

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1906 Session of 1999

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WALKO AND WOJNAROSKI, OCTOBER 4, 1999

REFERRED TO COMMITTEE ON URBAN AFFAIRS, OCTOBER 4, 1999

AN ACT

1 Establishing the Pennsylvania Mortgage Guaranty Corporation;
2 providing for appointment of members and employees;
3 establishing the Pennsylvania Commercial and Industrial
4 Mortgage Guaranty Fund; providing for powers and duties; and
5 making an appropriation.

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22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 CHAPTER 1
25 PRELIMINARY PROVISIONS

26 Section 101. Short title.

27 This act shall be known and may be cited as the
28 Pennsylvania Mortgage Guaranty Corporation Act.

29 Section 102. Legislative declaration and findings.

30 The General Assembly finds and declares as follows:

1 (1) There exists in many areas of this Commonwealth
2 neighborhoods which are blighted, are becoming blighted or
3 may become blighted because of vacant, abandoned,
4 deteriorated or deteriorating commercial and industrial
5 buildings.

6 (2) There exists a deficiency of adequate mortgage
7 financing needed to provide sufficient funds to finance new
8 or refinance existing, mortgage indebtedness in order to
9 undertake the necessary construction, reconstruction,
10 rehabilitation, repair, renovation, replacement or other
11 improvement of commercial and industrial properties, within
12 neighborhoods which are blighted or are becoming blighted.

13 (3) Uncorrected, these conditions will increase the rate
14 of abandonment and destruction of such neighborhoods, which
15 in turn will erode the local tax base, depriving
16 municipalities of revenues needed to provide essential
17 municipal services and facilities.

18 (4) If mortgage insurance were available for loans to
19 finance new and refinance existing indebtedness needed to
20 undertake necessary construction, reconstruction,
21 rehabilitation, repair, renovation, replacement or other
22 improvement of commercial and industrial properties in
23 blighted areas, the conditions of blight within such
24 neighborhoods could be ameliorated or averted.

25 (5) Changes in the national economy, including corporate
26 downsizing and plant closures have also resulted in underused
27 and abandoned industrial sites referred to as brownfields in
28 many areas of this Commonwealth, many of which are located in
29 urban settings. These abandoned sites have further
30 contributed to neighborhood blight.

1 (6) Abandoned commercial and industrial properties
2 located in blighted areas of this Commonwealth, if
3 decontaminated and rehabilitated, have the potential to once
4 again become employment centers and serve as an economic
5 development catalyst to reverse existing and past trends
6 which resulted in the neighborhoods becoming blighted.

7 (7) According to a recent Housing and Urban Development
8 publication entitled Industrial Site Reuse and Urban
9 Redevelopment, "the inability to secure loans may stifle any
10 new enterprises whose owners would consider using abandoned
11 industrial and commercial sites is securing credit. Without
12 access to capital, these companies cannot maintain their
13 competitiveness, expand to take advantage of new market
14 opportunities, update their equipment and facilities,
15 maintain necessary inventories or create new jobs. Critical
16 funding gaps are currently the primary deterrent to
17 brownfield site facility reuse, especially for small start-up
18 businesses wishing to utilize abandoned commercial or
19 industrial property in blighted areas."

20 (8) Because of the time required to structure financial
21 packages for commercial and industrial sites in blighted
22 neighborhoods, including environmental assessments and
23 detailed appraisals, brownfield sites are at a tremendous
24 competitive disadvantage and according to the report will
25 remain undeveloped without additional government incentives
26 or assistance.

27 (9) As a result, it is in the public interest to
28 encourage the financing of, and otherwise support, the
29 planning, acquisition, development, construction,
30 reconstruction, rehabilitation, repair, renovation, or other

1 improvement of commercial and industrial properties in
2 blighted areas of this Commonwealth including brownfield
3 sites.

4 (10) The flow of private investment capital into
5 blighted areas for commercial and industrial development can
6 be stimulated by a system wherein qualified lending
7 institutions and local governments may be insured against
8 losses incurred as a result of nonpayment of principal,
9 interest or other sums agreed to be paid under the terms of
10 any note, mortgage, bond or other evidence of indebtedness.
11 This includes loans from local governments and other
12 qualified lending institutions to nonprofit organizations and
13 private developers.

14 (11) The provision of insurance for loans made by
15 qualified lending institutions and local governments or bonds
16 and notes issued by qualified issuers, the issuance of
17 obligations backed by mortgages or the provision of other
18 credit enhancements in support of the foregoing activities
19 will encourage and expand the flow of public and private
20 capital in support of all these activities in blighted areas.

