

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1045 Session of
2002

INTRODUCED BY WAUGH, WENGER, BRIGHTBILL, JUBELIRER, PUNT,
O'PAKE, KITCHEN, MADIGAN, LAVALLE, HELFRICK, MUSTO, KUKOVICH,
DENT, MOWERY, CORMAN, M. WHITE, BOSCOLA, KASUNIC, LEMMOND,
GREENLEAF, CONTI, RHOADES, EARLL, SCHWARTZ, THOMPSON,
GERLACH, ROBBINS AND SCARNATI, MARCH 11, 2002

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 18, 2002

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 ~~loans for agricultural~~ <—
12 ~~producers and for provisions relating to eligibility.~~
13 DEFINITIONS AND FOR ELIGIBILITY. <—

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

16 Section 1. The ~~definitions of "capital development project"~~ <—
17 ~~and~~ DEFINITION OF "small business ~~enterprise~~ ENTERPRISES" in <—
18 section 1301 of the act of June 29, 1996 (P.L.434, No.67), known
19 as the Job Enhancement Act, ~~added December 3, 1998 (P.L.788,~~ <—
20 ~~No.100),~~ are IS amended and the section is amended by adding <—
21 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 ~~"Capital development project" or "project." Land, buildings, <—~~
11 ~~equipment and machinery and working capital which is acquired,~~
12 ~~constructed, renovated or used by a small business enterprise.~~

13 ~~(1) As part of a for profit project or venture not of a~~
14 ~~mercantile or service related nature, except for hospitality~~
15 ~~industry projects.~~

16 ~~(2) To bring a small business enterprise into compliance~~
17 ~~with Federal or State environmental laws or regulations or to~~
18 ~~complete an approved remediation project or to permit the~~
19 ~~small business enterprise to adopt generally acceptable~~
20 ~~pollution prevention practices.~~

21 ~~(3) To provide assistance to small business enterprises~~
22 ~~that are recyclers of municipal or commercial waste or that~~
23 ~~are manufacturers using recycled municipal or commercial~~
24 ~~waste materials.~~

25 ~~(4) To assist a small business enterprise with defense~~
26 ~~conversion activities.~~

27 ~~(5) For the manufacture of products to be exported out~~
28 ~~of the United States by a small business enterprise as part~~
29 ~~of a for profit project or venture not of a mercantile or~~
30 ~~service related nature, except for export related services~~

1 ~~and international export related mercantile ventures or~~
2 ~~advanced technology and computer related services and~~
3 ~~mercantile ventures, which will increase this Commonwealth's~~
4 ~~national or international market shares.~~

5 ~~(6) As part of a for profit project or venture that~~
6 ~~meets the requirements of section 1303(a.1) and (a.3).~~

7 * * *

8 "Natural disaster." As defined in 35 Pa.C.S. § 7102
9 (relating to definitions).

10 ~~"Normal agricultural operation." The activities, practices,~~ <—
11 ~~equipment and procedures which agricultural producers adopt, use~~
12 ~~or engage in the production and preparation for market of farm~~
13 ~~commodities. The term includes new activities, practices,~~
14 ~~equipment and procedures consistent with technological~~
15 ~~development within the agricultural industry.~~

16 * * *

17 "Small business [enterprises] enterprise." A for-profit
18 corporation, partnership [or], proprietorship, limited liability
19 company or other entity which meets the eligibility requirements
20 established by the department. The term shall include, but is
21 not limited to, a small business [enterprises] enterprise which:

22 (1) is located in a small business incubator
23 [facilities, small business enterprises which are] facility;

24 (2) is an agricultural [processors and small business
25 enterprises which manufacture] processor;

26 (3) is an agricultural producer; or

27 (4) manufactures apparel products.

28 * * *

29 ~~Section 2. Section 1303(a.2) and (b) of the act, amended~~ <—
30 ~~November 17, 1998 (P.L.788, No.100), are amended to read:~~

~~Section 1303. Eligibility for and terms and conditions of
loans.~~

~~* * *~~

~~(a.2) Pollution prevention assistance loans. The Pollution
Prevention Assistance Account created under section 1302(b.1)
shall provide revolving loans to small [businesses] business
enterprises.~~

~~(1) The loans shall be for the purpose of enabling the
small business enterprise to adopt or install pollution
prevention equipment or processes to:~~

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

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

~~(iii) Reduce energy consumption.~~

~~(2) The Pollution Prevention Assistance Account shall
not invest on the basis of direct financial return and shall
not be held to the loan loss standards of commercial lenders.
Loans shall be for the purpose of reducing pollution through
source reduction technologies or processes.~~

~~(3) A loan under this subsection may not exceed the
lesser of:~~

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

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

~~(4) Loans under this subsection shall have an interest
rate of 2% per year and a maximum repayment term of seven
years.~~

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

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

~~(b) Terms and conditions.~~

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

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

~~(i) Cause, aid or assist in, directly, the relocation of any business operations from one part of 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.~~

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

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

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

11 Section 3 2. Section 1310 of the act is amended to read: <—

12 Section 1310. [Transitional] Eligibility provisions.

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

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

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

25 ~~(ii) Loans used for real estate shall have a~~
26 ~~repayment period of up to ten years. Loans used for~~
27 ~~machinery and equipment shall have a repayment period of~~
28 ~~up to seven years. Loans used for working capital shall~~
29 ~~have a repayment period of up to three years. In projects~~
30 ~~where two or more uses of funds are planned, the loan~~

terms may be blended.

