

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1487 Session of
2021

INTRODUCED BY POLINCHOCK, TOMLINSON, SCHROEDER, THOMAS, LABS,
STAATS, FARRY, BOBACK, R. BROWN, SCHLEGEL CULVER, T. DAVIS,
DRISCOLL, HILL-EVANS, JAMES, LEWIS DELROSSO, LONGIETTI,
MILLARD, MIZGORSKI, NEILSON, RADER, ROWE, SCHMITT AND
STRUZZI, MAY 26, 2021

REFERRED TO COMMITTEE ON COMMERCE, MAY 26, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled
2 "An act relating to the finances of the State government;
3 providing for cancer control, prevention and research, for
4 ambulatory surgical center data collection, for the Joint
5 Underwriting Association, for entertainment business
6 financial management firms, for private dam financial
7 assurance and for reinstatement of item vetoes; providing for
8 the settlement, assessment, collection, and lien of taxes,
9 bonus, and all other accounts due the Commonwealth, the
10 collection and recovery of fees and other money or property
11 due or belonging to the Commonwealth, or any agency thereof,
12 including escheated property and the proceeds of its sale,
13 the custody and disbursement or other disposition of funds
14 and securities belonging to or in the possession of the
15 Commonwealth, and the settlement of claims against the
16 Commonwealth, the resettlement of accounts and appeals to the
17 courts, refunds of moneys erroneously paid to the
18 Commonwealth, auditing the accounts of the Commonwealth and
19 all agencies thereof, of all public officers collecting
20 moneys payable to the Commonwealth, or any agency thereof,
21 and all receipts of appropriations from the Commonwealth,
22 authorizing the Commonwealth to issue tax anticipation notes
23 to defray current expenses, implementing the provisions of
24 section 7(a) of Article VIII of the Constitution of
25 Pennsylvania authorizing and restricting the incurring of
26 certain debt and imposing penalties; affecting every
27 department, board, commission, and officer of the State
28 government, every political subdivision of the State, and
29 certain officers of such subdivisions, every person,
30 association, and corporation required to pay, assess, or
31 collect taxes, or to make returns or reports under the laws

1 imposing taxes for State purposes, or to pay license fees or
2 other moneys to the Commonwealth, or any agency thereof,
3 every State depository and every debtor or creditor of the
4 Commonwealth," in emergency COVID-19 response, further
5 providing for Hospitality Industry Recovery Program; and
6 making an appropriation.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 134-C of the act of April 9, 1929
10 (P.L.343, No.176), known as The Fiscal Code, added February 5,
11 2021 (P.L.1, No.1), is amended to read:

12 Section 134-C. Hospitality Industry Recovery Program.

13 (a) County block grants.--From money appropriated to the
14 department for COVID Relief - County Block Grant - Hospitality
15 Industry Recovery Program, each county shall receive an amount
16 equal to the population proportion amount as determined by
17 paragraph (2). The following shall apply:

18 (1) The department shall distribute funding to counties
19 under this subsection on or before [February 28,] August 1,
20 2021.

21 (2) For purposes of this subsection, the population
22 proportion amount shall be determined as follows:

23 (i) divide:
24 (A) the population estimate of the county; by
25 (B) the sum of the population estimates of all
26 counties; and

27 (ii) multiply the quotient under subparagraph (i) by
28 the total amount appropriated for COVID Relief - County
29 Block Grant - Hospitality Industry Recovery Program.

30 (3) For purposes of this subsection, a county's
31 population shall be equal to the published estimate by the
32 United States Census Bureau Population Estimates Program for
33 calendar year 2019.

1 (b) County Block Grant - Hospitality Industry Recovery
2 Program.--The County Block Grant - Hospitality Industry Recovery
3 Program is established within the department. The following
4 shall apply to the program:

5 (1) No later than [March 1,] August 1, 2021, each county
6 that receives a block grant under this section shall contract
7 with one or more CEDO or CDFI designated to serve that county
8 to award grants under this subsection.

9 (2) Subject to the prohibition under subparagraph (ii),
10 grants may be awarded to eligible applicants for the purpose
11 of alleviating revenue losses and paying eligible operating
12 expenses. The following shall apply to grants awarded under
13 this subsection:

14 (i) A grant awarded to an eligible applicant under
15 this subsection may not exceed \$50,000.

16 (ii) A grant may not be awarded to pay for the same
17 eligible operating expenses for which an eligible
18 applicant receives or received payment, reimbursement or
19 loan forgiveness from the following sources:

20 (A) The CARES Act or Consolidated Appropriations
21 Act, 2021 money that is not required to be repaid to
22 the Federal Government.

