

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 293

Session of
1983

INTRODUCED BY SWEET, HOFFEL, MICHLOVIC, O'DONNELL,
F. E. TAYLOR, IRVIS, MANDERINO, WACHOB, PISTELLA, DALEY,
LESCOVITZ, WOZNIAK, MCINTYRE, AFFLERBACH, GRUITZA, BELFANTI,
GALLAGHER, SEVENTY, PRATT, VAN HORNE, TRELLO, GAMBLE, MAIALE,
FREEMAN, PETRARCA, MURPHY, MORRIS, LETTERMAN, LLOYD, RYBAK,
WAMBACH, KOSINSKI, ALDERETTE, DAWIDA, FISCHER, BLAUM,
MICOZZIE, EVANS, COWELL, STEIGHNER, CLARK, TIGUE, MCHALE,
PERZEL AND CAPPABIANCA, MARCH 14, 1983

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 14, 1983

AN ACT

1 Creating the Pennsylvania Community Development Finance
2 Corporation.

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

5 Section 1. Short title.

6 This act shall be known as and may be cited as the
7 Pennsylvania Community Development Finance Corporation.

8 Section 2. Legislative findings and policy.

9 (a) It is hereby found and declared as a matter of
10 legislative finding:

11 (1) There exists in communities throughout the
12 Commonwealth blighted areas which are inimical to the safety,
13 health, morals and welfare to not only the residents of those
14 areas but also to all citizens of the Commonwealth.

15 (2) These conditions decrease the value of private

1 investments and threaten sources of public revenue.

2 (3) Because of the economic and social interdependence
3 of communities, the economic and industrial development of
4 municipalities and political subdivisions of the Commonwealth
5 is substantially impaired.

6 (4) There exists in the Commonwealth a condition of
7 substantial and persistent unemployment and underemployment
8 seriously aggravated by an unacceptably low level of economic
9 activity in such areas.

10 (5) These conditions result in making such areas socio-
11 economic liabilities harmful to the social and economic well-
12 being of the communities in which they exist by depreciating
13 property values, reducing tax revenues and lowering
14 community-wide values.

15 (6) These conditions cannot be dealt with effectively by
16 private enterprise under existing law without the additional
17 aids granted by this act to encourage the stimulation of
18 private investment.

19 (7) The Commonwealth's present mechanism for stimulating
20 industrial development, such as the Pennsylvania Industrial
21 Development Authority and local industrial development
22 authorities, is inadequate to alleviate these conditions.

23 (8) Continued investment by community development
24 corporations in projects in blighted areas is necessary to
25 the development, redevelopment, industrialization or
26 reindustrialization of communities affected by blight.

27 (9) The provision of capital to viable businesses in
28 these areas is necessary to the redevelopment of the areas.

29 (10) These conditions are a menace and are beyond remedy
30 or control solely by regulatory processes in the exercise of

1 the police power and cannot be dealt with effectively by
2 private enterprise under existing law without the additional
3 aids granted by this act.

4 (11) The development, redevelopment, industrialization
5 or reindustrialization of communities according to sound and
6 approved plans will promote public health, safety,
7 convenience and welfare.

8 (12) Increasing the number of development projects in
9 blighted areas, providing capital to community development
10 corporations and businesses in these areas and stimulating
11 private investment in these businesses and areas are public
12 purposes and uses for which public money may be expended and
13 invested.

14 (b) It is the policy of the Commonwealth to promote the
15 health, safety and welfare of its citizens by the creation of a
16 body corporate and politic to be known as the Pennsylvania
17 Community Development Finance Corporation, which shall exist and
18 operate for the public purposes of the development,
19 redevelopment, industrialization or reindustrialization of
20 blighted areas. These purposes are hereby declared to be public
21 uses for which public money may be spent.

22 Section 2. Definitions.

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

26 "Capital participation investments." Common and preferred
27 stock, convertible securities, warrants, subscriptions, options
28 to acquire, capital loans, working capital or inventory loans,
29 royalties and any lawful derivations of the foregoing.

