

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1414 Session of
1997

INTRODUCED BY GORDNER, HASAY, LESCOVITZ, MAJOR, ROBERTS, MUNDY,
LAUGHLIN, STABACK, TRICH, BELARDI, TULLI, SERAFINI, BARRAR,
LaGROTTA, BATTISTO, COY, ROSS, BAKER, ALLEN, SEMMEL AND DENT,
APRIL 30, 1997

SENATOR PUNT, COMMUNITY AND ECONOMIC DEVELOPMENT, IN SENATE, AS
AMENDED, JUNE 2, 1997

AN ACT

1 ~~Establishing the Export Financing Loan Fund in the Department of~~ <—
2 ~~Community and Economic Development to provide financial~~
3 ~~assistance to small businesses; establishing a special~~
4 ~~account in the Treasury Department; and providing for special~~
5 ~~accounts in banks or trust companies.~~

6 AMENDING THE ACT OF JUNE 29, 1996 (P.L.434, NO.67), ENTITLED "AN <—
7 ACT TO ENHANCE JOB CREATION AND ECONOMIC DEVELOPMENT BY
8 PROVIDING FOR AN ANNUAL FINANCING STRATEGY, FOR OPPORTUNITY
9 GRANTS, FOR JOB CREATION TAX CREDITS, FOR SMALL BUSINESS
10 ASSISTANCE AND FOR THE SMALL BUSINESS ADVOCACY COUNCIL;
11 CONFERRING POWERS AND DUTIES ON VARIOUS ADMINISTRATIVE
12 AGENCIES AND AUTHORITIES; FURTHER PROVIDING FOR VARIOUS
13 FUNDS; AND MAKING REPEALS," ESTABLISHING THE EXPORT FINANCING
14 LOAN FUND IN THE DEPARTMENT OF COMMUNITY AND ECONOMIC
15 DEVELOPMENT TO PROVIDE FINANCIAL ASSISTANCE TO SMALL
16 BUSINESSES; ESTABLISHING A SPECIAL ACCOUNT IN THE TREASURY
17 DEPARTMENT; AND PROVIDING FOR SPECIAL ACCOUNTS IN BANKS OR
18 TRUST COMPANIES.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. Short title.~~ <—

22 ~~This act shall be known and may be cited as the Export~~
23 ~~Financing Loan Program Act.~~

24 ~~Section 2. Definitions.~~

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

~~"Department."—The Department of Community and Economic Development of the Commonwealth.~~

~~"Ex Im Bank."—The Export Import Bank of the United States, an independent agency of the Federal Government.~~

~~"Export activity."—An activity undertaken by an enterprise related to exports. The term includes manufacturing, assembling and like operations.~~

~~"Exports."—All goods and services to be exported from the United States.~~

~~"Fund."—The Export Financing Loan Fund.~~

~~"Policy."—An export credit insurance policy for small business offered by the Export Import Bank of the United States.~~
~~Section 3.—Fund.~~

~~(a)—Establishment.—The Export Financing Loan Fund is hereby established within the Small Business First Fund provided for by section 1302 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.~~

~~(b)—Source.—The sources of the fund are as follows:~~

~~(1)—Program appropriations.~~

~~(2)—Proceeds from loan repayments.~~

~~(3)—Deposits, payments or contributions from any other source made available to the department for the purposes of this act.~~

~~(c)—Administration.—~~

~~(1)—Money from the fund may be deposited by the department in banks or trust companies in special accounts.~~

~~The special accounts must be continuously secured by a pledge~~

~~of direct obligations of the United States or of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at least equal to the balance on deposit in the account. The securities shall be deposited with the department to be held by a trustee or agent satisfactory to the department. Banks and trust companies are authorized to give security under this paragraph.~~

~~(2) Money in accounts under paragraph (1) shall be paid out on order of the department.~~

~~Section 4. Loans.~~

~~(a) Authorization. The department may make loans from the fund, subject to this section, for the purpose of making loans to companies involved in exports.~~

~~(b) Conditions. A loan must comply with all of the following:~~

~~(1) Be to a company eligible for a policy.~~

~~(2) Be guaranteed by the Working Capital Guaranty Program offered by the Ex Im Bank or be on an export credit sales contract insured by a policy.~~

~~(3) Be limited to companies that have facilities within this Commonwealth which are involved in export activities.~~

~~(4) Be based on an export contract that requires payment in United States dollars.~~

