

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1896 Session of  
1991

INTRODUCED BY FREEMAN, GEORGE, HASAY, BILLOW, KRUSZEWSKI, MUNDY,  
KOSINSKI, KUKOVICH, LEVDANSKY, TRELLO, PISTELLA, BROUJOS,  
STEELMAN, RICHARDSON, STURLA AND STETLER, JULY 11, 1991

REFERRED TO COMMITTEE ON CONSERVATION, JULY 11, 1991

AN ACT

1 Amending the act of May 17, 1956 (1955 P.L.1609, No.537),  
2 entitled "An act to promote the welfare of the people of the  
3 Commonwealth by the reduction of unemployment in certain  
4 areas of the Commonwealth determined to be critical economic  
5 areas; providing for the establishment of industrial  
6 development projects in such areas; creating The Pennsylvania  
7 Industrial Development Authority as a body corporate and  
8 politic with power to allocate funds for and make secured  
9 loans to industrial development agencies for the payment of a  
10 part of the cost of industrial development projects in  
11 critical economic areas; authorizing the Authority to enter  
12 into agreements with the Government of the United States or  
13 any Federal agency or industrial development agency;  
14 empowering the Authority to take title to, sell, convey and  
15 lease industrial development projects where necessary to  
16 protect loans made by the Pennsylvania Industrial Development  
17 Authority on industrial development projects; providing that  
18 no debt of the Commonwealth, its municipalities or political  
19 subdivisions shall be incurred in the exercise of any powers  
20 granted by this act; and providing for the examination of the  
21 accounts and affairs of the Authority; and making an  
22 appropriation," further providing for definitions; further  
23 providing for powers of the Authority; further providing for  
24 loan application requirements; establishing the Environmental  
25 Protection and Economic Development Fund; releasing the  
26 Commonwealth and Authority from liability; and providing  
27 penalties.

28 The General Assembly of the Commonwealth of Pennsylvania  
29 hereby enacts as follows:

30 Section 1. Section 2 of the act of May 17, 1956 (1955

1 P.L.1609, No.537), known as the Pennsylvania Industrial  
2 Development Authority Act, amended July 10, 1963 (P.L.221,  
3 No.125), is amended to read:

4 Section 2. Findings and Declaration of Policy.--It is hereby  
5 determined and declared as a matter of legislative finding--

6 (a) That there currently exists in certain areas of the  
7 Commonwealth a critical condition of unemployment and that such  
8 condition may well exist, from time to time, in other areas of  
9 the Commonwealth;

10 (b) That in some areas of the Commonwealth such conditions  
11 are chronic and of long standing and that, without remedial  
12 measures, they may become so in other areas of the Commonwealth;

13 (c) That economic insecurity due to unemployment is a  
14 serious menace to the health, safety, morals and general welfare  
15 of not only the people of the affected areas but of the people  
16 of the entire Commonwealth;

17 (d) That involuntary unemployment and its resulting burden  
18 of indigency falls with crushing force upon the unemployed  
19 worker and ultimately upon the Commonwealth in the form of  
20 public assistance and unemployment compensation;

21 (e) That the absence of employment and business  
22 opportunities for the youth of such areas is a threat to the  
23 strength and permanence of their faith in our American political  
24 and economic institutions and the philosophy of freedom on which  
25 those institutions are based;

26 (f) That unemployment and the absence of new economic  
27 opportunities in such areas has caused thousands of workers and  
28 their families to migrate elsewhere to find work and establish  
29 homes, and that this exodus has tended to reduce the tax base of  
30 counties, cities, boroughs and other local governmental

1 jurisdictions, and impair their financial ability to support  
2 education and other local governmental services;

3 (g) That security against unemployment and the resulting  
4 spread of indigency and economic stagnation in the areas  
5 affected can best be provided by the promotion, attraction,  
6 stimulation, rehabilitation and revitalization of commerce,  
7 industry and manufacturing in such areas;

8 (h) That the present and prospective health, safety, morals,  
9 right to gainful employment and general welfare of the people of  
10 the Commonwealth requires as a public purpose the promotion and  
11 development within areas of critical unemployment of new and  
12 expanded industrial and manufacturing enterprises;

