

(2) Determined by the Commonwealth Financing Authority to be financially responsible to assume all obligations proposed to be undertaken.

"Production agriculture." The management and use of farming resources for any of the following:

(1) The production of:

(i) agricultural, horticultural, aquacultural, vegetable, fruit or floricultural products of the soil;

(ii) livestock or livestock products;

(iii) milk or dairy products; or

(iv) poultry or poultry products.

(2) Any other practices approved by the Department of Agriculture.

"Project." An activity which promotes economic development or opportunities within this Commonwealth. The term shall not include activities conducted by a for-profit entity directly or indirectly related to gaming.

"Project user." A person, political subdivision, municipal authority, Commonwealth agency or other entity that owns, leases or uses all or any part of a project.

"Redevelopment authority." An entity created under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law.

"Secretary." The Secretary of Community and Economic Development of the Commonwealth.

"Supermarket." A retail store operated on a self-service basis, primarily selling groceries, fresh produce, meat, bakery and dairy products. The term does not include a convenience store.

"Taxable bonds." Bonds or other evidence of indebtedness, the interest on which is includable in gross income for Federal income taxation purposes.

"Tax-exempt bonds." Bonds or other evidence of indebtedness, the interest on which is excludable from gross income for Federal income taxation purposes.

"Tax increment district." As defined in the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act.

"Tourism." An activity which promotes or encourages individuals to travel to a location within this Commonwealth for pleasure.

"Venture capital partnership." An entity whose purpose is to make investments in companies and is formed as a limited partnership, limited liability company or comparable investment entity.

"Wastewater system." A system for the collection, treatment or disposal of wastewater, including industrial waste. The term does not include a system used solely for residential purposes.

"Water project." An activity to acquire land, easements or rights-of-way and to construct, improve, expand, extend, repair or rehabilitate a water system or wastewater system and which contributes to economic development.

"Water system." A system for the supply, treatment, storage or distribution of water. The term does not include a system used solely for residential purposes.

(Nov. 30, 2004, P.L.1708, No.218, eff. imd.; Oct. 9, 2008, P.L.1517, No.125, eff. 60 days)

2008 Amendment. Act 125 amended the defs. of "commercial lending activities" and "commercial lending institutions."

2004 Amendment. Act 218 added the defs. of "community development financial institution," "investor-owned water or wastewater enterprise," "wastewater system," "water project" and "water system.

Cross References. Section 1504 is referred to in section 3902 of Title 12 (Commerce and Trade).

SUBCHAPTER B
STRUCTURE AND POWERS

Sec.

1511. Authority.
1512. Board.
1513. Powers.
1514. Limitation.

§ 1511. Authority.

(a) Establishment.--There is established an independent authority to be known as the Commonwealth Financing Authority. The authority shall be an instrumentality of the Commonwealth and a body corporate and politic, with corporate succession.

(b) Governance.--The authority shall be governed by the board. The powers of the authority shall be exercised by the board.

(c) Expenses.--Expenses of the authority shall be paid from assets or income of the authority. Except as provided in this chapter or by other law, the Commonwealth shall not be responsible for funding the expenses of the authority.

(d) Fiscal year.--The fiscal year of the authority shall be the same as the fiscal year of the Commonwealth.

(e) Audit.--

(1) The accounts and books of the authority shall be examined and audited annually by an independent certified public accounting firm.

(2) The authority shall, by December 31 of each year, file a copy of the audit required by paragraph (1) with the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) Reports.--(Reserved).

(g) Publication.--The authority shall annually publish a concise financial statement in the Pennsylvania Bulletin.

(h) Cooperation.--Executive agencies shall cooperate with and provide assistance to the authority without financial reimbursement.

(i) Existence and dissolution.--

(1) The authority shall exist until terminated by law.

(2) The authority may be dissolved by law if all outstanding liabilities of the authority, including bonds and other contractual obligations, have been fully paid, retired, satisfied or discharged or provision has been made for payment of all outstanding liabilities of the authority, including bonds and other contractual obligations. Upon the dissolution of the authority, all funds, assets and other property of the authority shall vest in the Commonwealth.

(j) Procurement.--The authority shall be considered as an independent agency for the purposes of 62 Pa.C.S. Pt. I (relating to Commonwealth procurement code).

(k) Limitation on action.--If any provision of this section or section 1512 (relating to board) is held invalid by a court of competent jurisdiction, the authority shall not borrow further moneys nor issue further bonds, and the authority shall not further disburse to any person proceeds of any issue of bonds previously authorized. All provisions of outstanding bonds of the authority and all rights and remedies of obligees of the authority under this chapter shall be and shall remain valid and enforceable.

(l) Relationship with department.--

(1) The department shall provide administrative services and staff, including staff legal counsel, to the authority and the board. The authority shall reimburse the department for the cost of providing the administrative services and staff.

(2) The authority may enter into agreements with the department setting forth the rights and obligations they

have to each other in carrying out their respective responsibilities under and to further the intent of this chapter.

(m) Applicability.--The following acts shall apply to the authority and the board:

(1) The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

Nonseverability. Section 6(2) of Act 22 of 2004 provided that if section 1511 or 1512 or the application to any person or circumstance is held invalid, the remaining provisions or applications of Act 22 are void.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (m)(1), was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 1511 is referred to in section 1504 of this title; section 3902 of Title 12 (Commerce and Trade).

§ 1512. Board.

(a) Composition.--The board shall be composed of the following members:

(1) The Secretary of Community and Economic Development or a designee.

(2) The Secretary of the Budget or a designee.

(3) The Secretary of Banking or a designee.

(4) Four legislative appointees.

(i) Appointments are as follows:

(A) One individual appointed by the President pro tempore of the Senate.

(B) One individual appointed by the Minority Leader of the Senate.

(C) One individual appointed by the Speaker of the House of Representatives.

(D) One individual appointed by the Minority Leader of the House of Representatives.

(ii) Legislative appointees shall serve at the pleasure of the appointing authority.

(iii) An individual appointed to the board pursuant to subparagraph (i) may not be a member of the General Assembly or staff of a member of the General Assembly.

(b) Organization.--The Governor shall select a member of the board to serve as chairperson. The members shall select from among themselves such officers as they shall determine.

(c) Meetings.--The board shall meet at the call of the chairperson.

(d) Quorum.--Five members of the board shall constitute a quorum, and the following shall apply:

(1) The consent of at least five members of the board, with at least four of the consenting members being appointed under subsection (a)(4), shall be necessary to take action on behalf of the authority for any of the following:

(i) Adopting bylaws.

(ii) Hiring professionals under section 1513(a)(5) and (6) (relating to powers).

(iii) Authorizing bonds.

(iv) Approving projects and contracts under Subchapter E (relating to programs).

(v) Adopting guidelines relating to the implementation of Subchapter E.

(2) A majority of the board shall be necessary to take any other action on behalf of the authority.

(e) Compensation.--The members of the board shall be entitled to no compensation for their services as members of the board but shall be entitled to reimbursement for all necessary and reasonable expenses incurred in connection with the performance of their duties as members of the board.

(f) Fiduciary relationship.--The members of the board and the professional personnel of the board shall stand in a fiduciary relationship with the Commonwealth and the authority as to the moneys in the accounts of the authority and investments of the authority.

(g) Standard of care.--The members of the board in performance of their duties under this chapter shall exercise the standard of care required by 20 Pa.C.S. Ch. 73 (relating to municipalities investments).

(h) Liability.--Members of the board shall not be liable personally on any obligations of the authority, including bonds of the authority.

(i) Initial appointment and vacancy.--Appointing authorities shall appoint initial members to the board within 30 days of the effective date of this chapter. Whenever a vacancy occurs on the board, the appointing authority shall appoint a successor member within 30 days of the vacancy.

Nonseverability. Section 6(2) of Act 22 of 2004 provided that if section 1511 or 1512 or the application to any person or circumstance is held invalid, the remaining provisions or applications of Act 22 are void.

Cross References. Section 1512 is referred to in sections 1504, 1511 of this title.

§ 1513. Powers.

(a) Powers.--The authority may do all of the following:

(1) Adopt bylaws and guidelines proposed by the department as necessary.

(2) Sue and be sued, implead and be impleaded, interplead, complain and defend in any court.

(3) Adopt, use and alter a corporate seal.

(4) Establish accounts necessary or desirable for its corporate purposes.

(5) Employ an executive director.

(6) Retain attorneys, accountants, auditors and financial experts to render services and engage the services of other advisors, consultants and agents as necessary. For the purposes of this paragraph, the authority shall be considered an independent agency for purposes of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(7) Pay or satisfy obligations of the authority.

(8) Contract and execute instruments, including financing agreements, letter of credit agreements, liquidity agreements, guarantees, sureties, mortgages, loans, standby loan commitments and contracts of insurance, which are necessary or appropriate for carrying on the business of the authority. This power includes the ability to make and execute contracts for the servicing of loans and mortgages acquired by the authority.

(9) Borrow money, issue bonds, obtain lines and letters of credit and incur debt.

(10) Pledge the credit of the authority and provide security and liquidity to obligees of the authority as the authority deems necessary or appropriate.

(11) Use or pledge an account for a special purpose, including debt service reserves and other reserves, as may be necessary or desirable to carry out its powers and duties.

(12) Negotiate modifications or alterations to financing agreements, mortgages or security interests.

(13) Foreclose on a mortgage or security interest in default.

(14) Commence any action necessary to protect or enforce any right conferred upon the authority by law, mortgage, security agreement, contract or other agreement.

(15) Bid for or purchase property which was the subject of a mortgage or security interest at a foreclosure or other sale and acquire and take possession of that property.

(16) Impose and collect fees and charges in connection with loan commitments and servicing, including reimbursement of costs of financing.

(17) Acquire, accept, purchase, receive, collect, hold, convey and invest funds, fees and property, whether tangible or intangible, from all sources, directly or by assignment, pledge or otherwise.

(18) Sell, transfer, convey and dispose of any property, whether tangible or intangible.

(19) Acquire and sell loans, mortgages and security interests at public or private sale.

(20) Provide financial assistance to applicants and project users.

(21) Agree to and comply with conditions attached to Federal or Commonwealth assistance not inconsistent with the provisions of this chapter.

(22) Make rules regarding the operation of properties and facilities of the authority subject to agreements with obligees of the authority.

(23) Develop, adopt and implement binding policies or guidelines assuring all of the following:

(i) All persons are accorded equal opportunity in employment and contracting associated with the programs established under Subchapter E (relating to programs). This paragraph includes the authority's contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(ii) Contracting parties demonstrate diversity in ownership of equity interests.

(24) Exercise rights provided by law for the benefit or protection of the authority or obligees of the authority.

(25) Invest money of the authority not required for immediate use, including proceeds from the sale of bonds, as the board determines, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds.

(26) Procure insurance against any loss in connection with its programs, property and other assets.

(27) Promulgate regulations and adopt guidelines and statements of policy containing restrictions as it may deem necessary and appropriate to effectuate the public purposes of this chapter.

(28) Negotiate and enter into interest rate exchange agreements, interest rate cap agreements, collar agreements,

corridor agreements, ceiling agreements, floor agreements, forward agreements, float agreements and other similar arrangements which, in the judgment of the authority, will assist the authority in managing the interest costs of the authority.

(29) Enter into agreements with applicants and project users providing, among other things, for any of the following:

(i) Financial assistance.

(ii) Loan, rental or purchase price payments or other payments, sufficient to amortize the principal, interest and premium, if any, of bonds and contractual obligations of the authority incurred to provide funds to pay the costs of the projects being financed.

(iii) The applicants or project users to pay or cause to be paid all other costs of acquiring, constructing, maintaining and operating the projects being financed.

(iv) Conveyance with or without consideration of any part or all of a project being financed to the project user or applicant on or before payment of all bonds and contractual obligations of the authority incurred with respect to the project.

(v) Other matters as are customary or as are deemed necessary and appropriate by the authority.

(30) Do any appropriate act necessary or convenient to:

(i) carry out and effectuate the purposes of this chapter; or

(ii) exercise the powers set forth in this subsection, including any act reasonably implied from those powers.

(b) Duties.--The authority shall do all of the following:

(1) Administer the programs established in Subchapter E in accordance with this chapter.

(2) Fund the programs established in Subchapter E and 12 Pa.C.S. Ch. 29 (relating to machinery and equipment loans) subject to Subchapter D (relating to funds, accounts, indebtedness and use).

Cross References. Section 1513 is referred to in sections 1504, 1512 of this title.

§ 1514. Limitation.

Except upon foreclosure or default under a loan made under this chapter, the board may not approve an application or finance a project if the board or authority would be required to operate, service or maintain the project under a lease or other agreement.

SUBCHAPTER C
BONDS

Sec.

1521. Bonds issuance.
1522. Commonwealth taxation.
1523. Federal taxation.
1524. Validity of bonds; limitation on actions.
1525. Provisions of bonds; trust agreements.
1526. Validity of pledge.
1527. Commonwealth pledges.
1528. Bonds to be legal investments.
1529. Rights and remedies of obligees.

§ 1521. Bonds issuance.

(a) Authorization.--The authority may issue limited obligation revenue bonds and other types of limited obligation revenue financing. Bonds issued and financing incurred pursuant to this subchapter shall be subject to the limits set forth in section 1543 (relating to indebtedness) and shall be in the name of the authority.

(b) Taxability.--The authority may issue both tax-exempt bonds and taxable bonds to fund the programs established in Subchapter E (relating to programs).

(c) Authorization requirements.--

(1) Bonds of the authority shall be authorized by a resolution of the board.

(2) The resolution of the board authorizing an issuance of bonds or the documents approved by the resolution shall provide that the bonds:

(i) be of a series;

(ii) bear a date or dates;

(iii) bear or accrue interest at any rate or rates, whether fixed or variable;

(iv) be in denominations;

(v) be in any form, either coupon or fully registered without coupons or in certificated or book-entry-only form;

(vi) carry registration, exchangeability and interchangeability privileges;

(vii) be payable in any medium of payment and at any place or places;

(viii) mature on a date or dates not to exceed 30 years from the bonds' original issue date; and

(ix) be subject to terms of redemption, if any.

(3) Bonds shall be signed by or shall bear the facsimile signature of the officer designated by the board.

(4) Interest coupons shall be attached to coupon bonds and shall bear the facsimile signature of the officer designated by the board.

(5) Bonds may be authenticated by an authenticating agent, fiscal agent or trustee.

(6) Bonds may be issued and delivered notwithstanding that the officer signing the bonds or whose facsimile signature is on a coupon has ceased to be the officer at the time when bonds are actually delivered.

(d) No debt or liability of the Commonwealth.--

(1) Bonds issued under this chapter shall not be a debt or liability of the Commonwealth and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth.

(2) Bonds shall be payable solely from revenues of the authority or accounts pledged or available for their repayment as authorized in this chapter which may include any of the following:

(i) The proceeds of bonds.

(ii) Funds appropriated to the authority for repayment as authorized in this chapter.

(3) All bonds shall contain on their faces statements to the effect that:

(i) the authority is obligated to pay the principal of or the interest on the bonds only from its revenues, receipts or funds pledged or available for their payment as authorized in this chapter;

(ii) neither the Commonwealth nor any political subdivision is obligated to pay the principal or interest; and

(iii) neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision is pledged to the payment of the principal of or the interest on the bonds.

(e) Sale.--

(1) Bonds may be sold at public sale, invited sale or private sale for the price or prices the authority determines.

(2) The authority shall ensure that minority-owned or minority-controlled firms have an opportunity to participate in a significant way in bonds sale activities.

(f) Interim receipts.--Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of the bonds and shall contain the terms and conditions established by the authority.

(g) Negotiable instruments.--Bonds of the authority shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).

(h) Use.--The authority may, as it deems necessary and desirable, use the proceeds of bonds for any of the following:

(1) Making loans, grants or guarantees.

(2) Purchasing loans, mortgages, security interests or loan participations.

(3) Paying incidental expenses in connection with activity under paragraphs (1) and (2), including administrative costs of the authority and the department.

(4) Paying expenses of authorizing and issuing the bonds.

(5) Paying principal, redemption or purchase price and interest on bonds.

(6) Funding reserves.

(i) Refunding.--Subject to provisions of this chapter and the terms of bonds or other contractual obligations issued in accordance with this chapter, the authority may refund any outstanding debt of the authority whether the debt represents principal or interest, in whole or in part, at any time. For the purposes of this subsection, the term "refund" and its variations means the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

Cross References. Section 1521 is referred to in section 1541 of this title.

§ 1522. Commonwealth taxation.

(a) General.--The effectuation of the purposes of the authority is for the benefit of the people of this Commonwealth, for the increase of commerce and prosperity and for the improvement of health, safety, welfare and living conditions.

(b) Authority.--Since the authority, as a public instrumentality of the Commonwealth, will be performing essential governmental functions in effectuating these purposes, the authority is not required to pay any taxes or assessments upon any property acquired or used or permitted to be used by the authority for its purposes.

(c) Bonds.--Bonds issued by the authority, the transfer and the income from the bonds, including profit made on their sale, are free from State and local taxation within this Commonwealth. The exclusion under this subsection shall not extend to gift,

estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, their transfer, the income from the bonds or the realization of profits on their sale.

§ 1523. Federal taxation.

(a) Allocation.--If the bonds issued by the authority for a project are tax-exempt bonds for which Federal law requires an allocation, the department may issue an allocation upon receipt of a written request by the board. An allocation must be issued by the department prior to the approval of the resolution authorizing the issuance of the bonds by the board.

(b) Approval.--If gubernatorial approval is required by Federal or Commonwealth law, the Governor may approve the issuance of bonds by the authority upon receipt of written request for approval from the board. The written request must state all of the following:

(1) The authority has conducted a public hearing, with appropriate public notice, concerning the purposes for which the bonds are to be issued.

(2) A description of the project or projects to be financed.

(3) A description of the method of financing the project or projects.

(4) A summary of the comments made and questions posed at the public hearing.

§ 1524. Validity of bonds; limitation on actions.

(a) Presumption.--Bonds reciting in substance that they have been issued by the authority to accomplish the public purposes of this chapter shall be conclusively deemed in any suit, action or proceeding involving the validity or enforceability of the bonds or their security to have been issued for the public purposes of this chapter.

(b) Estoppel.--After issuance, bonds shall be conclusively presumed to be fully authorized and issued under the laws of this Commonwealth, and any person shall be estopped from questioning their validity, sale, execution or delivery by the authority.

§ 1525. Provisions of bonds; trust agreements.

A resolution authorizing the issuance of bonds or any trust agreement approved in or by a resolution authorizing the issuance of bonds may contain provisions which do any of the following:

(1) Secure the bonds.

(2) Covenant against any of the following:

(i) Pledging or granting a security interest in all or any part of the authority's revenues or all or any part of its property to which its right or title exists or which may later come into existence.

(ii) Permitting or suffering any lien on all or any part of its revenues or property.

(iii) Extending the time for the payment of bonds or interest.

(3) Covenant with respect to limiting the authority's right to sell, pledge or otherwise dispose of bonds or notes of governmental units, loan agreements or other property.

(4) Covenant as to any of the following:

(i) Additional bonds to be issued.

(ii) Limitations on additional bonds.

(iii) Terms and conditions of additional bonds.

(iv) Custody, application, investment and disposition of proceeds of bonds.

(v) Incurring of other debts or obligations by the authority.

(vi) Payment of principal of or interest on bonds.

(vii) Sources and methods of payment.

(viii) Rank or priority of bonds with respect to liens or security interests.

(ix) Redemption, purchase and tender of bonds by the authority or the bondholders and the privilege of exchange of the bonds for other bonds.

(x) Use, investment and disposition of the money held in special funds, accounts or reserves.

(xi) Use of any or all of the authority's real or personal property.

(xii) Warrant of title to the authority's real or personal property.

