

## AMENDMENTS TO HOUSE BILL NO. 1438

Sponsor: REPRESENTATIVE GALLOWAY

Printer's No. 1553

1 Amend Bill, page 1, lines 1 through 3, by striking out all of  
2 said lines and inserting

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

Amend Bill, page 1, lines 6 through 18; pages 2 through 4,  
lines 1 through 30; page 5, lines 1 through 21; by striking out  
all of said lines on said pages and inserting

Section 1. The act of April 9, 1929 (P.L.343, No.176), known  
as The Fiscal Code, is amended by adding a section to read:

Section 135-C. COVID-19 Community Fitness-Related Business  
Grant Program.

(a) County block grants.--From money appropriated by the  
General Assembly for the distribution of grants under this  
section, each county shall receive an amount equal to the  
population proportion amount as determined under paragraph (2).  
The following shall apply:

(1) The department shall distribute funding to counties  
in accordance with this subsection no later than 21 days  
after the starting date.

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

(i) divide the population estimate of the county by  
the sum of the population estimates of all counties; and

(ii) multiply the quotient under subparagraph (i) by  
the total amount appropriated by the General Assembly for  
the distribution of grants under this section.

(3) For the purpose of this subsection, a county's  
population shall be equal to the published estimate by the  
United States Census Bureau's population estimates program  
for calendar year 2019.

(b) COVID-19 Community Fitness-Related Business Grant  
Program.--The County Block Grant COVID-19 Community Fitness-  
Related Business Grant Program is established in the department  
for the purpose of awarding grants under this section. The  
following shall apply to the program:

(1) No later than 22 days after the starting date, each  
county that receives a grant under this section shall  
contract at least one CEDO or CDFI designated to serve that  
county to award grants under this section.

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

(i) A grant awarded to an eligible applicant may not  
exceed \$20,000.

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

(A) Money that is not required to be repaid to  
the Federal Government under the CARES Act or

1 Consolidated Appropriations Act, 2021.

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

5 (3) The receipt of a loan or grant issued under the  
6 authority of the Federal Government or the Commonwealth shall  
7 not disqualify an applicant from eligibility for a grant  
8 under this section.

9 (4) Priority in the awarding of grants under this  
10 section shall be given to an eligible applicant that meets  
11 any of the following:

12 (i) The eligible applicant has not received a loan  
13 or grant issued under the authority of the Commonwealth  
14 or the Commonwealth's political subdivisions or by the  
15 Federal Government under the CARES Act or Consolidated  
16 Appropriations Act, 2021.

17 (ii) The eligible applicant was subject to closure  
18 by the proclamation of disaster emergency issued by the  
19 Governor on March 6, 2020, published at 50 Pa.B. 1644  
20 (March 21, 2020), and any renewal of the state of  
21 disaster emergency.

22 (iii) The eligible applicant can demonstrate a  
23 reduction in revenue that meets any of the following:

24 (A) A reduction in gross receipts of 50% or more  
25 for the period beginning after March 31, 2020, and  
26 ending before December 31, 2020, in comparison to the  
27 period beginning after March 31, 2019, and ending  
28 before December 31, 2019.

29 (B) If the eligible applicant was not in  
30 operation during the entire comparison period under  
31 clause (A), but was in operation on March 1, 2020, a  
32 monthly average reduction in gross receipts of 50% or  
33 more for the period beginning after March 31, 2020,  
34 and ending before December 31, 2020, in comparison to  
35 the period beginning after January 1, 2020, and  
36 ending before April 1, 2020.

37 (5) The following shall apply to applications to receive  
38 grants under this section:

39 (i) Applications shall be in a form determined by a  
40 county with input from a CEDO or CDFI processing the  
41 application on behalf of a county.

42 (ii) Applications shall contain documentation as  
43 required by the county.

44 (iii) Applications shall be available  
45 electronically.

46 (iv) No later than 45 days after the starting date,  
47 a CEDO or CDFI shall receive and consider applications on  
48 a rolling basis until funding for grants received by the  
49 county under subsection (a) have been completely  
50 expended, or 130 days after the starting date, whichever  
51 occurs first. Upon completely expending the funds

1 available for grants, a CEDO or CDFI shall notify the  
2 department.

3 (6) The following shall apply to reviewing applications  
4 for grants under this section:

5 (i) No later than 160 days after the starting date,  
6 a CEDO or CDFI shall approve or disapprove applications  
7 for grants.

8 (ii) Upon approving an application under  
9 subparagraph (i), a CEDO or CDFI shall enter into a grant  
10 agreement with the eligible applicant in order to award  
11 the grant.