13 (i) That the device under which private community industrial  
14 development organizations in Pennsylvania acquire or build  
15 industrial buildings with funds raised through popular  
16 subscription, mortgage borrowing or otherwise, for lease and  
17 sale to expanding industries has proven effective in creating  
18 new employment and business opportunities locally, is in accord  
19 with the American tradition of community initiative and  
20 enterprise, and requires and deserves encouragement and support  
21 from the Commonwealth, as a means toward alleviation of  
22 unemployment and chronic economic distress;

23 (j) That community industrial development corporations in  
24 Pennsylvania have themselves invested substantial funds in  
25 successful industrial development projects and experience  
26 difficulty in undertaking additional such projects by reason of  
27 the partial inadequacy of their own funds or funds potentially  
28 available from local subscription sources and by reason of  
29 limitations of local financial institutions in providing  
30 additional and sufficiently sizeable first mortgage loans;

1 (k) That there is a need to stimulate a larger flow of  
2 private investment funds from banks, investment houses,  
3 insurance companies and other financial institutions into such  
4 community industrial building programs in areas of chronic  
5 economic distress;

6 (l) That by increasing the number of community industrial  
7 building projects presenting attractive opportunities for  
8 private investment in such areas, a larger portion of the  
9 private capital available in Pennsylvania for investment can be  
10 put to use in the general economic development of the  
11 Commonwealth[.];

12 (m) That the Constitution of Pennsylvania provides that the  
13 people have a right to clean air, pure water and to the  
14 preservation of the natural, scenic, historic and aesthetic  
15 values of the environment, and provides that as the trustee of  
16 these resources, the Commonwealth shall conserve and maintain  
17 these resources for the benefit of all the people.

18 Therefore, it is hereby declared to be the policy of the  
19 Commonwealth of Pennsylvania to promote the health, safety,  
20 morals, right to gainful employment, business opportunities and  
21 general welfare of the inhabitants thereof, and the protection  
22 and conservation of this State's natural resources by the  
23 creation of a body corporate and politic to be known as "The  
24 Pennsylvania Industrial Development Authority" which shall exist  
25 and operate for the public purpose of alleviating unemployment  
26 with its resulting spread of indigency and economic stagnation  
27 by the promotion and development of environmentally sound  
28 industrial and manufacturing enterprises and research and  
29 development facilities in those areas of the Commonwealth in  
30 which conditions of critical unemployment currently or may from

1 time to time exist. Such purposes are hereby declared to be  
2 public purposes for which public money may be spent.

3 Section 2. Section 3 of the act, amended or added, July 10,  
4 1963 (P.L.221, No.125), May 5, 1965 (P.L.42, No.37), October 5,  
5 1967 (P.L.323, No.142), June 16, 1972 (P.L.475, No.153), May 15,  
6 1980 (P.L.131, No.49) and July 13, 1988 (P.L.534, No.95), is  
7 amended to read:

8 Section 3. Definitions.--The following terms, whenever used  
9 or referred to in this act, shall have the following meanings,  
10 except in those instances where the context clearly indicates  
11 otherwise:

12 (a) The term "Authority" shall mean the public body  
13 corporate and politic created by this act.

14 (b) The term "board" shall mean the governing body of the  
15 Authority.

16 (c) The term "county" shall mean any county of this  
17 Commonwealth.

18 (d) The term "critical economic area" shall mean the area  
19 encompassing any municipality or group of municipalities,  
20 county, group of counties or region of the Commonwealth  
21 reasonably defined by the Authority wherein critical conditions  
22 of unemployment, economic depression, wide-spread reliance on  
23 public assistance and unemployment compensation are found to  
24 exist by the Authority. Prior to determination and designation  
25 of any area of the Commonwealth as a critical economic area the  
26 Authority shall conduct such investigations of the area and of  
27 the records and statistical indices of the Department of Labor  
28 and Industry, as well as the declarations and statistics of any  
29 other State or Federal agencies as shall be necessary to  
30 establish the existence of the above conditions in such area and