(5) Provide for any of the following:

(i) Replacement of lost, stolen, destroyed or mutilated bonds.

(ii) Maintenance of the authority's real and personal property.

(iii) Replacement of the authority's real and personal property.

(iv) Insurance to be carried on the authority's real and personal property and the use and disposition of the insurance proceeds.

(v) Rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation.

(6) Create or authorize the creation of special funds or accounts to be held in trust or otherwise for the benefit of bondholders or of reserves for debt service or other purposes.

(7) Provide for obtaining letters of credit, bond insurance and other facilities for credit enhancement and liquidity.

(8) Prescribe any of the following:

(i) Procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated.

(ii) Percentage of the principal amount of bonds the holders of which must consent to the amendment or abrogation of any contract.

(iii) Manner in which the consent under subparagraph (ii) may be given.

(9) Prescribe any of the following:

(i) Events of default.

(ii) Terms and conditions upon which any or all of the bonds become or may be declared due and payable before stated maturity following an event of default.

(iii) Terms and conditions upon which the declaration of default and its consequence may be waived.

(10) Pay the costs or expenses incident to any of the following:

(i) The enforcement of the bonds.

(ii) The provisions of the resolution authorizing the issuance of the bonds.

(iii) The trust agreement securing the bonds.

(iv) Any covenant or agreement of the authority with the holders of the bonds or other obligees of the authority.

(11) Vest in a trustee, within or without this Commonwealth, any property, rights, powers and duties in trust, including rights with respect to the sale or other disposition of notes and bonds of governmental units and other instruments and security pledged under a resolution or trust agreement for the benefit of bondholders and rights,

by suit or action, to foreclose a mortgage pledged under a resolution or trust indenture for the benefit of bondholders.

(12) Limit the rights, powers and duties of a trustee and the right of bondholders to appoint a trustee.

(13) Establish the terms and conditions upon which a trustee or the bondholders may enforce a covenant or rights securing or relating to the bonds.

(14) Exercise all or any part or combination of the powers granted in this chapter.

(15) Make covenants other than and in addition to the covenants expressly authorized by this chapter.

(16) Do or refrain from doing any other act and thing necessary, convenient or desirable in order to better secure the bonds of the authority or, in the absolute discretion of the authority, as will tend to make bonds of the authority more marketable. This paragraph applies notwithstanding that the covenant, act or thing may not be specifically enumerated in this chapter as long as the covenant, act or thing is in accordance with the intent of this chapter.

§ 1526. Validity of pledge.

A pledge of or grant of a security interest in revenues or instruments made by the authority shall be valid and binding from the time when the pledge is made. The revenues, receipts, money, funds or other property or instruments pledged and later received by the authority shall immediately be subject to the lien of the pledge or security interest without any physical delivery of the property pledged or further act. The lien of the pledge or security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice of the lien, pledge or security interest. No instrument by which a pledge or security interest is created, evidenced or noticed need be recorded or filed to perfect the pledge or security interest except in the records of the authority.

§ 1527. Commonwealth pledges.

(a) Bondholders.--The Commonwealth pledges to and agrees with each obligee of the authority that the Commonwealth will not limit or alter the rights and powers vested in the authority or otherwise created by this chapter in any manner inconsistent with the obligations of the authority to its obligees until all bonds at any time issued, together with the interest on the bonds, are fully paid and discharged.

(b) Lessees.--The Commonwealth pledges and agrees with any person that, as owner of property which is leased or subleased to or from the authority, it will not limit or alter the rights and powers vested in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all the obligations of the authority under the lease or sublease are fully met and discharged.

§ 1528. Bonds to be legal investments.

(a) Investments.--Bonds issued pursuant to this chapter are made securities in which all of the following may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them:

(1) Government agencies.

(2) Insurance companies.

(3) Trust companies.

(4) Banking associations, banking corporations and savings banks.

(5) Investment companies.

(6) Executors, trustees and other fiduciaries.

(7) Trustees of any retirement, pension or annuity fund or system of the Commonwealth.

(b) Deposits.--Bonds issued by the authority are made securities which may properly and legally be deposited with and received by a government agency for any purpose for which the deposit of bonds or other obligations of the Commonwealth are authorized by law.

§ 1529. Rights and remedies of obligees.

The rights and remedies conferred upon or granted to obligees of the authority pursuant to this chapter shall be in addition to and not in limitation of rights and remedies lawfully granted to obligees of the authority by the resolution providing for the issuance of bonds or by any trust agreement or other agreement under which the bonds may be issued or secured.

SUBCHAPTER D
ACCOUNTS, INDEBTEDNESS AND USE

Sec.
1541. Trust accounts.
1542. Revolving loan program accounts.
1543. Indebtedness.
1544. Use.

Cross References. Subchapter D is referred to in section 1513 of this title.

§ 1541. Trust accounts.

The authority shall establish one or more trust accounts into which it shall deposit the proceeds of bonds authorized to be issued pursuant to section 1521 (relating to bonds issuance) to fund the programs established in Subchapter E (relating to programs) and any other moneys legally available for the purpose. Moneys held in an account established under this section may be pledged by the authority to secure payment of the bonds.

§ 1542. Revolving loan program accounts.

(a) The Business in Our Sites Program account.--The authority shall establish an account for the program established in section 1551 (relating to Business in Our Sites Program). Proceeds of bonds issued to fund the Business in Our Sites Program and any moneys received as loan repayments under the Business in Our Sites Program, or moneys otherwise made available to the program, shall be deposited in the account and made available for additional planning grants, project grants or loans for the purposes of the program in section 1551, subject to the provisions of any pledge to or agreement made by the authority with obligees of the authority.

(b) The First Industries Program account.--The authority shall establish an account for the program established in section 1552 (relating to First Industries Program). Proceeds of bonds issued to fund the First Industries Program, any moneys received as loan repayments or in repayment or recovery of loan guarantees under the program, or moneys otherwise made available to the program, shall be deposited in the account and made available for additional planning grants or loans or used for additional loan guarantees as provided in section 1552, subject to the provisions of any pledge to or agreement made by the authority with obligees of the authority.

Cross References. Section 1542 is referred to in section 1552 of this title.

§ 1543. Indebtedness.

(a) General rule.--Subject to the limitations of subsection (b), the authority may, in its own name, incur indebtedness, including through the issuance of bonds, in an amount necessary to fund the program as established in Subchapter E (relating to programs) and in 12 Pa.C.S. Ch. 29 (relating to machinery and equipment loans).

(b) Program limitations.--Indebtedness incurred by the authority under subsection (a) shall not, in aggregate, exceed any of the following:

(1) $300,000,000 for the program established in section 1551 (relating to Business in Our Sites Program).

(2) $150,000,000 for the program established in section 1552 (relating to First Industries Program).

(3) $60,000,000 for the program established in section 1557 (relating to New Pennsylvania Venture Capital Investment Program).

(4) $150,000,000 for the program established in section 1555 (relating to Building Pennsylvania Program).

(5) $75,000,000 for the program established in 12 Pa.C.S. Ch. 29.

(6) $250,000,000 for the program established in section 1554 (relating to New Pennsylvania Venture Guarantee Program).

(7) $100,000,000 for the program established in section 1556 (relating to Tax Increment Financing Guarantee Program).

(8) $50,000,000 for the program established in section 1553 (relating to Second Stage Loan Program).

(c) Fiscal year limitations.--

(1) Except as provided in subsection (d) and paragraphs (2), (3) and (4), the aggregate amount of indebtedness incurred by the authority, including through the issuance of bonds, may not exceed $250,000,000 reduced by the aggregate amount of Commonwealth indebtedness incurred under 12 Pa.C.S. Ch. 39 (relating to water supply and wastewater infrastructure capitalization).

(2) Except as provided in subsection (d) and paragraphs (3) and (4) and upon adoption of a resolution under subsection (f)(1), the aggregate amount of indebtedness incurred by the authority, including through the issuance of bonds, may not exceed $500,000,000 reduced by the aggregate amount of Commonwealth indebtedness incurred under 12 Pa.C.S. Ch. 39.

(3) Except as provided in subsection (d) and paragraph (4) and upon adoption of a resolution under subsection (f)(2), the aggregate amount of indebtedness incurred by the authority, including through the issuance of bonds, may not exceed $750,000,000 reduced by the aggregate amount of Commonwealth indebtedness incurred under 12 Pa.C.S. Ch. 39.

(4) Except as provided in subsection (d) and upon adoption of a resolution under subsection (f)(3), the aggregate amount of indebtedness incurred by the authority, including through the issuance of bonds, may not exceed $1,000,000,000 reduced by the aggregate amount of Commonwealth indebtedness incurred under 12 Pa.C.S. Ch. 39.

(d) Exception.--Subsection (c) shall not apply to the aggregate amount of indebtedness incurred by the authority, including through the issuance of bonds, for the following programs:

(1) The program established in section 1553.

(2) The program established in section 1554.

(3) The program established in section 1556.

(e) Certifications.--

(1) Beginning with fiscal year 2005-2006 and each fiscal year thereafter, after the final estimate required by section 618 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is signed for the fiscal year, the Secretary of the Budget shall certify to the board all of the following:

(i) Whether sufficient surplus revenues will exist in the General Fund for the two succeeding fiscal years immediately following the fiscal year for which the estimate was signed to pay any liabilities which would be incurred by the Commonwealth during those years if the authority incurs an additional $250,000,000 of indebtedness.

(ii) The aggregate amount of liabilities which would be incurred by the Commonwealth for the two succeeding fiscal years immediately following the fiscal year for which the estimate was signed which are a result of the activities by the authority.

(2) The Secretary of the Budget shall publish the certification in the Pennsylvania Bulletin as soon as possible.

(f) Increases.--

(1) After publication of the certification required by subsection (e) for the fiscal year 2005-2006, unless the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to the limitation of subsection (c)(2). If the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, indebtedness of the authority shall remain subject to subsection (c)(1), and, upon publication of a certification under subsection (e) that sufficient surplus revenues will exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to subsection (c)(2).

(2) For the fiscal year following the adoption of a resolution under paragraph (1), unless the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to the limitation of subsection (c)(3). If the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, indebtedness of the authority shall remain subject to subsection (c)(2), and, upon publication of a certification under subsection (e) that sufficient surplus revenues will exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to subsection (c)(3).

(3) For the fiscal year following the adoption of a resolution under paragraph (2), unless the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to the limitation of subsection (c)(4). If the Secretary of the Budget certifies under subsection (e) that the sufficient surplus revenues will not exist, indebtedness of the authority shall remain subject to subsection (c)(3), and, upon publication of a certification under subsection (e) that sufficient surplus revenues will

exist, the board may adopt a resolution authorizing the incurring of additional indebtedness subject to subsection (c)(4).

(Nov. 30, 2004, P.L.1708, No.218, eff. imd.)

2004 Amendment. Act 218 amended subsec. (c).

Cross References. Section 1543 is referred to in section 1521 of this title.

§ 1544. Use.

(a) General rule.--Money of the authority shall be used by the board to fund the programs established in Subchapter E (relating to programs) and in 12 Pa.C.S. Ch. 29 (relating to machinery and equipment loans).

(b) Transfer.--By December 31, 2006, the authority shall transfer in the aggregate $75,000,000 to the department for deposit in the account created by 12 Pa.C.S. § 2904 (relating to Machinery and Equipment Loan Fund).

(c) Administrative expenses.--The authority may use moneys, including the proceeds of bonds, to pay the administrative expenses of the authority and of the department incurred under this chapter.

SUBCHAPTER E
PROGRAMS

Sec.

1551. Business in Our Sites Program.
1552. First Industries Program.
1552.1. Dairy Investment Program.
1553. Second Stage Loan Program.
1554. New Pennsylvania Venture Guarantee Program.
1555. Building Pennsylvania Program.
1556. Tax Increment Financing Guarantee Program.
1557. New Pennsylvania Venture Capital Investment Program.
1558. Water Supply and Wastewater Infrastructure Program.

Cross References. Subchapter E is referred to in sections 1504, 1512, 1513, 1521, 1541, 1543, 1544 of this title.

§ 1551. Business in Our Sites Program.

(a) Establishment.--There is established a program to be known as the Business in Our Sites Program. The program shall provide financial assistance for the preparation of sites located within this Commonwealth for future development.

(b) Applications for planning grants.--A municipality, municipal authority, redevelopment authority or industrial development agency may submit an application to the authority requesting a planning grant for costs associated with predevelopment activities and feasibility studies for a project. The application shall be on the form required by the board and shall include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The location of the project.

(3) A statement that the project is consistent with any existing comprehensive county plan where the project is located.

(4) A description of the project which includes a statement that:

(i) the project is for the redevelopment, reuse or revitalization of previously developed land, including previously mined areas; or

(ii) the project is for the development of undeveloped land which may be the subject of future

development pursuant to any existing comprehensive municipal plan.

(5) An estimate of the cost of the predevelopment activities and feasibility studies.

(6) A statement of the amount of the planning grant sought.

(7) Any other information required by the board.

(c) Review and approval of planning grant applications.--

(1) The board shall review the application. Upon being satisfied that all requirements have been met, the board may approve the application and, if approved, the authority shall award a planning grant.

(2) Copies of all reports and studies prepared with planning grant funds shall be filed with the authority and shall be made available to any person upon request.

(d) Applications for project financing.--A municipality, municipal authority, redevelopment authority or industrial development agency may submit an application to the authority requesting a loan or a combination of a loan and project grant for a project. A private developer may submit an application to the board requesting a loan for a project. The application shall be on the form required by the board and shall include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The location of the project.

(3) A statement that the project is consistent with any existing comprehensive county plan where the project is located.

(4) A description of the project which includes a statement that:

(i) the project is for the redevelopment, reuse or revitalization of previously developed land, including previously mined areas; or

(ii) the project is for the development of undeveloped land which may be the subject of future development pursuant to any existing comprehensive municipal plan and is zoned for such development at the time of application.

(5) An estimate of the cost of the project, prepared by an engineer or other qualified professional.

(6) A statement of the amount of the loan or combined loan and project grant sought. If the applicant is requesting a project grant, a statement as to the financial necessity for the project grant must be included.

(7) Proof that notification of the project has been sent to the governing bodies of the county or counties and of the municipality or municipalities in which the project is located.

(8) Any other information required by the board.

(e) Review of project financing applications.--The board shall review the application to determine all of the following:

(1) That the project is consistent with any existing comprehensive county plan where the project is located.

(2) That the project is the redevelopment, reuse or revitalization of previously developed land, including previously mined areas, or that the project is the development of undeveloped land which may be the subject of future development pursuant to any existing comprehensive municipal plan and is zoned for such development at the time of application.

(3) That the value of the proposed collateral and the financial resources offered by the applicant are sufficient to repay the loan.

(4) That there is a substantial likelihood the land or buildings will be used upon project completion.

(5) That the project will enable future employment opportunities in or have a net positive economic impact on the surrounding community.

(6) That the statement of the estimated cost of the project is reasonable.

(7) That the applicant complied with all other criteria established by the board.

(f) Approval of project financing applications.--Upon being satisfied that all requirements have been met, the board may approve the application, and, if approved, the authority shall award a loan or a combination of a loan and project grant to be used for costs of the project. A combined loan and project grant may be awarded only if the board finds that the value of the proposed collateral and the financial resources offered by the applicant are not sufficient to repay a loan in the amount of the total project cost.

(g) Limitations.--

(1) A planning grant awarded for a project under section (c) shall not exceed $250,000. No more than $10,000,000 of the funds made available for the program authorized by this section may be used for planning grants.

(2) (Repealed).

(3) No more than 15% of the funds made available for the program authorized by this section may be awarded for projects located within any one city, town, borough or township of this Commonwealth.

(4) The anticipated use of the land or buildings may not be primarily residential or primarily recreational.

(5) A project grant may be used only for one or more of the following purposes:

(i) Environmental assessment and remediation.

(ii) Site preparation, including earth moving activities.

(iii) Demolition of structures.

(iv) Installation or rehabilitation of infrastructure.

(v) Reimbursement of engineering and administrative expenses associated with any of the activities listed in subparagraphs (i) through (iv).

(July 13, 2016, P.L.664, No.85, eff. imd.)

2016 Repeal. Act 85 repealed subsec. (g)(2).

Cross References. Section 1551 is referred to in sections 1542, 1543 of this title.

§ 1552. First Industries Program.

(a) Establishment.--There is established a program to be known as the First Industries Program. The program shall provide financial assistance for projects related to tourism and agriculture located within this Commonwealth. The board shall allocate funds made available to the program among the different methods of financing authorized in this section.

(b) Applications for planning grants.--An applicant may submit an application to the authority requesting a planning grant in an amount not to exceed $250,000 for the costs of predevelopment activities and feasibility studies for a project related to tourism or agriculture. The application shall be on

the form required by the board and shall include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The location of the project.

(3) A description of the project.

(4) An estimate of the cost of the predevelopment activities and feasibility studies and the goal to be achieved by carrying out the proposed activities or studies.

(5) A statement of the amount of the planning grant sought.

(6) Any other information required by the board.

(c) Review and approval of planning grant applications.--

(1) The board shall review the application to determine that the project demonstrates one or more of the following:

(i) The project will have a demonstrable impact on the economy or well-being of the neighborhood, community or region where the project will be located.

(ii) The project will promote research and development efforts leading to increased commercialization or utilization of farm commodities.

(iii) The project will result in environmentally friendly or energy efficient operations related to agriculture, including projects authorized by the act of December 12, 1994 (P.L.888, No.128), known as the Agricultural By-Product Management Technology Act.

(iv) The project will result in more cost-effective and efficient marketing of regional assets related to tourism or agriculture.

(v) The project will result in a substantial increase in revenues for the Commonwealth or the host municipality.

(vi) The project proposes to utilize Commonwealth-owned natural resources for public/private development of tourism.

(2) Upon being satisfied that the requirements of paragraph (1) have been met, the board may approve the application, and, if approved, the authority shall award a planning grant.

(3) Copies of all reports and studies prepared with planning grant funds shall be filed with the authority and shall be made available to any person upon request.

(d) Loans to applicants.--If the department approves an application for a loan under the programs established in 12 Pa.C.S. Ch. 23 (relating to small business first) or 29 (relating to machinery and equipment loans), the department may request that the authority finance the loan. Upon being satisfied that the project is related to agriculture or tourism, the board may approve the request, and, if approved, the authority shall award a loan. Loans made under this subsection shall be administered by the department. Payments received shall be forwarded to the authority and credited to the account established in accordance with section 1542(b) (relating to revolving loan program accounts).

(e) Loan guarantees.--

(1) An applicant may request a guarantee for a loan to be made by a commercial lending institution or community development financial institution to assist with the financing of a project related to tourism or agriculture. The applicant may be the commercial lending institution or community development financial institution applying on behalf of a borrower. The application must be on the form

required by the board and must include or demonstrate all of the following:

(i) The applicant's name and address. If the applicant is a commercial lending institution or community development financial institution, the borrower's name and address.

(ii) A description of the project.

(iii) A statement describing the anticipated economic impact to the Commonwealth and the host municipality as a result of the project.

(iv) A description of the proposed project financing, including terms, conditions and the collateral or security required for the loan for which the guarantee is being requested.

(v) A copy of the applicant's last two years of financial statements prepared or reported on by an independent certified public accountant. If the applicant is a commercial lending institution or a community development financial institution, a copy of the borrower's last two years of financial statements prepared or reported on by an independent certified public accountant.

(vi) The amount of the loan guarantee that is being requested.

(vii) The total project cost and the identification of all sources of capital for the project.

(viii) Any other information required by the board.

(2) The board shall review the application to determine all of the following:

(i) That the project has been awarded a planning grant under this section or that at least $500,000 of private funds are being invested in the project.

(ii) That the value of the proposed collateral is sufficient to cover the full amount of the loan.

(iii) That the applicant complied with all other criteria established by the board.