23 (B) The act of May 29, 2020 (P.L. , No.2A),
24 known as the COVID-19 Emergency Supplement to the
25 General Appropriation Act of 2019.

26 (C) The American Rescue Plan Act of money that
27 is not required to be repaid to the Federal
28 Government.

29 (3) The receipt of a loan or grant issued under the
30 authority of the Federal Government or the Commonwealth shall

1 not disqualify an applicant from eligibility for a grant
2 under this section.

3 (4) Priority in the awarding of grants shall be given to
4 eligible applicants that:

5 (i) have not received a loan or grant issued under
6 the authority of the Commonwealth or the Commonwealth's
7 political subdivisions or by the Federal Government under
8 the CARES Act [or], the Consolidated Appropriations Act,
9 2021 or the American Rescue Plan Act;

10 (ii) were subject to closure by the proclamation of
11 disaster emergency issued by the Governor on March 6,
12 2020, published at 50 Pa.B. 1644 (March 21, 2020), and
13 any renewal of the state of disaster emergency; or

14 (iii) can demonstrate a reduction in revenue which
15 meets one of the following:

16 (A) A reduction in gross receipts of 50% or more
17 for the period beginning after March 31, 2020, and
18 ending before December 31, 2020, in comparison to the
19 period beginning after March 31, 2019, and ending
20 before December 31, 2019.

21 (B) If the eligible applicant was not in
22 operation during the entire comparison period under
23 clause (A), but was in operation on February 15,
24 2020, a monthly average reduction in gross receipts
25 of 50% or more for the period beginning after March
26 31, 2020, and ending before December 31, 2020, in
27 comparison to the period beginning after January 1,
28 2020, and ending before April 1, 2020.

29 (5) The following shall apply to applications:

30 (i) Applications for grants under this section shall

1 be in a form determined by a county with input from a
2 CEDO or CDFI processing the applications on behalf of a
3 county and shall contain documentation as required by the
4 county. Applications shall be available electronically.

5 (ii) By March 15, 2021, each CEDO or CDFI shall
6 receive and consider applications on a rolling basis
7 until funding for grants received by the county under
8 subsection (a) in which the CEDO or CDFI is designated to
9 perform services has been exhausted, or [June] November
10 15, 2021, whichever occurs first.

11 (6) The following shall apply to reviewing applications:

12 (i) By [July] December 15, 2021, each CEDO or CDFI
13 shall approve or disapprove applications for grants under
14 the program.

15 (ii) Upon approving an application under
16 subparagraph (i), a CEDO or CDFI shall enter into a grant
17 agreement with the eligible applicant in order to award
18 the grant.

19 (iii) The grant agreement required under
20 subparagraph (ii) shall explain the terms and conditions
21 of the grant, including each applicable law, statute and
22 reporting requirement.

23 (iv) The grant agreement under subparagraph (ii) may
24 be electronically signed and returned to the CEDO or CDFI
25 that approved the application.

26 (7) An eligible applicant or authorized representative
27 of the eligible applicant making application to the program
28 must certify in good faith to each of the following:

29 (i) The eligible applicant was in operation on
30 February 15, 2020, and, if required, paid income taxes to

1 the Federal and State Government, as reported on
2 individual or business tax returns.

3 (ii) The eligible applicant remains in operation and
4 does not intend to permanently cease operations within
5 one year of the date of application.

6 (iii) COVID-19 has had an adverse economic impact on
7 the eligible applicant which makes the grant request
8 necessary to support the ongoing operations of the
9 eligible applicant.

10 (iv) The grant will be used to pay for COVID-19-
11 related economic impacts.

12 (v) During the period beginning on January 1, 2021,
13 and ending on June 30, 2021, the applicant has not and
14 will not receive another grant under this program.

15 (vi) An eligible applicant or authorized
16 representative of the eligible applicant must certify
17 that the information provided in an application to the
18 program and the information provided in all supporting
19 documents and forms is true and accurate in all material
20 respects. An eligible applicant or an authorized
21 representative of the eligible applicant that knowingly
22 makes a false statement to obtain a grant under the
23 program is punishable under penalty of perjury and fines
24 pursuant to 18 Pa.C.S. § 4904 (relating to unsworn
25 falsification to authorities).

26 (8) The following shall apply to the awarding of grants
27 under this subsection:

28 (i) A CEDO or CDFI contracted to award grants may
29 award grants in increments of \$5,000, not to exceed the
30 limitation under paragraph (2)(i).