~~(5) Be for the purpose of financing export activity.~~

~~(c) Qualification. A company need not qualify as a small business enterprise, as defined in section 1301, or meet any other requirements under Chapter 13 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.~~

~~(d) Restrictions. A loan must not supplant funding which is otherwise available from private sector sources on commercially~~

1 ~~reasonable terms.~~

2 ~~(c) Terms. A loan shall have a term, rate of interest,~~
3 ~~transaction size and other business conditions that comply with~~
4 ~~the requirements of the Ex Im Bank and any other requirements of~~
5 ~~the department.~~

6 ~~Section 5. Application and administration.~~

7 ~~(a) Procedures. Application and administration procedures~~
8 ~~for fund loans shall be established by the department.~~

9 ~~(b) Receipt. The department shall receive applications~~
10 ~~from eligible companies or from area loan organizations on~~
11 ~~behalf of eligible companies for export financing loans.~~
12 ~~Applications shall be made to the department in the form the~~
13 ~~department prescribes.~~

14 ~~(c) Review. Upon receipt of the application, the department~~
15 ~~shall review the application and either approve or disapprove~~
16 ~~the loan application.~~

17 ~~Section 6. Powers and duties of department.~~

18 ~~In order to administer this act, the department shall have~~
19 ~~the following powers and duties:~~

20 ~~(1) To promulgate regulations.~~

21 ~~(2) To adopt policies, procedures and guidelines.~~

22 ~~(3) To prescribe forms.~~

23 ~~(4) To apply to the Ex Im Bank for delegated authority~~
24 ~~lender status under the Ex Im Bank's Working Capital Guaranty~~
25 ~~Program.~~

26 ~~Section 7. Effective date.~~

27 ~~This act shall take effect July 1, 1997, or immediately,~~
28 ~~whichever is later.~~

29 SECTION 1. SECTION 1301 OF THE ACT OF JUNE 29, 1996
30 (P.L.434, NO.67), KNOWN AS THE JOB ENHANCEMENT ACT, IS AMENDED

1 BY ADDING DEFINITIONS TO READ:

2 SECTION 1301. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
4 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 * * *

7 "EX-IM BANK." THE EXPORT-IMPORT BANK OF THE UNITED STATES,
8 AN INDEPENDENT AGENCY OF THE FEDERAL GOVERNMENT.

9 "EXPORT ACTIVITY." AN ACTIVITY UNDERTAKEN BY AN ENTERPRISE
10 RELATED TO EXPORTS. THE TERM INCLUDES MANUFACTURING, ASSEMBLING
11 AND LIKE OPERATIONS.

12 "EXPORTS." ALL GOODS AND SERVICES TO BE EXPORTED FROM THE
13 UNITED STATES.

14 * * *

15 "POLICY." AN EXPORT CREDIT INSURANCE POLICY FOR SMALL
16 BUSINESS OFFERED BY THE EXPORT-IMPORT BANK OF THE UNITED STATES.

17 * * *

18 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
19 SECTION 1311. EXPORT FINANCING LOAN FUND; LOANS AND
20 APPLICATIONS; POWERS AND DUTIES.

21 (A) ESTABLISHMENT.--THE EXPORT FINANCING LOAN FUND IS HEREBY
22 ESTABLISHED WITHIN THE SMALL BUSINESS FIRST FUND PROVIDED FOR BY
23 SECTION 1302.

24 (B) SOURCE.--THE SOURCES OF THE FUND ARE AS FOLLOWS:

25 (1) PROGRAM APPROPRIATIONS.

26 (2) PROCEEDS FROM LOAN REPAYMENTS.

27 (3) DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM ANY OTHER
28 SOURCE MADE AVAILABLE TO THE DEPARTMENT FOR THE PURPOSES OF
29 THIS ACT.

30 (C) ADMINISTRATION.--

1 (1) MONEY FROM THE FUND MAY BE DEPOSITED BY THE
2 DEPARTMENT IN BANKS OR TRUST COMPANIES IN SPECIAL ACCOUNTS.
3 THE SPECIAL ACCOUNTS MUST BE CONTINUOUSLY SECURED BY A PLEDGE
4 OF DIRECT OBLIGATIONS OF THE UNITED STATES OR OF THE
5 COMMONWEALTH, HAVING AN AGGREGATE MARKET VALUE, EXCLUSIVE OF
6 ACCRUED INTEREST, AT LEAST EQUAL TO THE BALANCE ON DEPOSIT IN
7 THE ACCOUNT. THE SECURITIES SHALL BE DEPOSITED WITH THE
8 DEPARTMENT TO BE HELD BY A TRUSTEE OR AGENT SATISFACTORY TO
9 THE DEPARTMENT. BANKS AND TRUST COMPANIES ARE AUTHORIZED TO
10 GIVE SECURITY UNDER THIS PARAGRAPH.