30 "Community development agency" or "CDC." A nonprofit

1 corporation, foundation or association organized and existing
2 under the laws of this Commonwealth, regardless of the
3 particular name, whose members or shareholders receive no
4 profit, which shall carry out certain public purposes and which
5 has bylaws providing that:

6 (1) It is organized to operate within a specified
7 geographical area coincident with the existing boundaries of
8 any political subdivision or municipality.

9 (2) Membership in the Community Development Corporation
10 shall be open to all residents of the specified geographical
11 area who are 18 years or older.

12 (3) The corporation shall have five directors, all to be
13 appointed by the elected officials of the political
14 subdivision or municipality, with each director having an
15 equal vote.

16 (4) The directors of the Community Development
17 Corporation initially appointed shall continue in office for
18 terms of one to five years, respectively from the date of
19 their appointment and until their respective successors shall
20 be duly appointed, the terms of each director to be
21 designated by the appointing body at the time of his
22 appointment; their successors shall be appointed for terms of
23 five years, except that any person appointed to fill a
24 vacancy shall serve only for the unexpired term; and any
25 director may be eligible for reappointment.

26 (5) The directors of the Community Development
27 Corporation shall be entitled to no compensation for their
28 services as directors, but shall be entitled to reimbursement
29 for all necessary expenses incurred in connection with the
30 performance of their duties as directors.

"Corporation" or "CDFC." The Pennsylvania Community Development Finance Corporation created by this act.

"Costs of a project." Any or all costs associated with the design, planning, acquisition or rehabilitation and implementation of a project undertaken in a target area which can reasonably be recovered in the financing of a project. These include, but are not limited to the cost of:

- (1) Construction or rehabilitation.
- (2) Property rights.
- (3) Easements and franchises acquired.
- (4) Financing charges.
- (5) Interest prior to and during construction.
- (6) Engineering and legal expense.
- (7) Plans, specifications and surveys.
- (8) Estimates of costs and other expenses necessary or incident to a determination of feasibility, construction, rehabilitation and placing the project in operation.
- (9) The provision of working capital, seed money and any other costs determined by the directors of the corporation to be necessary in the carrying out of the purposes of this act.

"Paid-in capital." All moneys received in return for capital stock of the CDFC.

"Primary employment." Work which pays at least the minimum wage, offers adequate fringe benefits including health insurance and is not seasonal or part time.

"Project." Any commercial, industrial or real estate business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, economic depression or widespread reliance on public assistance.

"Target area." Any contiguous geographic area in which the

1 board of directors of a particular CDC finds and designates, in
2 accordance with criteria established by the Pennsylvania
3 Distressed Communities Task Force, that substantial conditions
4 of unemployment, economic recession, declining local tax base or
5 curtailment of municipal services, widespread reliance on public
6 assistance, or blight (as that term is construed in accordance
7 with the act of May 24, 1945 (P.L.991, No.385), known as the
8 Urban Redevelopment Law) exist or threaten to exist because of
9 impending economic dislocation in a community, including
10 threatened plant closings or the jeopardy posed by a community's
11 reliance on a single capital-intensive industry.

12 Section 3. Pennsylvania Community Development Finance
13 Corporation Established.

14 There is hereby created a body corporate and politic to be
15 known as the Pennsylvania Community Development Finance
16 Corporation or CDFC. The CDFC is hereby constituted a public
17 instrumentality and the exercise by the CDFC of the powers
18 conferred by this act shall be deemed to be the performance of
19 an essential governmental function. The CDFC is hereby placed in
20 the Department of Commerce but shall not be subject to the
21 supervision or control of said department or of any other board,
22 bureau or agency of the Commonwealth except as specifically
23 provided in this act.