21 Therefore, it is declared to be a public purpose of this
22 Commonwealth that, in order to promote the economic
23 revitalization of neighborhoods which are blighted or are
24 becoming blighted and to discourage further disinvestment while
25 encouraging increased investment of mortgage capital in the real
26 estate situated in such blighted neighborhoods, the Pennsylvania
27 Mortgage Guaranty Corporation should be created to insure
28 qualified industrial and commercial mortgage loans in blighted
29 neighborhoods subject to the terms and provisions set forth in
30 this act.

1 Section 103. Definitions.

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

5 "Agency." The Pennsylvania Mortgage Guaranty Corporation.

6 "Applicant." A person or company that meets the application
7 requirements as established by the Pennsylvania Mortgage
8 Guaranty Corporation.

9 "Blighted area." A geographic area that is lacking adequate
10 employment opportunities, shows signs of existing physical
11 deterioration of buildings and structures, has unsafe and
12 unsanitary living conditions within dwellings, excessive land
13 coverage of buildings or economically and socially undesirable
14 land uses.

15 "Board." The Board of Directors of the Pennsylvania Mortgage
16 Guaranty Corporation.

17 "Brownfield site." An underused or abandoned commercial or
18 industrial building or building site normally in a state of
19 deterioration, which may be contaminated or partially
20 contaminated.

21 "Credit enhancement." A guarantee, including a guarantee of
22 obligations in any form backed by a pool of mortgages or other
23 form of assurance or security device issued in order to:

24 (1) improve the credit of a qualified borrowing entity;

25 or

26 (2) upgrade the security or rating of a financial
27 obligation, including mortgage-backed securities,
28 certificates of participation and any bonds or notes issued
29 to finance any development activities eligible to be insured
30 by this act.

1 "Debt obligation." A bond, note, certificate of indebtedness
2 and any other instrument or evidence of indebtedness, including
3 a debt obligation issued to refund any of the foregoing.

4 "Economic development." A process by which government,
5 through the adoption and implementation of programs and
6 policies, provides incentives or inducements to stimulate growth
7 in the private sector that is manifested in increased commercial
8 or industrial activity resulting in new employment
9 opportunities.

10 "Feasibility study." A study performed by the Pennsylvania
11 Mortgage Guaranty Corporation pursuant to section 703.

12 "Financial institution." A bank, trust company, national
13 bank, savings bank, Federal or State savings and loan
14 association, Community Development Financial Institution (CDFI)
15 certified by the Federal or State government, Federal or State
16 credit union, insurance company, pension fund or retirement
17 system of any corporation, association or any other entity which
18 is owned or controlled by any one or more of them, provided the
19 financial institution is supervised by or responsible to any
20 agency of the Federal Government, the Commonwealth, any
21 department thereof or the governing body of any municipality or
22 any other entity approved by the Pennsylvania Mortgage Guaranty
23 Corporation or any one or more of them when lawfully acting as a
24 trustee or otherwise, in a fiduciary capacity.

25 "Financing." This term includes acquisition financing,
26 permanent financing, short-term bridge financing, construction
27 financing or refinancing of any type of loan or project
28 authorized to be insured by this act.

29 "Fund." The Pennsylvania Mortgage Guaranty Fund created and
30 established by this act to guarantee commercial and industrial

1 mortgages in blighted areas.

2 "Guaranty." An undertaking or promise that is collateral to
3 the primary or principal obligation and that binds the guarantor
4 to performance in event of nonperformance by the principal
5 obligor.

6 "Guaranty fund reserve requirement." The amount of assets,
7 or their equivalent, of the Pennsylvania Mortgage Guaranty Fund
8 determined by the agency as necessary to maintain the claims
9 paying ability of the Pennsylvania Mortgage Guaranty Fund. For
10 purposes of the definition, an asset equivalent may include, but
11 is not limited to, a letter of credit, insurance policy,
12 reinsurance treaty or policy, surety, guarantee or other
13 security arrangement.

14 "Holder." When used in reference to a debt obligation
15 insured by the Pennsylvania Mortgage Guaranty Corporation, means
16 any person who shall be the owner of any outstanding debt
17 obligation insured by the Pennsylvania Mortgage Guaranty
18 Corporation.

19 "Housing project." The construction of new, or
20 rehabilitation of existing, affordable single-family or multi-
21 family for-sale or rental housing units.

22 "Local Government." Any municipality or county, and any
23 housing or redevelopment authority in this Commonwealth.

24 "Mortgage." An interest in land created by a written
25 instrument providing security for the payment of a debt,
26 including leasehold mortgages, deeds of trust, security
27 agreements, pledges or any other security arrangements securing
28 a loan.

