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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2398

Session of  
2002

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INTRODUCED BY BUNT, DALEY, BASTIAN, FORCIER, ARMSTRONG,  
M. BAKER, BROWNE, CAPPELLI, COY, DeWEESE, EGOLF, FAIRCHILD,  
FEESE, FICHTER, GEORGE, GODSHALL, GORDNER, HENNESSEY, HERMAN,  
LAUGHLIN, MANN, MARSICO, McCALL, McGILL, McILHATTAN,  
PHILLIPS, PICKETT, RUBLEY, SAYLOR, SOLOBAY, STABACK, STERN,  
TIGUE, WALKO, WATSON, ZUG, HERSHEY, HESS, SATHER, ALLEN,  
E. Z. TAYLOR, CREIGHTON, ROBERTS, HARHAI, STEELMAN,  
R. MILLER, MAJOR, SHANER, MAITLAND, B. SMITH, LUCYK, GRUCELA,  
ROSS, THOMAS, SEMMEL, YOUNGBLOOD, FREEMAN, BENNINGHOFF,  
PALLONE, TRICH AND CLYMER, MARCH 7, 2002

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SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 10, 2002

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AN ACT

1 Amending the act of June 29, 1996 (P.L.434, No.67), entitled, as  
2 amended, "An act to enhance job creation and economic  
3 development by providing for an annual financing strategy,  
4 for opportunity grants, for job creation tax credits, for  
5 small business assistance, for the Small Business Advocacy  
6 Council, for a family savings program, for industrial  
7 development assistance, for community development bank grants  
8 and loans and for tax-exempt bond allocation; conferring  
9 powers and duties on various administrative agencies and  
10 authorities; further providing for various funds; and making  
11 repeals," further providing for small business definitions  
12 and loan eligibility and terms.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The definition of "small business enterprise" in  
16 section 1301 of the act of June 29, 1996 (P.L.434, No.67), known  
17 as the Job Enhancement Act, is amended and the section is  
18 amended by adding definitions to read:

1 Section 1301. Definitions.

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

5 \* \* \*

6 "Agricultural producer." A person or entity involved in the  
7 management and use of a normal agricultural operation for the  
8 production of a farm commodity.

9 \* \* \*

10 ~~"Natural disaster." As defined in 35 Pa.C.S. § 7102~~ <—  
11 ~~(relating to definitions).~~

12 ~~"Normal agricultural operation." The activities, practices,~~ <—  
13 ~~equipment and procedures which agricultural producers adopt, use~~  
14 ~~or engage in in the production and preparation for market of~~  
15 ~~farm commodities. The term includes new activities, practices,~~  
16 ~~equipment and procedures consistent with technological~~  
17 ~~development within the agricultural industry.~~ AS DEFINED IN <—  
18 SECTION 2 OF THE ACT OF JUNE 10, 1982 (P.L.454, NO.133),  
19 ENTITLED "AN ACT PROTECTING AGRICULTURAL OPERATIONS FROM  
20 NUISANCE SUITS AND ORDINANCES UNDER CERTAIN CIRCUMSTANCES."

21 \* \* \*

22 "Small business [enterprises] enterprise." A for-profit  
23 corporation, partnership [or], propriatorship, limited liability  
24 company or other entity which meets the eligibility requirements  
25 established by the department. The term shall include, but is  
26 not limited to, a small business [enterprises] enterprise which:

27 (1) is located in a small business incubator  
28 [facilities, small business enterprises which are] facility;  
29 (2) is an agricultural [processors and small business  
30 enterprises which manufacture] processor;

1           (3) is an agricultural producer; or

2           (4) manufactures apparel products.

3           \* \* \*

4           Section 2.   Section ~~1303(a.2) and~~ 1303(b) of the act, amended <—

5 November 17, 1998 (P.L.788, No.100), ~~are~~ IS amended to read: <—

6           Section 1303.   Eligibility for and terms and conditions of  
7                               loans.

8           \* \* \*

9           ~~(a.2) Pollution prevention assistance loans. The Pollution <—~~

10 ~~Prevention Assistance Account created under section 1302(b.1)~~

11 ~~shall provide revolving loans to small [businesses] business~~

12 ~~enterprises.~~

13           ~~(1) The loans shall be for the purpose of enabling the~~

14 ~~small business enterprise to adopt or install pollution~~

15 ~~prevention equipment or processes to:~~

16                       ~~(i) Reduce or reuse raw materials onsite.~~

17                       ~~(ii) Reduce the production of waste.~~

18                       ~~(iii) Reduce energy consumption.~~

19           ~~(2) The Pollution Prevention Assistance Account shall~~

20 ~~not invest on the basis of direct financial return and shall~~

21 ~~not be held to the loan loss standards of commercial lenders.~~

22 ~~Loans shall be for the purpose of reducing pollution through~~

23 ~~source reduction technologies or processes.~~

24           ~~(3) A loan under this subsection may not exceed the~~

25 ~~lesser of:~~

26                       ~~(i) \$50,000; or~~

27                       ~~(ii) 75% of eligible project costs.~~

28           ~~(4) Loans under this subsection shall have an interest~~

29 ~~rate of 2% per year and a maximum repayment term of seven~~

30 ~~years.~~

1       ~~(5) An industrial resource center receiving funds under~~  
2       ~~the act of July 2, 1993 (P.L.439, No.64), known as the Ben~~  
3       ~~Franklin/IRC Partnership Act, may utilize the account to~~  
4       ~~provide assistance to a small business enterprise for which a~~  
5       ~~loan application has been made.~~