24 Section 4. Powers and duties of directors.

25 (a) The corporation shall consist of nine directors, one of
26 whom shall be the Secretary of Commerce, one of whom shall be
27 the Secretary of Community Affairs and one of whom shall be the
28 Secretary of Labor and Industry. The Governor shall appoint two
29 members, both of whom shall be residents of target areas or
30 members of community development corporations: The Speaker of

1 the House and the President pro tempore of the Senate shall each
2 appoint two directors.

3 (b) Each member appointed shall serve a term of five years,
4 except that in making initial appointments the Governor shall
5 appoint one member to serve for a term of one year and one
6 member to serve for a term of two years. The Speaker of the
7 House shall appoint one member to serve for a term of three
8 years and another member to serve for a term of five years. The
9 President pro tempore of the Senate shall appoint two members to
10 serve for a term of four years each.

11 (c) The members who are not otherwise employees of the
12 Commonwealth shall each receive a per diem amount of \$200 for
13 attendance at official meetings.

14 (d) Any person appointed to fill a vacancy in the office of
15 a director shall be appointed by the official who appointed his
16 predecessor and shall serve for only the unexpired term. Any
17 member shall be eligible for reappointment. Any member may be
18 removed from his appointment by his appointing power only for
19 good cause.

20 (e) The directors shall annually elect one of their members
21 as chairman, and another member as vice-chairman, and shall
22 designate a secretary-treasurer who need not be a member of the
23 board.

24 (f) Five of the directors of the corporation shall
25 constitute a quorum and five affirmative votes shall be
26 necessary for the transaction of business or the exercise of any
27 power or function of the corporation. Each director shall be
28 entitled to reimbursement for his actual and necessary expenses
29 incurred in the performance of his official duties.

30 (g) The corporation, its directors, officers and employees

1 shall be subject to the provisions of section 1 of the act of
2 October 4, 1978 (P.L.883, No.170), known as the Public Official
3 Ethics Act, except that the corporation may purchase from, sell
4 to, borrow from, loan to, contract with or otherwise deal with
5 any public nonprofit community development corporation organized
6 to carry out the purposes of this act of which any director of
7 the corporation is also a member or officer provided that such
8 interest is disclosed in advance to members of the board and
9 recorded in the minutes of the corporation and, provided
10 further, that no director having such a financial interest may
11 participate in any decision affecting such transaction.

12 (h) The president of the corporation shall be appointed and
13 his salary established by the board of directors. The president
14 shall be the chief administrative and operational officer of the
15 corporation and shall direct and supervise administrative
16 affairs and the general management of the corporation. The
17 president may employ such other employees as shall be designated
18 by the board of directors, shall attend meetings of the board of
19 directors, shall cause copies to be made of all minutes and
20 other records and documents of the corporation and shall certify
21 that such copies are true copies, and all persons dealing with
22 the corporation may rely upon such certification.

23 (i) The chairman of the board of directors of the CDFC shall
24 prepare three months after the end of the fiscal year an annual
25 report of the corporation's activities and submit copies thereof
26 to the Governor, Speaker of the House and President pro tempore
27 of the Senate.

28 (j) The accounts and books of the CDFC, including its
29 receipts, disbursements, contracts, mortgages, investments and
30 other matters relating to its finances, operations and affairs

1 shall be examined and audited from time to time by the Auditor
2 General.

3 Section 5. Powers of Community Development Finance Corporation.

4 The CDFC shall have the power to:

5 (1) Adopt bylaws for the regulation of its affairs and
6 the conduct of its business.

7 (2) Adopt an official seal.

8 (3) Sue and be sued in its own name.

9 (4) Make and execute contracts and all other instruments
10 necessary or convenient for the exercise of its powers and
11 functions.

12 (5) Acquire, hold and dispose of personal property for
13 its corporate purposes.

14 (6) Enter into agreements or other transactions with any
15 Federal or State agency.

16 (7) Acquire, sell, transfer or convey real property, or
17 any interest in real property where the acquisition or
18 transfer protects or secures an investment or loan in which
19 the agency has an interest to lease the property when a sale,
20 transfer or conveyance cannot be effected with reasonable
21 promptness or at a reasonable price.

