
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 205 Session of
2013

INTRODUCED BY FONTANA, WASHINGTON, KASUNIC, TARTAGLIONE,
YUDICHAK, FERLO, FARNESE, SOLOBAY, WILLIAMS, HUGHES,
BREWSTER, KITCHEN, COSTA, BLAKE AND BOSCOLA, FEBRUARY 5, 2013

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
FEBRUARY 5, 2013

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes,
3 providing for the definition of "small business"; and further
4 providing for indebtedness and for Second Stage Loan Program.

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

7 Section 1. Section 1504 of Title 64 of the Pennsylvania
8 Consolidated Statutes is amended by adding a definition to read:

9 § 1504. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meaning given to them in this section unless the
12 context clearly indicates otherwise:

13 * * *

14 "Small business." A company that is engaged in a for-profit
15 enterprise and that employs no more than 100 individuals.

16 * * *

17 Section 2. Sections 1543(b)(8) and 1553 of Title 64 are
18 amended to read:

1 § 1543. Indebtedness.

2 * * *

3 (b) Program limitations.--Indebtedness incurred by the
4 authority under subsection (a) shall not, in aggregate, exceed
5 any of the following:

6 * * *

7 (8) \$50,000,000 for the program established in section
8 1553 (relating to [Second Stage Loan] Small Business
9 Investment Guarantee Program).

10 * * *

11 § 1553. [Second Stage Loan] Small Business Investment Guarantee
12 Program.

13 (a) Establishment.--There is established a program to be
14 known as the [Second Stage Loan] Small Business Investment
15 Guarantee Program. The program shall provide loan guarantees to
16 commercial lending institutions or economic development
17 organizations that make loans to [life sciences, advanced
18 technology or manufacturing businesses] small businesses located
19 in Pennsylvania that are not engaged in commercial, services,
20 retail or agriculture production activities, except that a
21 guarantee may be approved for a small business engaged in the
22 activities if it is located in an underserved area of a
23 distressed community.

24 (b) Application for enrollment.--A commercial lending
25 institution or an economic development organization may apply
26 for enrollment in the program authorized by this section. The
27 application shall be on the form prescribed by the board and
28 shall include or demonstrate all of the following:

29 (1) The name and address of the commercial lending
30 institution or economic development organization and the name

1 and title of the individual who will serve as the point of
2 contact for the commercial lending institution or economic
3 development organization.

4 (2) A statement defining the service area of the
5 commercial lending institution or the economic development
6 organization.

7 (3) A statement describing the commercial lending
8 activities engaged in by the commercial lending institution
9 or economic development organization and how the institution
10 intends to expand those activities as a result of its
11 participation in the program authorized by this section.

12 (3.1) A statement describing any lending activities
13 associated with the economic development functions of the
14 economic development organization and how the economic
15 development organization intends to expand or supplement
16 those lending activities through participation in the program
17 authorized under this section.

18 (4) Any other information required by the board.

19 (c) Enrollment approval.--Upon being satisfied that all
20 requirements have been met, the board may enroll the commercial
21 lending institution or economic development organization in the
22 program authorized by this section, and, if enrolled, the
23 authority shall execute a master loan guarantee agreement in
24 favor of the commercial lending institution or economic
25 development organization. In addition to any other terms and
26 conditions required by the board, the master loan guarantee
27 agreement shall provide for the following:

28 (1) The procedure for the submission of a claim for
29 payment by the commercial lending institution or economic
30 development organization. This procedure shall require that

1 the commercial lending institution or economic development
2 organization demonstrate that it has exhausted all available
3 remedies against the borrower, other guarantors and
4 collateral for the loan before seeking payment under the
5 agreement.

6 (2) A requirement that a percentage of any moneys
7 recovered by the commercial lending institution or economic
8 development organization subsequent to any payment made under
9 the master loan guarantee agreement by the authority be
10 remitted to the authority.

11 (3) Periodic reporting requirements by the commercial
12 lending institution or economic development organization
13 regarding itself and regarding the [loans for which] loan
14 guarantee certificates that have been issued under this
15 section.

