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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 152 Session of  
2015

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INTRODUCED BY TEPLITZ, HUGHES, SCHWANK, COSTA, BREWSTER,  
YUDICHAK AND WILLIAMS, JANUARY 27, 2015

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REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
JANUARY 27, 2015

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AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania  
2 Consolidated Statutes, providing for implementation and  
3 administration of the Pennsylvania First Program; and  
4 imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 12 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 22

10 PENNSYLVANIA FIRST PROGRAM

11 Sec.

12 2201. Definitions.

13 2202. Administration.

14 2203. Application review.

15 2204. Terms and conditions.

16 2205. Penalties.

17 2206. Guidelines.

18 2207. Recipient report.

1 2208. Evaluation.

2 § 2201. Definitions.

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

6 "Eligible applicant." Any of the following entities that  
7 apply for financial assistance:

8 (1) A for-profit entity.

9 (2) A not-for-profit entity.

10 (3) A municipality.

11 (4) A municipal authority organized under the former act  
12 of May 2, 1945 (P.L.382, No.164), known as the Municipality  
13 Authorities Act of 1945, or 53 Pa.C.S. Ch. 56 (relating to  
14 municipal authorities).

15 (5) A redevelopment authority organized under the act of  
16 May 24, 1945 (P.L.991, No.385), known as the Urban  
17 Redevelopment Law.

18 (6) An industrial and commercial development authority  
19 as defined under the act of August 23, 1967 (P.L.251,  
20 No.102), known as the Economic Development Financing Law.

21 (7) A local development district as defined under the  
22 act of December 7, 1994 (P.L.845, No.120), known as the Local  
23 Development District Act.

24 (8) An industrial development agency as defined under  
25 the act of May 17, 1956 (1955 P.L.1609, No.537), known as the  
26 Pennsylvania Industrial Development Authority Act.

27 "Eligible use." Any of the following activities of an  
28 eligible applicant:

29 (1) Job training for residents in this Commonwealth.

30 (2) The acquisition of interest in land, buildings or

1 rights-of-way.

2 (3) The construction or rehabilitation of buildings.

3 (4) The construction or rehabilitation of

4 infrastructure.

5 (5) The purchase, upgrade or installation of machinery

6 and equipment.

7 (6) Working capital.

8 (7) Site preparation, including demolition and

9 clearance.

10 (8) Environmental assessments.

11 (9) Remediation of hazardous material.

12 (10) Payment of architectural and engineering fees not

13 to exceed 10% of the overall cost of a project.

14 "Financial assistance." A grant, loan or loan guarantee

15 provided by State funds for an eligible use.

16 "Program." The Pennsylvania First Program administered by

17 the department to provide financial assistance to facilitate

18 increased investment, job creation and job retention within this

19 Commonwealth.

20 "Recipient." An eligible applicant who receives financial

21 assistance under the program.

22 § 2202. Administration.

23 The department shall administer the program with the goals

24 of:

25 (1) Promoting job creation.

26 (2) Promoting job retention.

27 (3) Maximizing each award of financial assistance.

28 (4) Promoting accountability for the use of financial

29 assistance.

30 § 2203. Application review.

1 The department shall review program applications to determine  
2 if an applicant meets the department's eligibility criteria.  
3 Applications shall be reviewed in accordance with the standards  
4 and procedures adopted by the department for use in the review  
5 process.

6 § 2204. Terms and conditions.

7 (a) General rule.--The department shall impose terms and  
8 conditions on the award of financial assistance.

9 (b) Penalty provision.--Loan agreements shall include a  
10 penalty provision that specifies the penalty that may be imposed  
11 by the department if:

12 (1) the loan is repaid in full prior to the date of the  
13 recipient's final evaluation; and

14 (2) the recipient failed to create or retain the number  
15 of required jobs.

16 (c) Collateral.--For any applicant that is determined by the  
17 department to be at risk of not meeting job creation or job  
18 retention requirements, the department shall require collateral  
19 to secure repayment of any penalty imposed under the program.

20 § 2205. Penalties.

21 (a) Imposition.--Except as provided in subsection (d), the  
22 department shall impose a penalty upon a recipient for any of  
23 the following:

24 (1) Failing to create or retain the number of jobs  
25 specified in the executed commitment letter.