22 (8) Invest any funds not required for immediate
23 disbursement or funds held in reserves or sinking funds or in
24 investments as may be lawful for fiduciaries in the
25 Commonwealth.

26 (9) Borrow money by making notes and issuing bonds,
27 including tax exempt revenue bonds and secure such bonds by
28 the pledge of revenues, mortgages and notes of others.

29 (10) Employ a president, who shall be the chief
30 executive officer of the corporation, and such other agents,

1 employees, professional and business advisers as may from
2 time to time be necessary in the judgment of the board of
3 directors, and fix their compensation.

4 (11) Appear in its own behalf before boards,
5 commissions, departments or other agencies of government,
6 municipal, State or Federal.

7 (12) Procure insurance against any loss in connection
8 with its property in those amounts, and from those insurers,
9 as may be necessary or desirable.

10 (13) Consent, subject to the provisions of any contract
11 with noteholders or bondholders, whenever it deems it
12 necessary or desirable to fulfill the purposes of this act,
13 to the modification, with respect to rate of interest, time
14 of payment of any installment of principal or interest, or
15 any other terms, of any mortgage, mortgage loan, mortgage
16 loan commitment, contract or agreement of any kind to which
17 the CDFC is a party.

18 (14) Do any and all things necessary or convenient to
19 carry out its purposes and exercise the powers expressly
20 given and granted in this act.

21 (15) Receive and accept from any Federal or State agency
22 grants, loans or advances for or in aid of the purposes of
23 this act and to receive and accept contributions from any
24 source of either money, property, labor or other things of
25 value, to be held, used and applied for these purposes.

26 (16) Create, issue, buy and sell stock and other capital
27 participation instruments; hold such stock and capital
28 participation instruments and underwrite the creation of a
29 capital market for these securities in a manner which
30 provides first offer of resale to the community development

1 corporation, business or residents of the target area and
2 which is designed to enhance development of capital ownership
3 in the target area.

4 (17) Provide and pay for such advisory services and
5 technical assistance as may be necessary or desirable to
6 carry out the purposes of this act.

7 (18) Exercise any other powers or rights or
8 responsibilities of a corporation organized under the laws of
9 the Commonwealth.

10 Section 5. Sale of CDFC stock and purchase of participation
11 instruments.

12 (a) The State Treasurer, subject to appropriation or the
13 authorization of the issuance of bonds for this purpose, shall
14 purchase shares of the corporation in the amount of \$10,000,000.

15 (b) In return for said investment the Commonwealth shall
16 receive 2,000,000 shares of common stock in the corporation.
17 These shares shall constitute the entire issue of common stock.

18 (c) Five years from the effective date of this act the board
19 of directors of the CDFC shall assist the State Treasurer in
20 implementing a plan for the sale of the shares of common stock
21 held by the Commonwealth.

22 (d) The corporation shall hold the proceeds of this
23 investment in an account or accounts separate from other funds.
24 The corporation shall use these proceeds for only three
25 purposes:

26 (1) To purchase capital participation instruments from
27 community development corporations in return for an
28 investment in a specific project only when the board of the
29 CDFC finds that the community development corporation will
30 use the funds in support of a project consistent with the

1 purposes of this act.

2 (2) To invest funds subject to the terms, conditions,
3 limitations and restrictions imposed by law upon fiduciaries;
4 proceeds of their investments may be used to pay for the
5 normal business expenses of the CDFC.

6 (3) To make loans to CDC's to effect the purposes of
7 this act.

8 (e) Upon application of a CDC for a specific project located
9 in a target area, the CDFC may, subject to the restrictions set
10 forth in this act, agree to purchase capital participation
11 instruments from or make loans to the CDC, provided that the
12 CDFC shall find and incorporate in its minutes that:

13 (1) The project is within the scope of this act, is
14 certified by the Distressed Communities Task Force, and may
15 reasonably be expected to contribute to the redevelopment of
16 target areas, to the economic development of the Commonwealth
17 or to the increase or maintenance of threatened primary
18 employment.