(3) Upon being satisfied that all requirements have been met, the board may approve the guarantee, and, if approved, the authority shall execute a guarantee agreement in favor of the commercial lending institution or community development financial institution stating the terms and amounts of the guarantee. Except as provided in paragraph (3.1), the guarantee may not exceed 50% of the outstanding principal amount of the loan or $2,500,000 at any point in time, whichever is less. In addition to any other terms and conditions required by the board, the guarantee agreement shall provide for all of the following:

(i) The procedure for the submission by the commercial lending institution or community development financial institution of a claim for payment. This procedure shall require that the commercial lending institution or community development financial institution demonstrate that it has exhausted all available remedies against the borrower, other guarantors and collateral before seeking payment under the agreement.

(ii) A requirement that a percentage of any moneys recovered subsequent to the payment of a claim by the authority be remitted to the authority.

(iii) Periodic reporting requirements by the commercial lending institution or community development financial institution regarding itself and regarding the

loans which have been awarded guarantees under this section.

(3.1) A guarantee of 51% to 90% of the principal amount of the loan to assist with the financing of a project related to agriculture may be awarded by the board. The guarantee shall be subject to a one-time fee of 2% of the amount of the loan multiplied by the percentage of the guarantee.

(3.2) The amount of a guarantee under this subsection, if any, shall be set at the discretion of the board based upon its determination of the potential financial risk to the Commonwealth.

(4) The board may establish a subcommittee composed of one or more board members and department staff to supervise the progress of projects for which loan guarantees have been awarded under this section.

(e.1) Limitation.--A Farm Credit Institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) shall only be permitted to participate in the First Industries Program established under this section and may not participate in any other loan guarantee program established under this chapter.

(e.2) Sunset.--(Deleted by amendment).

(f) Limitations.--

(1) No more than $10,000,000 of the funds available for the program authorized by this section may be used for planning grants awarded under subsection (c).

(2) At least two-thirds of the funds available for the program authorized by this section shall be used for financing of projects related to agriculture.

(Nov. 30, 2004, P.L.1708, No.218, eff. imd.; Oct. 9, 2008, P.L.1517, No.125, eff. 60 days; June 30, 2011, P.L.193, No.27, eff. imd.; Dec. 17, 2015, P.L.457, No.81, eff. imd.)

2015 Amendment. Act 81 amended subsecs. (e)(2) and (3.1) and (e.2).

2008 Amendment. Act 125 amended subsec. (e)(2) and (3) and added subsecs. (e)(3.1) and (3.2), (e.1) and (e.2). See section 3 of Act 125 in the appendix to this title for special provisions relating to Department of Community and Economic Development reports.

2004 Amendment. Act 218 amended subsec. (e).

Cross References. Section 1552 is referred to in sections 1542, 1543 of this title.

§ 1552.1. Dairy Investment Program.

(a) Establishment.--There is established a program to be known as the Dairy Investment Program. The program shall provide financial assistance in the form of grants for projects located within this Commonwealth that support the dairy industry.

(b) Eligible applicants.--The following entities may apply for grants:

(1) A corporation, partnership, sole proprietorship, limited liability company, cooperative or any other commercial entity approved by the authority.

(2) A private not-for-profit entity undertaking agriculture-related activities that support the dairy industry.

(3) A public school, private school or charter school.

(4) An accredited university, college, seminary college, community college or two-year college.

(c) Eligible projects.--The following types of projects shall be eligible for grants:

(1) Research and development projects that involve any of the following:

(i) Identifying new food or beverage products using milk or milk components.

(ii) Identifying pharmaceutical or industrial uses for milk or milk components.

(iii) Extending the shelf life of milk and dairy products.

(iv) Developing production and processing methods that reduce the risk of foodborne illnesses in Grade A or Grade B milk and dairy products.

(v) Developing new technologies allowing producers, processors and distributors to provide consumers with transparent, verifiable information on milk and dairy products.

(vi) Developing specialized equipment for use in organic production, value-added processing or marketing of milk and dairy products.

(vii) Researching, developing and distributing best management practices to enhance the workforce skills in milk and dairy production and processing.

(viii) Developing specialized or innovative packaging for milk and dairy products that enhances the flavor or appearance of the products or reduces the risk of foodborne illnesses.

(2) Transitioning to certified organic production projects, processing projects and distribution projects that involve any of the following:

(i) Defraying costs of a third-party certification audit conducted by an auditor accredited by the United States Department of Agriculture.

(ii) Defraying costs of technical assistance to producers or processors developing or implementing organic system plans for milk or feed grains.

(iii) Defraying costs associated with the design of product labeling to feature the United States Department of Agriculture certified organic seal.

(iv) Developing signage or other tools by which a producer transitioning to organic production methods can provide notice to other producers, municipal employees or the public of the application of pesticides near property boundaries.

(v) Defraying costs of specialized equipment for organic processing.

(3) Value-added processing projects involving any of the following:

(i) A third-party feasibility analysis of the economic, market, technical, financial and management capabilities of a proposed project or project site.

(ii) Additional costs relating to food safety licensing or certification incurred as the result of a new or expanded value-added dairy facility.

(iii) Capital costs to construct a new value-added dairy facility or expand an existing value-added dairy facility.

(iv) Costs incurred as a result of a new value-added dairy facility or expanded value-added dairy facility relating to any of the following:

(A) Site selection and development, permitting or zoning.

(B) Compliance with Federal or State laws or regulations or municipal ordinances.

(4) Marketing projects that involve any of the following:

(i) Domestic or international market research and demonstration programs for milk and dairy products.

(ii) Defraying costs of technical assistance in creating or expanding a cooperative or other shared marketing arrangement, including mid-tier value chains.

(iii) Regional or local branding efforts serving more than one producer or processor and complementing the PA Preferred® program.

(iv) Paid media advertising that intentionally segments the marketplace and identifies a target audience to influence consumer buying habits and behavior in favor of milk.

(v) Developing on-farm tourism opportunities as a potential source of additional revenue for a producer.

(vi) Distribution of specialized packaging for milk and dairy products that enhance the flavor or appearance of the products or reduce the risk of foodborne illnesses.

(vii) Promotional campaigns, including the pairing of milk and dairy products with other Pennsylvania-produced foods and beverages.

(d) Additional projects.--The authority may consider additional types of projects for grants, as well as other grant award amounts for projects, that the authority, in consultation with the Department of Agriculture, determines will effectuate the intent of the program.

(e) Applications for grants.--

(1) An applicant may submit an application to the authority requesting a grant in an amount not to exceed the amount under subsection (g) for the type of project eligible under subsection (c). The application shall be on a form required by the board and shall include all of the following information:

(i) The applicant's name and address.

(ii) The location of the project.

(iii) A description of the project.

(iv) An estimate of the costs associated with the project and the goal to be achieved by carrying out the proposed activities of the project.

(v) Any other information required by the authority.

(2) A $100 nonrefundable application fee made payable to the authority shall accompany each application.

(f) Review and approval of applications.--

(1) The authority shall, in consultation with the Department of Agriculture, review an application and evaluate the application based on the following criteria:

(i) Whether the project incorporates at least 75% Pennsylvania-sourced milk.

(ii) The extent to which matching funds are used or leveraged.

(iii) Whether the project can be replicated for use across this Commonwealth.

(iv) Whether the project includes a strategic plan for implementation.

(v) The inclusion of an itemized budget of all costs.

(2) The authority may develop additional evaluation criteria for each type of eligible project under subsection (c).

(3) Grants shall be awarded to the extent funds are available.

(g) Grant awards.--Grant awards shall be as follows:

(1) For grants under subsection (c)(1), an amount not to exceed $100,000.

(2) For grants under subsection (c)(2), an amount not to exceed $50,000.

(3) For grants under subsection (c)(3), an amount not to exceed:

(i) Fifty thousand dollars for an on-farm or single producer project.

(ii) Five hundred thousand dollars for a cooperative, processing plant or multi-producer project.

(4) For grants under subsection (c)(4), an amount not to exceed $100,000.

(h) Requirements.--

(1) The requirements for the administration of the program shall be as follows:

(i) A project shall require a 15% cash match of the total project cost.

(ii) An application for a grant under this section must be received by a deadline to be established by the authority.

(iii) The authority shall execute a grant agreement between the board and a successful applicant before the payment of a grant award.

(iv) A successful applicant shall maintain full and accurate records for the project.

(v) A successful applicant shall submit to the authority copies of all canceled checks or other records verifying expenditures of grant proceeds.

(vi) A successful applicant shall submit to the authority a final report of the project, including any information as required by the board.

(2) The authority may establish additional requirements for the program as the authority deems necessary to administer the program.

(i) Restrictions and limitations.--

(1) Administration costs for a project shall not exceed 2% of a total grant award.

(2) An applicant may not commence work on a project before receiving authority approval of the project grant. Commencement of work prior to receiving authority approval will result in a project application being ineligible for funding consideration.

(3) A successful applicant may not make a substantial change to an approved project without first obtaining authority consent in writing.

(4) Any unused portion of a grant award shall be returned to the authority.

(5) Grant awards may only be used for new projects approved by the board.

(6) Grant awards may not be used for any of the following:

(i) Paying fees for securing financing.

(ii) Paying interest on borrowed funds.

(iii) Refinancing existing debt.

(iv) Paying for lobbying services.

(v) Paying fines.

(vi) Application preparation fees.

(7) The authority may establish additional restrictions and limitations as the authority deems necessary to administer the program.

(j) Account.--The authority shall establish the Dairy Investment Program Account. Any funds appropriated to the Dairy

Investment Program shall be deposited into the Dairy Investment Program Account for use in awarding grants under this section.

(k) Transfers.--Funds in the First Industries Program Account may be transferred to the Dairy Investment Program Account as determined by the General Assembly.

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Cooperative." A for-profit or not-for-profit corporation formed under 15 Pa.C.S. Pt. II Subpt. D (relating to cooperative corporations) that is owned and governed by individuals who use the corporation's goods and services and share any profits of the corporation.

"Dairy product." A food or nonfood product made from milk and other ingredients.

"Mid-tier value chain." Local and regional supply networks that link independent producers with businesses, cooperatives or consumers that market a value-added dairy product in a manner that enhances the profitability of dairy farms.

"Milk." A fluid secreted by the mammary glands of cows, sheep and goats for human consumption and use and classified as Grade A or Grade B with a current permit from the Department of Agriculture.

"Organic." A farm or processing operation that in whole or in part has been certified as organic or in transition to organic by a third party accredited by the United States Department of Agriculture. The term includes the production and processing of milk and dairy products and the production of certified organic feed grains for certified organic dairy animals.

"Processor." An entity that pasteurizes or bottles milk for sale or transforms milk into a value-added dairy product.

"Producer." A person, group or other entity that:

(1) owns or operates a farm in this Commonwealth that is not less than 10 contiguous acres where the production of milk occurs; and

(2) has an anticipated yearly gross income of at least $10,000.

"Value-added dairy." The process of transforming milk into a product of higher economic value in the marketplace for food use or nonfood use.

(July 1, 2019, P.L.270, No.38, eff. imd.)

2019 Amendment. Act 38 added section 1552.1.

§ 1553. Second Stage Loan Program.

(a) Establishment.--There is established a program to be known as the Second Stage Loan Program. The program shall provide loan guarantees to commercial lending institutions that make loans to life sciences, advanced technology or manufacturing businesses.

(b) Application for enrollment.--A commercial lending institution may apply for enrollment in the program authorized by this section. The application shall be on the form prescribed by the board and shall include or demonstrate all of the following:

(1) The name and address of the commercial lending institution and the name and title of the individual who will serve as the point of contact for the commercial lending institution.

(2) A statement defining the service area of the commercial lending institution.

(3) A statement describing the commercial lending activities engaged in by the commercial lending institution and how the institution intends to expand those activities as a result of its participation in the program authorized by this section.

(4) Any other information required by the board.

(c) Enrollment approval.--Upon being satisfied that all requirements have been met, the board may enroll the commercial lending institution in the program authorized by this section, and, if enrolled, the authority shall execute a master guarantee agreement in favor of the commercial lending institution. In addition to any other terms and conditions required by the board, the master guarantee agreement shall provide for the following:

(1) The procedure for the submission of a claim for payment by the commercial lending institution. This procedure shall require that the commercial lending institution demonstrate that it has exhausted all available remedies against the borrower, other guarantors and collateral for the loan before seeking payment under the agreement.

(2) A requirement that a percentage of any moneys recovered by the commercial lending institution subsequent to any payment made under the master guarantee agreement by the authority be remitted to the authority.

(3) Periodic reporting requirements by the commercial lending institution regarding itself and regarding the loans for which guarantee certificates have been issued under this section.

(d) Application for guarantee.--A commercial lending institution enrolled in the program authorized by this section may submit an application to the authority for the guarantee of a proposed loan. The application shall be on the form prescribed by the board and shall include or demonstrate all of the following:

(1) The name and address of the borrower, the type of business the borrower conducts, the location and age of the business and the names and addresses of the principals of the borrower.

(2) The number of projected new or retained employees of the borrower as a result of the loan.

(3) A copy of the borrower's last two years of financial statements prepared or reported on by an independent certified public accountant.

(4) A statement describing the purpose of the loan, the requested amount of the loan, a copy of the commercial lending institution's commitment letter and applicable credit underwriting that supports the repayment of the loan, as well as the collateral and other guarantees offered by the borrower to support the loan.

(5) Any other information required by the board.

(e) Application review.--

(1) The board shall review the application to determine all of the following:

(i) That the borrower owns and operates a life sciences, advanced technology or manufacturing business.

(ii) That the borrower's business has been in existence for at least two years but no more than seven years at the time of application.

(iii) That the borrower is financially responsible and has the ability to repay the loan.

(iv) That the use of loan proceeds by the borrower will result in jobs being created or retained within this Commonwealth.

(v) That the borrower's business is located within the commercial lending institution's service area and within this Commonwealth.

(vi) That the borrower and the commercial lending institution have met all other requirements established by the board.

(2) Upon being satisfied that all requirements have been met, the board may approve the guarantee, and, if approved, the authority shall issue a guarantee certificate for the loan to the commercial lending institution stating the terms and amount of the guarantee.

(3) The board may establish a subcommittee composed of one or more members of the board and staff of the department to review and approve applications for guarantees under this section.

(f) Limitations.--

(1) During the first two years of the term of a loan for which a guarantee certificate has been issued, the guarantee may not exceed 50% of the outstanding principal amount of the loan. From the end of year two through either the end of year seven or the end of the term of the loan, whichever occurs first, the guarantee may not exceed 25% of the outstanding principal amount of the loan. The guarantee will terminate at the end of seven years.

(2) At no time may a guarantee exceed $1,000,000 for any one loan.

Cross References. Section 1553 is referred to in section 1543 of this title.

§ 1554. New Pennsylvania Venture Guarantee Program.

(a) Establishment.--There is established a program to be known as the New Pennsylvania Venture Guarantee Program. The program shall provide guarantees to venture capital partnerships for investments in Pennsylvania-related companies which are in the early stage or mid-stage of development.

(b) Guarantee applications.--A venture capital partnership may submit an application to the authority requesting a guarantee of investments of principal to be made in Pennsylvania-related companies. The application shall be on the form prescribed by the board and shall include or demonstrate all of the following:

(1) The applicant's name and address and the address of all of the applicant's offices located in Pennsylvania.

(2) The resumes of the individuals responsible for the investment decisions of the applicant.

(3) A history of the applicant's development, operations, accomplishments and historical investment returns, including past performance of principals and partners and the applicant's history of investments in Pennsylvania-related companies.

(4) The applicant's business plan, which may be a private placement memorandum pursuant to 17 CFR §§ 230.501 through 230.508 (relating to Regulation D--rules governing the limited offer and sale of securities without registration under the Securities Act of 1933).

(5) A description of the intended industry sectors and stage of investment in which the applicant will invest and the anticipated amount of investment to be made in Pennsylvania-related companies.

(6) A statement of any recent changes in the principals or partners of the applicant.

(7) A statement of the fees or other payment proposed to be paid to the authority by the applicant as consideration for the issuance of a guarantee.

(8) Any other information required by the board.

(c) Application review.--The board shall review the application to determine all of the following:

(1) That the managing partner of the applicant has managed one or more venture capital partnerships which have performance rankings in the top quartile nationwide when compared to other venture capital partnerships with similar investments made over the same period of time.

(2) That the applicant will invest at least $15,000,000 in Pennsylvania-related companies.

(3) That the applicant will agree to notify the board of all advisory, valuation and annual meetings of the applicant for the duration of the guarantee and will permit a representative of the board to attend such meetings. The board may request that the applicant provide reimbursement for reasonable travel expenses if meetings are held outside of the Commonwealth or that a board representative be able to participate in meetings by acceptable telecommunication means.

(4) That the applicant has or will open an office in Pennsylvania staffed with at least one senior-level partner and will maintain the office for the duration of the guarantee.

(5) That the applicant will provide the board with its annual financial statements, audited by a nationally recognized independent certified public accountant, for the duration of the guarantee. Financial statements shall be prepared in accordance with generally accepted accounting principles.

(6) That the board will have the ability to determine that the subject of a proposed investment to be covered by the guarantee is a Pennsylvania-related company acceptable to the board prior to the applicant making an investment in the company.

(7) That the applicant has complied with all other requirements established by the board.

(d) Approval of guarantee.--Upon being satisfied that all requirements have been met, the board may approve the application, and, if approved, the authority shall execute a guarantee agreement in favor of the applicant. In addition to any other terms and conditions required by the board, the guarantee agreement shall provide for all of the following:

(1) The procedure for the submission of a claim for payment under the guarantee agreement. A venture capital partnership will be required to have an audit performed by a nationally recognized independent certified public accounting firm prior to notifying the board that it is making a claim under the guarantee. No claim may be made prior to the completion of the seventh year following the first investment by the applicant in a Pennsylvania-related company which is covered by the guarantee.

(2) A provision that the guarantee will cover the first loss of the aggregate amount of principal invested in Pennsylvania-related companies covered by the guarantee.

(3) A procedure and schedule for the periodic reconciliation of amounts payable under the guarantee.

(4) A requirement that any increase in the valuation of investments in Pennsylvania-related companies covered by the guarantee subsequent to the payment of a claim by the authority will result in a portion of the payment being returned to the authority.

(5) A procedure for an expeditious process for the board to determine that proposed investments to be covered by the guarantee will be made to Pennsylvania-related companies acceptable to the board.

(6) A prohibition against the transfer of the benefits of the guarantee to another person without the prior approval of the board.

(e) Limitations.--

(1) The liability of the authority for any guarantee approved under this section shall be limited to the approved amount of that guarantee.

(2) A guarantee approved by the board shall not exceed 50% of the total investments made in Pennsylvania-related companies covered by the guarantee or $37,500,000, whichever is less.

(3) The board may approve one or more guarantees not to exceed $50,000,000 in the aggregate for venture capital partnerships in which the State Employees' Retirement System or the Public School Employees' Retirement System is a limited partner.

(4) Applications for guarantees may be accepted until July 1, 2007, or until the aggregate of approved guarantees equals $250,000,000, whichever occurs first.

Cross References. Section 1554 is referred to in section 1543 of this title.

§ 1555. Building Pennsylvania Program.

(a) Establishment.--There is established a program to be known as the Building Pennsylvania Program. The program shall provide loans to fund managers for investment in real estate projects within this Commonwealth.

(b) Requests for proposals.--The board shall issue one or more requests for proposals in accordance with 62 Pa.C.S. § 518 (relating to competitive selection procedures for certain services) for fund managers. Each request for proposals shall include all of the following:

(1) A statement that the service being requested is the investment in real estate projects located in this Commonwealth which will be acquired and developed, redeveloped or revitalized.

(2) A request to supply all of the following information:

(i) The fund manager's name and address.