26 (2) Failing to invest the amount of private funds  
27 specified in the executed commitment letter.

28 (3) Failing to operate at the project site for a minimum  
29 period of seven years.

30 (b) Amount.--The department shall use a formula to calculate

1 the penalty amount to be assessed under subsection (a)(1). The  
2 formula shall be based on the number of jobs a recipient fails  
3 to create or retain.

4 (c) Limitations.--The following limitations apply:

5 (1) For grants, the penalty amount may not exceed the  
6 full amount of the financial assistance received. The penalty  
7 shall be payable in one lump sum or in installments, with or  
8 without interest, as the department deems appropriate.

9 (2) For loans, the interest rate charged on the  
10 outstanding principal amount of the loan may be increased up  
11 to an additional 5% per year.

12 (d) Exception.--The department may waive the penalty  
13 required by subsection (a) if the department determines that the  
14 failure was due to circumstances outside the control of the  
15 recipient. The department shall establish procedures governing  
16 the process by which a waiver determination is made, including,  
17 but not limited to, the following:

18 (1) Detailing the documentation, data and other  
19 information required to be submitted by a recipient seeking a  
20 waiver.

21 (2) Instituting methods for validating information  
22 submitted by a recipient in support of the recipient's waiver  
23 request.

24 (3) Documenting the department's waiver decision and the  
25 factors it considered in rendering the decision.

26 § 2206. Guidelines.

27 The department shall develop written guidelines for the  
28 program. The guidelines shall do all of the following:

29 (1) Prescribe standards and procedures to be used in  
30 evaluating and reviewing program applications and require

1 consistent application of the standards and procedures.

2 (2) Require recipients to provide and update contact  
3 information. Contact information shall include:

4 (i) The names and addresses of the officers and  
5 directors if the recipient is a corporation.

6 (ii) The name and residence address of the owner if  
7 the recipient is an individual owner.

8 (iii) The name and residence address of each owner,  
9 partner or member and any managers if the recipient is a  
10 partnership, association or limited liability company.

11 § 2207. Recipient report.

12 Recipients shall provide the following information to the  
13 department:

14 (1) Payroll records. A recipient shall provide its  
15 payroll records to the department in monthly intervals. The  
16 department shall examine payroll records to verify the  
17 recipient's job creation or retention numbers.

18 (2) Annual progress update reports.

19 (3) A change or proposed change in operations or  
20 corporate status that adversely affects or potentially  
21 adversely affects the recipient's work force, including any  
22 planned merger or consolidation. The recipient shall report  
23 the change or proposed change immediately upon obtaining  
24 knowledge thereof.

25 § 2208. Evaluation.

26 The department shall:

27 (1) Outline program goals and performance measures in  
28 its report under section 303 (relating to development) and  
29 develop procedures to evaluate the program using these  
30 measures.

1           (2) Develop an objective evaluation process that  
2 provides success and failure statistics on an award-by-award  
3 basis.

4           (3) Refuse to accept recipient-reported job data unless  
5 the report is signed and certified by the recipient's  
6 highest-ranking officer and chief financial officer. The  
7 progress update report form must include notification to  
8 signatories that a misrepresentation of requested information  
9 may subject the recipient to criminal prosecution under 18  
10 Pa.C.S. § 4904 (relating to unsworn falsification to  
11 authorities).

12           (4) Conduct site visits to review project expenditures.

13           (5) Perform the following to independently verify a  
14 recipient's report of the number of jobs created or retained:

15               (i) Examine recipient payroll records. The  
16 department shall ensure that a recipient provides actual  
17 payroll records that contain sufficient information to  
18 verify the accuracy and validity of the reported number  
19 of jobs created or retained.

20               (ii) Use employment data available from the  
21 Department of Labor and Industry.

22               (iii) Conduct periodic unannounced visits to project  
23 sites.

24           (6) Conduct interim performance monitoring of all  
25 recipients.

26           (7) Work in conjunction with applicable Federal and  
27 State agencies to obtain employment data that is up to date  
28 and useful in verifying the number of jobs created or  
29 retained by a recipient.

30       Section 2. This act shall take effect in 60 days.