19 (2) The project plans conform to all applicable
20 environmental zoning, building, planning and sanitation laws.

21 (3) The project will be of the public benefit and for a
22 public purpose, and the benefits, including increased
23 employment and improved standard of living, shall accrue
24 primarily to residents of the area served by the CDC.

25 (4) There is a reasonable expectation that the project
26 will be successful.

27 (5) Private industry has not provided sufficient capital
28 required for the project or sufficient primary employment
29 opportunities in the project area.

30 (6) The CDFC determines that its participation is

1 necessary to the successful completion of the proposed
2 project because funding for the project is unavailable in the
3 traditional capital markets or because credit has been
4 offered on terms that would preclude the success of the
5 project.

6 (7) The applicant CDC meets the standards of a CDC as
7 defined herein and appears able to manage its proposed
8 project responsibilities.

9 (8) The proceeds of the purchase or contract will be
10 used solely in connection with the costs of the project.

11 (9) The parties shall contract for adequate reporting of
12 financial data from the CDC to the CDFC. Contract provisions
13 may include a requirement for an annual or other periodic
14 audit of the project books.

15 (10) The CDFC shall not own more than 49% of the voting
16 stock in any enterprise.

17 (11) The CDC will maintain sufficient control over the
18 project to ensure that public benefit and public purposes are
19 maintained. This determination shall be satisfactorily
20 complied with if any one of the following is satisfied:

21 (i) The project is conducted by a wholly-owned
22 subsidiary of the CDC.

23 (ii) The CDC owns a majority of the capital stock of
24 the corporation or other organization conducting the
25 project.

26 (iii) The CDC owns a majority of the voting stock of
27 the corporation or other organization conducting the
28 project.

29 (iv) The project is conducted by a nonprofit
30 corporation or other association or entity organized

1 under the laws of the Commonwealth to provide public
2 benefit and which exists for a public purpose.

3 (v) In all other cases, adequate provision is made
4 for reporting to the CDC, which must approve all major
5 transactions including but not limited to any sale,
6 merger, dissolution, the sale or issue of substantial
7 amounts of stock and corporation reorganization.

8 (12) Provision has been made that should the CDFC desire
9 to sell or otherwise dispose of stock received under a
10 contract, the CDC or its nominee shall have within 120 days
11 the right of first refusal upon said sale and the right to
12 meet any subsequent bona fide offer by a third party.

13 (13) CDFC has not loaned nor invested more than 20% of
14 its lendable or investible resources in any one CDC,
15 including this investment.

16 Section 6. Eligibility of obligations of CDFC for investment
17 of public retirement funds.

18 (a) Notwithstanding any other law to the contrary, stocks,
19 bonds, notes or other evidence of indebtedness or obligations of
20 the CDFC shall constitute permissible investments for moneys
21 held by the State Employees' Retirement Fund, the Public School
22 Employees' Retirement Fund and the Pennsylvania Municipal
23 Retirement Fund.

24 (b) However, the board of directors of the CDFC may not
25 accept an investment from any one of said public retirement
26 funds if the amount of said investment exceeds 10% of the book
27 value of the assets of the fund in any investments not otherwise
28 specifically authorized.

29 (c) The full faith, credit and taxing power of the
30 Commonwealth is hereby pledged as security for the principal

1 amount invested by said public retirement funds in stocks,
2 bonds, notes or other obligations of the CDFC.

3 Section 7. Severability.

4 If any provision of this act, or the application thereof to
5 any person or circumstance, is held invalid, the validity of the
6 remainder of this act and the application of such provisions to
7 other persons and circumstances shall not be affected thereby.

8 Section 8. Conflict of law.

9 If the provisions of this act conflict with any other
10 statute, ordinance, regulation or rule, the provisions of this
11 act shall control.

12 Section 9. Effective date.

13 This act shall take effect immediately.