(ii) The resumes of the individuals responsible for the investment decisions of the fund manager.

(iii) The fund manager's history of investments in real estate projects, including the number of previous investments, rates of return and capital raised.

(iv) A description of the proposed approach by the fund manager to investments in real estate projects located in this Commonwealth.

(v) The fund manager's history of investments in this Commonwealth.

(vi) The fund manager's understanding of this Commonwealth's geography and economic climate.

(vii) A statement by the fund manager of the amount of the loan being requested.

(3) Any other information required by the board.

(c) Review of proposals.--The board shall review the proposals and determine the fund manager or managers best qualified to provide the services described in the request for proposals. If the board determines that no fund manager is qualified, the board may reissue requests for proposals in accordance with this section.

(d) Contract negotiations.--The board shall select for contract negotiation one or more fund managers who are determined to be the best qualified to provide the services described in the request for proposals.

(e) Award.--The authority may enter into contracts with one or more fund managers. The contracts shall include all of the following provisions:

(1) The terms of repayment of principal and payment of interest and other return to the authority.

(2) That the fund manager will raise and invest in real estate projects located in this Commonwealth at least $1 of nonpublic equity for every $1 of loan funds received by the fund manager under this section.

(3) That the fund manager will exercise the standard of care in its responsibilities set forth in subsection (f).

(4) That the fund manager will provide the board with its annual audited financial statements for the duration of the loan. Financial statements shall be prepared in accordance with generally accepted accounting principles.

(5) That the fund manager will invest in industrial, commercial and multiuse real estate projects located in this Commonwealth which will be acquired and developed, redeveloped or revitalized in accordance with the provisions of this section.

(6) Any other provisions required by the board.

(f) Standard of care.--A fund manager awarded a contract under this section shall exercise that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(g) Limitations.--

(1) At least 50% of the funds made available for the program authorized by this section must be utilized for projects located in areas other than cities of the first or second class.

(2) No investments may be made by a fund manager in real estate projects which are primarily residential or primarily recreational.

Cross References. Section 1555 is referred to in section 1543 of this title.

§ 1556. Tax Increment Financing Guarantee Program.

(a) Establishment.--There is established a program to be known as the Tax Increment Financing Guarantee Program. The program shall provide guarantees for tax increment financing bonds or other indebtedness issued in accordance with the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act.

(b) Applications for guarantees.--An issuing authority may submit an application to the authority requesting a guarantee of bonds or other indebtedness to be issued pursuant to the Tax

Increment Financing Act. The application must be on the form required by the board and must include or demonstrate all of the following:

(1) The issuing authority's name and address.

(2) The location of the project.

(3) A description of the project which includes a statement that the project is for the:

(i) redevelopment, reuse or revitalization of previously developed land, including previously mined areas; or

(ii) development of undeveloped land which may be the subject of future development pursuant to any existing comprehensive municipal plan and is zoned for that development at the time of application.

(4) That the requirements of the Tax Increment Financing Act will be complied with prior to the issuance of bonds or other indebtedness by the issuing authority.

(5) That the incremental tax revenues to be realized from the project will be sufficient to offset the amount of debt service to be paid on the bonds or other indebtedness to be issued by the issuing authority.

(6) The amount of the guarantee sought.

(7) Any other information required by the board.

(c) Review of guarantee applications.--The board shall review the application to determine all of the following:

(1) That the project is consistent with any existing comprehensive county plan where the project is located.

(2) That the project is for the:

(i) redevelopment, reuse or revitalization of previously developed land, including previously mined areas; or

(ii) development of undeveloped land which may be the subject of future development pursuant to any existing comprehensive municipal plan and is zoned for that development at the time of application.

(3) That the incremental tax revenues to be realized as a result of the project are sufficient to repay the bonds or other indebtedness issued.

(4) That the project and the proposed bond issue or issuance of debt complies with the requirements of the Tax Increment Financing Act.

(5) That the issuing authority complied with all other criteria established by the board.

(d) Approval of guarantee applications.--Upon being satisfied that all requirements have been met, the board may approve the application, and, if approved, the authority shall execute a guarantee agreement in favor of the issuing authority. In addition to any other terms and conditions required by the board, the guarantee agreement shall provide for the following:

(1) The procedure for the submission of a claim for payment under the guarantee agreement. If the authority makes payment on a claim for payment submitted under the guarantee agreement, the authority may assume all rights and privileges previously belonging to the bondholders or the holders of the debt and may renegotiate the terms of repayment of the debt assumed by the authority under terms as the authority deems appropriate.

(2) Annual reporting by the issuing authority on the status of the project, including the amount of the annual debt service and the annual value of the incremental tax revenues.

(e) Limitations.--No guarantee approved by the board may exceed $5,000,000.

Cross References. Section 1556 is referred to in section 1543 of this title; section 13A63 of Title 4 (Amusements).

§ 1557. New Pennsylvania Venture Capital Investment Program.

(a) Establishment.--There is established a program to be known as the New Pennsylvania Venture Capital Investment Program. The program shall provide loans to venture capital partnerships for investment in Pennsylvania-related companies. The nature of the investments shall be equity or convertible debt.

(b) Applications.--A venture capital partnership seeking to make investments in Pennsylvania-related companies may submit an application for a loan to the authority. The application must be on the form required by the board and shall include or demonstrate all of the following:

(1) The applicant's name.

(2) The address of the applicant and a list of all offices of the applicant located in this Commonwealth.

(3) The applicant's business plan, which may be a private placement memorandum pursuant to 17 CFR §§ 230.501 through 230.508 (relating to Regulation D--rules governing the limited offer and sale of securities without registration under the Securities Act of 1933).

(4) A history of the applicant's development, operations, accomplishments and historical investment returns, including past performance of principals and partners.

(5) A description of the intended industry sectors and stage of investment in which the applicant will invest.

(6) A description of the applicant's current and proposed relationship with organizations in this Commonwealth that foster economic development.

(7) Any other information required by the board.

(c) Application review.--The board shall review the application to determine all of the following:

(1) If the applicant has invested in Pennsylvania-related companies in the past.

(2) If the applicant has demonstrated strong relationships with organizations in this Commonwealth which foster economic development.

(3) That the applicant has demonstrated a satisfactory investment performance record.

(4) That the applicant has demonstrated that it can and will raise and invest in Pennsylvania-related companies at least $1 of nonpublic equity for every $1 of loan funds received by the applicant under this section.

(5) That the applicant has or will open an office in Pennsylvania staffed with at least one senior-level partner and will maintain such office for the duration of the loan.

(6) That the applicant complied with all other criteria established by the board.

(d) Approval of the applications.--

(1) Upon being satisfied that all requirements have been met, the board may approve the application, and, if approved, the authority shall award a loan. The board shall establish the term of repayment of principal and payment of interest and other return to the authority and all other terms and conditions of the loan consistent with the provisions of this section.

(2) In approving applications, the board shall consider whether an applicant has had an office in this Commonwealth for at least the 12 months immediately preceding the date of the applicant's application.

(e) Limitation.--

(1) All loans awarded to venture capital partnerships under this section and the matching nonpublic equity shall be invested in Pennsylvania-related companies.

(2) At least 50% of the funds made available for the program under this section shall be used to make loans for investments in Pennsylvania-related companies located in Pennsylvania counties which are outside the Philadelphia Metropolitan Statistical Area and which have a population of 1,000,000 or less, based on the 2000 Decennial Census of the Bureau of the Census.

(3) At least 50% of the funds made available for the program under this section shall be used to make loans to venture capital partnerships which have primary offices staffed with at least one senior-level partner located in Pennsylvania counties which are outside the Philadelphia Metropolitan Statistical Area and which have a population of 1,000,000 or less, based on the 2000 Decennial Census of the Bureau of the Census.

Cross References. Section 1557 is referred to in section 1543 of this title.

§ 1558. Water Supply and Wastewater Infrastructure Program.

(a) Establishment.--There is established a program to be known as the Water Supply and Wastewater Infrastructure Program. The program shall provide financial assistance in the form of single-year or multiyear grants to municipalities and municipal authorities and in the form of loans to municipalities, municipal authorities, industrial development corporations and investor-owned water or wastewater enterprises for water projects which, when completed, construct, expand or improve water and wastewater infrastructure and which are related to economic development.

(b) Application.--A municipality, a municipal authority, an industrial development corporation or an investor-owned water or wastewater enterprise may submit an application to the authority requesting financial assistance for a water project. The application must be on the form required by the board and must include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the type and amount of financial assistance sought. If the applicant is requesting financial assistance in the form of a grant, the request may not exceed 75% of the cost of the water project.

(3) A statement of the water project, including a detailed statement of the cost of the water project.

(4) A financial commitment from a responsible source for any cost of the water project in excess of the amount requested. If the applicant is requesting financial assistance in the form of a grant from the department, the financial commitment may not be in the form of a grant from a Commonwealth agency.

(5) A firm commitment from the project user to use the water project upon completion.

(6) Proof that the applicant has secured planning and permit approvals for the water project from the Department of Environmental Protection.

(7) Any other information required by the board.

(c) Review and approval of grant applications.--

(1) If an applicant is requesting financial assistance in the form of a grant, the authority, in conjunction with the Department of Environmental Protection, shall review the application to determine all of the following:

(i) That the applicant is not an investor-owned water or wastewater enterprise.

(ii) If the water project is related to economic development.

(iii) If there is a financial commitment for at least 25% of the water project.

(iv) If the source of the financial commitment is from a responsible source.

(v) If the applicant is firmly committed to using the water project upon completion.

(vi) If the applicant has secured planning and permit approvals for the water project from the Department of Environmental Protection. The water project must be generally consistent with any applicable county or local comprehensive plans.

(vii) If the applicant complied with all other criteria established by the board.

(2) Upon being satisfied that all program requirements have been met, the authority may approve the application consistent with all of the following:

(i) The grant may not exceed $5,000,000 per water project.

(ii) Grants under this program shall not exceed $10,000,000 in the aggregate per municipality or municipal authority.

(iii) The aggregate amount of grants awarded under this subsection shall not exceed $125,000,000.

(iv) The board shall give priority consideration to water projects which are integral for development or redevelopment of sites which are planned for development.

(v) The board has received notice from the Secretary of the Budget that the water project satisfies the Federal tax status requirements of any bonds used to fund the grant.

(3) If the authority approves the application, the authority shall notify the department of the amount approved.

(4) Nothing in this subsection shall be construed to prohibit the awarding of grants to municipalities in which the water supply or wastewater services are provided in whole or in part by an investor-owned water or wastewater enterprise.

(d) Review and approval of loan applications.--

(1) If an applicant is requesting financial assistance in the form of a loan, the authority, in conjunction with the Department of Environmental Protection, shall review the application to determine all of the following:

(i) If the water project is related to economic development.

(ii) If a financial commitment exists for any cost of the water project in excess of the amount requested.

(iii) If the source of the financial commitment is from a responsible source.

(iv) If the water project user is firmly committed to using the water project upon completion.

(v) If the applicant has secured planning and permit approvals for the water project from the Department of Environmental Protection. The water project must be

generally consistent with county and local comprehensive plans.

(vi) If the applicant complied with all other criteria established by the board.

(2) Upon being satisfied that all program requirements have been met, the board may approve the application consistent with all of the following:

(i) The loan may not exceed $5,000,000 per water project.

(ii) Loans under this program shall not exceed $25,000,000 in the aggregate per applicant.

(iii) The board shall give priority consideration to water projects which are integral for the development or redevelopment of sites which are planned for development.

(iv) The board must receive notice from the Secretary of the Budget that the water project satisfies the Federal tax status requirements of any bonds used to fund the loan.

(3) If the authority approves the application, the authority shall notify the department of the amount approved.

(e) Report to General Assembly.--

(1) The authority shall submit an annual report to the General Assembly no later than September 1 following the first fiscal year or any portion thereof in which the program is in effect and no later than September 1 for all succeeding fiscal years in which the program is in effect. The report shall include a list of all of the recipients of grants and loans awarded by the authority in the previous fiscal year, the amount of the grants or loans awarded, a description of the water project and the public purposes that it advances and the documentation submitted by the applicant demonstrating that the water project met at least one of the criteria of subsection (b)(7).

(2) The authority shall post a copy of the report to the General Assembly on the World Wide Web site of the Department of Community and Economic Development and the World Wide Web site of the Department of Environmental Protection. The reports shall remain on the sites until the reports for the next year are posted.

(f) Definition.--As used in this section, the term "economic development" means a project which involves the investment of capital in Pennsylvania enterprises and communities or which results in the creation of new or the preservation of existing jobs in this Commonwealth.

(Nov. 30, 2004, P.L.1708, No.218, eff. imd.)

2004 Amendment. Act 218 added section 1558.

Cross References. Section 1558 is referred to in sections 3902, 3904, 3905 of Title 12 (Commerce and Trade).

PART III
PUBLIC AUTHORITIES

Enactment. Part II was added February 5, 2004, P.L.7, No.3, effective February 5, 2004.

Part Number. Part II was renumbered Part III April 1, 2004, P.L.163, No.22, effective immediately.

Chapter

60. Pennsylvania Convention Center Authority

CHAPTER 60
PENNSYLVANIA CONVENTION CENTER AUTHORITY

Sec.
6001. Scope of chapter.
6002. Findings and declaration of policy.
6003. Definitions.
6004. Authority created; existing authority continued.
6005. Governing board.
6006. Purposes and powers; general.
6007. Acquisition of lands.
6008. Purposes and powers; bonds.
6009. Provisions of bonds, trusts, indentures and mortgages.
6010. Remedies of obligee of authority.
6011. Additional remedies conferrable by authority.
6012. Moneys of authority.
6013. Capital and operating budgets.
6014. Expansion financing.
6015. Transfer of existing facilities or funds; making of annual grants and lease payments to authority; Commonwealth bonds.
6016. Award of contracts.
6017. Interests of public officers, public employees and party officers.
6018. Sovereign immunity.
6019. Use and operation of convention center.
6020. Convention center performance audits; annual performance reports.
6021. Limitation of powers.
6022. Exemption from taxation.
6023. Lease by authority.
6024. Cooperation.
6025. Hotel room rental tax; continuation of existing tax.
6026. Pennsylvania Convention Center Assistance Fund.

Enactment. Chapter 60 was added February 5, 2004, P.L.7, No.3, effective February 5, 2004, unless otherwise noted.

Special Provisions in Appendix. See sections 3 and 6 of Act 3 of 2004 in the appendix to this title for special provisions relating to continuation of prior law and notice of availability of State funds.

Cross References. Chapter 60 is referred to in section 3402 of Title 12 (Commerce and Trade).

§ 6001. Scope of chapter.

This chapter deals with convention center authorities in cities of the first class.

§ 6002. Findings and declaration of policy.

The General Assembly hereby finds and declares as follows:

(1) The health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism within this Commonwealth.

(2) Unemployment, the spread of indigency and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth.

(3) Development and continuation of a major convention center is most appropriate in a city of the first class which, because of size, is capable of attracting major national conventions, and the attraction of business to this Commonwealth as a result of the development and continuation is an important factor in the continual encouragement, promotion, attraction, stimulation, development, growth and expansion of business, industry, commerce and tourism within a city of the first class, its surrounding counties and this Commonwealth as a whole.

(4) The purpose of a convention center should be the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in a city of the first class, its surrounding counties and this Commonwealth as a whole.

(5) The development and continuation of a convention center will provide benefits to the hotel industry throughout the entire region where the convention center is developed.

(6) The development and continuation of a convention center will also provide benefits to the restaurant and entertainment industries throughout the entire region where the convention center is located, to all other businesses and individuals benefited by the attraction of major conventions and tourists, to other individual businesses whose livelihood is dependent on the attraction of major conventions and tourists and to the general public.

(7) The need for and promotion of the type of facility which provides and will continue to provide significant benefits to the general public will require the expenditure of public money, and it is appropriate to authorize a city of the first class where the convention center is located to impose and collect a tax or continue to impose and collect a tax, applicable within the entire territorial limits of the city, to facilitate the development or continuation of a convention center and the promotion of tourism within the city of the first class and the region.

(8) To promote the development and continuation of a convention center within this Commonwealth, it is necessary to provide additional and flexible means of developing, constructing, designing, managing, financing and operating such a convention center.

(9) An important aspect of the development and continuation of a convention center should be the removal of blighted areas and the redevelopment of blighted areas.

(10) The policy of this Commonwealth is to promote the health, safety, employment, business opportunities and general welfare of the people of this Commonwealth by providing for the creation and continuation of a convention center authority, which shall exist and operate as a public instrumentality of this Commonwealth for the public purpose of promoting, attracting, stimulating, developing and expanding business, industry, commerce and tourism in this Commonwealth. This purpose is declared to be a public purpose supporting the enactment of all provisions of this chapter and for which public money may be spent, taxes may be imposed and continued and private property may be acquired by the exercise of the power of eminent domain.

§ 6003. Definitions.

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

"Authority" or **"Pennsylvania Convention Center Authority."** An agency and public instrumentality of the Commonwealth and a body politic and corporate created pursuant to this chapter or created under the former provisions of section 4 of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority).

"Board." The governing body of the authority.

"Bonds." Notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidence of indebtedness or obligations which the authority is authorized to issue pursuant to this chapter or was authorized pursuant to the former provisions of sections 7 and 8 of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority).

"City." Any city or county of the first class.

"Construction." The acquisition, design, erection, extension, renovation, rehabilitation, conversion, furnishing, fixturing, equipping, enlargement or substantial repair of a convention center or part of a convention center and activities substantially related to such acquisition, design, erection, extension, renovation, rehabilitation, conversion, furnishing, fixturing, equipping, enlargement or substantial repair of a convention center or part of a convention center.

"Convention center." Any land, improvement, structure, building or part of a building, or a property interest in any land, improvement, structure, building or part of a building, whether owned by or leased by or to or otherwise acquired by the authority, and appropriate for large public assemblies; the holding of conventions; conferences; trade exhibitions; and other business, social, cultural, scientific and public interest events. The term includes a main convention area and other buildings, structures or facilities for use in conjunction with the main convention area, including provision for off-street parking, retail areas and other improvements related to the convention center owned by or leased by or to the authority for the purpose of producing revenue to assist in defraying any costs or expenses of the convention center.

"Cost of a project." All or any part of the cost of construction, acquisition, alteration, enlargement, furnishing, fixturing and equipping, reconstruction and rehabilitation of a convention center project. The term includes all of the following:

(1) Cost of all lands, structures, real or personal property, rights, rights-of-way, roads, franchises, easements and interests acquired or used for or in connection with a project.

(2) Cost of demolishing or removing any buildings or structures on acquired land, including the cost of acquiring lands to which buildings or structures may be moved or located.

(3) Cost of all utility lines, structures or equipment.

(4) Charges and interest prior to, during and for a period of six months after completion of construction and acquisition.

(5) Provisions for reserves for principal and interest and for extensions, enlargements, additions and improvements.

(6) Cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenue.

(7) Expenses necessary or incident to determining the feasibility or practicability of constructing the project.

(8) Other capital cost or expense as necessary or incident to the construction, development and acquisition of the project, to the financing of the construction, development and acquisition and to the placing of the project in operation. This paragraph includes a proper allowance for contingencies and the provisions of reasonable initial working capital for operating the project.

"Expansion or substantial renovation." Any construction with an estimated total cost of more than $300,000,000 initiated after substantial completion.

"Federal agency" or **"Federal Government."** The United States of America, the President of the United States of America and any department or corporation, agency or instrumentality designated or established by the United States of America.

"Main convention area." All facilities, furniture, fixtures and equipment necessary or incident to the purposes of a convention center. The term includes:

(1) meeting rooms, dining rooms, kitchens, ballrooms, reception areas, registration and prefunction areas, truck loading areas and access to truck loading areas, accessways, common areas, lobbies and offices; and

(2) areas appurtenant to any of the areas listed in paragraph (1).