1 to establish that: (i) an average of not less than (6%) of the  
2 labor force of such area has been unemployed for any five years  
3 of the preceding ten years, hereinafter designated "critical  
4 economic area A"; or (ii) an average of not less than (4%) of  
5 the labor force of such area has been unemployed for the  
6 preceding calendar year, hereinafter designated "critical  
7 economic area B"; or (iii) an average of not less than 4% of the  
8 labor force of such area has been unemployed for any five years  
9 of the preceding ten years, hereinafter designated "critical  
10 economic area C," immediately prior to the date of such  
11 investigations and findings utilized by the Authority. No area  
12 of the Commonwealth shall be designated a critical economic area  
13 without such investigations and findings having been first made  
14 and certified to in the permanent records of the Authority. An  
15 area of the Commonwealth having once been designated a critical  
16 economic area A or area C shall remain so for a period of six  
17 months following the month in which it ceases to qualify as a  
18 critical economic area as above defined and designated by the  
19 Authority. The Authority may designate critical economic areas  
20 annually for each fiscal year of the Commonwealth based on  
21 investigations and findings for the previous calendar year, or  
22 for periods of less than one year, at the discretion of the  
23 Authority.

24 (e) The term "Federal agency" shall mean and include the  
25 United States of America, The President of the United States of  
26 America, and any department of, or corporation, agency or  
27 instrumentality heretofore or hereafter created, designated or  
28 established by the United States of America.

29 (f) The term "government" shall mean the State and Federal  
30 governments, or any political subdivision, agency or

1 instrumentality, corporate or otherwise, or either of them.

2 (g) The term "industrial development agency" shall mean a  
3 nonprofit corporation or a foundation or association organized  
4 and existing under the laws of this Commonwealth, regardless of  
5 the particular name, to whose members or shareholders no profit  
6 shall enure and which shall have as a purpose the promotion,  
7 encouragement, construction, development and expansion of new or  
8 existing industrial development projects in a critical economic  
9 area.

10 (h) The term "Industrial Development Fund" shall mean the  
11 account created by section eight of this act.

12 (i) The term "industrial development project" shall mean any  
13 land, site, structure, facility or undertaking comprising or  
14 being connected with or being [a] an environmentally sound part  
15 of (i) an industrial enterprise, (ii) a manufacturing  
16 enterprise, (iii) a research and development enterprise, or (iv)  
17 an agricultural enterprise, established or to be established by  
18 an industrial development agency in a critical economic area.

19 (j) The term "municipality" shall mean any city, borough,  
20 town or township of the Commonwealth of Pennsylvania, each of  
21 which political subdivisions are separate incorporated  
22 municipalities of the Commonwealth for the purposes of this act.

23 (k) The term "responsible buyer" shall mean any person,  
24 partnership, or corporation deemed by the Authority, after  
25 investigation, to be financially responsible to assume all  
26 obligations prescribed by the Authority in the acquisition and  
27 operation of an industrial development project[.] and to have  
28 obtained a valid permit or permits relating to air and water  
29 quality and the generation, disposal, treatment or storage of  
30 hazardous or solid waste and to be in compliance with all

1 applicable Federal, State and local environmental laws.

2 (l) The term "responsible tenant" shall mean any person,  
3 partnership, or corporation deemed by the Authority, after  
4 investigation, to be financially responsible to assume all  
5 rental and all other obligations prescribed by the Authority in  
6 the leasing and operation of an industrial development  
7 project[.] and to have obtained a valid permit or permits  
8 relating to air and water quality and the generation, disposal,  
9 treatment or storage of hazardous or solid waste and to be in  
10 compliance with all applicable Federal, State and local  
11 environmental laws.

12 (m) The words "cost of establishing an industrial  
13 development project" shall embrace any or all of the following:  
14 The cost of construction, the cost of all lands, property,  
15 rights, easements and franchises acquired, which are deemed  
16 necessary for such construction, the costs associated with  
17 cleaning up any lands, property and easements deemed  
18 contaminated by toxic or other hazardous materials by the  
19 Department of Environmental Resources, financing charges,  
20 interest prior to and during construction, cost of engineering  
21 and legal expense, plans, specifications, surveys, estimates of  
22 costs and other expenses necessary or incident to determining  
23 the feasibility or practicability of any industrial development  
24 project together with such other expenses as may be necessary or  
25 incident to the financing and the construction of the industrial  
26 development project and the placing of the same in operation;  
27 the cost of all machinery and equipment and its installation and  
28 maintenance, except those used in the cleanup of contaminated  
29 lands, property or easements, shall not be included in the "cost  
30 of establishing an industrial development project," but shall be



1 provided by the responsible tenant or responsible buyer.