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

~~(iv) Loans made to a small business enterprise that is an agricultural producer shall be made at an interest rate of not less than 2% if a declaration under 35 RATE OF NOT LESS THAN 2% FOR THE TERM OF THE LOAN IF:~~

~~(A) A DECLARATION UNDER 35 Pa.C.S. § 7301(c) (relating to general authority of Governor) is in effect for at least ten days for a GOVERNOR) IS IN EFFECT FOR AT LEAST TEN DAYS PRIOR TO THE DATE OF APPLICATION;~~

~~(B) THE APPLICATION IS MADE WITHIN NINE MONTHS OF THE TERMINATION OF THE DECLARATION; AND~~

~~(C) THE AGRICULTURAL PRODUCER IS IN THE AREA DECLARED A natural disaster.~~

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

~~(3) (i) Applications for assistance under the Capital~~

~~(A) ELIGIBILITY GENERALLY.--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] UNDER THIS CHAPTER:~~

~~(1) [A] AN APPLICANT MUST BE A SMALL BUSINESS ENTERPRISE WITH 100 FULL-TIME EMPLOYEES OR LESS THAT PROPOSES TO UNDERTAKE A CAPITAL DEVELOPMENT PROJECT.~~

~~(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)]~~ (3) LOANS USED FOR REAL ESTATE SHALL HAVE A
REPAYMENT PERIOD OF UP TO TEN YEARS. LOANS USED FOR
MACHINERY AND EQUIPMENT SHALL HAVE A REPAYMENT PERIOD OF
UP TO SEVEN YEARS. LOANS USED FOR WORKING CAPITAL SHALL
HAVE A REPAYMENT PERIOD OF UP TO THREE YEARS. IN PROJECTS
WHERE TWO OR MORE USES OF FUNDS ARE PLANNED, THE LOAN
TERMS MAY BE BLENDED.

~~[(III)]~~ (4) INTEREST RATES SHALL [BE FIXED AT] NOT
EXCEED 5%.

(5) ALL LOANS MUST BE ADEQUATELY SECURED.

(B) AGRICULTURAL PRODUCER.--LOANS MADE TO A SMALL BUSINESS
ENTERPRISE THAT IS AN AGRICULTURAL PRODUCER SHALL BE MADE AT AN
INTEREST RATE OF NOT LESS THAN 2% FOR THE TERM OF THE LOAN IF:

(1) A DECLARATION UNDER 35 PA.C.S. § 7301(C) (RELATING
TO GENERAL AUTHORITY OF GOVERNOR) IS IN EFFECT FOR AT LEAST
TEN DAYS PRIOR TO THE DATE OF APPLICATION;

(2) THE APPLICATION IS MADE WITHIN NINE MONTHS OF THE
TERMINATION OF THE DECLARATION; AND

(3) THE AGRICULTURAL PRODUCER IS IN THE AREA DECLARED A
NATURAL DISASTER.

~~[(IV)]~~ ALL LOANS MUST BE ADEQUATELY SECURED.

~~(3)~~ ~~(I)]~~ (C) APPLICATIONS UNDER CAPITAL LOAN FUND
ACT.--APPLICATIONS FOR ASSISTANCE UNDER THE CAPITAL Loan Fund
Act which have been approved prior to the effective date of
this chapter will be processed in accordance with the act of
July 2, 1984 (P.L.545, No.109), known as the Capital Loan
Fund Act. Applications for assistance which have been
received but which have not been approved prior to the

1 effective date of this chapter will be evaluated and
2 processed in accordance with this chapter.

3 ~~[(ii)]~~ (D) APPLICATIONS UNDER AIR POLLUTION CONTROL <—
4 ACT.--Applications for assistance under section 7.13 of
5 the act of January 8, 1960 (1959 P.L.2119, No.787), known
6 as the Air Pollution Control Act, section 709 of the act
7 of July 6, 1989 (P.L.169, No.32), known as the Storage
8 Tank and Spill Prevention Act, and the Recycling
9 Incentive Development Account which have been approved
10 prior to the effective date of this chapter shall be
11 processed in accordance with those respective provisions.
12 Applications for assistance which have been received but
13 which have not been approved prior to the effective date
14 of this chapter shall be evaluated and processed in
15 accordance with this chapter.

16 Section 4 3. This act shall take effect immediately. <—