1 (ii) A fully executed grant agreement as required
2 under paragraph (6) is required prior to disbursement of
3 grant funds.

4 (iii) The aggregate amount of all grants awarded may
5 not exceed the amount of money received by the county
6 under subsection (a) in which the CEDO or CDFI is
7 designated to perform services for the County Block Grant
8 - Hospitality Industry Recovery Program.

9 (9) A CEDO or CDFI may charge a fee not to exceed \$500
10 per completed and reviewed grant application. Fees charged
11 under this paragraph shall be deducted from the total amount
12 of money distributed to the county under subsection (a) in
13 which the CEDO or CDFI is designated to perform services for
14 the County Block Grant - Hospitality Industry Recovery
15 Program and may not reduce the amount of the grant awarded to
16 an eligible applicant.

17 (10) Each grant awarded under this subsection shall be
18 paid to eligible applicants by [~~July~~] December 31, 2021.

19 (11) A county providing grants under this subsection
20 shall compile a report, which shall include the following:

21 (i) A list of each grant awarded under the program.

22 (ii) The name and address of each grant recipient.

23 (iii) The amount of the grant and a description of
24 the financial impact to the grantee for which the grant
25 was awarded.

26 (iv) The name of the CEDO or CDFI that processed the
27 grant.

28 (12) A report required under paragraph (11) shall be
29 submitted to the department by [~~August 31, 2021~~] January 31,
30 2022. The department shall prepare a consolidated report with

1 information from all counties and shall submit the report to
2 the chairperson and minority chairperson of the
3 Appropriations Committee of the Senate and the chairperson
4 and minority chairperson of the Appropriations Committee of
5 the House of Representatives by [September 30, 2021] February
6 28, 2022. The report shall also be posted and maintained on
7 the county's and department's publicly accessible Internet
8 website.

9 (13) A county awarding grants and a CEDO or CDFI
10 processing grants on behalf of a county under this subsection
11 shall provide documentation to the Department of the Auditor
12 General or the department, upon request, for purposes of an
13 audit review.

14 (14) The department is prohibited from placing any
15 additional stipulations on counties that are in addition to
16 this section.

17 (c) Return of unused funds.--A county receiving a block
18 grant under subsection (a) that does not expend its entire
19 distribution on the program by [August 15, 2021] January 15,
20 2022, shall return any unused funds to the State Treasurer for
21 deposit into the [Workers' Compensation Security] General Fund.

22 (d) (Reserved).

23 (e) Definitions.--The following words and phrases when used
24 in this section shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "American Rescue Plan Act." The American Rescue Plan Act of
27 2021 (Public Law 117-2, 135 Stat. 4).

28 "CDFI." A community development financial institution that
29 is certified by the United States Department of the Treasury, is
30 headquartered in this Commonwealth, is part of the 17-member

1 Pennsylvania CDFI network and primarily provides business loans
2 to low-to-moderate income individuals and business owners.

3 "Certified economic development organization" or "CEDO." An
4 economic development organization that has been certified by the
5 Pennsylvania Industrial Development Authority or an economic
6 development organization that serves more than one county and is
7 accredited by the International Economic Development Council.

8 "Consolidated Appropriations Act, 2021." The Consolidated
9 Appropriations Act, 2021 (Public Law 116-260, 134 Stat. 1182).

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

12 "Economic development organization." A local development
13 district, an industrial development agency, industrial resource
14 center, redevelopment authority, community development financial
15 institution or any other nonprofit economic development
16 organization that is certified to participate in the
17 Pennsylvania Industrial Development Authority loan program.

18 "Eligible applicant." A for-profit entity that meets each of
19 the following:

20 (1) Is not publicly traded.

21 (2) Experienced a reduction in revenue in calendar year
22 2020, measured as follows:

23 (i) the applicant had gross receipts during the
24 first, second, third or fourth quarter in calendar year
25 2020 that demonstrate at least a 25% reduction from the
26 applicant's gross receipts during the same quarter in
27 calendar year 2019;

28 (ii) if the applicant was not in business during the
29 first or second quarter of calendar year 2019, but was in
30 business during the third and fourth quarters of calendar

1 year 2019, the applicant had gross receipts during the
2 first, second, third or fourth quarter of calendar year
3 2020 that demonstrate at least a 25% reduction from the
4 applicant's gross receipts during the third or fourth
5 quarter of calendar year 2019;