"Obligee of the authority" or **"obligee."** Any bondholder, trustee or trustees for any bondholders when a party to any contract with the authority.

"Philadelphia Metropolitan Statistical Area." The Philadelphia, Pennsylvania Metropolitan Division of the Philadelphia-Camden-Wilmington, Pennsylvania-New Jersey Delaware-Maryland Metropolitan Statistical Area as announced on June 6, 2003, by the United States Office of Management and Budget pursuant to Standards for Defining Metropolitan and Micropolitan Statistical Areas by the Office of Management and Budget for the 2000 Decennial Census of the United States Census Bureau, as published in the Federal Register, Vol. 65, No. 249, on December 27, 2000, comprising the Pennsylvania counties of Philadelphia, Delaware, Bucks, Montgomery and Chester.

"Project." Any site, building, structure, equipment, furnishing and other facilities or undertaking in respect of a convention center which the authority is authorized to acquire, construct, improve, install, maintain or operate under the provisions of this chapter.

"State public body." The Commonwealth and its executive, administrative and independent agencies, its departments, its officers, its boards, its authorities, its commissions and its instrumentalities.

"Substantial completion." Construction which is sufficiently completed in accordance with contract documents and certified by a convention center authority's architect or engineer, as modified by change orders which are subject to review and approval by the Secretary of the Budget and the chief financial officer of a city, so that a main convention area can be used, occupied or operated for its intended use. In no event shall a project be certified as substantially complete until at least 90% of the work on the main convention area is completed.

Cross References. Section 6003 is referred to in section 6025 of this title.

§ 6004. Authority created; existing authority continued.

A body corporate and politic named the Pennsylvania Convention Center Authority is created and continued as a public authority and instrumentality of the Commonwealth which shall have continuing succession until its existence shall be terminated by law. The exercise by the authority of the powers conferred by this chapter or under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to the Pennsylvania Convention Center Authority), is declared to be and shall for all purposes be deemed and held to be the performance of an essential public function.

Special Provisions in Appendix. See sections 3(1) and 4 of Act 3 of 2004 in the appendix to this title for special provisions relating to continuation of prior law and applicability of law.

§ 6005. Governing board.

(a) Appointment.--Power of the authority shall be exercised by a governing board composed of 15 members. Except as provided in section 4 of the act of February 5, 2004 (P.L.7, No.3), members of the board shall be appointed as follows:

(1) Each board of county commissioners or each county council for each county within the Philadelphia Metropolitan Statistical Area, excluding counties which are coterminous with cities of the first class, shall appoint a resident of its county as a member of the board by a majority vote of the members of each board of county commissioners or each county council. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the chief executive officer of a city.

(2) The President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall each appoint one member of the board. Each member shall serve at the pleasure of the member's appointing authority. The term of office of a member of the board appointed under this paragraph shall be for a period of two years beginning on the third Tuesday of each January in an odd-numbered year.

(3) The chief executive officer of the city in which a convention center is located shall appoint one member of the board who is a resident of the city in which the convention center is located. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the appointing authority.

(4) The chief executive officer of the city in which a convention center is located shall appoint one member of the board from five lists of four nominees prepared by each of the following organizations:

(i) The Philadelphia Convention and Visitors Bureau.

(ii) The Multicultural Affairs Congress.

(iii) The Greater Philadelphia Tourism and Marketing Corporation.

(iv) The Greater Philadelphia Hotel Association.

(v) The Independence Visitors Center Corporation.

Each of the four nominees of each of the five lists must be a resident of the city in which a convention center is located and must have significant experience in the hospitality industry. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the appointing authority.

(5) The president of the council of the city in which a convention center is located shall appoint as a member of the board the member of the council of the city in whose council district the majority of the convention center is located. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the appointing authority.

(6) The minority leader of the council of the city in which a convention center is located shall appoint as a member of the board a resident of the city in which a convention center is located unless the minority leader is enrolled in the same political party as the member of the board appointed under paragraph (5) was enrolled on the date of the member's most recent election to council. If the minority leader of the council of the city in which a convention center is located is enrolled in the same political party as the member of the board appointed under paragraph (5) was enrolled on the date of the member's most recent election to council, the president of the council of the city in which a convention center is located shall appoint as a member of the board a resident of the city in which the convention center is located. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the appointing authority.

(7) The Governor shall appoint as a member of the board a resident of the city in which the convention center is located and shall appoint as a member of the board a resident of the Philadelphia Metropolitan Statistical Area excluding counties which are coterminous with cities of the first class. The members of the board appointed under this paragraph shall not be of the same political party. The members of the board appointed under this paragraph shall be appointed subject to the advice and consent of a majority of the members elected to the Senate. The term of office of a member of the board appointed under this paragraph shall run concurrently with the term of office of the appointing authority.

(8) The members of the board who are appointed under paragraphs (1) through (7) shall, by a vote of eight members of the board, appoint an additional member to the board who shall serve as a chairman of the board. The member appointed under this paragraph shall serve for a term coincident with the term of the members of the board appointed under paragraph (2). In the event the members of the board who are appointed under paragraphs (1) through (7) cannot agree on an additional member within 60 days of the office becoming vacant, the Governor shall appoint an additional member of the board who shall serve as chairman subject to the advice and consent of a majority of the members elected to the Senate. The member of the board appointed under this paragraph by either the members of the board or the Governor shall serve as a member of and chairman of the board until his successor is duly appointed.

(9) The Secretary of the Budget shall serve as a nonvoting ex officio member of the board. If the chief financial officer of the city in which the convention center is located is not an appointed member of the board, he shall serve as a nonvoting ex officio member of the board.

(b) Certification and oath of office.--The appointing authorities shall certify their respective appointments to the Secretary of the Commonwealth. Within 30 days after

certification of his appointment and before entering upon the duties of his office, each member of the board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of the Commonwealth.

(c) Terms and vacancies.--Except as otherwise provided, members shall serve a term from the date of their appointment and until their successors have been appointed and qualified. If a vacancy shall occur by means of the death, disqualification, abandonment, resignation or removal of a member or the chairman, subject to the provisions of subsection (a), the appointing authority shall appoint a successor to fill his unexpired term.

(d) Compensation.--Subject to an aggregate per annum limitation and any other rules and regulations as the board shall determine, a member shall receive $125 per diem when engaged in the exercise of duties for the authority and shall also be entitled to necessary expenses, including travel expenses, incurred in the discharge of duties. In addition to any other compensation provided under this subsection, the chairman of the board of the authority shall be entitled to receive such additional compensation as the board shall determine. No other member of the board shall be entitled to any additional compensation for extra service provided to the authority. The per diem amount may be increased by a vote of eight members of the board, but any increase shall not apply during the term of office of board members voting or eligible to vote on the per diem increase.

(e) Organization.--The members of the board shall select a vice chairman and other officers as the board may determine from the members of the board. Except as otherwise provided in this chapter, all actions of the board shall be taken by a vote of eight members of the board. The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied. Notwithstanding any other law, court decision, precedent or practice to the contrary, no actions by or on behalf of the board shall be taken by any officer of the board except upon the approval of a majority of the board. The chairman, vice chairman or any other officer, committee or employee of the board may take actions by or on behalf of the board as authorized on at least an annual basis by a vote of eight members of the board and subject to the supervision and control of the board.

(f) Nonliability of members.--Members of the board shall not be liable personally on the bonds or other obligations of the authority. The rights of creditors shall be solely against the authority. The authority, itself or by contract, shall defend, indemnify and hold harmless board members, whether currently members of the board or not, against and from any and all personal liabilities, actions, causes of action and any and all claims made against them for whatever actions they perform within the scope of their duties as board members.

(g) Meetings.--Regular meetings of the board shall be held at least once in each calendar month except July or August, the time and place of the meetings to be fixed by the board. A majority of the board shall constitute a quorum for the transaction of business. All actions of the board shall be by resolutions, and the affirmative vote of eight members of the board shall be necessary for the adoption of any resolution.

(h) Abandonment.--A member of the board shall be deemed to have abandoned office upon failure to attend any regular or special meeting of the board without excuse approved by resolution of the board for a period of four consecutive months or upon removal of the member's residence from the metropolitan area.

(i) Chairman removal.--The member of the board appointed under subsection (a)(8) may be removed from the board only for misfeasance or malfeasance by a vote of eight members of the board. Prior to the member being removed, the member of the board appointed under subsection (a)(8) must be given a copy of the charges and an opportunity to be heard. Notice of the charges must be provided at least ten days prior to the opportunity to be heard. A hearing conducted in accordance with this subsection must be held at a public meeting of the board. The vice chairman of the board shall file a copy of the charges, a copy of the record of the proceedings and a copy of the findings of the board with the Department of State. If the member of the board appointed under subsection (a)(8) is removed by the board, the members of the board appointed under subsection (a)(1) through (7) shall appoint an additional member to the board in accordance with the provisions of subsection (a)(8).

(j) Definition.--As used in this section, the term "actions by or on behalf of the board" means any action whatsoever of the board, including the hiring, appointment, removal, transfer, promotion or demotion of any officers and employees, the retention, use or remuneration of any advisors, counsel, auditors, architects, engineers or consultants, the initiation of any legal action, the making of any contracts, leases, agreements, bonds, notes or covenants, the approval of requisitions, purchase orders, investments and reinvestments and the adoption, amendment, revision or rescission of any rules and regulations, orders or other directives.

(k) Removal of chairman.--(Repealed).

(Feb. 5, 2004, P.L.7, No.3)

2004 Repeal Note. Act 3 repealed subsec. (k).

Effective Date. Section 7(2) of Act 3 of 2004 provided that the addition of subsec. (i) and the repeal of subsec. (k) shall take effect after December 31, 2005.

§ 6006. Purposes and powers; general.

(a) General powers.--An authority created and continued by this chapter shall exercise the public powers of the Commonwealth as an agency for the purpose, without limitation, by itself or by agreement in cooperation with others, of acquiring, holding, developing, designing, constructing, improving, maintaining, managing, operating, financing, furnishing, fixturing, equipping, repairing, leasing or subleasing, either in the capacity of lessor or lessee or sublessor or sublessee, and owning a convention center or parts of a convention center.

(b) Specific powers.--The authority is granted all powers necessary or convenient for the carrying out of the purposes in subsection (a), including all of the following rights and powers:

(1) To have continuing succession.

(2) To be a party in all courts.

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

(4) To acquire by gift or otherwise, purchase, hold, receive, lease, sublease and use any license, franchise or property, real, personal or mixed, tangible or intangible,

or any interest in a license, franchise or property, including a convention center or parts of a convention center.

(5) To sell, transfer or dispose of any property or interest in property with adequate and fair consideration.

(6) To acquire, hold, develop, design, construct, improve, maintain, manage, operate, furnish, fixture, equip, repair, own, lease or sublease a convention center or parts of a convention center and to make, enter into and award contracts with any person, association, partnership or corporation for the development, design, financing, construction, improvement, maintenance, operation, management, furnishing, fixturing, equipping and repair of a convention center or parts of a convention center.

(7) To make bylaws for the management and regulation of its affairs and issue rules, regulations and policies in connection with the performance of its functions and duties.

(8) To appoint officers, agents, employees and servants, to prescribe their duties, to fix their compensation and to establish work rules, work assignments and conditions of employment for any officer, agent, employee or servant of the authority.

(9) To fix, alter, charge and collect rentals, admissions, license fees and other charges.

(10) To borrow money for the purpose of paying the costs of any project and to evidence the debt; make and issue negotiable bonds of the authority; secure the payment of the bonds, or any part of the bonds, by pledge or deed of trust of its revenue, rentals, receipts and contract rights; make contracts with the purchasers or holders of bonds or with other obligees of the authority in connection with any bonds, whether issued or to be issued, as the authority deems advisable; obtain credit enhancement or liquidity facilities in connection with any bonds as the authority determines to be advantageous; and, in general, provide for the security for bonds and the rights of the holders of bonds.

(11) To make, enter into and award contracts to execute all instruments necessary or convenient for the carrying out of its business.

(12) To borrow money and accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any Federal agency, State public body, political subdivision, person, association, partnership or corporation.

(13) To have the power of eminent domain within a city of the first class. Any condemnation by the authority shall be in the manner provided by the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code.

(14) To pledge, hypothecate or otherwise encumber any of its property, real, personal or mixed, tangible or intangible, and its revenue or receipts, including any interest the authority may have in any lease or sublease of a convention center or parts of a convention center.

(15) To procure insurance containing coverages, including, without limitation, insurance covering the timely payment in full of principal of and interest on bonds of the authority, in amounts and from insurers as the authority may determine to be necessary or desirable for its purposes.

(16) To invest its money.

(17) To cooperate with any Federal agency, State public body or political subdivision.

(18) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursements, as authorized by section 6012(d)(relating to moneys of authority).

(19) To appoint all officers, agents and employees required for the performance of its duties and fix and determine their qualifications, duties and compensation and retain or employ other agents or consultants, including architects, auditors, engineers, private counsel and private consultants, on a contract basis or otherwise for rendering professional or technical services and advice.

(20) To enroll or to continue to enroll its employees in an existing retirement system of the Commonwealth.

(21) To appoint and fix the compensation of chief counsel and assistant counsel to provide it with legal assistance, for which purpose the authority shall not be considered either an executive agency or an independent agency for the purpose of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, but shall possess the same status for such purpose as the Auditor General, State Treasurer and the Pennsylvania Public Utility Commission, except that the provisions of section 204(b) and (f) of the Commonwealth Attorneys Act shall not apply to the authority, and, notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to legal assistance), the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

(22) To maintain an office in a city.

(23) To appoint an executive director who shall:

(i) be the chief executive officer of the authority;

(ii) devote full time during business hours to the duties of office; and

(iii) receive compensation as the board determines.

(24) To contract with an association with experience in managing convention centers for the management of the convention center.

(25) To do all acts and things necessary or convenient for the promotion of its purposes and the general welfare of the authority and to carry out the powers granted to it by this chapter or any other acts.

(c) Limitation.--The authority shall have no power to pledge the credit or taxing powers of the Commonwealth, a political subdivision or a city, nor shall any of its obligations be deemed obligations of the Commonwealth, a political subdivision or a city, nor shall the Commonwealth, a political subdivision or a city be liable for the payment of principal or interest on the obligations.

(d) Affirmative action.--The authority shall develop and implement an affirmative action plan to assure that all persons are accorded equality of opportunity in employment and contracting by the authority, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

References in Text. The act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code, referred to in subsec. (b)(13), was repealed by the act of May 4, 2006 (P.L.112, No.34). The subject matter is now contained in Title 26 (Eminent Domain).

§ 6007. Acquisition of lands.

(a) Power.--If the authority deems it necessary for a purpose under this chapter, the authority has the power to

acquire any of the following with respect to land within the city by purchase or eminent domain proceedings:

(1) A fee.

(2) Any right, title, interest or easement.

(b) Procedure.--The right of eminent domain shall be exercised by the authority in the manner provided by the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code.

References in Text. The act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code, referred to in subsec. (b), was repealed by the act of May 4, 2006 (P.L.112, No.34). The subject matter is now contained in Title 26 (Eminent Domain).

§ 6008. Purposes and powers; bonds.

(a) Authorization.--

(1) Bonds must be authorized by resolution of the board. A resolution authorizing the issuance of bonds must specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

(iii) Interest.

(iv) Denomination.

(v) Form, either coupon or fully registered without coupons.

(vi) Registration, exchangeability and interchangeability privileges.

(vii) Medium of payment and place of payment.

(viii) Terms of redemption.

(ix) Priorities in the revenue or receipts of the authority.

(2) Bonds must be signed by or must bear the facsimile signature of such officers as the authority determines. Coupon bonds must have attached interest coupons bearing the facsimile signature of the treasurer of the authority as prescribed in the authorizing resolution. Bonds may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bonds are actually delivered. Bonds must be authenticated by an authenticating agent, a fiscal agent or a trustee, if required by the authorizing resolution.

(3) Bonds may be sold at public or private sale for a price determined by the authority. Bonds may be sold at private sale only if:

(i) the authority makes a written public explanation of the circumstances and justification for the private sale; and

(ii) the board approves the private sale by a vote of eight members of the board.

(4) Pending the preparation of definitive bonds, interim receipts may be issued to the purchaser and may contain terms and conditions as the authority determines.

(b) Negotiability.--Bonds shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

(c) Use of net proceeds.--The net proceeds of the issue of bonds or notes may be used to pay the costs of a project or to reimburse any costs initially paid by any State public body, the city, other political subdivision, agency, organization or person.

(d) Refunding authorized.--

(1) Subject to the provisions of the outstanding bonds, notes or other obligations issued under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority), and if not otherwise inconsistent, subject to the provisions of this chapter, the authority shall have the right and power to refund any outstanding debt, in whole or in part, at any time and shall have the right and power to refund any outstanding notes with bonds or bonds with notes.

(2) As used in this subsection, the term "refund" shall mean the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

§ 6009. Provisions of bonds, trusts, indentures and mortgages.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of the bonds and obligations, the authority, in addition to its other powers, shall have the power to:

(1) Pledge all or any part of its gross or net revenue to which its right then exists or may thereafter come into existence.

(2) Mortgage all or any part of its real or personal property then owned or thereafter acquired.

(3) Covenant against pledging all or any part of its revenue, or against mortgaging all or any part of its real or personal property to which its right or title exists or may come into existence, or against permitting or suffering a lien on the revenue or property; covenant with respect to limitations on its right to sell, lease or otherwise dispose of any of its real property; and covenant as to what other or additional debts or obligations may be incurred by it.

(4) Covenant as to the bonds to be issued and as to the issuance of the bonds, in escrow or otherwise, and as to the use and disposition of the proceeds of the bonds.

(5) Provide for the replacement of lost, destroyed or mutilated bonds.

(6) Covenant against extending the time for the payment of its bonds or interest on the bonds, redeem the bonds and covenant for their redemption, and provide the terms and conditions of the bonds.

(7) Covenant as to the amount of revenue to be raised each year or other period of time by the authority as well as to the use and disposition to be made of the revenue.

(8) Create or authorize the creation of special funds for debt service or other purposes and to covenant as to the use and disposition of the money held in the special funds.

(9) Prescribe the amount of bonds.

(10) Prescribe the procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated, the percentage of bonds the consent of the holders of which is required for amendment or abrogation and the manner in which consent of bondholders may be obtained.

(11) Covenant as to the use of any or all of its real or personal property, warrant its title and covenant as to the maintenance of its real and personal property, the replacement of the property, the insurance to be carried on the property and the use and disposition of insurance money.

(12) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant,

condition or obligation and covenant and prescribe, in the event of default, as to terms and conditions upon which its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which declaration and its consequences may be waived.

(13) Vest in a trustee or the holders of bonds, or any proportion of them, the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; and vest in a trustee the right, in the event of a default by the authority, to take possession and use, operate and manage any real property and to collect the rent and revenue arising from the property and to dispose of the rent and revenue in accordance with the agreement of the authority with the trustee.

(14) Provide for the powers and duties of a trustee; limit liabilities of the trustee; and provide the terms and conditions upon which the trustee or the holders of bonds, or any proportion of them, may enforce any covenant or rights securing or relating to the bonds.

(15) Obtain letters of credit and bond insurance.

(16) Negotiate and enter into interest rate exchange agreements, interest rate cap, collar, corridor, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which, in the judgment of the authority, will assist the authority in managing the interest costs of the authority.

(17) Exercise all or any part or combination of the powers granted under this chapter or under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to the Pennsylvania Convention Center Authority); make covenants other than and in addition to the covenants expressly authorized in this chapter; and make covenants and to do any and all such acts and things necessary or convenient or desirable to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this chapter by making the bonds more marketable or by managing the interest cost of the bonds, notwithstanding that the covenants, acts or things may not be specifically enumerated in this chapter.

§ 6010. Remedies of obligee of authority.

