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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2668

Session of  
1996

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INTRODUCED BY HABAY, HASAY, LESCOVITZ, GORDNER, MUNDY, ROBERTS,  
KENNEY, STABACK, M. N. WRIGHT, ZUG, SEMMEL AND DENT,  
JUNE 3, 1996

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REFERRED TO COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT,  
JUNE 3, 1996

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AN ACT

1 Establishing a loan program for the purpose of making loans to  
2 business enterprises for the purchase of machinery and  
3 equipment; creating a special account within the Industrial  
4 Development Fund and providing for the use of funds made  
5 available through the account; establishing standards for and  
6 requirements of the program; and making a repeal.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Machinery and  
11 Equipment Loan Program Act.

12 Section 2. Definitions.

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

16 "Authority." The Pennsylvania Industrial Development  
17 Authority created by the act of May 17, 1956 (1955 P.L.1609,  
18 No.537), known as the Pennsylvania Industrial Development  
19 Authority Act.

1 "Board." The board of directors of the authority.

2 "Business enterprise." A for-profit corporation, partnership  
3 or proprietorship.

4 "Department." The Department of Commerce of the  
5 Commonwealth.

6 "Industrial Development Fund." The fund created by the act  
7 of May 17, 1956 (1955 P.L.1609, No.537), known as the  
8 Pennsylvania Industrial Development Authority Act.

9 "Secretary." The Secretary of Commerce of the Commonwealth.  
10 Section 3. Industrial Development Fund Account.

11 There is hereby created a special account within the  
12 Industrial Development Fund to which shall be credited all  
13 program appropriations made by the General Assembly, all  
14 proceeds from loan repayments, and any and all other deposits,  
15 payments or contributions from any other source made available  
16 to the Industrial Development Fund for the purpose of making  
17 loans under this act. All appropriations, deposits and  
18 contributions made to this account of the Industrial Development  
19 Fund for the purposes of this act shall be credited to the  
20 special account and earnings on the moneys held in that special  
21 account shall also be credited to that special account for the  
22 purposes of this act. The authority shall have the power:

23 (1) to transfer other moneys held in the Industrial  
24 Development Fund to this account to be used for the purposes  
25 of this act; or

26 (2) to transfer moneys held in this account to other  
27 accounts in the Industrial Development Fund to be used for  
28 purposes set forth in this act.

29 Section 4. Eligibility for loans; terms and conditions.

30 (a) General rule.--The authority shall make advances from

1 the account in the Industrial Development Fund created under  
2 section 3, subject to the terms, conditions and restrictions  
3 provided under this act, for the purpose of making loans to  
4 eligible business enterprises, as defined by the authority, to  
5 acquire and install new machinery and equipment or upgrade  
6 existing machinery and equipment. All loans shall be subject to  
7 the following conditions:

8 (1) Be for eligible business enterprises under the  
9 provisions of this act.

10 (2) Be limited to the purchase and installation of new  
11 equipment and machinery or upgrade of existing machinery and  
12 equipment.

13 (3) Be limited to projects that demonstrate the creation  
14 or preservation of one job for every \$25,000 received from  
15 the Industrial Development Fund.

16 (b) Restrictions.--No loans shall be made that do any of the  
17 following:

18 (1) Cause, aid or assist in, directly or indirectly, the  
19 relocation of any business operation from one part of this  
20 Commonwealth to another, unless there is at least a 25% net  
21 increase in employment.

22 (2) Refinance any portion of the total project cost or  
23 other existing loans or debt.

24 (3) Finance projects located outside the geographic  
25 boundaries of this Commonwealth.

26 (4) Provide funds for speculation in any kind of  
27 property, real or personal, tangible or intangible.

28 (c) Security.--All loans shall carry an interest rate and  
29 term, and shall be secured by liens on the equipment purchased  
30 and other sufficient collateral as determined by the authority.