2 (n) The term "industrial enterprise" shall mean an  
3 enterprise other than a mercantile, commercial or retail  
4 enterprise, which by virtue of its size requires substantial  
5 capital and which by its nature and size has created or will  
6 create substantial employment opportunities. The term  
7 "industrial enterprise" may include warehouse and terminal  
8 facilities, and office buildings utilized as National or  
9 regional headquarters or computer or clerical operations  
10 centers, provided they require substantial capital and have or  
11 will create substantial employment opportunities.

12 (o) The term "manufacturing enterprise" shall mean an  
13 enterprise which is engaged in the giving of new shapes, new  
14 qualities or new combinations to matter by the application of  
15 skill and labor thereto.

16 (p) The term "research and development enterprise" shall  
17 mean an enterprise for the discovery of new and the refinement  
18 of known substances, processes, products, theories and ideas,  
19 but shall not include activities directed primarily to the  
20 accumulation or analysis of commercial, financial or mercantile  
21 data.

22 (q) The term "mortgage" shall mean (i) a freehold mortgage  
23 on an industrial development project where the industrial  
24 development project is owned in fee by an industrial development  
25 agency and (ii) a leasehold mortgage on an industrial  
26 development project where the industrial development project is  
27 leased by an industrial development agency from the Commonwealth  
28 of Pennsylvania.

29 (r) The term "agricultural enterprise" shall mean an  
30 enterprise which is engaged in business related to farming,

1 agricultural endeavors or other related businesses and services  
2 supporting the development of agriculture; which by virtue of  
3 its size required substantial capital and which by its nature  
4 and size has created or will create substantial employment  
5 opportunities.

6 (s) The term "small business" shall mean and refer to  
7 respective responsible buyers or tenants occupying and operating  
8 an industrial enterprise, a manufacturing enterprise, a research  
9 and development enterprise or an agricultural enterprise and  
10 who, or which, together with parents, subsidiaries or affiliated  
11 corporations or other related business entities employ, in the  
12 aggregate, less than fifty full time employees on an annual  
13 basis.

14 (t) The term "industrial parks" shall mean land areas  
15 acquired, including existing buildings previously erected  
16 thereon, said land areas, excluding existing buildings, if any,  
17 improved and prepared by industrial development agencies in  
18 accordance with plans and specifications as approved by the  
19 Authority as sites for the establishment thereon of two or more  
20 industrial development projects by industrial development  
21 agencies in a redevelopment area or a critical economic area.

22 (u) The term "multiple-tenancy building project" shall mean  
23 any land, site, structure, facility or undertaking acquired or  
24 constructed for occupancy by two or more industrial enterprises,  
25 manufacturing enterprises or research and development  
26 enterprises, as those terms are defined in this act, established  
27 or to be established by an industrial development agency in a  
28 critical economic area.

29 (v) The term "environmentally sound" shall mean those  
30 industrial, manufacturing, and research and development

enterprises which have a valid permit or permits relating to air and water quality, the generation, disposal, treatment or storage of hazardous or solid waste and that are in compliance with all applicable Federal, State and local environmental laws.

(w) The term "violation" shall mean any ongoing or repeated deviation, as determined by the Department of Environmental Resources, from Federal, State or local environmental laws, rules and regulations relating to air or water quality, the generation, disposal, treatment or storage of hazardous or solid waste, or the protection of any natural resources, including the procurement of all required permits and compliance therewith.

Section 3. Section 5 of the act, amended or added July 18, 1961, P.L.793, No.350), July 10, 1963, P.L.221, No.125), September 27, 1973, P.L.257, No.73), May 15, 1980, P.L.131, No.49) and July 13, 1988, P.L.534, No.95), is amended to read:

Section 5. Powers of the Authority; General.--The Authority, as a public corporation and governmental instrumentality exercising public powers of the Commonwealth, is hereby granted and shall have and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this act, including the following powers, in addition to others herein granted:

(a) To make determination and designation of critical economic areas[;].

(b) To co-operate with industrial development agencies in their efforts to promote the expansion of industrial, manufacturing and research and development activity in critical economic areas[;].