An obligee of the authority has the right, in addition to all other rights which may be conferred on the obligee, subject only to any contractual restrictions binding upon the obligee, to:

(1) By mandamus, suit, action or proceeding at law or in equity, compel the authority and the members, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter or under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified in 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority).

(2) By proceeding in equity, obtain an injunction against any acts or things which may be unlawful or the violation of any of the rights of the obligee of the authority.

§ 6011. Additional remedies conferrable by authority.

(a) Additional remedies.--The authority has the power, by its resolution, trust, indenture or mortgage, to confer upon any obligees holding or representing a specified percentage of bonds the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in the resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction, to:

(1) obtain the appointment of a receiver of real property or a leasehold interest of the authority and of the rents and profits from the property or interest and, if a receiver is appointed, to authorize the receiver to enter and take possession of the real property or leasehold interest, operate it, collect and receive all revenue or other income arising from it, keep the money in a separate account and apply it in accordance with the obligations of the authority as the court directs; or

(2) require the authority and its board members to account as if it and they were the trustees of an express trust.

(b) Authority of receiver.--Nothing in this section or any other section of this chapter shall authorize any receiver appointed pursuant to this chapter for the purpose of operating and maintaining any facilities of the authority to sell, assign, mortgage or otherwise dispose of any of the assets, of whatever kind or character, belonging to the authority. It is the intention of this chapter to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court shall direct, and no holder or holders of bonds of the authority nor any trustee or other obligee shall ever have the right in any suit, action or proceeding, at law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of any assets, of whatever kind or character, belonging to the authority.

§ 6012. Moneys of authority.

(a) Paid to treasurer.--Unless otherwise provided by law, all money of the authority from whatever source derived shall be paid to the treasurer of the authority.

(b) Funds to be invested.--The board shall invest authority funds consistent with sound business practice.

(c) Investment program.--The board shall provide for an investment program subject to restrictions contained in any of the following:

(1) This chapter.

(2) Any other applicable statute.

(3) Any rules and regulations adopted by the board.

(d) Authorized types of investments.--

(1) Authorized types of investments for authority funds shall be all of the following:

(i) Direct obligations of or obligations guaranteed by the United States of America.

(ii) Any bond, debenture, note, participation certificate or other similar obligation issued by any one or combination of the following agencies:

(A) Government National Mortgage Corporation.

(B) Federal Land Banks.

(C) Federal Home Loan Banks.

(D) Federal Intermediate Credit Banks.

(E) Banks for Cooperatives.

(F) The Tennessee Valley Authority.

(G) The United States Postal Service.

(H) The Farmers Home Administration.

(I) The Student Loan Marketing Association.

(J) The Export-Import Bank of the United States.

(iii) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Corporation to the extent the obligations are guaranteed by the Government National Mortgage Corporation or issued by any other Federal agency and backed by the full faith and credit of the United States of America.

(iv) Deposits in interest-bearing time or demand deposits, or certificates of deposit, fully insured by the Federal Deposit Insurance Corporation or its successor or the Federal Savings and Loan Insurance Corporation or its successor or fully secured by any of the obligations described above to the extent not so insured.

(v) Repurchase agreements relating to or investment agreements secured by, or providing for the acquisition and resale of, obligations described in subparagraphs (i) through (iv) or obligations of Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, with:

(A) banks or trust companies, including any banking entity or depository;

(B) brokers or broker-dealers registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §§ 78a-78jj) acceptable to the authority; or

(C) insurance companies rated A+ or better by Best's having a net capital and surplus of at least $25,000,000 or certificates of deposit with banks or trust companies fully secured as to principal and accrued interest by obligations described in subparagraphs (i) through (iv) deposited with or subject to the control of the authority.

(vi) Money market deposit accounts of banks or trust companies having a net capital and surplus of at least $25,000,000, including any banking entity or depository.

(2) The description of authorized investments as set forth in paragraph (1)(v) and (vi) shall only be met if the agreements referenced in paragraph (1)(v) and (vi) provide for the repayment of the principal amount invested at an amount not less than that invested. Whenever security is required as set forth in paragraph (1)(iv) through (vi), security shall be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. Money of the authority shall be paid out on the warrant or other order of the chairman of the authority or of any other person the authority authorizes to execute the warrants or orders.

(e) Annual report to be filed; annual audits.--Within 90 days following the end of the fiscal year, an authority shall file an annual report with the Department of Community and Economic Development, the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives and with the city which shall make provisions for the accounting of revenue and expenses. The authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant

or competent public accountant, and a copy of the audit report shall be attached to and be made a part of the annual report. A concise financial statement shall be published annually in the Pennsylvania Bulletin. If the authority fails to make an audit, then the controller, auditors or accountants designated by the city are authorized to examine, at the expense of the authority, the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operations and affairs.

(f) Power of inspection.--The Attorney General, Auditor General, Secretary of the Budget and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives shall have the right to examine the books, accounts and records of the authority.

Cross References. Section 6012 is referred to in section 6006 of this title.

§ 6013. Capital and operating budgets.

(a) Capital budget.--At least 90 days before the commencing of the ensuing fiscal year of the authority, the board shall cause to be prepared and submitted to it a recommended capital budget. The capital budget shall show in detail the capital expenditures to be made or incurred in the next fiscal year which are to be financed from funds subject to control or appropriation by the board. The capital budget shall be prepared with the aid of the Secretary of the Budget and the chief financial officer of the city and shall be in a form and detail satisfactory to them. In the event that the capital budget is not in a form and detail satisfactory to either the Secretary of the Budget or the chief financial officer of the city, either official may require that the capital budget be redrafted and resubmitted. The official shall not be considered to be in receipt of the capital budget or any amendments to the capital budget unless the form and detail is to the officer's satisfaction. For each separate purpose, project, facility or other property, the amount and the source of the money which has been spent, encumbered or is intended to be spent or encumbered during the fiscal year shall be shown. No later than the date of the adoption of the annual operating budget, the board shall adopt a capital budget by a majority vote of its members.

(b) Operating budget.--At least 90 days before the commencing of the ensuing fiscal year of the authority, the board shall cause to be prepared and submitted to it a recommended operating budget. The operating budget shall be prepared with the aid of the chief financial officer of the city and shall be in form and detail satisfactory to him. In the event that the operating budget is not in a form and detail satisfactory to the chief financial officer of the city, the officer may require that the operating budget be redrafted and resubmitted. The chief financial officer shall not be considered to be in receipt of the operating budget or any amendments to the operating budget unless the form and detail is to the officer's satisfaction. The operating budget should set forth the estimated receipts and revenue of the authority during the next fiscal year. The board shall, at least 30 days before the end of the fiscal year, adopt, by a majority vote of its members, an operating budget for the next fiscal year.

(c) Additional approvals or disapprovals.--If the Secretary of the Budget or the chief financial officer of the city in

which the convention center is located are among the members appointed to the board of the authority or if they sit as ex officio members of the board, each shall have the right to approve or disapprove each line item of the capital budget of the authority and any amendments to it as well as all change orders. In addition, the chief financial officer of the city shall have the right to approve or disapprove the total amount of the operating budget of the authority and any amendments increasing the aggregate amount. In the case of both the capital and operating budgets and change orders of the authority, approval shall be presumed unless the chief financial officer of the city has disapproved the entire operating budget or relevant amendments to it or either the chief financial officer of the city or the Secretary of the Budget has disapproved all or part of the capital budget of the authority or amendments to it or change orders within 30 days of the receipt of the respective budgets, amendments to the respective budgets or change orders. The Secretary of the Budget or the chief financial officer of the city may establish a threshold level below which the officers will not exercise their right to disapprove change orders and may identify categories or types of change orders for which they will not exercise that right.

(d) Project design.--Notwithstanding any other provisions of this chapter to the contrary, the design for any capital project undertaken by the authority shall be submitted to the Secretary of the Budget and the chief financial officer of the city for approval. No capital project may be undertaken by the authority unless the schematic design and the preliminary design development documents have been approved by the Secretary of the Budget and the chief financial officer of the city. The design and construction of any capital project for the convention center may be divided into stages or phases for which schematic design and preliminary design development documents may be approved separately by the Secretary of the Budget and the chief financial officer of the city and which may be undertaken by the authority as if each stage or phase was a separate capital project. In the case of the schematic design and preliminary design development documents for any capital project or any stage or phase of a capital project, approval shall be presumed unless the Secretary of the Budget or the chief financial officer of the city has disapproved the design and expressly set forth his objections to the documents within 45 days of the receipt of the documents. Further design approval shall not be required provided the construction documents are consistent with the design set forth in the schematic and preliminary design development documents.

(e) Onsite inspectors.--The Secretary of the Budget may appoint and designate an inspector or inspectors who shall have complete authority to inspect any and all aspects of the construction of any capital project undertaken by the authority. Any inspection shall be made during normal business hours and shall be conducted in such a manner as to not disrupt the work of constructing the convention center and shall be made solely for the purpose of observing the construction of the project. The inspectors shall report to the Secretary of the Budget for the purpose of assisting the secretary in carrying out his duties and responsibilities as provided by this section.

§ 6014. Expansion financing.

(a) Commonwealth funds.--Any grants of Commonwealth funds to the authority or for use by the authority to finance any expansion or substantial renovation of the convention center shall be subject to the requirements of this section.

(b) Managerial audit.--

(1) If the board has not initiated or completed a managerial audit within 12 months prior to the effective date of this section, the board shall initiate a managerial audit of the convention center to be performed by an independent auditor. The audit shall examine all of the following:

(i) payroll and personnel practices;

(ii) equipment controls and security;

(iii) management activities;

(iv) management control systems;

(v) cost overruns for conventions held at the convention center;

(vi) labor productivity;

(vii) comparison of costs with convention centers in other states;

(viii) work rules;

(ix) appropriate benchmarks for evaluation of convention center performance;

(x) rebooking rates; and

(xi) any other items proposed by the board.

(2) The board shall order subsequent independent managerial audits no later than 90 days after the end of every third fiscal year beginning with the fiscal year ending in 2004.

(c) Code of conduct.--The board shall establish a code of conduct and a system to enforce the code of conduct.

(d) Customer service.--The board shall do all of the following:

(1) Establish dispute resolution mechanisms for the use of customers of the convention center.

(2) Adopt a plan for documenting, investigating and resolving customer complaints.

(3) Implement the systematic collection of customer feedback and monitor customer satisfaction.

(4) Adopt a system of program measures and benchmarks to evaluate changes in customer satisfaction over time. The program measures shall include customer perspectives on labor jurisdiction disputes, overall labor environment and labor efficiency.

(e) Release.--Prior to the release of any Commonwealth funds to finance any expansion or substantial renovation, the Secretary of the Budget in his sole discretion shall certify to the President pro tempore of the Senate and the Speaker of the House of Representatives that the board has complied with subsections (b), (c) and (d).

(f) Financial plan.--The authority shall submit a proposed financial plan for an expansion or substantial renovation of the convention center to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives and the Pennsylvania Intergovernmental Cooperation Authority. The financial plan shall be considered a public record. The Pennsylvania Intergovernmental Cooperation Authority shall prepare a detailed analysis on the fiscal impact and financial risks for the expansion or substantial renovation and provide the detailed analysis to the Governor, the President pro tempore of the Senate and the Speaker of the House of Representatives. The analysis shall be considered a public record.

§ 6015. Transfer of existing facilities or funds; making of annual grants and lease payments to authority; Commonwealth bonds.

(a) Authority granted.--

(1) A State public body, political subdivision or the city may sell, lease or sublease from or to, lend, grant, convey or otherwise transfer or pay over directly to the authority, with or without consideration, any of the following:

(i) A convention center or parts of a convention center.

(ii) Any interest in property, real, personal or mixed, tangible or intangible.

(iii) Any funds available, needed or obligated for development, acquisition, design, maintenance, management, operation, financing, leasing or subleasing construction, expansion or substantial renovation or improvement purposes. This subparagraph includes the proceeds of bonds previously or hereafter issued for construction or improvement of a convention center or parts of a convention center.

(iv) Notwithstanding any other provision of law, any grant shall be made directly to the authority.

(2) Any property, funds or convention center or parts of a convention center received by the authority may be used for any lawful purpose of the authority.

(3) Nothing in this chapter nor in any other law shall be deemed to make an authority or any persons, State-supported or State-aided institutions under any laws of this Commonwealth.

(b) Grants authorized.--

(1) A city may do any of the following:

(i) Make grants from current revenue to the authority.

(ii) Assist in defraying the cost of management, operation, maintenance, financing and debt service of a convention center or parts of a convention center.

(iii) Enter into long-term agreements providing for the payment of grants made or costs defrayed under subparagraph (i) or (ii).

(iv) Enter into long-term leases or subleases as lessee or sublessee of all or part of a convention center.

(2) Obligations of a city to make grants, lease or sublease payments to an authority shall not, even if based on debt obligations of an authority, constitute debts of the city within the meaning of any constitutional or statutory provision and shall be payable only to the extent that current revenues of the city are available.

(3) A city may issue general obligation bonds for the purpose of obtaining funds for local contributions pertaining to convention centers or parts of convention centers.

Cross References. Section 6015 is referred to in section 6016 of this title.

§ 6016. Award of contracts.

(a) Lowest responsible bidder.--All construction, reconstruction, repairs or work of any nature made by the authority where the entire cost, value or amount of construction, reconstruction, repairs or work, including labor and materials, shall exceed $25,000, except construction, reconstruction, repairs or work done by employees of the authority or by labor supplied under agreement with any Federal agency, State public body, political subdivision or city with supplies and materials purchased as provided in this chapter, shall be done only under contract or contracts to be entered

into by the authority with the lowest responsible bidder upon proper terms, after due public notice has been given asking for competitive bids as provided in this chapter, but the authority shall have the right to reject any or all bids or select a single item from any bid. No contract shall be entered into for construction or improvement or repair of any project or portion of a project unless the contractor shall provide sufficient surety or sureties approved by the authority, and in an amount fixed by the authority, for the performance of the contract. All contracts shall provide, among other things, that the person or corporation entering into the contract with the authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing materials or rendering services may maintain an action to recover for the same against the obligor in the undertaking as though the person or corporation was named in the undertaking, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve any project or portion of a project or any addition, betterment or extension to a project, directly by the officers and employees of the authority. Whether the costs of the project are being paid for in whole or in part with funds provided under section 6015 (relating to transfer of existing facilities or funds; making of annual grants and lease payments to authority; Commonwealth bonds), the authority may award the construction, expansion or substantial renovation of a convention center as a single bid project without regard to the provisions of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," and shall not be subject to 62 Pa.C.S. (relating to procurement). Nothing in this section or any other law of this Commonwealth shall require the authority to competitively bid architectural design, engineering, construction management or other professional services required by the authority.

(b) Supplies and materials.--All supplies and materials costing $25,000 or more to be acquired directly by the authority shall be purchased only after due advertisement as provided in this chapter. The authority shall accept the lowest bid or bids from a responsible bidder, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of unique supplies and materials or supplies and materials which cannot be obtained in the open market.

(c) Management prerogatives.--Nothing in this section or in any other law of the Commonwealth shall preclude the board, with the approval of eight members of the board, from negotiating contracts for management, operation, concession services, licensing or leasing of a convention center or any part of a convention center. The authority shall not award any contract to any manager, operator, concessionaire, licensee, lessee or lessor that exceeds three years in duration unless eight members of the board approve the awarding of a contract for a greater period of time.

(d) Application of city ordinances.--The authority, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers shall not be subject to any city laws, ordinances, rules or regulations relating to any limits or preferences with

regard to employment, contracting or procurement in the construction and operation of the convention center.

(e) Steel products.--The authority shall be subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act, and 62 Pa.C.S. Ch. 37 Subch. B (relating to motor vehicles).

(f) Waiver of notice.--Public notice under this section may be waived if the authority determines an emergency exists and the supplies and materials must be purchased immediately by the authority.

(g) Definitions.--As used in this section, the term "advertisement" or "public notice" means a notice published at least ten days before the award of any contract in a newspaper of general circulation published in the city.

§ 6017. Interests of public officers, public employees and party officers.

(a) Restrictions upon authority management-level employees.--

(1) No party officer, public officer, public official, public employee or a member of the immediate family of a party officer, public officer or public official shall be employed as a management-level authority employee.

(2) No person convicted of an infamous crime shall be a member of the board or employed as a management-level employee by the authority.

(b) Restricted activities; statement of financial interests; public meetings and records.--The provisions of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act, are specifically applicable to board members, officers and employees of the authority. For the purposes of application of those acts, employees of the authority shall be regarded as public employees of the Commonwealth, and officers or board members of the authority shall be regarded as public officials of the Commonwealth, whether or not they receive compensation. The authority shall also be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) and the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(c) Conflicts of interest.--Notwithstanding the provisions of subsection (b), all of the following prohibitions shall apply to the authority:

(1) No management-level employee or other employee of the authority shall use his position with the authority, or any confidential information received through his position with the authority, to obtain financial gain other than compensation provided by law for himself, a member of his immediate family or a business with which he is associated.

(2) No person shall offer or give to a board member, a management-level employee or other employee of the authority or a member of his immediate family or a business with which he is associated, and no board member, management-level employee or other employee of the authority shall solicit or accept, anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding that the vote, official action or judgment of the board member, management-level employee or other employee of the authority would be influenced thereby.

(3) No board member, management-level employee or other employee of the authority or a member of his immediate family or any business in which the person or a member of the

person's immediate family is a director, officer, owner or holder of stock exceeding 5% of the equity at fair market value of the business shall enter into any contract valued at $500 or more to provide goods or services to the authority unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

(4) No former board member, management-level employee or other employee of the authority shall represent a person, with or without compensation, on any matter before the authority with which he has been associated for one year after he leaves the authority.

(5) Neither an individual who is a State, city or county public officer or public official or any party officer or member of the immediate family of such individual nor a business with which such individual or member of the individual's immediate family is associated shall have a financial interest in any contract valued at $500 or more to provide goods or services to the authority either during the time the person holds office or for two years after the person terminates office unless the contract is executed pursuant to the provisions of paragraph (3). For purposes of this paragraph, the term "financial interest" does not include employment by, association with or ownership of a business association unless the public officer, public official, party officer or member of the immediate family of the individual owns shares of stock in a corporation in an amount in excess of 5% of the total issue for the stock of the corporation or has an ownership interest in any noncorporate business association in an amount in excess of 5% of the total ownership of a noncorporate business association.

(6) No board member, management-level employee or other employee of the authority or an advisor or consultant to the State, city or the county having recommended to the authority which he serves either the making of a contract relating to a convention center authority or a course of action of which the making of such a contract is an express or implied part shall, at any time thereafter, have an adverse interest in the contract.

(7) No board member, management-level employee or other employee of the authority, the State, the city or the county shall influence or attempt to influence the making of or supervise or in any manner deal with any contract with the authority in which the employee has an adverse interest.

(8) No board member, management-level employee or other employee of the authority shall have an adverse interest in any contract with the authority.

(9) No person having an adverse interest in a contract with the authority shall become a board member, management-level employee or other employee of the authority until the adverse interest has been wholly divested.

(10) No board member, management-level employee or other employee of the authority, the State, the city or the county, except in the performance of his duties as such employee, shall for remuneration, directly or indirectly, represent any other person upon any matter pending before the authority.

(d) Enforcement; penalties.--

(1) Any person who violates the provisions of this section shall have employment by the authority or membership

on the board terminated immediately by the appropriate person having the power to terminate and shall be liable to the authority to reimburse the authority for all compensation received from the authority while employed in violation of this section.

(2) Any person who violates the provisions of subsection (c)(1) or (2) is guilty of a felony and shall be fined not more than $10,000 or imprisoned for not more than five years or be both fined and imprisoned.