29 "Obligee." A qualified lending institution under a qualified
30 obligation and its successors and assigns approved by the

1 agency.

2 "Obligor." The original borrower under a qualified
3 obligation and its successor and assign approved by the agency.

4 "Operating expenses." All costs of administering the agency,
5 including, but not limited to, salaries and wages, expenses of
6 administering staff functions, fees of consultants, legal fees,
7 costs incurred for servicing insured mortgage loans, money
8 management, office rents, utility charges, cost of supplies,
9 furnishings, equipment, machinery and apparatus, maintenance and
10 repair of property and other expenses incurred in connection
11 therewith.

12 "Person." An individual, local government, partnership,
13 corporation or joint venture.

14 "Program." The Mortgage Guarantee Program established by
15 this act.

16 "Qualified lending institution." A bank, trust company,
17 national bank, savings bank, Federal or State savings and loan
18 association, Community Development Financial Institution (CDFI)
19 certified by the Federal or State Government, Federal or State
20 credit union, insurance company, private or public pension fund,
21 philanthropic institution, community development financial
22 institution or any other entity approved by the agency. All
23 qualified lending institutions must submit information,
24 sufficient in detail to demonstrate the capacity to perform the
25 functions and services itself, or through contractual
26 arrangements with third parties, necessary to adequately comply
27 with the requirements contained in the guarantee documents.

28 Information to be submitted must include a current audited
29 financial statement, a description detailing the institution's
30 experience in originating and servicing loans and a listing and

1 the qualifications of key personnel within the institution's
2 operation. If the qualified lending institution plans on
3 contracting with third parties for the servicing of the
4 qualified obligation, then this information must be provided
5 with respect to the party to provide those services.

6 "Qualified obligation." An obligation or loan which is made
7 or purchased by a qualified lending institution, deemed suitable
8 for guarantee by the agency and secured by a commercial or
9 industrial property or a mortgage of a lease thereof.

10 "Rehabilitation." Repairs, alterations or improvements to
11 commercial or industrial property located in a blighted area.

12 "Rehabilitation loan." A loan extended by a financial
13 institution which may include the refinancing of existing
14 indebtedness, if any, secured by one or more mortgages on
15 commercial or industrial property located in a blighted area
16 which is to be rehabilitated.

17 "Revenues." All rates, rents, fees, charges, surcharges,
18 money, profits, earnings, payments or principal of or interest
19 on municipal securities and other investments, gifts,
20 governmental and other grants, contributions, appropriations and
21 all other income derived or to be derived by the Pennsylvania
22 Mortgage Guaranty Corporation in connection with any project for
23 which mortgage insurance has been provided by the Pennsylvania
24 Mortgage Guaranty Corporation.

25 CHAPTER 3

26 PENNSYLVANIA MORTGAGE GUARANTY CORPORATION

27 Section 301. Establishment.

28 (a) General rule.--There is hereby established in the State
29 Treasury, an independent board politic and corporate, to be
30 known as the Pennsylvania Mortgage Guaranty Corporation. The

1 agency shall constitute an instrumentality of the Commonwealth,
2 and the exercise by the agency thereof of the powers conferred
3 by this act shall be deemed and held to be a public and
4 essential governmental function.

5 (b) Purpose.--The purpose of the agency shall be to promote,
6 encourage and provide mortgage insurance to participating
7 lenders and local governments in their efforts to promote,
8 encourage and finance the construction, reconstruction,
9 rehabilitation, repair, renovation, replacement or other
10 improvement of commercial and industrial properties in blighted
11 areas of this Commonwealth.

12 (c) Board of directors.--The agency shall be directed by a
13 nine member board of directors. The board shall be composed of
14 the State Treasurer, the Secretary of Banking, the Secretary of
15 Community and Economic Development and three persons appointed
16 by the Governor at the recommendation of the President pro
17 tempore of the Senate and three persons appointed by the
18 Governor at the recommendation of the Speaker of the House of
19 Representatives. With the exception of the State Treasurer, the
20 Secretary of Banking and the Secretary of Community and Economic
21 Development, no more than two of each group of three directors
22 shall be from the same political party and shall serve two-year
23 terms. Of the six directors appointed by the Governor, two shall
24 have experience in banking generally; two shall have experience
25 in mortgage banking specifically; and two shall be economic
26 development professionals. Each appointed director shall serve
27 until a successor has been appointed and qualified. A director
28 may be reappointed. A vacancy shall be filled in the same manner
29 as the original appointment but for the remainder of the
30 unexpired term only.

