

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 717

Session of
1987

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MARCH 9, 1987

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 9, 1987

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 Act.

8 Section 2. Legislative findings and policy.

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

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

1 (2) These conditions decrease the value of private
2 investments and threaten sources of public revenue.

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

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

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

16 (6) These conditions cannot be dealt with effectively by
17 private enterprise under existing law without additional
18 alternatives being provided to encourage the stimulation of
19 private investment.

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

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

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

30 (10) These conditions are a menace and are beyond remedy

1 or control solely by regulatory processes in the exercise of
2 the police power and cannot be dealt with effectively by
3 private enterprise under existing law without the additional
4 aids granted by this act.

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

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

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

24 Section 3. Definitions.

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

28 "Capital participation investments." Common and preferred
29 stock, convertible securities, warrants, subscriptions, options
30 to acquire, capital loans, working capital or inventory loans,

1 royalties, and any lawful derivations of the foregoing.

2 "Community development agency" or "CDC." A nonprofit
3 corporation, foundation or association organized and existing
4 under the laws of this Commonwealth, regardless of the
5 particular name, whose members or shareholders receive no
6 profit, which shall carry out certain public purposes and which
7 has bylaws providing that:

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

11 (2) Membership in the CDC shall be open to all residents
12 of the specified geographical area who are 18 years of age or
13 older.

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

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

26 (5) The directors of the CDC shall be entitled to no
27 compensation for their services as directors but shall be
28 entitled to reimbursement for all necessary expenses incurred
29 in connection with the performance of their duties as
30 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 expenses.
- (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 carrying out the purposes of this act.

"IDA." A properly constituted industrial development authority.

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

"PIDA." The Pennsylvania Industrial Development Authority.

"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

1 target area, designed to reduce conditions of blight, economic
2 depression or widespread reliance on public assistance.

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

16 Section 4. Pennsylvania Community Development Finance
17 Corporation established.

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

28 Section 5. Powers and duties of directors.

29 (a) Directors.--The corporation shall consist of nine
30 directors. One member shall be the Secretary of Commerce, one

1 shall be the Secretary of Community Affairs and one shall be the
2 Secretary of Labor and Industry. The Governor shall appoint two
3 members, both of whom shall be residents of target areas or
4 members of community development corporations. The Speaker of
5 the House of Representatives, the President pro tempore of the
6 Senate and the Minority Leaders of each body shall each appoint
7 one member.

8 (b) Term.--Each member appointed shall serve a term of five
9 years, except that in making initial appointments, the Governor
10 shall appoint one member to serve for a term of one year and one
11 member to serve for a term of two years. The Minority Leaders of
12 the House and Senate shall each appoint one member to serve for
13 a term of three years each. The Speaker of the House and the
14 President pro tempore of the Senate shall each appoint one
15 member to serve for a term of four years each.

16 (c) Compensation.--The members who are not otherwise
17 employees of the Commonwealth shall each receive a per diem
18 amount of \$200 for attendance at official meetings. Each
19 director shall be entitled to reimbursement for actual and
20 necessary expenses incurred in the performance of his official
21 duties.

22 (d) Vacancies.--Any person appointed to fill a vacancy in
23 the office of a director shall be appointed by the official who
24 appointed his predecessor and shall serve for only the unexpired
25 term. Any member shall be eligible for reappointment. A member
26 may be removed from his appointment by his appointing power only
27 for good cause.

28 (e) Leadership.--The directors shall annually elect one of
29 their members as chairman, and another member as vice chairman,
30 and shall designate a secretary-treasurer who need not be a

1 member of the board.

2 (f) Quorum.--Five of the directors of the corporation shall
3 constitute a quorum and five affirmative votes shall be
4 necessary for the transaction of business or the exercise of any
5 power or function of the corporation.

6 (g) Disclosure.--The corporation, its directors, officers
7 and employees shall be subject to the provisions of section 1 of
8 the act of October 4, 1978 (P.L.883, No.170), known as the
9 Public Official and Employee Ethics Law, except that the
10 corporation may purchase from, sell to, borrow from, loan to,
11 contract with or otherwise deal with any public nonprofit
12 community development corporation organized to carry out the
13 purposes of this act, of which any director of the corporation
14 is also a member or officer, if such interest is disclosed in
15 advance to members of the board and recorded in the minutes of
16 the corporation and if no director having such a financial
17 interest may participate in any decision affecting such
18 transaction.

19 (h) Corporation president.--The president of the corporation
20 shall be appointed and his salary established by the board of
21 directors. The president shall be the chief administrative and
22 operational officer of the corporation and shall direct and
23 supervise administrative affairs and the general management of
24 the corporation. The president may employ such other employees
25 as shall be designated by the board of directors, shall attend
26 meetings of the board of directors, shall cause copies to be
27 made of all minutes and other records and documents of the
28 corporation and shall certify that such copies are true copies.
29 All persons dealing with the corporation may rely upon such
30 certification.