(3) Any person who violates the provisions of subsection (c)(3) through (10) is guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned for not more than one year or be both fined and imprisoned.

(4) Any person who obtains financial gain from violating any provisions of subsection (c), in addition to any other penalty provided by law, shall pay into the accounts of the authority a sum of money equal to three times the financial gain resulting from the violation.

(5) Any person who violates the provisions of subsection (c) shall be barred for a period of five years from engaging in any business or contract with the authority, the State, the city and any political subdivision.

(6) Any employee of the State, city or any political subdivision or any public officer or public official who violates subsection (c) shall automatically forfeit any office or employment the employee holds.

(7) The penalties and sanctions provided by this section shall supersede any similar penalties and sanctions provided by the Public Official and Employee Ethics Law and State Adverse Interest Act.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or any legal entity organized for profit or as a not-for-profit corporation or organization.

"Business with which he is associated." Any business in which the person or a member of the person's immediate family is a director, officer, owner, employee or holder of stock.

"County." A county within the Philadelphia Metropolitan Statistical Area as defined in this chapter.

"Immediate family." A parent, spouse, child, brother, sister or like relative-in-law.

"Infamous crime." Any violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania; any conviction for a violation of this section; any conviction for a violation of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions) or 18 Pa.C.S. Ch. 47 (relating to bribery and corrupt influence), 49 (relating to falsification and intimidation), 51 (relating to obstructing governmental operations) or 53 (relating to abuse of office); any other violation of the laws of this Commonwealth for which an individual has been convicted within the preceding ten years and which is classified as a felony; or a similar violation of the law of any other state or the Federal Government.

"Management-level authority employee." The counsel employed by the authority, the executive director of the authority and

any authority employee with discretionary powers which may affect the outcome of the authority's decision in relation to a private corporation or business or any employee who by virtue of his job function could influence the outcome of such a decision.

"Party officer." The following members or officers of any political party:

(1) a member of a national committee;

(2) a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee;

(3) a county chairman, vice chairman, counsel, secretary or treasurer of a county committee; or

(4) a city chairman, vice chairman, counsel, secretary or treasurer of a city committee.

"Person." A business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

"Public employee." An individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

(1) contracting or procurement;

(2) administering or monitoring grants or subsidies;

(3) planning or zoning;

(4) inspecting, licensing, regulating or auditing any person; or

(5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest of any person. A public employee shall not include individuals who are employed by the State or any political subdivision in teaching as distinguished from administrative duties.

"Public officer." A person elected to any public office of the Commonwealth or any political subdivision.

"Public official." An elected or appointed official in the executive, legislative or judicial branch of the State or any political subdivision. The term does not include members of advisory boards who have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision. The term does not include any appointed official who receives no compensation other than reimbursement for actual expenses.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (b), was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 6018. Sovereign immunity.

It is declared to be the intent of the General Assembly that the authority created pursuant to this chapter and its members, officers, officials and employees shall enjoy sovereign and official immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) and shall remain immune from suit except as provided by and subject to the provisions of 42 Pa.C.S. Ch. 85 Subch. B (relating to actions against Commonwealth parties). Notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to legal assistance), the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

§ 6019. Use and operation of convention center.

The use and operation of the convention center and any parts of a convention center and the operation of the business of the authority shall be subject to the rules and regulations adopted by the authority. The authority shall not be authorized to do anything which will impair the security of the obligees of the authority or violate any agreements with them or for their benefit or violate any contracts, leases or other agreements awarded, made or entered into by the authority.

§ 6020. Convention center performance audits; annual performance reports.

(a) Convention center performance audits.--The board shall cause periodic performance audits of the convention center to be conducted and completed at least 90 days after the end of every third fiscal year beginning with the fiscal year ending in 2004, six months prior to the termination of any agreement with any labor organization of which the authority is signatory if the labor agreement terminates more than 18 months after the submission of the previous performance audit and at such additional times as the board shall determine. Performance audits shall be conducted in accordance with all of the following:

(1) The performance audit shall be performed by an independent auditing or consulting firm with recognized experience in the convention industry and shall examine and report on all of the following:

(i) Customer satisfaction at the convention center.

(ii) Labor costs at the convention center, which shall include a comparison of labor costs at the convention center with labor costs at convention centers in this Commonwealth and in other states.

(iii) Rebooking rates of events at the convention center categorized by size and hotel room nights, which shall include a comparison of rebooking rates of previous years at the convention center and rebooking rates of events at convention centers in this Commonwealth and in other states.

(iv) Booking rates of events at the convention center categorized by size and hotel room nights, which shall include a comparison of booking rates of previous years at the convention center and booking rates of events at convention centers in this Commonwealth and in other states.

(v) Hotel booking rates in the Philadelphia Metropolitan Statistical Area related to the convention center industry, which shall include a comparison of hotel booking rates in the Philadelphia Metropolitan Statistical Area during previous years.

(vi) Compliance with the code of conduct and other work rules at the convention center and enforcement of the code of conduct and other work rules at the convention center by the authority and its designees.

(vii) Any other items proposed by the board.

(2) No later than 30 days after the completion of the performance audit, the board shall submit the results of the performance audit to the Governor, the Secretary of Community and Economic Development, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, the chairperson and minority chairperson of the Appropriations Committee of the Senate, the

chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, the chief executive officer of the city in which the convention center is located and the council president of the city in which the convention center is located.

(b) Annual performance reports.--The board shall complete a performance report no later than 90 days after the end of each fiscal year beginning with the first fiscal year ending after the effective date of this section except in years in which the board completes and submits a performance audit as provided for in subsection (a). Performance reports shall comply with all of the following:

(1) The performance report shall include a summary of the following:

(i) Customer satisfaction at the convention center.

(ii) Violations of the code of conduct or other work rules at the convention center, which shall include the identity of any organization whose members or representatives violate the code of conduct or other work rules, a description of each violation and the number of such violations.

(iii) Actions taken by the authority or its designee to enforce the code of conduct and other work rules at the convention center.

(iv) Complaints of customers and visitors at the convention center, if any, and the response of the authority or its designee to such complaints.

(v) A variance of more than 5% in any line item of the authority's approved operating budget for the fiscal year covered by the performance report and the reason for such variance.

(vi) Any deficit in the authority's operating budget for the fiscal year covered by the performance report and the reason for such deficit.

(vii) Any deficit, estimated deficit or projected year-end deficit in the adopted operating budget for the fiscal year immediately following the fiscal year covered in the performance report and the reason for such deficit.

(viii) Booking and rebooking rates of events at the convention center categorized by size and hotel room nights.

(ix) Hotel booking rates in the Philadelphia Metropolitan Statistical Area related to the convention center industry.

(x) Any other items as the authority shall determine.

(2) No later than 120 days after the end of each fiscal year, the board shall submit the performance report to the Governor, the Secretary of Community and Economic Development, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, the chief executive officer of the city in which the convention center is located and the council president of the city in which the convention center is located.

§ 6021. Limitation of powers.

(a) Commonwealth pledge.--The Commonwealth pledges to and agrees with any person, the city, political subdivision or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction or improvement of a convention center or parts of a convention center that the Commonwealth will not limit or alter the rights and powers vested in the authority by this chapter or otherwise created by this chapter in any manner inconsistent with the obligations to the bondholders until all bonds, together with the interest on the bonds, are fully paid and discharged. The Commonwealth further pledges to and agrees with any Federal agency that, in the event any Federal agency shall construct or contribute any funds for the construction or improvement of a convention center or parts of a convention center, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreements between the authority and the Federal agency.

(b) Additional Commonwealth pledge.--The Commonwealth pledges to and agrees with any person that, as owner of a convention center, leases or subleases a convention center or parts of a convention center to or from an authority created or continued pursuant to this chapter that the Commonwealth will not limit or alter the rights and powers vested by this chapter in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all obligations of the authority under the lease or sublease are fully met and discharged.

§ 6022. Exemption from taxation.

The effectuation of the authorized purposes of an authority created under this chapter shall be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. The authority will, as a public instrumentality of the Commonwealth, be performing essential governmental functions. In effectuating such purposes, the authority shall not be required to pay any taxes or assessments upon a convention center or part of a convention center or upon property acquired or used or permitted to be used by an authority for such purposes. Bonds issued by an authority and the transfer of and income from bonds, including profit made on the sale of bonds, shall be free from State and local taxation within this Commonwealth. This exemption shall not extend to gift, estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, the transfer of bonds, the income from bonds or the realization of profits on the sale of bonds.

§ 6023. Lease by authority.

A convention center or part of a convention center established or continued under this chapter may be leased or subleased by the authority to and from the city. The city is empowered to enter into leases, subleases or both. A lease or sublease may be made for a specified or unlimited time and on any terms and conditions approved by the city and agreed to by the authority in conformity with its contracts with the holders of any bonds.

§ 6024. Cooperation.

(a) State public bodies and political subdivisions may cooperate.--For the purpose of aiding and cooperating with the authority and in the planning, acquisition, clearance, relocation, development, design, construction, rehabilitation, leasing, subleasing, alteration, expansion, financing, improvement, management or operation of a convention center or

parts of a convention center, any State public body, political subdivision or the city may, upon terms with or without consideration as it determines, do any of the following:

(1) Dedicate, sell, convey, lease or otherwise transfer any of its property or any interest in its property, real, personal or mixed, tangible or intangible, to the authority.

(2) Cause parking, recreational or community facilities or any other works which it is otherwise empowered to undertake to be furnished in or adjacent to any area selected for a convention center or parts of a convention center.

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered so to do.

(4) Enter into agreements extending over any period with the authority or with the Federal Government.

(5) Do all things necessary or convenient to aid and cooperate in the development, acquisition, design, construction, improvement, maintenance, management, operation, furnishing, fixturing, equipping, repairing, financing, owning, leasing and subleasing of a convention center or parts of convention center.

(6) In connection with any public improvements made by any State public body, political subdivision or the city, in exercising the powers granted in this subsection, to incur the entire expense of the improvement.

(b) Documents.--The Secretary of General Services is authorized, with the approval of the Governor and Attorney General, to execute and deliver on behalf of the Commonwealth conveyances, deeds and leases authorized under this chapter or under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority).

(c) City may contract with authority.--In connection with a convention center or parts of a convention center, the city may contract with the authority or the Federal Government with respect to any sums which the authority or the Federal Government may agree to pay during any year or period of years to the city for the improvements, services and facilities to be provided by it for the benefit of the authority, convention center or parts of a convention center or the persons occupying such area. The absence of a contract for such payments shall not relieve the city from the duty to furnish for the benefit of the authority, convention center or parts of a convention center or the persons occupying the area customary improvements and services and facilities as the city usually furnishes without a service fee.

(d) State and city may designate authority as its agent.--The State or the city may, by written agreement, designate the authority as its agent within the authority's field of operation to perform any specified activity or to administer any specified program which the State or the city is authorized by law to do. Any such activities or programs must be in furtherance of the public purposes specified in this chapter. Such activities include development, acquisition, design, construction, improvement, maintenance, leasing, management or operation of a convention center or parts of a convention center.

(e) Powers in addition to other powers.--The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

§ 6025. Hotel room rental tax; continuation of existing tax.

(a) Imposition of tax.--The council of the city in which the convention center is located is authorized to impose or continue to impose an excise tax on the consideration received by each operator of a hotel within the city from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the city pursuant to subsection (e) and shall be known as the hotel room rental tax.

(b) Rate of tax.--

(1) The rate of tax imposed under this section by the council of the city in which the convention center is located shall not exceed 6%.

(2) The total rate of tax imposed pursuant to this section and section 202 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall not exceed 12%. In the event the rate of tax imposed pursuant to section 202 of the Tax Reform Code of 1971 exceeds 6% and the rate of tax imposed pursuant to this section has reached 6%, the rate of tax imposed pursuant to this section shall be reduced in order that the aggregate tax rate not exceed 12%.

(c) Distribution of tax revenue.--Tax revenues shall be annually deposited in a special fund established pursuant to subsection (d) for the use of tourist promotion agencies for tourist promotion agency activities in accordance with all of the following:

(1) Thirty-three and one-third percent of the revenue received pursuant to this section for the fiscal year of the city commencing on or after July 1, 1999, and each fiscal year thereafter ending prior to July 1, 2010.

(2) Twenty-nine and one hundred and sixty-six one thousandths percent of the revenue received pursuant to this section for the fiscal year of the city commencing on or after July 1, 2010, and each fiscal year thereafter ending prior to July 1, 2015.

(3) Twenty-five percent of the revenue received pursuant to this section for the fiscal year of the city commencing July 1, 2015, and thereafter. The balance of revenue to be received from taxes imposed pursuant to this section shall be deposited annually in a special fund established pursuant to subsection (d) for the use of the authority for convention center purposes.

(d) Deposit.--The tax collector of each city electing to impose the tax authorized under this section or the tax collector of each city imposing the tax on the effective date of this chapter as authorized under the former provisions of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59 (relating to Pennsylvania Convention Center Authority), is directed to collect the tax and to deposit the revenue received from the tax in special funds established for purposes set forth in this section. Interest on money deposited in the funds shall accrue proportionately to the respective funds as provided in this section. The tax collector is authorized to establish, maintain and amend already existing rules and regulations concerning the collection of the tax.

(e) Expenditures.--Expenditures from the funds established pursuant to subsection (d) for the tourist promotion agency shall be used by the designated tourist promotion agency for any of the following:

(1) Advertising and publicizing tourist attractions in the area served by the agency.

(2) Promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the agency.

(3) Promoting and otherwise encouraging the use of the facilities in the area served by the agency by the public as a whole.

(4) Costs associated with the development and operation of the convention center.

(f) Expenditures for convention center purposes.--Expenditures from a special fund established pursuant to subsection (d) for the authority shall be used by the authority for any of the following uses:

(1) Projected annual debt service or lease payments of the convention center authority.

(2) Costs associated with financing, constructing, improving, maintaining, furnishing, fixturing and equipping the convention center.

(3) Costs associated with the development of the convention center, including design, engineering and feasibility costs.

(4) Costs associated with the operation and management of the convention center.

(5) Costs associated with promoting, marketing and otherwise encouraging use of the convention center.

(6) General purposes of the convention center.

(g) Pledge to bondholders.--If and to the extent that the authority pledges its share of the proceeds of the tax authorized by this section as security for the payment of bonds issued by the authority for convention center purposes, the Commonwealth pledges to and agrees with any person, firm or corporation subscribing to or acquiring bonds to be issued by the authority for convention center purposes that the Commonwealth itself will not, except to the extent provided in subsection (b), authorize any city to reduce the rate of tax imposed for convention center purposes until all bonds secured by the pledge of the authority, together with the interest on the bonds, are fully met and discharged.

(h) Tax year.--Each tax year for any tax imposed hereunder shall run concurrently with the city's fiscal year.

(i) Continuation of current tax.--The former provisions of section 23 of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, are continued by this chapter, and any tax imposition under the former provisions of section 23 of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, is specifically continued and is not repealed or modified in any way by the enactment of this chapter.

(j) Definitions.--In addition to the definitions provided by section 6003 (relating to definitions), the following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment, received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"Hotel." As follows:

(1) Any hotel, motel, inn, guesthouse or other building located within the city which holds itself out by any means, including advertising, license, registration with any innkeeper's group, convention listing association, travel

publication or similar association or with any government agency, as being available to provide overnight lodging or use of facility space for consideration to individuals seeking temporary accommodation.

(2) Any place which advertises to the public at large or any segment of the public that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large.

(3) Any place recognized as a hostelry.

The term does not include a portion of a facility which is devoted to individuals who have established permanent residence.

"Occupancy." The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator." Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons that maintains, operates, manages, owns, has custody of or otherwise possesses the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron." A person that pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident." Any person who has occupied or has the right to occupy any room or rooms in a hotel as a patron or otherwise for a period exceeding 30 consecutive days.

"Room." A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodations provided in the space.

"Temporary." A period of time not exceeding 30 consecutive days.

"Tourist promotion agency." The agency designated by the council of the city in which the convention center is located to be eligible for grants from the Department of Community and Economic Development pursuant to the act of April 28, 1961 (P.L.111, No.50), known as the Tourist Promotion Law.

"Transaction." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

"Transient." An individual who obtains an accommodation in a hotel for the individual by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration for the use.

References in Text. The act of April 28, 1961 (P.L.111, No.5), known as the "Tourist Promotion Law," referred to in the definition of "tourist promotion agency," was repealed by the act of July 4, 2008 (P.L.621, No.50), known as the Tourist Promotion Act.

§ 6026. Pennsylvania Convention Center Assistance Fund.

There is established a special fund to be known as the Pennsylvania Convention Center Assistance Fund. The State Treasurer shall be custodian of the Pennsylvania Convention Center Assistance Fund, which shall be subject to the provisions of law applicable to funds listed in section 302 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Any money designated for the Pennsylvania Convention Center Assistance Fund shall be credited to the Pennsylvania Convention Center Assistance Fund. All moneys and investments on deposit

in or credited to the Pennsylvania Convention Center Assistance Fund shall be at all times property of the authority. The State Treasurer shall disburse money in the Pennsylvania Convention Center Assistance Fund to the authority or upon order of the authority for use in accordance with the provisions of this chapter.

Effective Date. Section 7(1) of Act 3 of 2004 provided that section 6026 shall take effect upon publication of the notice under section 6 of Act 3.

CHAPTER 61
PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY

Subchapter
A. General Provisions
B. Structure and Governance
C. Powers and Duties

Enactment. Chapter 61 was added December 22, 2021, P.L.459, No.96, effective immediately.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
6101. Scope of chapter.
6102. Definitions.

§ 6101. Scope of chapter.

This chapter relates to the development and expansion of broadband services, including to unserved and underserved areas of this Commonwealth.

§ 6102. Definitions.

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

"Applicant." An entity that submits an application for a grant under section 6124 (relating to grant applications and process), including, but not limited to, a cooperative, nonprofit organization, public-private partnership, private company, public or private utility, public utility district, council of governments, local government or any other entity approved by the board, subject to section 6112(c)(1)(i) (relating to board).

"Authority." The Pennsylvania Broadband Development Authority established under section 6111(a) (relating to authority).

"Board." The board of directors of the Pennsylvania Broadband Development Authority established under section 6112.

"Community anchor institution." An entity, including any school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization or community support organization, that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals and aged individuals, that lack access to gigabit-level broadband service.

"Department." The Department of Community and Economic Development of the Commonwealth.

"High-speed broadband service." Wireless, wireline or fixed wireless technology having a latency sufficient to support

real-time, interactive applications and the capacity to reliably and consistently transmit data from or to the Internet at:

(1) minimum speeds of at least 100 megabits per second for downloads and 20 megabits per second for uploads;

(2) minimum speeds adopted by the Federal Communications Commission; or

(3) minimum speeds otherwise required to comply with funding opportunities from the Federal Government, whichever is greater.

"Overbuild." The deployment of high-speed broadband service infrastructure in an area that is not unserved or underserved.

"Program." The grant program or programs established under section 6123(a) (relating to grant awards generally) to fund projects.

"Project." A high-speed broadband service infrastructure project or other broadband project allowable under Federal law or guidance.

"Reliable broadband service." Broadband service that meets performance criteria for service availability, adaptability to changing end-user requirements, length of serviceable life or other criteria, other than upload and download speeds, as determined by the authority to comply with Federal law or guidance.

"Statewide broadband plan." The Statewide broadband plan developed under section 6122(g) (relating to specific powers and duties).

"Underserved area." A project area that is not an unserved area and lacks access to reliable broadband service offered with a speed of not less than 100 megabits per second for downloads and 20 megabits per second for uploads and a latency sufficient to support real-time, interactive applications.

"Unserved area." A project area that has no access to broadband service or lacks access to reliable broadband service with a speed of not less than 25 megabits per second for downloads and three megabits per second for uploads and a latency sufficient to support real-time, interactive applications.