1 Section 5. Eligible applicants and uses.

2 (a) Eligible applicants.--Applicants eligible to receive  
3 funding under this act are business enterprises who are engaged  
4 in one of the following industries:

5 (1) Agricultural processors engaged in processing or  
6 warehouse and terminal operations related to farming,  
7 agricultural endeavors or other related businesses and  
8 services supporting the development of agriculture.

9 (2) An industrial enterprise, defined as an enterprise  
10 other than a mercantile or commercial enterprise.

11 (3) A manufacturing enterprise, defined as an enterprise  
12 which is engaged in the giving of new shapes, new qualities  
13 or new combinations to matter by the application of skill and  
14 labor.

15 (4) A mining enterprise, defined as an enterprise  
16 engaged in mining operations.

17 The business enterprise must generate or preserve one net new  
18 full-time equivalent job within three years of the disbursement  
19 of funds for each \$25,000 of loan proceeds received.

20 (b) Eligible uses.--Loan proceeds may be used to acquire and  
21 install new or used machinery and equipment or to upgrade  
22 existing machinery and equipment which is directly related to  
23 the manufacturing or industrial process.

24 Section 6. Application and administration.

25 (a) Procedures.--Application and administration procedures  
26 for loans approved under this act shall be established by the  
27 authority.

28 (b) Advance.--In the case of approval of a loan application,  
29 the authority shall arrange to draw the loan amount from the  
30 account in the Industrial Development Fund created under section

1 3 and advance the sum to the recipient. The advance shall be  
2 made available in the form of a loan transaction, which loan  
3 shall be evidenced by a note executed by the recipient and  
4 secured in a manner as the authority shall require in conformity  
5 in all respects to the loan as approved by the board.

6 (c) Penalty for noncompliance.--In the event that a loan  
7 recipient shall not comply with its approved application by  
8 failing to create or preserve the number of employment  
9 opportunities specified in its approved application, the board  
10 may impose a penalty equal to an increase in the interest rate  
11 to 2% greater than the current prime interest rate for the  
12 remainder of the loan. The penalty may be waived by the board  
13 because the failure is due to circumstances outside the control  
14 of the loan recipient. The penalties may be payable in one lump  
15 sum or in installments, with or without interest, as the board  
16 deems appropriate.

17 Section 7. Powers of authority and board.

18 (a) Exercise of powers.--The authority and the board shall  
19 have and may exercise all powers and authority necessary to the  
20 proper administration and implementation of this act and shall  
21 have the authority to adopt policies, procedures and guidelines  
22 and promulgate rules and regulations necessary to effectuate the  
23 provisions of this act.

24 (b) Annual financing strategy.--The board shall coordinate  
25 its powers and duties under this act with the department to the  
26 extent required in the preparation and implementation of the  
27 annual financing strategy as set forth in the act of

28 (P.L. , No. ), known as the Annual Financing  
29 Strategy Act. The board shall set forth in the annual financing  
30 strategy those policies, procedures and guidelines necessary to

1 carry out the provisions of this act.

2 (c) Additional powers.--The authority shall have the power  
3 to utilize the outstanding portfolio of loans made under the  
4 program to raise additional funds by selling, securing,  
5 hypothecating or otherwise using such loan proceeds as a  
6 financing vehicle, provided that the funds so raised shall be  
7 used by the authority solely for:

8 (1) The making of new and additional loans in accordance  
9 with the purposes of this act.

10 (2) Costs associated with the financing.

11 Section 8. Reporting and inspection.

12 (a) Inspection.--Each business enterprise which applies for  
13 or receives assistance under this act, upon reasonable request  
14 of the authority, shall permit authorized employees of the  
15 department or the authority to inspect the plant, books and  
16 records of the business enterprise.

17 (b) Updating.--Each business enterprise shall update the  
18 information given to the authority in its application if  
19 conditions change or to the extent that the information given  
20 originally becomes inaccurate or misleading.