11 (2) MONEY IN ACCOUNTS UNDER PARAGRAPH (1) SHALL BE PAID
12 OUT ON ORDER OF THE DEPARTMENT.

13 (D) LOAN AUTHORIZATION.--THE DEPARTMENT MAY MAKE LOANS FROM
14 THE FUND, SUBJECT TO THIS SECTION, FOR THE PURPOSE OF MAKING
15 LOANS TO COMPANIES INVOLVED IN EXPORTS.

16 (E) CONDITIONS.--A LOAN MUST COMPLY WITH ALL OF THE
17 FOLLOWING:

18 (1) BE TO A COMPANY ELIGIBLE FOR A POLICY.

19 (2) BE GUARANTEED BY THE WORKING CAPITAL GUARANTY
20 PROGRAM OFFERED BY THE EX-IM BANK OR BE ON AN EXPORT CREDIT
21 SALES CONTRACT INSURED BY A POLICY.

22 (3) BE LIMITED TO COMPANIES THAT HAVE FACILITIES WITHIN
23 THIS COMMONWEALTH WHICH ARE INVOLVED IN EXPORT ACTIVITIES.

24 (4) BE BASED ON AN EXPORT CONTRACT THAT REQUIRES PAYMENT
25 IN UNITED STATES DOLLARS.

26 (5) BE FOR THE PURPOSE OF FINANCING EXPORT ACTIVITY.

27 (F) QUALIFICATION.--A COMPANY NEED NOT QUALIFY AS A SMALL
28 BUSINESS ENTERPRISE, AS DEFINED IN SECTION 1301, OR MEET ANY
29 OTHER REQUIREMENTS UNDER THIS CHAPTER.

30 (G) RESTRICTIONS.--A LOAN MUST NOT SUPPLANT FUNDING WHICH IS

1 OTHERWISE AVAILABLE FROM PRIVATE SECTOR SOURCES ON COMMERCIALY
2 REASONABLE TERMS.

3 (H) TERMS.--A LOAN SHALL HAVE A TERM, RATE OF INTEREST,
4 TRANSACTION SIZE AND OTHER BUSINESS CONDITIONS THAT COMPLY WITH
5 THE REQUIREMENTS OF THE EX-IM BANK AND ANY OTHER REQUIREMENTS OF
6 THE DEPARTMENT.

7 (I) APPLICATION AND ADMINISTRATION.--APPLICATION AND
8 ADMINISTRATION PROCEDURES FOR FUND LOANS SHALL BE ESTABLISHED BY
9 THE DEPARTMENT.

10 (J) RECEIPT.---THE DEPARTMENT SHALL RECEIVE APPLICATIONS
11 FROM ELIGIBLE COMPANIES OR FROM AREA LOAN ORGANIZATIONS ON
12 BEHALF OF ELIGIBLE COMPANIES FOR EXPORT FINANCING LOANS.
13 APPLICATIONS SHALL BE MADE TO THE DEPARTMENT IN THE FORM THE
14 DEPARTMENT PRESCRIBES.

15 (K) REVIEW.--UPON RECEIPT OF THE APPLICATION, THE DEPARTMENT
16 SHALL REVIEW THE APPLICATION AND EITHER APPROVE OR DISAPPROVE
17 THE LOAN APPLICATION.

18 (L) POWERS AND DUTIES OF DEPARTMENT.--IN ORDER TO ADMINISTER
19 THIS SECTION, THE DEPARTMENT OF COMMUNITY AND ECONOMIC
20 DEVELOPMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

21 (1) TO PROMULGATE REGULATIONS.

22 (2) TO ADOPT POLICIES, PROCEDURES AND GUIDELINES.

23 (3) TO PRESCRIBE FORMS.

24 (4) TO APPLY TO THE EX-IM BANK FOR DELEGATED AUTHORITY
25 LENDER STATUS UNDER THE EX-IM BANK'S WORKING CAPITAL GUARANTY
26 PROGRAM.

27 SECTION 3. THIS ACT SHALL TAKE EFFECT JULY 1, 1997, OR
28 IMMEDIATELY, WHICHEVER IS LATER.