6 (iii) if the applicant was not in business during
7 the first, second or third quarter of calendar year 2019,
8 but was in business during the fourth quarter of calendar
9 year 2019, the applicant had gross receipts during the
10 first, second, third or fourth quarter of calendar year
11 2020 that demonstrate at least a 25% reduction from the
12 fourth quarter of calendar year 2019;

13 (iv) if the applicant was not in business during
14 calendar year 2019, but was in operation on February 15,
15 2020, the applicant had gross receipts during the second,
16 third or fourth quarter of calendar year 2020 that
17 demonstrate at least a 25% reduction from the gross
18 receipts of the entity during the first quarter of
19 calendar year 2020; or

20 (v) an applicant that was in operation in all four
21 quarters of calendar year 2019 is deemed to have
22 experienced the revenue reduction in subparagraph (i) if
23 the applicant experienced a reduction in annual receipts
24 of at least 25% in 2020 compared to 2019 and the
25 applicant provides copies of its annual Federal tax forms
26 substantiating the revenue decline.

27 (vi) If an applicant changed ownership or control in
28 calendar year 2020, the applicant may measure its
29 reduction in revenue in calendar year 2020 under
30 subparagraphs (i), (ii), (iii), (iv) or (v) using the

1 gross receipts of the entity for 2019.

2 (3) Meets each of the following conditions as of
3 February 15, 2020:

4 (i) [Operates a place of business within this
5 Commonwealth having a NAICS designation within the
6 Accommodation subsector (721) or Food Services and
7 Drinking Places subsector (722) and where accommodations,
8 food or drink is served to or provided for the public,
9 with or without charge.] Provides meals, beverages,
10 recreation, overnight accommodations or entertainment to
11 individuals.

12 (ii) Has fewer than 300 full-time equivalent
13 employees. For purposes of determining the number of
14 full-time equivalent employees under this subparagraph,
15 the calculation shall include each employee of the
16 eligible applicant notwithstanding whether the eligible
17 applicant has employees at multiple locations.

18 (iii) Has a maximum tangible net worth of not more
19 than \$15,000,000 computed in accordance with generally
20 accepted accounting principles.

21 "Eligible operating expense." An operating expense,
22 including a payroll and nonpayroll expense, that is both
23 ordinary and necessary. An ordinary expense is one that is
24 common and accepted in an eligible applicant's industry. A
25 necessary expense is one that is helpful and appropriate for an
26 eligible applicant's trade or business. For purposes of
27 determining an eligible operating expense, the following
28 limitations shall apply:

29 (1) The operating expense must have been incurred
30 between March 1, 2020, and June 15, 2021, or prior to

1 submission of an application under subsection (b), whichever
2 occurs first.

3 (2) For a mortgage obligation, the mortgage must have
4 been in force before February 15, 2020.

5 (3) For rent, under lease agreements, the lease
6 agreement must have been in force before February 15, 2020.

7 (4) For utility costs, service must have begun before
8 February 15, 2020.

9 (5) If an existing mortgage obligation or lease
10 agreement in force before February 15, 2020, is refinanced or
11 restructured after February 15, 2020, the mortgage obligation
12 or lease agreement is deemed to have been in force before
13 February 15, 2020.

14 "Full-time equivalent employee." The quotient obtained by
15 dividing the total number of hours for which employees were
16 compensated for employment over the preceding 12-month period by
17 2,080.

18 "Gross receipts." Revenue in whatever form received or
19 accrued, in accordance with the entity's accounting method, from
20 whatever source, including from the sales of products or
21 services, interest, dividends, rents, royalties, fees or
22 commissions, reduced by returns and allowances. The term does
23 not include the following:

24 (1) taxes collected for and remitted to a taxing
25 authority if included in gross or total income, such as sales
26 or other taxes collected from customers and excluding taxes
27 levied on the concern or its employees;

28 (2) proceeds from transactions between a concern and its
29 domestic or foreign affiliates; and

30 (3) amounts collected for another by a travel agent,

1 real estate agent, advertising agent or conference management
2 service provider.

3 ["NAICS." A classification within the North American
4 Industry Classification System developed for use by Federal
5 statistical agencies for the collection, analysis and
6 publication of statistical data related to the United States
7 economy.]

8 "Program." The County Block Grant - Hospitality Industry
9 Recovery Program established under subsection (b).

10 Section 2. The sum of \$500,000,000 of Federal funds is
11 appropriated to the Department of Community and Economic
12 Development for the purpose of administering this act.

13 Section 3. This act shall take effect immediately.