(c) To determine, upon proper application of industrial development agencies, whether the declared public purpose of

1 this act has been accomplished or will be accomplished by the  
2 establishment by such industrial development agencies of an  
3 industrial development project in a critical economic area[;]\_.

4 (d) To conduct examinations and investigations and to hear  
5 testimony and take proof, under oath or affirmation, at public  
6 or private hearings, on any matter material for its information  
7 and necessary to the determination and designation of critical  
8 economic areas and the establishment of industrial development  
9 projects therein[;]\_.

10 (e) To issue subpoenas requiring the attendance of witnesses  
11 and the production of books and papers pertinent to any hearing  
12 before such Authority, or before one or more members of the  
13 Authority appointed by it to conduct such hearing[;]\_.

14 (f) To apply to any court, having territorial jurisdiction  
15 of the offense, to have punished for contempt any witness who  
16 refuses to obey a subpoena, or who refuses to be sworn or  
17 affirmed or to testify, or who is guilty of any contempt after  
18 summons to appear[;]\_.

19 (g) To authorize any member or members of such Authority to  
20 conduct hearings and to administer oaths, take affidavits and  
21 issue subpoenas[;]\_.

22 (h) To make, upon proper application of industrial  
23 development agencies, loans to such industrial development  
24 agencies of moneys held in the Industrial Development Fund or  
25 other accounts of the Authority for industrial development  
26 projects in critical economic areas and to provide for the  
27 repayment and redeposit of such allocations and loans in the  
28 manner hereinafter provided[;]\_.

29 (i) To have existence for a term of fifty years from July 1,  
30 1980[;]\_.

1 (j) To sue and be sued, implead and be impleaded, complain  
2 and defend in all courts[;]\_.

3 (k) To adopt, use and alter at will a corporate seal[;]\_.

4 (l) To make by-laws for the management and regulation of its  
5 affairs[;]\_.

6 (m) To appoint officers, agents, employes and servants; and  
7 to prescribe their duties and to fix their compensation, within  
8 the limitations provided by law[;]\_.

9 (n) To make contracts of every name and nature and to  
10 execute all instruments necessary or convenient for the carrying  
11 on of its business[;]\_.

12 (o) Without limitation of the foregoing, accept grants from,  
13 and to enter into contracts or other transactions with any  
14 Federal agency[;]\_.

15 (p) To take title by foreclosure to any industrial  
16 development project where such acquisition is necessary to  
17 protect any loan previously made therefor by the Authority and  
18 to pay all costs arising out of such foreclosure and acquisition  
19 from moneys held in the Industrial Development Fund or other  
20 accounts of the Authority and to sell, transfer and convey any  
21 such industrial development project to any responsible buyer; in  
22 the event such sale, transfer and conveyance cannot be effected  
23 with reasonable promptness, the Authority may, in order to  
24 minimize financial losses and sustain employment, lease such  
25 industrial development project to a responsible tenant or  
26 tenants; the Authority shall not lease industrial development  
27 projects except under the conditions and for the purposes cited  
28 in this section.

29 (q) To purchase first mortgages and to make payments on  
30 first mortgages on any industrial development project where such

1 purchase or payment is necessary to protect any loan previously  
2 made therefor by the Authority, and to sell, transfer, convey  
3 and assign any such first mortgage. Moneys so used by the  
4 Authority in the purchase of any first mortgages, or any  
5 payments thereon, shall be withdrawn from the Industrial  
6 Development Fund, and any moneys derived from the sale of any  
7 first mortgages shall be deposited by the Authority in the  
8 Industrial Development Fund.

9 (r) To borrow money and to issue notes, bonds or other  
10 evidences of the indebtedness created thereby and to secure the  
11 payment of such notes, bonds or other evidences of the  
12 indebtedness or any part thereof by pledge or assignment of all  
13 or any of the mortgages of the Authority, its revenues and  
14 receipts therefrom or its revenues generally, and to make such  
15 agreements with the lenders or with purchasers or holders of  
16 bonds or with others in connection with any such borrowings as  
17 the Authority shall deem advisable.