1 (i) Annual report.--The chairman of the board of directors
2 of the CDFC shall prepare an annual report of the corporation's
3 activities three months after the end of the fiscal year and
4 submit copies to the Governor, Speaker of the House and
5 President pro tempore of the Senate.

6 (j) Audit.--The accounts and books of the CDFC, including
7 its receipts, disbursements, contracts, mortgages, investments
8 and other matters relating to its finances, operations and
9 affairs shall be examined and audited, from time to time, by the
10 Auditor General.

11 Section 6. Powers of Community Development Finance Corporation.

12 (a) General powers.--The CDFC shall have the power to:

13 (1) Adopt bylaws for the regulation of its affairs and
14 the conduct of its business.

15 (2) Adopt an official seal.

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

17 (4) Make and execute contracts and all other instruments
18 necessary or convenient for the exercise of its powers and
19 functions.

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

22 (6) Enter into agreements or other transactions with any
23 Federal or State agency.

24 (7) Acquire, sell, transfer or convey real property, or
25 any interest in real property, where the acquisition or
26 transfer protects or secures an investment or loan in which
27 the agency has an interest to lease the property when a sale,
28 transfer or conveyance cannot be effected with reasonable
29 promptness or at a reasonable price.

30 (8) Invest any funds not required for immediate

1 disbursement or funds held in reserves or sinking funds or in
2 investments as may be lawful for fiduciaries in the
3 Commonwealth.

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

7 (10) Employ a president, who shall be the chief
8 executive officer of the corporation, and such other agents,
9 employees, and professional and business advisers as may,
10 from time to time, be necessary in the judgment of the board
11 of directors, and fix their compensation.

12 (11) Appear in its own behalf before boards,
13 commissions, departments or other agencies of government.

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

17 (13) Consent, subject to the provisions of any contract
18 with noteholders or bondholders, whenever it deems it
19 necessary or desirable to fulfill the purposes of this act,
20 to the modification, with respect to rate of interest, time
21 of payment of any installment of principal or interest, or
22 any other terms, of any mortgage, mortgage loan, mortgage
23 loan commitment, contract or agreement of any kind to which
24 the CDFC is a party.

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

28 (15) Receive and accept from any Federal or State agency
29 grants, loans or advances for or in aid of the purposes of
30 this act and to receive and accept contributions from any

1 source of either money, property, labor or other things of
2 value, to be held, used and applied for these purposes.

3 (16) Create, issue, buy and sell stock and other capital
4 participation instruments, and hold such stock and capital
5 participation instruments; and underwrite the creation of a
6 capital market for these securities in a manner which
7 provides first offer of resale to the community development
8 corporation, business or residents of the target area and
9 which is designed to enhance development of capital ownership
10 in the target area.

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

14 (18) Exercise any other powers or rights or
15 responsibilities of a corporation organized under the laws of
16 the Commonwealth.

17 (b) Establishment of program criteria.--The CDFC shall,
18 within 30 days from the effective date of this act, devise a set
19 of criteria for a definition of "distressed community" in
20 accordance with statistical information gathered by the CDFC.
21 This criteria shall include, but not be limited to, substantial
22 conditions of unemployment, economic recession, declining local
23 tax base, curtailment of municipal services, widespread reliance
24 on public assistance and blight as that term is used in the act
25 of May 24, 1945 (P.L.991, No.385), known as the Urban
26 Redevelopment Law, caused by severe economic dislocation
27 experienced or threatened to be experienced by plant closings or
28 the jeopardy posed by a community's reliance on a single
29 capital-intensive industry. The criteria may be modified by the
30 CDFC as circumstances warrant.

1 (c) Catalog of programs.--The CDFC shall, within 30 days of
2 the effective date of this act, catalog all of the economic
3 development programs currently provided by Federal, State and
4 local governments, including industrial development authority
5 programs, and categorize them according to municipality. In
6 addition, the CDFC will review all applicable regulations and
7 requirements of these programs, proposing changes where
8 necessary to coordinate the programs provided to industries and
9 communities in this Commonwealth to deliver rapid and
10 streamlined assistance to them. Furthermore, the CDFC shall
11 devise a method to give quick review and priority to any project
12 of any economic development program, including PIDA, which has
13 been certified by the CDFC. The catalog of economic development
14 programs compiled by the CDFC shall be reduced to a
15 comprehensible narrative so that any threatened community or
16 jeopardized industry may ascertain the total range of programs
17 available and then, with the aid of the CDFC, proceed to secure
18 needed assistance.

19 Section 7. Sale of CDFC stock and purchase of participation
20 instruments.

21 (a) Authorization of treasurer.--The State Treasurer,
22 subject to appropriation from the Pennsylvania Economic
23 Revitalization Fund or the authorization of the issuance of
24 bonds for this purpose, shall purchase shares of the corporation
25 in the amount of \$10,000,000.

26 (b) Shares.--In return for said investment, the Commonwealth
27 shall receive 1,000,000 shares of common stock in the
28 corporation. These shares shall constitute the entire issue of
29 common stock.