12 (iii) The grant agreement under subparagraph (ii)  
13 shall explain the terms and conditions of the grant,  
14 including the applicable laws of this Commonwealth and  
15 reporting requirements.

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

19 (7) An eligible applicant or authorized representative  
20 of the eligible applicant that submits an application for a  
21 grant under this section shall certify in good faith to all  
22 of the following:

23 (i) The eligible applicant was in operation on March  
24 1, 2020, and if required, paid income taxes to the  
25 Federal Government and the Commonwealth, as reported on  
26 individual or business tax returns.

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

30 (iii) COVID-19 had an adverse economic impact on the  
31 eligible applicant, which makes the grant request  
32 necessary to support the ongoing operations of the  
33 eligible applicant.

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

36 (v) During the period beginning January 1, 2021, and  
37 ending 150 days after the starting date, the eligible  
38 applicant has not and will not receive another grant  
39 under this section.

40 (vi) The information provided in the application and  
41 all supporting documents and forms are true and accurate  
42 in all material respects. An eligible applicant or an  
43 authorized representative of the eligible applicant that  
44 knowingly makes a false statement to obtain a grant shall  
45 be subject to 18 Pa.C.S. § 4904 (relating to unsworn  
46 falsification to authorities).

47 (8) The following shall apply to the awarding of grants  
48 under this section:

49 (i) A CEDO or CDFI may award grants in increments of  
50 \$5,000, not to exceed the limitation under paragraph (2)

51 (i).

1           (ii) A fully executed grant agreement under  
2           paragraph (6)(ii) shall be required before the  
3           disbursement of grant funds.

4           (iii) The aggregate amount of all grants awarded may  
5           not exceed the amount of money received by the county  
6           under subsection (a).

7           (9) A CEDO or CDFI may charge a fee not to exceed \$500  
8           per completed and reviewed application for a grant under this  
9           section. Fees charged under this paragraph shall be deducted  
10           from the total amount of money distributed to the county  
11           under subsection (a) and may not reduce the amount of the  
12           grant awarded to an eligible applicant.

13           (10) A grant awarded under this section shall be paid to  
14           an eligible applicant no later than 175 days after the  
15           starting date.

16           (11) A county that provides grants under this section  
17           shall compile a report, which shall include all of the  
18           following:

19               (i) A list of each grant awarded.

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

21               (iii) The amount of the grant and a description of  
22           the financial impact to the grant recipient.

23               (iv) The name of the CEDO or CDFI that processed the  
24           grant.

25           (12) A county shall submit the report under paragraph  
26           (11) to the department no later than 200 days after the  
27           starting date.

28           (13) The department shall prepare a consolidated report  
29           with the information in the reports submitted under paragraph  
30           (12) from all counties and submit the consolidated report to  
31           the chair and minority chair of the Appropriations Committee  
32           of the Senate and the chair and minority chair of the  
33           Appropriations Committee of the House of Representatives no  
34           later than 235 days after the starting date.

35           (14) The county shall post and maintain the report under  
36           paragraph (11) on the county's publicly accessible Internet  
37           website.

38           (15) The department shall post and maintain the  
39           consolidated report under paragraph (14) on the department's  
40           publicly accessible Internet website.

41           (16) A county awarding grants and a CEDO or CDFI  
42           processing grants on behalf of a county under this section  
43           shall provide documentation to the Department of the Auditor  
44           General or the department, upon request, for purposes of an  
45           audit review.

46           (17) The department may not impose additional  
47           requirements on counties that are not specified in this  
48           section.

49           (c) (Reserved).

50           (d) (Reserved).

51           (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection unless the context clearly indicates otherwise:

3 "CDFI." A community development financial institution that  
4 is certified by the United States Department of the Treasury, is  
5 headquartered in this Commonwealth, is part of the 17-member  
6 Pennsylvania community development financial institution network  
7 and primarily provides business loans to low-to-moderate income  
8 individuals and business owners.

9 "CEDO." An economic development organization that has been  
10 certified by the Pennsylvania industrial development authority  
11 or an economic development organization that serves more than  
12 one county and is accredited by the International Economic  
13 Development Council.

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

16 "Department." The Department of Community and Economic  
17 Development of the Commonwealth.

18 "Economic development organization." Any local development  
19 district, industrial development agency, industrial resource  
20 center, redevelopment authority, community development financial  
21 institution or any other nonprofit economic development  
22 organization that is certified to participate in the  
23 Pennsylvania industrial development authority loan program.