SUBCHAPTER B
STRUCTURE AND GOVERNANCE

Sec.

6111. Authority.
6112. Board.
6113. Audits.
6114. Annual report.
6115. Accounts.
6116. Use of money of authority.

§ 6111. Authority.

(a) Establishment.--The Pennsylvania Broadband Development Authority is established as an independent authority. The authority shall be an instrumentality of the Commonwealth and a body corporate and politic, with corporate succession. The exercise by the authority of the powers conferred on the authority by this chapter shall be deemed and held to be a public and essential government function.

(b) Governance.--The authority shall be governed by a board of directors as provided in section 6112 (relating to board). The powers of the authority shall be exercised by the board.

(c) Fiscal year.--The fiscal year of the authority shall be the same as the fiscal year of the Commonwealth.

(d) Dissolution.--Upon dissolution of the authority, all property, money and assets of the authority shall be vested in the Commonwealth. The authority shall dissolve upon the later of:

(1) ten years from the effective date of this section; or

(2) all Federal funds available for the purposes of this chapter have been exhausted and all applicable duties and responsibilities under Federal law or guidance have been completed.

(d.1) Notice.--Prior to dissolution under subsection (d), the authority shall transmit notice of the dissolution to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(e) Procurement.--The authority shall be considered an independent agency for purposes of 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code).

(f) Applicability.--The following acts shall apply to the authority and the board:

(1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(2) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

Cross References. Section 6111 is referred to in sections 6102, 6123 of this title.

§ 6112. Board.

(a) Composition.--The board shall consist of members selected as follows:

(1) The Secretary of Agriculture or a designee who shall be an employee of the Department of Agriculture.

(2) The Secretary of Community and Economic Development or a designee who shall be an employee of the Department of Community and Economic Development.

(3) The Secretary of Education or a designee who shall be an employee of the Department of Education.

(4) The Executive Director of the Center for Rural Pennsylvania or a designee who shall be an employee of the Center for Rural Pennsylvania.

(5) The chair of the Pennsylvania Public Utility Commission or a designee who shall be an employee of the Pennsylvania Public Utility Commission.

(6) The Secretary of General Services or a designee who shall be an employee of the Department of General Services.

(7) The Secretary of the Budget or a designee who shall be an employee of the Office of the Budget.

(8) One member of the Senate appointed by the President pro tempore of the Senate or a designee who shall be an employee of the Senate.

(9) One member of the Senate appointed by the Minority Leader of the Senate or a designee who shall be an employee of the Senate.

(10) One member of the House of Representatives appointed by the Speaker of the House of Representatives or a designee who shall be an employee of the House of Representatives.

(11) One member of the House of Representatives appointed by the Minority Leader of the House of

Representatives or a designee who shall be an employee of the House of Representatives.

(b) Organization.--The Governor shall select a member of the board to serve as chairperson. The members shall select from among themselves such officers as they deem necessary.

(c) Quorum and meetings.--

(1) Six members of the board shall constitute a quorum. The following shall apply:

(i) The consent of no fewer than six members of the board, with five of the consenting members as specified under subsection (a)(7), (8), (9), (10) and (11), shall be necessary to take action on and make a commitment on behalf of the authority under section 6121(1), (2), (3), (4), (5) and (6) (relating to corporate powers and duties in general).

(ii) A majority of the board shall be necessary to take any other action not specified under subparagraph (i) on behalf of the authority.

(2) The board shall meet to conduct official business no less than on a quarterly basis.

(d) Initial appointment and vacancy.--An appointing authority shall appoint initial members to the board within 30 days of the effective date of this chapter. Whenever a vacancy occurs on the board, the appointing authority shall appoint a successor member within 30 days of the vacancy.

(e) Services.--

(1) The department shall provide administrative services and staff, including counsel and legal staff, to the authority and the board. The authority shall reimburse the department for the cost of providing the administrative services and staff under this paragraph.

(2) The authority shall enter into an agreement with the department specifying the rights and obligations that the authority and department have in administering their duties required under this chapter.

(f) Compensation.--The members of the board shall not be entitled to compensation for service.

(g) Fiduciary relationship.--The members of the board and the professional personnel of the board shall stand in a fiduciary relationship with the Commonwealth and the authority as to the money and investments of the authority.

Cross References. Section 6112 is referred to in sections 6102, 6111 of this title.

§ 6113. Audits.

The accounts and books of the authority, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operations and affairs, shall be examined and audited by the Auditor General.

§ 6114. Annual report.

The board shall provide the Governor and the General Assembly with an annual report by March 31 of each year detailing all projects funded under section 6123 (relating to grant awards generally). The annual report shall be published and maintained on the authority's publicly accessible Internet website and may be submitted to the Governor and the General Assembly by electronic mail.

§ 6115. Accounts.

The authority may establish accounts for the deposit of money available to the authority for the purposes of this chapter.

§ 6116. Use of money of authority.

(a) Use.--The board shall use the money available to the authority to fund the program as necessary.

(b) Administrative expenses.--The authority shall use the money available to the authority to pay the administrative expenses of the department and the authority incurred under this chapter.

SUBCHAPTER C
POWERS AND DUTIES

Sec.

6121. Corporate powers and duties in general.
6122. Specific powers and duties.
6123. Grant awards generally.
6124. Grant applications and process.

§ 6121. Corporate powers and duties in general.

The authority shall have and may exercise all powers necessary or appropriate to carry out and effectuate the authority's purposes under this chapter, including the following:

(1) Adopt bylaws, if necessary.

(2) Make and execute contracts, grants and other instruments.

(3) Apply for and receive money from any source consistent with the purposes of this chapter, including letters of intent and proposals under section 6122(f) (relating to specific powers and duties).

(4) Establish priorities for and allocate and disburse money received consistent with the purposes of this chapter.

(5) Establish subcommittees composed of members of the board or nonmembers of the board to consult with and advise the authority.

(6) Adopt a Statewide broadband plan.

(7) Perform other operational activities necessary or appropriate to further the purposes of this chapter.

Cross References. Section 6121 is referred to in section 6112 of this title.

§ 6122. Specific powers and duties.

(a) Single point of contact.--The authority shall aim to serve as a single point of contact for entities wishing to engage in broadband development and deployment in this Commonwealth, including coordination of public and private efforts to avoid overbuild in any given geographic area and to efficiently utilize existing infrastructure.

(b) Funding resource base.--In addition to providing the financial assistance authorized by this chapter to support broadband deployment, the authority shall identify and promote opportunities to access Federal funding, nongovernmental organization funding and other funding opportunities to eliminate duplicative funding requests and synthesize multiple-provider joint efforts in any given geographic area.

(c) Cooperation of other Commonwealth entities.--The authority shall maintain a centralized database of all broadband deployment activities occurring within Commonwealth agencies and departments. All Commonwealth agencies and departments charged with specific aspects of broadband development and deployment shall communicate and cooperate with the authority regarding the authority's development and maintenance of the centralized database to avoid duplication of efforts as well as provide consultation on their respective areas of expertise.

(d) Educational materials.--The authority may develop educational materials and engage in public information campaigns to encourage adoption of broadband where currently available and increase consumer understanding of the need for broadband access for all Commonwealth residents.

(e) Municipal best practices.--The authority may develop best practices for municipalities in order to expedite broadband development and deployment.

(f) Letters of intent and proposals.--The authority shall be responsible for drafting and filing all letters of intent, initial and final proposals or other correspondence as required to maximize access to Federal funding for broadband development and deployment.

(g) Broadband plan.--The authority shall develop a Statewide broadband plan in collaboration with local and regional entities to advance broadband buildout, including equitable access and digital literacy components, for the benefit of residents of this Commonwealth and as necessary to facilitate access of applicants to funding opportunities from the Federal Government. The Statewide broadband plan shall also incorporate opportunities to utilize Commonwealth assets to the extent practicable. The Statewide broadband plan shall inure as expeditiously as possible and no later than one year from the effective date of this section. A political subdivision shall have the opportunity to comment upon an initial Statewide broadband plan proposal of the authority.

Cross References. Section 6122 is referred to in sections 6102, 6121 of this title.

§ 6123. Grant awards generally.

(a) Authorization.--The authority shall award grants under one or more programs established by the authority to fund projects, and the amount of the grants shall be limited to the money available to the authority. The authority shall aim to disburse all money available before dissolution under section 6111(d) (relating to authority).

(b) Eligible entity.--The following shall apply:

(1) For projects related to high-speed broadband service infrastructure, an applicant with the technical, managerial and financial expertise to design, build and operate high-speed broadband service infrastructure within this Commonwealth shall be eligible to apply for a grant from the authority for the development and deployment of the high-speed broadband service infrastructure. In order to qualify for a grant from the authority, the applicant shall commit to investing a minimum amount of the entity's capital to finance a proposed high-speed broadband service infrastructure project as determined by the authority in accordance with Federal law or guidance.

(2) For all other projects, eligible entities and minimum investment requirements shall be determined by the authority in accordance with Federal law or guidance.

(c) Other funding sources.--A Federal, State or local government grant, loan or subsidy received by an applicant to finance a proposed project shall not be counted toward the capital investment requirement under subsection (b) unless otherwise determined by the authority. An applicant may use a Federal, State or local government grant, loan or subsidy to finance a proposed project under subsection (b) if the entity satisfies the capital investment requirement under subsection (b).

(d) Ineligible projects.--Proposed projects that will result in overbuild in which less than 80 percent of broadband-serviceable locations served by the proposed project are unserved or underserved or are to be managed or operated by a Federal or State entity shall be ineligible to receive a grant from the authority under this section.

Cross References. Section 6123 is referred to in sections 6102, 6114, 6124 of this title.

§ 6124. Grant applications and process.

(a) Application period.--The authority shall establish an application period during which applications for grants under section 6123 (relating to grant awards generally) may be submitted to the authority. The application period under this subsection shall be for a period of no less than 60 days and no longer than 120 days.

(b) Form and contents.--An application for a grant under section 6123 shall be submitted to the authority and shall include information required by Federal law or guidance and any other information required by the authority. The authority shall develop an application form and post and make the application form available on the authority's publicly accessible Internet website.

(c) Availability for review.--Within 10 business days after the expiration of the application period under subsection (a), the authority shall make the proposed unserved areas, underserved areas and the community anchor institutions available for review on the authority's publicly accessible Internet website.

(d) Overbuild challenges.--Before awarding grant funds for the development and deployment of broadband networks under section 6123, the authority shall ensure a transparent, evidence-based and expeditious challenge process under which an entity eligible to be an applicant may challenge a proposed project on the grounds that awarding a grant under section 6123 to the applicant will result in an overbuild. After resolving each challenge under this subsection, and not later than 60 days before awarding grant funds for the development and deployment of broadband networks under section 6123, the authority shall provide public notice of the final classification of each unserved area, underserved area and community anchor institution within the Commonwealth. If an entity eligible to be an applicant submits a challenge under this subsection, the challenge shall be in writing and on a form developed by the authority and shall include all of the following information:

(1) A declaration disputing the eligibility of the proposed project, including whether a particular location is in an unserved area or underserved area.

(2) An affidavit from the broadband service provider of the provider's existing or planned provision of high-speed broadband service within the proposed project area.

(e) Review.--In reviewing an application and any accompanying challenge under this section, the authority shall ensure that the grant award under section 6123 for the development and deployment of broadband networks is used to deploy high-speed broadband service to unserved or underserved areas as required by Federal law or guidance. The authority may not award a grant under section 6123 to fund deployment of high-speed broadband service for a project area that results in an overbuild.

(f) Infrastructure criteria.--The board shall award grants under section 6123 for proposed high-speed broadband service infrastructure projects based upon a scoring system, which shall be released to the public at least 30 days before the beginning of the application period under subsection (a). The authority shall consider all of the following criteria when weighing or scoring an application for a grant under section 6123:

(1) The size and scope of the unserved or underserved area to be deployed.

(2) The experience, technical ability and financial capability of the applicant to successfully deploy high-speed broadband service infrastructure and provide high-speed broadband service.

(3) The extent to which Federal, State or local government funding support is necessary to develop and deploy high-speed broadband service infrastructure in an economically feasible manner in the proposed project area.

(4) The proportion of the capital pledged by the applicant to finance the proposed high-speed broadband service infrastructure project under subsection (b).

(5) The high-speed broadband service speed thresholds proposed in the application and the scalability of the high-speed broadband service infrastructure proposed to be deployed to provide high-speed broadband service to households and businesses.

(6) An affidavit that no grant funding shall be used in such a manner as to result in an overbuild.

(7) An affidavit that an applicant shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair or maintenance work on a high-speed broadband service infrastructure project developed and deployed under this chapter meets all of the following requirements:

(i) Maintains all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that are necessary to do business or perform applicable work.

(ii) Maintains compliance with the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, and bonding and liability insurance requirements as specified in the contract for the project.

(iii) Has not defaulted on a project, declared bankruptcy, been debarred or suspended on a project by the Federal Government, the Commonwealth or a local government entity within the previous three years.

(iv) Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.

(v) Has completed a minimum of the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the high-speed broadband service infrastructure.

(8) Other factors which the authority determines to be reasonable and appropriate for the purposes of this chapter.

(f.1) Other project criteria.--The board shall award grants under section 6123 for all other projects based upon a scoring

system, which shall be released to the public at least 30 days before the beginning of the application period under subsection (a). The authority shall determine the criteria when weighing or scoring an application for a grant under section 6123 based on Federal law or guidance and other factors which the authority determines to be reasonable and appropriate for the purposes of this chapter.

(g) Regulatory obligations.--In awarding grants under section 6123, the authority shall not consider any additional regulatory obligations, except as required under applicable Federal or State law.

(h) Time for project completion.--Applicants shall deploy the broadband network and begin providing service to each customer that desires service not later than four years after the date in which the applicant receives a grant unless otherwise extended by the authority and allowed by Federal law or guidance. Grant funds awarded to an applicant who fails to complete a proposed project within four years, unless otherwise extended by the authority, may be subject to refund or clawback by the authority.

Cross References. Section 6124 is referred to in section 6102 of this title.

APPENDIX TO TITLE 64
PUBLIC AUTHORITIES AND QUASI-PUBLIC CORPORATIONS

Supplementary Provisions of Amendatory Statutes

2004, FEBRUARY 5, P.L.7, NO.3

§ 3. Continuation of prior law.

The following shall apply:

(1) The authority established under the former provisions of section 4 of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. § 5904, shall be deemed for all purposes to be the authority created and continued in 64 Pa.C.S. § 6004 and shall exercise those powers, functions and duties and be governed by the provisions applicable to the authority created under 64 Pa.C.S. § 6004. Nothing in 64 Pa.C.S. Ch. 60 shall be construed to alter or modify in any respect any contract, bond or other obligation of the authority entered into prior to the effective date of this chapter.

(2) The authority created or existing under 64 Pa.C.S. Ch. 60, including the authority established under the former provisions of section 4 of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. § 5904, shall, without the necessity of action or assignment by it or any other person:

(i) continue in the rights and responsibilities of the authority existing under the former provisions of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, for all purposes, including, but not limited to, receipt of all grants, gifts, appropriations, subsidies or other payments;

(ii) continue to be the owner, lessor or lessee of any real or personal property and enjoy and be subject to any and all rights and responsibilities appurtenant thereto of the authority existing under the former provisions of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, including, but not limited to, all assets, property, real and personal, tangible and intangible, all leases, easements and all evidences of ownership or other interest, in part or in whole, and all records and other evidences pertaining thereto; and

(iii) continue to be obligated with respect to all debt, labor agreements and all other contractual obligations of the authority existing under the former provisions of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, which debt, labor agreements and other contractual obligations are hereby ratified and shall be valid, binding and enforceable under 64 Pa.C.S. Ch. 60.

(3) It is hereby declared to be the intent of the General Assembly that the authority created and continuing under 64 Pa.C.S. Ch. 60, including the authority established under the former provisions of section 4 of the Pennsylvania Convention Center Authority Act, formerly codified at 53 Pa.C.S. Ch. 59, and the members, officers, officials and employees of any of them, shall continue to enjoy sovereign and official immunity as provided in 1 Pa.C.S. § 2310 and shall remain immune from suit except as provided by and subject to the provision of 42 Pa.C.S. Ch. 85 Subch. B.

Explanatory Note. Act 3 added Parts I and II of Title 64.

§ 4. Applicability of law.

The following shall apply:

(1) The members of the governing board created and continued under 64 Pa.C.S. § 6004 appointed pursuant to the former provisions of 53 Pa.C.S. § 5911(a)(1) through (6) as of February 4, 2004, are hereby ratified and confirmed and shall be all of the following:

(i) Deemed to have been appointed under 64 Pa.C.S. § 6005(a).

(ii) Entitled to serve the terms of office prescribed by the former provisions of 53 Pa.C.S. Ch. 59.

(iii) Considered valid members of the board for all purposes.

(2) Nothing in this section shall be construed to increase the total number of appointments to the board which an appointing authority is entitled to make under 64 Pa.C.S. § 6005(a).

§ 6. Notice of availability of State funds.

When State funds are made available to the Pennsylvania Convention Center Authority, the authority shall transmit a notice of the availability to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

2004, APRIL 1, P.L.163, NO.22

§ 3. Legislative findings and declarations.

The General Assembly finds and declares that authorized investments, loans and guarantees made under 64 Pa.C.S. Ch. 15, whereby the authority becomes a joint owner, member, limited partner or stockholder in, lender to or guarantor of obligations of a company, corporation, limited partnership, company, association or other lawful business organization, are outside the scope of the original intent of and do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

Explanatory Note. Act 22 added Part II and renumbered Part II to Part III of Title 64.

§ 4. Appropriation for prevention of military base realignment and closure.

Money appropriated to the Department of Community and Economic Development for the prevention of military base realignment and closure shall be used for all of the following:

(1) The development of a Statewide strategy.

(2) Grants for economic impact studies, environmental impact studies, encroachment studies, community and regional interaction with military bases, infrastructure needs at military bases and job training needs at or near military bases. Grants shall be awarded by the Base Retention and Conversion Pennsylvania Action Committee.

2004, NOVEMBER 30, P.L.1708, NO.218

§ 6. Applicability.

The following shall apply:

(1) In order to facilitate the repair or rehabilitation of existing water and wastewater systems, the Commonwealth shall, by December 31, 2005, incur not less than $50,000,000 nor more than $100,000,000 of additional debt from the debt authorized under the act of March 16, 1992 (P.L.10, No.5), known as the Small Water Systems Assistance Act, and approved by the electorate at the April 28, 1992, General Election. The additional debt shall be incurred by the issuance of general obligation bonds issued in accordance with section 17 of the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act.

(2) Proceeds from the sale of bonds required by paragraph (1) shall be transferred to the Pennsylvania Infrastructure Investment Authority.

(3) The Pennsylvania Infrastructure Investment Authority shall use the proceeds from the sale of bonds required by paragraph (1) to finance projects of existing water and wastewater systems which, when complete, do any of the following:

(i) Repair, rehabilitate or modernize existing water or wastewater systems to meet environmental or public health standards.

(ii) Eliminate existing combined or sanitary wastewater overflow problems.

(iii) Construct water or wastewater infrastructure to improve public health or eliminate environmental concerns.

(iv) Construct wastewater infrastructure utilizing nutrient reduction technology.

Explanatory Note. Act 218 amended or added sections 1504, 1543, 1552 and 1558 of Title 64.

2008, OCTOBER 9, P.L.1517, NO.125

§ 3. Department of Community and Economic Development reports.

The Department of Community and Economic Development shall provide annually, as determined beginning one year from the effective date of this act, to the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives, a written report stating the impact and number of loans originated, purchased, held and assigned by the farm credit lender or other commercial lender during the corresponding most recent one-year period. The report shall be posted on the department's Internet website.

Explanatory Note. Act 125 amended sections 1504 and 1552 of Title 64.