30 (c) Liquidation.--Five years from the effective date of this

1 act, the board of directors of the CDFC shall assist the State
2 Treasurer in implementing a plan for the sale of the shares of
3 common stock held by the Commonwealth.

4 (d) Separate account.--The corporation shall hold the
5 proceeds of this investment in an account or accounts separate
6 from other funds. The corporation shall use these proceeds only
7 for the following purposes:

8 (1) To purchase capital participation instruments from
9 community development corporations in return for an
10 investment in a specific project only when the board of the
11 CDFC finds that the community development corporation will
12 use the funds in support of a project consistent with the
13 purposes of this act.

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

18 (3) To make loans to CDC's and IDA's to effect the
19 purposes of this act.

20 (e) Capital participation instruments.--Upon application of
21 a CDC or an IDA for a specific project located in a target area,
22 the CDFC may, subject to the restrictions set forth in this act,
23 agree to purchase capital participation instruments from or make
24 loans to the CDC or IDA, provided that the CDFC shall find and
25 incorporate in its minutes that:

26 (1) The project is within the scope of this act, is
27 certified by the CDFC and may reasonably be expected to
28 contribute to the redevelopment of target areas, to the
29 economic development of the Commonwealth or to the increase
30 or maintenance of threatened primary employment.

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

3 (3) The project will be of public benefit and for a
4 public purpose, and the benefits, including increased
5 employment and improved standard of living, shall accrue
6 primarily to residents of the area served by the CDC or IDA.

7 (4) There is a reasonable expectation that the project
8 will be successful.

9 (5) Private industry has not provided sufficient capital
10 required for the project or sufficient primary employment
11 opportunities in the project area.

12 (6) The CDFC determines that its participation is
13 necessary to the successful completion of the proposed
14 project because funding for the project is unavailable in the
15 traditional capital markets or because credit has been
16 offered on terms that would preclude the success of the
17 project.

18 (7) The applicant CDC or IDA meets the standards of a
19 CDC or IDA, respectively, as defined herein and appears able
20 to manage its proposed project responsibilities.

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

23 (9) The parties shall contract for adequate reporting of
24 financial data from the CDC or IDA to the CDFC. Contract
25 provisions may include a requirement for an annual or other
26 periodic audit of the project books.

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

29 (11) The CDC or IDA will maintain sufficient control
30 over the project to ensure that public benefit and public

1 purposes are maintained. This determination shall be
2 satisfactorily complied with if any one of the following is
3 satisfied:

4 (i) The project is conducted by a wholly owned
5 subsidiary of the CDC or by an agent of the IDA.

6 (ii) The CDC or IDA owns a majority of the capital
7 stock of the corporation or other organization conducting
8 the project, or the assets, whichever is appropriate.

9 (iii) If the entity is a CDC, the CDC owns a
10 majority of the voting stock of the corporation or other
11 organization conducting the project.

12 (iv) The project is conducted by a nonprofit
13 corporation or other association or entity organized
14 under the laws of the Commonwealth to provide public
15 benefit and which exists for a public purpose.

16 (v) In all other cases, adequate provision is made
17 for reporting to the CDC or to the IDA, which must
18 approve all major transactions, including, but not
19 limited to, any sale, merger, dissolution, the sale or
20 issue of substantial amounts of stock and corporation
21 reorganization.

22 (12) Provision has been made that, should the CDFC
23 desire to sell or otherwise dispose of stock received under a
24 contract, the CDC or IDA or its nominee shall have, within
25 120 days, the right of first refusal upon said sale and the
26 right to meet any subsequent bona fide offer by a third
27 party.

28 (13) The CDFC has not loaned nor invested more than 20%
29 of its lendable or investable resources in any one CDC or
30 IDA, including this investment.

1 Section 8. Eligibility of obligations of CDFC for investment of
2 public retirement funds.

3 (a) Permissible investments.--Notwithstanding any other law
4 to the contrary, stocks, bonds, notes or other evidence of
5 indebtedness or obligations of the CDFC shall constitute
6 permissible investments for moneys held by the State Employees'
7 Retirement Fund, the Public School Employees' Retirement Fund
8 and the Pennsylvania Municipal Retirement Fund.

9 (b) Limits on certain investment.--An investment made in the
10 CDFC by these public pension funds complies with, and
11 constitutes an investment in venture capital participation,
12 under the act of July 2, 1984 (P.L.568, No.113), known as the
13 Employee-Ownership Assistance Program Act. Up to 1% of the
14 assets in the CDFC may be placed in venture capital investments.

15 Section 9. Severability.

16 The provisions of this act are severable. If any provision of
17 this act or its application to any person or circumstance is
18 held invalid, the invalidity shall not affect other provisions
19 or applications of this act which can be given effect without
20 the invalid provision or application.

21 Section 10. Conflict of law.

22 If the provisions of this act conflict with any other
23 statute, ordinance, regulation or rule, the provisions of this
24 act shall control.

25 Section 11. Effective date.

26 This act shall take effect immediately.