1 (d) Removal for cause.--Each appointed director may be
2 removed from the board by the Governor for cause, after a public
3 hearing, and may be suspended by the Governor pending the
4 completion of the hearing. Each appointed director, before
5 beginning duties on the board, shall take and subscribe an oath
6 to perform the duties of this office faithfully, impartially and
7 justly to the best of that person's ability. A record of oaths
8 shall be filed with the Secretary of the Commonwealth.

9 (e) Chairman.--The Governor shall designate one of the
10 appointed members to be the chairman and chief executive officer
11 of the corporation, and the directors shall elect biennially a
12 vice chairman from among the appointed directors. The chairman
13 shall serve at the pleasure of the Governor and until a
14 successor shall be designated. The directors shall elect a
15 secretary and the same person may be elected to serve as both
16 secretary and treasurer. The power of the corporation shall be
17 vested in the directors in office from time to time and five
18 directors shall constitute a quorum at any meeting. Action may
19 be taken and motions and resolutions adopted by the agency by
20 the affirmative vote of at least five directors, except an
21 affirmative vote of at least seven directors shall be necessary
22 for an action to approve and make or establish the terms and
23 conditions of a mortgage guarantee or credit enhancement for an
24 applicant. No vacancy on the board of directors shall impair the
25 right of a quorum to exercise the powers and perform the duties
26 of the agency.

27 (f) Performance bond.--Each director and the treasurer of
28 the agency shall execute a bond to be conditioned upon the
29 faithful performance of the duties of the directors or treasurer
30 in a form and amount as may be prescribed by the State

1 Treasurer. Bonds shall be filed in the office of the Secretary
2 of the Commonwealth. At all times thereafter, the directors and
3 treasurer shall maintain the bonds in full effect. All costs of
4 the bonds shall be borne by the agency.

5 (g) Compensation.--The agency shall reimburse the directors
6 for actual and necessary expenses incurred in the performance of
7 their duties.

8 (h) Designated substitute.--The State Treasurer, the
9 Secretary of Banking and the Secretary of Community and Economic
10 Development may designate an officer of their respective
11 departments to represent them at meetings of the agency. Each
12 designee may lawfully vote and otherwise act on behalf of the
13 director for whom that designee serves. The designation shall be
14 in writing delivered to the agency and shall continue in effect
15 until revoked or amended in writing.

16 (i) Dissolution of agency.--The agency may be dissolved by
17 law if it has no debts or obligations or guarantees outstanding
18 or if provision has been made for paying or retiring all debts,
19 obligations and guarantees. Upon a dissolution of the agency,
20 all of its property, funds and assets shall be vested in the
21 Commonwealth.

22 (j) Minutes of meetings.--A true copy of the minutes of
23 every meeting of the agency shall be delivered by and under the
24 certification of the secretary of the board of directors to the
25 Governor and the presiding officers of the Senate and the House
26 of Representatives.

27 Section 302. Mortgage insurance fund.

28 There is established in the State Treasury a special
29 nonlapsing fund to be known as the Pennsylvania Commercial and
30 Industrial Mortgage Guaranty Fund. The fund shall consist of:

1 (1) All fees and charges paid to the agency.

2 (2) Proceeds of any State loan to the extent provided by
3 the General Assembly or any agency or authority authorized to
4 issue bonds therefore.

5 (3) Any moneys made available to the agency for the
6 purposes set forth in this act from any public or private
7 source.

8 (4) All moneys appropriated by the General Assembly to
9 the agency for the purposes of carrying out the provisions of
10 this act.

11 Unless otherwise required by law, the earnings on the money in
12 the fund may be applied for any lawful purpose of the agency.

13 Section 303. Disposition of funds.

14 (a) Investments.--The State Treasurer shall deposit all
15 moneys of the fund in such financial institutions as the State
16 Treasurer deems proper and shall be accounted for by the Auditor
17 General. These funds shall be invested and reinvested in the
18 same manner as other State funds.

19 (b) Premiums and fee income.--All premium and fee income
20 shall be credited to the fund for the operation of the fund and
21 the provision of additional insurance, guarantees and credit
22 enhancements.

23 (c) Insurance credit reserve.--Any moneys in the fund which
24 by agreement, contract, secretarial termination or regulation
25 have been created as an identifiable insurance credit reserve
26 may only be used in conformance with the terms and conditions
27 creating such reserve.

28 (d) Transfers to reserve.--Operational funds, earnings not
29 yet allocated to a particular reserve, State appropriated funds,
30 State general obligation bond proceeds or other funds received

1 and not identified to a particular reserve may, at the
2 discretion of the board, be transferred to any reserve.