6       ~~(6) Loans under this subsection shall be used to further~~  
7       ~~the goal of pollution prevention through the purchase and~~  
8       ~~installation of equipment to make operational changes and~~  
9       ~~modify production practices.~~

10      (b) Terms and conditions.--

11           (1) The department may make advances from the Small  
12      Business First Fund, subject to the terms, conditions and  
13      restrictions provided under this chapter, to area loan  
14      organizations for the purpose of making loans to eligible  
15      small business enterprises for capital development projects  
16      which demonstrate a substantial likelihood of creating or  
17      preserving employment opportunities[.] or, in the case of a  
18      small business enterprise that is an agricultural producer,  
19      loans which demonstrate a substantial likelihood of the  
20      enhancement and growth of normal agricultural operations. All  
21      loans, except loans provided to a small business enterprise  
22      which is an agricultural producer, shall be limited to  
23      projects that demonstrate the creation or preservation of one  
24      job for every \$25,000 received from the Small Business First  
25      Fund.

26           (2) No loans shall be made which would do any of the  
27      following:

28           (i) Cause, aid or assist in, directly, the  
29      relocation of any business operations from one part of  
30      this Commonwealth to another unless there is at least a

25% net increase in employment.

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

(iii) Finance projects located outside the geographic boundaries of this Commonwealth.

(iv) Provide funds, directly or indirectly, for payment, distribution or as loan owners, partners or shareholders of the small business enterprise, except as ordinary compensation for services rendered.

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

(3) All loans shall carry an interest rate and term and shall be secured by lien positions on collateral at the highest level of priority as may be determined by the area loan organization with the approval of the department.

~~Section 3. Section 1310 of the act is amended to read:~~

~~Section 1310. [Transitional] Eligibility provisions.~~

~~The following eligibility requirements and eligible uses shall apply to all requests for funding [received after this chapter becomes effective and before submission of the first annual financing strategy]:~~

~~(1) A small business enterprise with 100 full time employees or less that proposes to undertake a capital development.~~

~~(2) (i) The maximum loan amount for land, buildings and machinery and equipment is \$200,000 or 50% of the total eligible project costs, whichever is less. The maximum loan amount for working capital is \$100,000 or 50% of the total eligible project costs, whichever is less.~~

~~(ii) Loans used for real estate shall have a~~

1       ~~repayment period of up to ten years. Loans used for~~  
2       ~~machinery and equipment shall have a repayment period of~~  
3       ~~up to seven years. Loans used for working capital shall~~  
4       ~~have a repayment period of up to three years. In projects~~  
5       ~~where two or more uses of funds are planned, the loan~~  
6       ~~terms may be blended.~~

7             ~~(iii) Interest rates shall [be fixed at 5%.] not~~  
8       ~~exceed 5%, except as provided in clause (iv).~~

9             ~~(iv) Loans made to a small business enterprise that~~  
10       ~~is an agricultural producer shall be made at an interest~~  
11       ~~rate of not less than 2% for the term of the loan if a~~  
12       ~~declaration under 35 Pa.C.S. § 7301(c) (relating to~~  
13       ~~general authority of Governor) is in effect for a natural~~  
14       ~~disaster. A small business enterprise that is an~~  
15       ~~agricultural producer must be physically located in the~~  
16       ~~area of the natural disaster and must make loan~~  
17       ~~application within nine months of a declaration specified~~  
18       ~~in this subparagraph.~~

19             ~~[(iv)] (v) All loans must be adequately secured.~~

20       ~~(3) (i) Applications for assistance under the Capital~~  
21       ~~Loan Fund Act which have been approved prior to the~~  
22       ~~effective date of this chapter will be processed in~~  
23       ~~accordance with the act of July 2, 1984 (P.L.545,~~  
24       ~~No.109), known as the Capital Loan Fund Act. Applications~~  
25       ~~for assistance which have been received but which have~~  
26       ~~not been approved prior to the effective date of this~~  
27       ~~chapter will be evaluated and processed in accordance~~  
28       ~~with this chapter.~~

29             ~~(ii) Applications for assistance under section 7.13~~  
30       ~~of the act of January 8, 1960 (1959 P.L.2119, No.787),~~

1 known as the Air Pollution Control Act, section 709 of  
2 the act of July 6, 1989 (P.L.169, No.32), known as the  
3 Storage Tank and Spill Prevention Act, and the Recycling  
4 Incentive Development Account which have been approved  
5 prior to the effective date of this chapter shall be  
6 processed in accordance with those respective provisions.  
7 Applications for assistance which have been received but  
8 which have not been approved prior to the effective date  
9 of this chapter shall be evaluated and processed in  
10 accordance with this chapter.

11 Section 4. The act is amended by adding a section to read:

12 Section 5106.2. Reporting to General Assembly.

13 In addition to the annual financing strategy submitted to the  
14 General Assembly, in accordance with section 301, the department  
15 shall report to the General Assembly in January and June for  
16 each of their programs on the number and type of requests for  
17 department financing during the current fiscal year, the number,  
18 amount and description of approvals and the available financing  
19 still remaining.

20 Section 5 3. This act shall take effect immediately.

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