18 (s) To ensure that no money from the Industrial Development  
19 Fund shall be loaned or used to fund any portion of any  
20 industrial development project unless the project: (i) has a  
21 valid permit or permits relating to air and water quality; (ii)  
22 generates, disposes, treats or stores hazardous or solid waste  
23 pursuant to applicable Federal, State and local laws; and (iii)  
24 is not currently in violation of any applicable Federal, State  
25 or local environmental law, rule or regulation on this or any  
26 other industrial development project.

27 (t) To ensure the industrial development agencies'  
28 responsible tenants' and responsible buyers' ongoing compliance  
29 with all applicable Federal, State and local environmental laws,  
30 rules and regulations, and to impose the penalties outlined in

1 section 15 should a violation be committed by either the  
2 industrial development agency, a responsible buyer or a  
3 responsible tenant.

4 (u) To require that all violations by either the industrial  
5 development agency, a responsible buyer or a responsible tenant  
6 are reported to both the Authority and the Department of  
7 Environmental Resources by the party which committed the  
8 violation within thirty (30) days of the violation.

9 (v) To provide annually to the Department of Environmental  
10 Resources a complete list of all recipients of industrial  
11 development loans and all responsible tenants and responsible  
12 buyers of industrial development projects funded by the  
13 Authority. The Department of Environmental Resources shall then  
14 verify the environmental compliance record of all responsible  
15 tenants, responsible buyers and loan recipients, and shall  
16 publish this information in the Annual Report of the Citizens  
17 Advisory Council to the Department of Environmental Resources.

18 (w) To assess all penalties pertaining to the act, once a  
19 violation at an industrial development project has been reported  
20 by the Department of Environmental Resources, and to determine  
21 the method of payment for the penalties assessed.

22 Provided, however, That the Authority shall have no power at  
23 any time to pledge the credit or taxing power of the  
24 Commonwealth or any of its municipalities or political  
25 subdivisions, nor shall any of its obligations be deemed to be  
26 obligations of the Commonwealth or any of its political  
27 subdivisions.

28 Section 4. Section 6(e) of the act, amended July 13, 1988  
29 (P.L.534, No.95), is amended to read:

30 Section 6. Powers of the Authority; Loans to Industrial

1 Development Agencies.--When it has been determined by the  
2 Authority upon application of an industrial development agency  
3 and hearing thereon in the manner hereinafter provided, that the  
4 establishment of a particular industrial development project of  
5 such industrial development agency in a critical economic area  
6 has accomplished or will accomplish the public purposes of this  
7 act, the Authority may contract to loan such industrial  
8 development agency an amount not in excess of the percentage of  
9 the cost of such industrial development project, as established  
10 or to be established as hereinafter set forth, subject, however,  
11 to the following conditions:

12 \* \* \*

13 (e) (1) Any such loan of the Authority shall be for such  
14 period of time and shall bear interest at such rate as shall be  
15 determined by the Authority and shall be evidenced by bond or  
16 note of the industrial development agency and secured by  
17 mortgage on the industrial development project for which such  
18 loan was made, such mortgage to be second and subordinate only  
19 to the mortgage securing the first lien obligation issued to  
20 secure the commitment of funds from the aforesaid independent  
21 and responsible sources and used in the financing of the  
22 industrial development project. Loans for industrial parks and  
23 multiple-tenancy building projects shall be secured as provided  
24 in subsections (b.1) and (b.2), respectively. The Authority may  
25 require such additional security for its loan as the board may  
26 determine necessary.

27 (2) Moneys so loaned by the Authority to industrial  
28 development agencies shall be withdrawn from the Industrial  
29 Development Fund or other account of the Authority and paid over  
30 to the industrial development agency in such manner as shall be



1 provided and prescribed by the rules and regulations of the  
2 Authority.

3     (3) Loans by the Authority to an industrial development  
4 agency for an industrial development project shall be made only  
5 in the manner and to the extent as in this section six provided,  
6 except, however, in those instances wherein an agency of the  
7 Federal government participates in the financing of an  
8 industrial development project by loan, grant or otherwise of  
9 Federal funds. When any Federal agency does so participate the  
10 Authority may adjust the required ratios of financial  
11 participation by the industrial development agency, the source  
12 of independent funds, and the Authority in such manner as to  
13 insure the maximum benefit available to the industrial  
14 development agency, the Authority, or both, by the participation  
15 of the Federal agency.