3 (e) Limitation.--Insurance, guarantees, or other credit
4 enhancements provided pursuant to this act shall not pledge the
5 faith, credit, or taxing power of the Commonwealth or the agency
6 and shall be payable only to the extent of the reserve or other
7 identified funds that back the insurance, guarantee or
8 enhancement.

9 Section 304. Agency reserves, funds and accounts.

10 The agency may establish any reserves, funds or accounts as
11 it may determine necessary or desirable to further the purposes
12 of the agency or to comply with the provisions of any agreement
13 made by or any resolution of the agency.

14 Section 305. Management of fund.

15 (a) General rule.--The agency shall manage and supervise the
16 fund.

17 (b) Use of fund moneys.--Moneys in the fund shall be used:

18 (1) To insure loans accepted by the agency under this
19 act.

20 (2) To insure local government bonds or notes issued to
21 finance any project that is eligible for insurance under this
22 act.

23 (3) To guarantee any securities, evidences of
24 indebtedness or other forms of obligation backed by
25 mortgages.

26 (4) To provide other forms of credit enhancement
27 authorized by this act.

28 (c) Premiums and fees.--The agency shall establish premiums
29 and fees for insurance of loans, bonds, notes and other forms of
30 credit enhancement offered under this act, in an amount

1 calculated to cover administrative costs as well as anticipated
2 payments due to defaults on loans, bonds or notes causing
3 insured losses to the lenders, bondholders or noteholders or
4 losses or other liabilities incurred in connection with any
5 credit enhancement provided by the agency.

6 Section 306. Fees and rates.

7 For the issuance of a commercial or industrial mortgage
8 guarantee, the agency may charge fees and rates as established
9 in the applicable feasibility study to all applicants. A fee
10 based on a percentage of the total proposed qualified mortgage
11 amount shall be paid by the qualified lending institution at the
12 time a commercial or industrial loan is submitted to the agency
13 for consideration of a guarantee. A fee based on a percentage of
14 the total qualified mortgage amount shall be paid by the
15 qualified lending institution at the time a commitment to
16 guarantee is issued by the agency.

17 Section 307. Fund payments.

18 (a) General rule.--The fund shall be maintained for the
19 benefit of the qualified lending institutions and local
20 governments whose qualified obligations are guaranteed under
21 this act. Amounts in the fund shall be used in accordance with
22 this act to satisfy any valid claim payable therefrom.

23 (b) Manner of payment.--Payments pursuant to contracts of
24 guarantee and reinsurance may be made in a lump sum or in
25 partial payments made within such period of time as may be
26 agreed to by the agency and the qualified lending institution or
27 local government. These payments by the agency shall be payable
28 solely from the fund. The agency shall not guarantee or issue a
29 commitment to guarantee a qualified obligation if the balance of
30 the fund is less than the guarantee fund reserve requirement.

1 Section 308. Audit.

2 At least once in each fiscal year the fund shall be examined
3 for the purposes of auditing the fund's financial condition and
4 determining the soundness of its management and operating
5 policies. The fund shall pay the cost of each such examination.
6 Copies of each report, including the findings, conclusions and
7 recommendations, shall be furnished to the Governor, the General
8 Assembly and the agency.

9 CHAPTER 5

10 ADMINISTRATION

11 Section 501. Powers and duties of agency.

12 Except as otherwise limited by this act, the agency may:

13 (1) Make and alter bylaws for its organization and
14 internal management and make rules and regulations with
15 respect to its operations.

16 (2) Adopt an official seal and alter it.

17 (3) Sue and be sued.

18 (4) Make and enter into all contracts, leases and
19 agreements necessary or incidental to the performance of its
20 duties and the exercise of its powers under this act and
21 consent to any modification, amendment or revision of any
22 contract or agreement to which the agency is a party.

23 (5) Hire an executive director and other employees
24 necessary to administer this act. The board shall set the
25 compensation of those employees.

26 (6) Engage the services of attorneys, accountants and
27 financial experts and such other advisors, consultants and
28 agents as may be necessary in its judgment and fix their
29 compensation.

30 (7) Insure or guarantee upon such terms as it may

1 prescribe any mortgage or pool of mortgages offered or any
2 bonds or notes issued which are eligible for insurance.

3 (8) Insure bridge loans which are secured by persons
4 rather than real property.

5 (9) Provide other forms of credit enhancement upon such
6 terms as it may prescribe for qualified lenders and borrowers
7 who are unable otherwise to obtain such enhancement in the
8 private market.

9 (10) Extend a line of credit sufficient to cover
10 insurance and bonding expenditures of approved nonprofit
11 corporations engaged in economic development projects,
12 including housing, in blighted areas.