24 "Eligible applicant." An entity that submits an application  
25 for a grant under this section and meets all of the following:

26 (1) The entity is not publicly traded.

27 (2) The entity experienced a reduction in revenue in  
28 calendar year 2020, measured as follows:

29 (i) The entity had gross receipts during the first,  
30 second, third or fourth quarter in calendar year 2020  
31 that demonstrate at least a 25% reduction from the  
32 entity's gross receipts during the same quarter in  
33 calendar year 2019.

34 (ii) If the entity was not in business during the  
35 first or second quarter of calendar year 2019, but was in  
36 business during the third and fourth quarters of calendar  
37 year 2019, the entity had gross receipts during the  
38 first, second, third or fourth quarter of calendar year  
39 2020 that demonstrate at least a 25% reduction from the  
40 entity's gross receipts during the third or fourth  
41 quarter of calendar year 2019.

42 (iii) If the entity was not in business during the  
43 first, second or third quarter of calendar year 2019, but  
44 was in business during the fourth quarter of calendar  
45 year 2019, the entity had gross receipts during the  
46 first, second, third or fourth quarter of calendar year  
47 2020 that demonstrate at least a 25% reduction from the  
48 fourth quarter of calendar year 2019.

49 (iv) If the entity was not in business during  
50 calendar year 2019, but was in operation on March 1,  
51 2020, the entity had gross receipts during the second,

1 third or fourth quarter of calendar year 2020 that  
2 demonstrate at least a 25% reduction from the gross  
3 receipts of the entity during the first quarter of  
4 calendar year 2020.

5 (v) For the purpose of this definition, if the  
6 entity was in operation in all four quarters of calendar  
7 year 2019, the entity shall be deemed to have experienced  
8 the revenue reduction under subparagraph (i) if the  
9 entity experienced a reduction in annual receipts of at  
10 least 25% in calendar year 2020 compared to calendar year  
11 2019 and the entity provides copies of the entity's  
12 annual Federal tax forms substantiating the revenue  
13 decline.

14 (vi) For the purpose of this definition, if the  
15 entity changed ownership or control in calendar year  
16 2020, the entity may measure the entity's reduction in  
17 revenue in calendar year 2020 under subparagraph (i),  
18 (ii), (iii), (iv) or (v) using the gross receipts of the  
19 entity for calendar year 2019.

20 (3) The entity meets all of the following conditions as  
21 of March 1, 2020:

22 (i) The entity is a retail or personal service  
23 employer within this Commonwealth.

24 (ii) The entity has no more than 10 full-time  
25 employees.

26 (iii) The entity has gross annual receipts for the  
27 prior fiscal year that did not exceed \$1,000,000.

28 "Eligible operating expense." An operating expense,  
29 including a payroll and nonpayroll expense, that is common and  
30 accepted in an eligible applicant's industry, helpful and  
31 appropriate for the eligible applicant's trade or business and  
32 subject to the following limitations:

33 (1) The operating expense must have been incurred  
34 between March 1, 2020, and 130 days after the starting date,  
35 or prior to submission of an application for a grant under  
36 this section, whichever occurs first.

37 (2) For a mortgage obligation, the mortgage must have  
38 been in force before March 1, 2020.

39 (3) For rent, under lease agreements, the lease  
40 agreement must have been in force before March 1, 2020.

41 (4) For utility costs, service must have begun before  
42 March 1, 2020.

43 (5) For the purpose of paragraphs (2) and (3), if an  
44 existing mortgage obligation or lease agreement is in force  
45 before March 1, 2020, and is refinanced or restructured after  
46 March 1, 2020, the mortgage obligation or lease agreement is  
47 deemed to have been in force before March 1, 2020.

48 "Fitness-related business." An employer in this Commonwealth  
49 that satisfies all of the following criteria:

50 (1) is a gym, fitness center, cheerleader gym, dance  
51 studio, gymnastic center, sports-related facility, yoga

studio or other business where fitness activities are performed; and

(2) the employer's gross annual receipts for the prior fiscal year did not exceed \$1,000,000.

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

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

(1) Taxes collected for and remitted to a taxing authority if included in gross or total income, including sales or other taxes collected from customers and excluding taxes levied on an entity or the entity's employees.

(2) Proceeds from transactions between an entity and the entity's domestic or foreign affiliates.

(3) Amounts collected for another by a travel agent, real estate agent, advertising agent or conference management service provider.

"Program." The County Block Grant COVID-19 Community Fitness-Related Business Grant Program established under subsection (b).

"Starting date." The effective date of this section or the effective date of an appropriation for distribution of grants under this section, whichever is later.

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