16     (4) Where any Federal agency participating in the financing  
17 of an industrial development project is not permitted to take as  
18 security for such participation a mortgage the lien of which is  
19 junior to the mortgage of the Authority, the Authority shall in  
20 such instances be authorized to take as security for its loan to  
21 the industrial development agency a mortgage junior in lien to  
22 that of the Federal agency.

23     [Before any loan is approved by the Authority, the  
24 responsible tenant or purchaser must certify to the Authority  
25 that it has not been cited by a governmental agency for causing  
26 pollution in the Commonwealth, or if it has been so cited, that  
27 it is embarked on a specific program for eliminating the cause  
28 of the citation. The responsible tenant or purchaser must also  
29 certify to the Authority that the proposed project would be  
30 designed so as not to cause pollution in violation of existing

1 standards.

2 In the event of the imposition of any civil or criminal  
3 penalty on a specific industrial development project hereinafter  
4 approved, resulting from the violation of any law or regulation  
5 relating to environmental pollution in the Commonwealth, the  
6 responsible tenant or purchaser shall, at the request of the  
7 Authority, be required to either show evidence of having entered  
8 into an agreement with the appropriate governmental agency  
9 providing for the required abatement, or if the violation has  
10 been appealed to the courts, evidence of having complied with a  
11 finally adjudicated decision of a court of law relating to the  
12 violation. If the responsible tenant or purchaser shall fail to  
13 show such evidence, the Pennsylvania Industrial Development  
14 Authority together with the Environmental Quality Board of the  
15 Department of Environmental Resources may at their discretion  
16 take such action as they deem appropriate with regard to the  
17 project loan.]

18 Section 5. Section 7(k) of the act, amended July 10, 1963  
19 (P.L.221, No.125), is amended and the section is amended by  
20 adding clauses to read:

21 Section 7. Loan Application Requirements.--Prior to the  
22 loaning of any funds to an industrial development agency for an  
23 industrial development project in a critical economic area, the  
24 Authority shall receive from such industrial development agency  
25 a loan application in form adopted by the Authority which shall  
26 contain, without being limited to, the following provisions:

27 \* \* \*

28 (k) Evidence that the establishment of the industrial  
29 development project will not cause the removal of an industrial  
30 or manufacturing plant or facility or research and development

1 facility from one area of the Commonwealth to another area of  
2 the Commonwealth[.];

3 (l) Verification of compliance with all applicable Federal,  
4 State and local environmental laws, rules and regulations by all  
5 responsible buyers or potential responsible tenants of the  
6 project;

7 (m) A general description of any toxic contamination of the  
8 proposed development site and a proposed plan, including costs  
9 and timeline, for cleaning up the contamination.

10 \* \* \*

11 Section 6. The act is amended by adding sections to read:

12 Section 13.3. Penalties.--A responsible buyer or responsible  
13 tenant of a project supported in whole or in part by funds from  
14 the Authority who commits a violation of the act shall have the  
15 interest rate on the total amount funded by the Authority either  
16 raised to (2%) above the prime lending rate as calculated on the  
17 day the violation is identified by the Department of  
18 Environmental Resources or increased by two percentage points,  
19 whichever is greater. The Authority shall determine the method  
20 by which this money shall be paid.

21 Section 13.4. Environmental Protection and Economic  
22 Development Fund.--There is hereby established in the State  
23 Treasury a separate account to be known as the Environmental  
24 Protection and Economic Development Fund. Penalties collected  
25 under this act shall be paid into the fund. The Department of  
26 Revenue shall allocate and distribute money from the fund as  
27 follows:

28 (a) One-half to the Department of Environmental Resources  
29 for enforcement of environmental standards.

30 (b) One-half to the Authority to fund other environmentally

1 sound industrial development projects.

2 Section 13.5. Civil Remedies.--A citizen of this  
3 Commonwealth shall have the right to initiate, by petition, in  
4 the Commonwealth Court or the court of common pleas of the  
5 county in which the applicant resides, an action for the  
6 enforcement of this act.

7 Section 13.6. Release from Liability.--In exchange for  
8 providing funding for the clean-up of contaminated development  
9 sites, both the Authority and the Commonwealth shall be released  
10 from liability arising from the clean-up or development of these  
11 sites.

12 Section 7. This act shall take effect immediately.