13 (11) Following a default under any obligation which is
14 insured or otherwise credit enhanced under this act, acquire,
15 hold, improve, operate pending sale or other disposition,
16 sell, assign, exchange, transfer, convey, lease, mortgage or
17 otherwise dispose of or encumber real property or any
18 interest therein, personal property or any interest therein
19 or any evidence of indebtedness, including, but not limited
20 to, pass-through certificates, residual interests or other
21 securities backed by real estate or a mortgage.

22 (12) In connection with any property, acquired by the
23 agency through foreclosure, deed in lieu of foreclosure or
24 otherwise pursuant to any other payment in settlement for a
25 claim for loss; contract with private parties for services to
26 secure, maintain, operate or improve such property in
27 anticipation of disposition of the property or make a
28 mortgage loan to assist in the disposition of the property.

29 (13) Establish a fund, independent of the Pennsylvania
30 Commercial and Industrial Mortgage Guaranty Fund, to be used

1 as a line of credit to guarantee the bond and insurance needs
2 of qualified nonprofit community development corporations
3 that are uninsurable at reasonable rates due to the economic
4 conditions of the community in which their development
5 projects are located, and to guarantee the insurance needs of
6 businesses that cannot obtain affordable fire and casualty
7 insurance due to the physical condition of the buildings in
8 the immediate neighborhood in which is located their
9 principal place of business.

10 Section 502. Rules.

11 The agency shall promulgate such rules as are necessary to
12 carry out the purpose of this act.

13 Section 503. Annual report.

14 The agency shall provide a written report to the Governor and
15 to the General Assembly on or before December 1 of each year on
16 the financial status of the fund and its operations for the
17 preceding fiscal year, including, but not limited to, the types
18 and amount of insurance reserves, insurance issued, premiums
19 charged and claims made.

20 Section 504. Board determinations.

21 Any determination by the board relating to the eligibility of
22 any project, facility or undertaking for insurance or other
23 forms of credit enhancement or any other action taken by the
24 board in its own name or in the name of the Pennsylvania
25 Commercial and Industrial Mortgage Guaranty Fund, under this act
26 shall be conclusive of the matters determined therein unless
27 appealed based on new or additional information and the board
28 reverses its decision.

29 CHAPTER 7

30 MORTGAGE GUARANTEE PROGRAM

1 Section 701. Agency duties.

2 In order to implement the program, the agency shall:

3 (1) Upon board approval:

4 (i) Issue a commitment to guarantee any qualified
5 obligation or aggregate of qualified obligations,
6 guarantee any qualified obligations or aggregate of
7 qualified mortgage loans.

8 (ii) Enter into contracts, agreements or treaties of
9 insurance regarding any qualified obligations or
10 aggregate of qualified obligations.

11 (iii) Provide the guarantee on terms that minimize
12 the financial risk to the fund while making the project
13 financially feasible.

14 (2) Guarantee and issue commitments to guarantee any
15 part of the payments required on qualified obligations upon
16 such terms and conditions as contained in the program
17 documents.

18 (3) Enter into commitments to guarantee, contracts to
19 guarantee and reinsurance contracts regarding qualified
20 obligations and to fulfill its obligations and enforce its
21 rights under any guarantee so furnished.

22 (4) Fix a premium charge for its guarantee of
23 obligations in an amount to be determined in accordance with
24 the applicable feasibility study and establish and levy such
25 other charges and fees in connection with applications for
26 guarantee, guarantee commitments, contracts of guarantee as
27 are necessary to recover authorized reimbursable expenses
28 under the act or feasibility study. The premium charges,
29 other charges and fees shall be payable as incurred.

30 (5) Consent to the modification, with respect to rate of

1 interest, time of payment of any installment of principal or
2 interest, security or any other term, of any obligation, the
3 security for any obligation, contract or agreement of any
4 kind which the fund has guaranteed or to which the fund is a
5 party.

6 (6) Foreclose any obligation in default or commence any
7 action to protect or enforce any rights conferred upon the
8 agency and the fund, and to bid for and purchase such
9 property at any foreclosure or at any other sale, or
10 otherwise to acquire or take possession of any such property.

11 (7) Hold, manage, administer, lease or sell any property
12 conveyed to or acquired by the agency or the fund.

13 (8) Pay, pursue to final collection, compromise, waive
14 or release any right, title, claim, lien or demand, however
15 acquired, including any equity or right of redemption.

16 (9) Sell, at public or private sale, any mortgage,
17 mortgage participation or other obligation held by the agency
18 or the fund.

19 (10) Procure insurance against any loss in connection
20 with its property and other assets.

21 (11) Establish such other contractual provisions as are
22 necessary or incidental to paragraphs (1) through (10).