21 (c) Periodic reports.--Each recipient of assistance under  
22 this act shall provide the authority with periodic financial  
23 reports as the authority may require until such time as the loan  
24 is paid off.

25 Section 9. Transitional provisions.

26 (a) Transfer of existing funds.--As of the effective date of  
27 this act, all funds, accounts, assets, encumbrances and  
28 liabilities located in or associated with the Machinery and  
29 Equipment Loan Fund shall be transferred to the account in the  
30 industrial Development Fund, created under section 3 and shall

1 thereafter be handled in accordance with the provisions of this  
2 act. As of the effective date of this act, the Machinery and  
3 Equipment Loan Fund shall be terminated as a separate account in  
4 the State Treasury.

5 (b) Transfer of future funds.--Any and all funds received by  
6 the Pennsylvania Industrial Development Authority for loans made  
7 under the act of October 21, 1988 (P.L.1050, No.120), known as  
8 the Machinery and Equipment Loan Fund Act, regardless of whether  
9 the loans were made before or after the effective date of this  
10 act, as well as all other funds received by the Pennsylvania  
11 Industrial Development Authority in relation to projects which  
12 received loan funds under the Machinery and Equipment Loan Fund  
13 Act, shall be returned to the account within the Industrial  
14 Development Fund created under section 3.

15 (c) Funding restrictions.--

16 (1) The maximum loan amount is \$500,000 or 50% of the  
17 total eligible project costs, whichever is less.

18 (2) Loans shall have a repayment period of up to seven  
19 years or the life of the asset, whichever is less.

20 (3) Interest rates will be the same as the interest  
21 rates in effect for Pennsylvania Industrial Development  
22 Authority loans.

23 (4) All loans must be adequately secured.

24 (d) Approved applications.--Applications for assistance  
25 under the Machinery and Equipment Loan Fund Act which have been  
26 approved prior to the effective date of this act will be  
27 processed in accordance with the provisions of the Machinery and  
28 Equipment Loan Fund Act.

29 (e) Pending applications.--Applications for assistance under  
30 the Machinery and Equipment Loan Fund Act which have been

1 received by the department but have not been approved prior to  
2 the effective date of this act will be evaluated and processed  
3 in accordance with this act.

4 (f) Loan repayments.--Loan repayments made to the  
5 Commonwealth on loans made pursuant to the Machinery and  
6 Equipment Loan Fund Act, which are received by the Commonwealth  
7 after the effective date of this act, shall be deposited into  
8 and credited to the fund.

9 Section 10. Power and authority of Pennsylvania Economic  
10 Development Financing Authority.

11 In addition to the powers set forth in section 6.3 of the act  
12 of August 23, 1967 (P.L.251, No.102), known as the Economic  
13 Development Financing Law, the Pennsylvania Economic Development  
14 Financing Authority established under that act shall have the  
15 power and is hereby authorized to issue its limited obligation  
16 revenue bonds and other types of financing as in the judgment of  
17 the financing authority shall be necessary to provide sufficient  
18 funds for any activity the department or the Pennsylvania  
19 Industrial Development Authority is permitted to take with  
20 respect to the loan portfolios subject to their respective  
21 administrative authority as set forth in this act. Bonds  
22 authorized to be issued pursuant to this section shall not be a  
23 debt or liability of the Commonwealth and shall not create or  
24 constitute any indebtedness, liability or obligation of the  
25 Commonwealth, except to the extent such bonds are secured by the  
26 pledge of the loan portfolios. Bonds authorized to be issued in  
27 accordance with this section shall be payable solely from the  
28 revenues or funds pledged or available for their repayment.

29 Section 11. Repeal.

30 The act of October 21, 1988 (P.L.1050, No.120), known as the



1 Machinery and Equipment Loan Fund Act, is repealed.

2 Section 12. Effective date.

3 This act shall take effect July 1, 1996, or immediately,

4 whichever is later.