16 (d) Application for loan guarantee.--A commercial lending
17 institution or economic development organization enrolled in the
18 program authorized by this section may submit an application to
19 the authority for [the guarantee of a proposed loan] a loan
20 guarantee. The application shall be on the form prescribed by
21 the board and shall include or demonstrate all of the following:

22 (1) The name and address of the borrower, the type of
23 small business the borrower conducts, the location and age of
24 the small business and the names and addresses of the
25 principals of the borrower.

26 (2) The number of projected new or retained employees of
27 the borrower as a result of the loan.

28 (3) A copy of the borrower's last two years of financial
29 statements prepared or reported on by an independent
30 certified public accountant.

1 (4) A statement describing the purpose of the loan, the
2 requested amount of the loan, a copy of the commercial
3 lending institution's or economic development organization's
4 commitment letter and applicable credit underwriting that
5 supports the repayment of the loan, as well as the collateral
6 and other [guarantees] documents offered by the borrower to
7 support the loan.

8 (4.1) A statement describing the need for the loan
9 guarantee, indicating that the project is unlikely to proceed
10 without the loan guarantee.

11 (5) Any other information required by the board.

12 (e) Application review.--

13 (1) The board shall review the application to determine
14 all of the following:

15 (i) That the borrower owns and operates a [life
16 sciences, advanced technology or manufacturing business]
17 small business located in Pennsylvania.

18 (ii) [That the borrower's business has been in
19 existence for at least two years but no more than seven
20 years at the time of application.] (Reserved).

21 (iii) That the borrower is financially responsible
22 and has the ability to repay the loan.

23 (iv) That the use of loan proceeds by the borrower
24 will result in jobs being created or retained within this
25 Commonwealth.

26 (v) That the borrower's small business is located
27 within the commercial lending institution's service area
28 or within the economic development organization's
29 jurisdiction and within this Commonwealth.

30 (v.1) That the project is unlikely to proceed

1 without a loan guarantee.

2 (vi) That the borrower and the commercial lending
3 institution or the economic development organization have
4 met all other requirements established by the board.

5 (2) Upon being satisfied that all requirements have been
6 met, the board may approve the loan guarantee, and, if
7 approved, the authority shall issue a loan guarantee
8 certificate [for the loan] to the commercial lending
9 institution or economic development organization stating the
10 terms and amount of the loan guarantee.

11 (3) [The board may establish a subcommittee composed of
12 one or more members of the board and staff of the department
13 to review and approve applications for guarantees under this
14 section.] (Reserved).

15 (4) Priority shall be given to applications for loan
16 guarantees for projects related to the life sciences,
17 advanced technology or manufacturing.

18 (f) Limitations.--

19 [(1) During the first two years of the term of a loan
20 for which a guarantee certificate has been issued, the
21 guarantee may not exceed 50% of the outstanding principal
22 amount of the loan. From the end of year two through either
23 the end of year seven or the end of the term of the loan,
24 whichever occurs first, the guarantee may not exceed 25% of
25 the outstanding principal amount of the loan. The guarantee
26 will terminate at the end of seven years.]

27 (1.1) The board may not approve a loan guarantee unless
28 the borrower has an equity investment of at least 10% of the
29 total cost of the project from nonpublic sources.

30 (2) At no time may a loan guarantee exceed \$1,000,000

1 for any one loan.

2 (3) At no time may a loan guarantee exceed 50% of the
3 outstanding principal amount of the loan.

4 (4) The board may not approve a loan guarantee for any
5 project directly or indirectly related to the conduct of
6 gaming as defined in 4 Pa.C.S. § 1103 (relating to
7 definitions).

8 (g) Definitions.--As used in this section, the following
9 words and phrases shall have the meanings given to them in this
10 subsection unless the context clearly indicates otherwise:

11 "Distressed community." Any of the following:

12 (1) An area which is designated a subzone, expansion
13 subzone or improvement subzone under the act of October 6,
14 1998 (P.L.705, No.92), known as the Keystone Opportunity
15 Zone, Keystone Opportunity Expansion Zone and Keystone
16 Opportunity Improvement Zone Act.

17 (2) Any other area designated as a distressed community
18 according to standards adopted by the authority.

19 "Economic development organization." A community development
20 financial institution, an industrial development agency or a
21 local development district that is certified by the authority as
22 possessing the qualifications necessary to evaluate and approve
23 applications to the authority for financial assistance.

24 Section 3. This act shall take effect in 60 days.