23 Section 702. Criteria for insuring loans.

24 (a) General rule.--The agency may provide mortgage insurance
25 to participating lenders or local governments when the
26 requirements set forth in this act have been met and the
27 application and approval process provided for in this act have
28 been satisfactorily completed.

29 (b) General purpose for insuring loan.--Mortgage insurance
30 approved by the agency for loans of moneys shall be for the

1 purpose of developing, constructing, reconstructing, repairing,
2 renovating, replacing, rehabilitating or expanding commercial,
3 industrial, and/or housing projects in blighted areas which
4 result in or promote new or expanded economic development.

5 To qualify for mortgage insurance approved by the agency for a
6 housing project, there shall be a minimum of ten units where
7 such housing project involves single-family homes, or a minimum
8 of 15 units in the case of multifamily homes.

9 (c) Waiver of requirements.--The agency may waive the
10 minimum requirements provided in subsection (b) if in the
11 opinion of the agency such waiver is justified due to
12 circumstances unique to the project.

13 (d) Application.--Any local government or lender which has
14 approved the financing of a commercial or industrial project in
15 a blighted area in accordance with this act applicable to it,
16 may request mortgage insurance from the agency by filing an
17 application with the agency. The application shall be in such
18 form and in compliance with such procedures as the agency may
19 from time to time fix and prescribe.

20 (e) Processing of application.--The agency shall review such
21 application in a timely fashion and shall determine whether such
22 project is in accordance with Commonwealth policies and
23 objectives and with local and regional policies and objectives
24 as expressed in local urban renewal, comprehensive and community
25 development plans. In carrying out the duties under this
26 section, the agency shall work closely and consult and cooperate
27 with elected and nonelected local government officials,
28 nonprofit corporations and citizens in consideration of the
29 needs and desires of the residents and businesses located in the
30 area served by the local government. In addition, the agency

1 shall foster local participation in the planning and development
2 of projects for which mortgage insurance is being sought from
3 the agency. After reviewing the application, the agency shall
4 determine whether or not the application conforms with all
5 appropriate criteria and shall recommend approval or disapproval
6 of the application to the board.

7 (f) Factors for mortgage insurance approval.--Prior to the
8 agency approving mortgage insurance for any applicant, the
9 agency shall consider, among others, the following factors:

10 (1) If the proposed project is consistent with the needs
11 of the local government in which the project is or is to be
12 located and will meet a substantial Commonwealth interest.

13 (2) If the project will have a significant, favorable
14 and positive impact on the economic condition of the local
15 government and region in which the project is or is to be
16 located and this Commonwealth as a whole, including the
17 generation or retention of long-term employment
18 opportunities.

19 (3) If the project is likely to occur without the
20 assistance provided by this act.

21 (g) Priority of mortgage insurance approval.--The agency
22 shall give priority to projects which provide any combination of
23 the following:

24 (1) Substantial employment or other direct benefits to
25 low-income or unemployed or underemployed persons.

26 (2) Significant improvement to the physical condition of
27 neighborhoods, especially neighborhoods designated as
28 deteriorated and blighted.

29 (3) Reinforcement for other housing and economic
30 development related investments by a local government or the

1 private sector.

2 (h) Procedures for application review.--The agency shall
3 establish and, from time to time, may alter procedures governing
4 the process by which it reviews applications under this act for
5 mortgage insurance. These procedures shall include such matters
6 as evaluation criteria, opportunity for public comment,
7 standards for the ranking of projects by priority and standards
8 for the setting of the terms and conditions of the mortgage
9 insurance, including, but not limited to, the amount, duration,
10 fees and interest charges, where applicable. The agency shall
11 not approve any mortgage insurance for any project which does
12 not substantially meet such criteria and standards.

13 Section 703. Feasibility studies.

14 The agency shall cause to be performed a commercial and
15 industrial guarantee feasibility study prior to the issuance of
16 any loan guarantee. Each such feasibility study shall be
17 accepted by the governing board of the agency prior to the
18 issuance of the guarantee pursuant thereto. This study shall
19 determine the type of eligible commercial or industrial
20 development in a blighted area for which a guarantee is required
21 for the investment of private capital, the anticipated risk of
22 default and the level of fees, charges and reimbursement
23 conditions necessary to establish a financially sound commercial
24 and industrial guarantee program that exposes the funds
25 deposited into the guarantee fund to a reasonable or acceptable
26 level of risk.

27 Section 704. Program documents.

28 (a) General rule.--The issuance of a guarantee shall require
29 the generation of the following program documents including, but
30 not limited to:

1 (1) A master guarantee agreement with the qualified
2 lending institution.

3 (2) A commitment and certificate of guarantee.

