
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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 19, 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; AND MAKING AN APPROPRIATION. <—

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 <—

1 definitions to read:

2 Section 1301. Definitions.

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

6 * * *

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

10 * * *

11 ~~"Capital development project" or "project." Land, buildings, <—~~
12 ~~equipment and machinery and working capital which is acquired,~~
13 ~~constructed, renovated or used by a small business enterprise:~~

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

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

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

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

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

~~service related nature, except for export related services
and international export related mercantile ventures or
advanced technology and computer related services and
mercantile ventures, which will increase this Commonwealth's
national or international market shares.~~

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

~~* * *~~

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

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

~~* * *~~

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

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

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

(3) is an agricultural producer; or

(4) manufactures apparel products.

~~* * *~~

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

~~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~~

1 ~~loan application has been made.~~

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

6 ~~(b) Terms and conditions.~~

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

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

24 ~~(i) Cause, aid or assist in, directly, the~~
25 ~~relocation of any business operations from one part of~~
26 ~~this Commonwealth to another unless there is at least a~~
27 ~~25% net increase in employment.~~

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

30 ~~(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 2. SECTION 1302 OF THE ACT IS AMENDED BY ADDING A
SUBSECTION TO READ:

SECTION 1302. SMALL BUSINESS FIRST FUND AND POLLUTION
PREVENTION ASSISTANCE ACCOUNT.

* * *

(F) APPROPRIATION.--THE SUM OF \$2,000,000 IS APPROPRIATED
FROM THE GENERAL FUND TO THE SMALL BUSINESS FIRST FUND FOR
FISCAL YEAR 2002-2003.

Section ~~3-2~~ 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~~

1 eligible project costs, whichever is less. The maximum
2 loan amount for working capital is \$100,000 or 50% of the
3 total eligible project costs, whichever is less.

4 ~~(ii) Loans used for real estate shall have a~~
5 ~~repayment period of up to ten years. Loans used for~~
6 ~~machinery and equipment shall have a repayment period of~~
7 ~~up to seven years. Loans used for working capital shall~~
8 ~~have a repayment period of up to three years. In projects~~
9 ~~where two or more uses of funds are planned, the loan~~
10 ~~terms may be blended.~~

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

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

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

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

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

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

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

28 ~~(A) ELIGIBILITY GENERALLY.--THE FOLLOWING [ELIGIBILITY~~ <—
29 ~~REQUIREMENTS AND ELIGIBLE USES] SHALL APPLY TO [ALL] REQUESTS~~
30 ~~FOR FUNDING [RECEIVED AFTER THIS CHAPTER BECOMES EFFECTIVE~~

1 AND BEFORE SUBMISSION OF THE FIRST ANNUAL FINANCING STRATEGY]
2 UNDER THIS CHAPTER:

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

6 (2) [(I)] THE MAXIMUM LOAN AMOUNT FOR LAND, BUILDINGS
7 AND MACHINERY AND EQUIPMENT IS \$200,000 OR 50% OF THE
8 TOTAL ELIGIBLE PROJECT COSTS, WHICHEVER IS LESS. THE
9 MAXIMUM LOAN AMOUNT FOR WORKING CAPITAL IS \$100,000 OR
10 50% OF THE TOTAL ELIGIBLE PROJECT COSTS, WHICHEVER IS
11 LESS.

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

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

21 (5) ALL LOANS MUST BE ADEQUATELY SECURED.

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

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

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

30 (3) THE AGRICULTURAL PRODUCER IS IN THE AREA DECLARED A

1 NATURAL DISASTER.

2 [(IV) ALL LOANS MUST BE ADEQUATELY SECURED.

3 (3) (I)] (C) APPLICATIONS UNDER CAPITAL LOAN FUND

4 ACT.--APPLICATIONS FOR ASSISTANCE UNDER THE CAPITAL Loan Fund
5 Act which have been approved prior to the effective date of
6 this chapter will be processed in accordance with the act of
7 July 2, 1984 (P.L.545, No.109), known as the Capital Loan
8 Fund Act. Applications for assistance which have been
9 received but which have not been approved prior to the
10 effective date of this chapter will be evaluated and
11 processed in accordance with this chapter.

12 [(ii)] (D) APPLICATIONS UNDER AIR POLLUTION CONTROL <—

13 ACT.--Applications for assistance under section 7.13 of
14 the act of January 8, 1960 (1959 P.L.2119, No.787), known
15 as the Air Pollution Control Act, section 709 of the act
16 of July 6, 1989 (P.L.169, No.32), known as the Storage
17 Tank and Spill Prevention Act, and the Recycling
18 Incentive Development Account which have been approved
19 prior to the effective date of this chapter shall be
20 processed in accordance with those respective provisions.
21 Applications for assistance which have been received but
22 which have not been approved prior to the effective date
23 of this chapter shall be evaluated and processed in
24 accordance with this chapter.

25 Section ~~4-3~~ 4. This act shall take effect immediately. <—