4 (3) Any additional conditions to the commitment and
5 certificate of guarantee.

6 The documents shall be binding and shall fully describe the
7 responsibilities of and remedies available to the signing
8 parties. The guarantee contract or other agreement issued by the
9 fund shall establish the procedures to be followed by an obligee
10 or other beneficiary of the guarantee in the event of a default
11 under the terms of any guaranteed obligation.

12 (b) Actions relating to pledged collateral.--Prior to
13 submitting a claim for payment, the obligee shall pursue such
14 actions with respect to the pledged collateral as may be
15 directed by the agency from among the following:

16 (1) becoming lawfully the obligee in possession thereof;

17 (2) causing a receiver to be appointed for such
18 property;

19 (3) obtaining voluntary conveyance of their obligor's
20 right and title to such property; or

21 (4) obtaining by foreclosure, clear and unencumbered
22 title to such property.

23 These actions shall be pursued in accordance with the directions
24 provided by the agency on the advice of counsel.

25 Section 705. Project criteria.

26 In order to be eligible for a commercial or industrial loan
27 guarantee issued by the agency, the project shall meet the
28 eligibility criteria provided in the applicable feasibility
29 study. In order for an obligation to be eligible for guarantee,
30 the agency must first find that:

1 (1) Except as otherwise permitted by this act, the
2 repayment of a qualified obligation is secured by a mortgage.

3 (2) The obligor is credit worthy as determined by
4 comparison to similarly situated obligors.

5 (3) The obligation is in such principal amount and form
6 and contains such terms and provisions with respect to
7 property insurance, repairs, alterations, payment of taxes
8 and assessments, delinquency charges, default remedies,
9 additional security and other matters as the agency, with the
10 advice of counsel, shall determine and are considered
11 customary in the industry.

12 (4) The requirements of the act are adequately met by
13 the terms of the mortgage guarantee contract or other
14 agreements.

15 Section 706. Eligibility standards for mortgage insurance and
16 credit enhancements.

17 (a) General rule.--The agency shall prescribe such
18 eligibility standards for insurance and other forms of credit
19 enhancement to be offered as are reasonable to provide that the
20 insurance and credit enhancements shall aid in:

21 (1) The financing of the construction, reconstruction,
22 rehabilitation, repair, renovation, replacement or other
23 improvement of commercial or industrial property in blighted
24 areas.

25 (2) The sale or other transfer of an obligation, whether
26 denoted as bond, note, collateralized obligation, grantor
27 trust, conduit or any other form of security or obligation
28 however denoted, backed directly or indirectly by mortgages
29 or payments derived from mortgages.

30 (b) Lenders.--The standards under this section shall assure

1 that any lender, including a local government, benefiting from
2 insurance or other credit enhancement provided by the agency for
3 a loan made by that lender shall be responsible and able to
4 service the loan or has made other arrangements for the
5 servicing of the loan that are acceptable to the agency.

6 Section 707. Guarantee coverage.

7 (a) Amount.--The guarantee percentage of the outstanding
8 principal indebtedness of an obligation or any aggregate of
9 obligations authorized to be guaranteed under this act may be
10 only for such percentage as minimizes the financial risk to the
11 fund while making the project financially feasible.

12 (b) Ownership of property.--An obligor shall be, or by
13 reason of an obligation guaranteed by the fund shall become, the
14 owner or lessee of the property that secures the qualified
15 obligation, and shall be able to bear the usual expenses of
16 maintaining the structure and repay the obligation.

17 Section 708. Contracts.

18 The agency shall establish contractual provisions, which may
19 include a right of foreclosure, to foster secure reimbursement
20 of moneys paid pursuant to a guarantee in the event of a covered
21 default for which the qualified lending institution submits a
22 claim for loss as defined in the guaranty program documents. A
23 copy of the guaranty program documents shall be available from
24 the agency upon request.

25 Section 709. Reimbursable costs.

26 All expenses, exclusive of agency administrative costs,
27 incurred in the course of processing a request for a guarantee,
28 whether a guarantee is ever issued, shall be paid by the
29 qualified lending institution or local government.

MISCELLANEOUS PROVISIONS

Section 901. Appropriation.

The sum of \$50,000,000 is hereby appropriated to the Pennsylvania Mortgage Guaranty Corporation for deposit into the Pennsylvania Commercial and Industrial Mortgage Guaranty Fund established and to be used to implement the provisions of this act. This sum shall be repaid, without interest, to the Commonwealth as soon as practicable.

Section 902. Construction.

This act shall be liberally construed in furtherance of the findings and declarations set forth in section 102.

Section 903. Effective date.

This act shall take effect in 180 days.