

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# SENATE BILL

## No. 10

Session of  
2003

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INTRODUCED BY BRIGHTBILL, JUBELIRER, PICCOLA, WENGER, THOMPSON,  
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ARMSTRONG AND RAFFERTY, MARCH 28, 2003

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SENATOR THOMPSON, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
MAY 12, 2003

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## AN ACT

1 Providing for an economic enhancement program in the Department  
2 of Community and Economic Development; creating tax incentive  
3 districts; establishing the Economic Enhancement Fund and the  
4 Economic Enhancement Financing Authority; providing for the  
5 issuance of bonds and for debt service reserve funds; and  
6 making an appropriation.

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25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 CHAPTER 1

28 GENERAL PROVISIONS

29 Section 101. Short title.

30 This act shall be known and may be cited as the Economic

1 Enhancement Act.

2 Section 102. Findings.

3 The General Assembly finds and declares as follows:

4 (1) There exist in this Commonwealth areas of economic  
5 distress which require coordinated efforts by private and  
6 public entities to restore prosperity and to enable these  
7 areas to make significant contributions to the economic and  
8 social life of this Commonwealth.

9 (2) Long-term economic viability of these areas requires  
10 the cooperative involvement of residents, businesses and  
11 State and local assistance, and it is in the best interests  
12 of this Commonwealth to create incentive zones and to provide  
13 grants and loans to persons located in these zones to  
14 encourage this long-term economic redevelopment.

15 Section 103. Definitions.

16 The following words and phrases when used in this act shall  
17 having the meaning given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Authority." The Economic Enhancement Financing Authority  
20 established by section 501.

21 "Capital costs." The actual costs of the construction of all  
22 of the following:

23 (1) Works or improvements which will become public works  
24 or improvements.

25 (2) New buildings, structures or fixtures.

26 (3) The demolition, alteration, remodeling, repair or  
27 reconstruction of existing buildings, structures or fixtures.

28 (4) The acquisition, upgrade or rehabilitation of  
29 machinery and equipment.

30 (5) The acquisition, clearing or grading of land.

1 The term includes the actual cost of the construction,  
2 rehabilitation or repair of publicly owned infrastructure  
3 improvements located outside the boundaries of a tax increment  
4 district which are of direct benefit to a project.

5 "Department." The Department of Community and Economic  
6 Development of the Commonwealth.

7 "Deteriorated property." A blighted, impoverished area  
8 containing residential, industrial, commercial or other real  
9 property which is abandoned, unsafe, vacant, undervalued,  
10 underutilized, overgrown, defective, condemned or demolished or  
11 which contains economically undesirable land use. The term  
12 includes all of the following:

13 (1) A tax increment district.

14 (2) Property adjacent to deteriorated property which is  
15 significantly undervalued and underutilized due to the  
16 proximity of the deteriorated property.

17 "Fund." The Economic Enhancement Fund established by section  
18 304.

19 "Issuing authority." As that term is defined in section 3 of  
20 the act of July 11, 1990 (P.L.465, No.113), known as the Tax  
21 Increment Financing Act.

22 "Project." The undertakings or activities for the  
23 elimination of deteriorated property. The term includes property  
24 acquisition, clearance, redevelopment, rehabilitation or  
25 conservation.

26 "Project costs." An expenditure made or estimated to be made  
27 or any monetary obligation incurred or estimated to be incurred  
28 in connection with a project. Project costs include all of the  
29 following:

30 (1) Capital costs.



1 in accordance with subsection (a), a municipality may apply to  
2 the department for approval of the designation of the  
3 deteriorated property as a tax incentive district. The  
4 application shall be on a form provided by the department and  
5 shall include a copy of the ordinance, resolution or other  
6 required action from the governing body of the municipality  
7 approving the establishment of the tax incentive district. All  
8 appropriate ordinances and resolutions shall be binding and  
9 nonrevocable on the municipality.

10 (c) Designation.--If all municipalities within a proposed  
11 tax incentive district submit timely completed applications, the  
12 department shall approve the applications and designate the  
13 property as a tax incentive district. Persons owning property  
14 located within a tax incentive district and issuing authorities  
15 of tax increment districts located within a tax incentive  
16 district shall be eligible to receive grants and loans for  
17 qualified projects from the Economic Enhancement Financing  
18 Authority.

19 Section 303. Projects.

20 (a) Application.--A person may apply to the department for  
21 approval of a project. The application shall be on the form and  
22 in the manner established by the department and shall include a  
23 detailed list of project costs.

24 (b) Review.--The department shall review the application.  
25 The department may approve the project if it determines that all  
26 of the following apply:

27 (1) The applicant is a person that owns property in a  
28 tax incentive district or is an issuing authority of a tax  
29 increment district located within a tax incentive district.

30 (2) The project would be located in a tax incentive

1 district or is located in a tax increment district.

2 (3) The project would do or does any of the following:

3 (i) Create career-oriented net new jobs or preserve  
4 jobs.

5 (ii) Increase and diversify the manufacturing base  
6 of this Commonwealth.

7 (iii) Aid in the expansion of existing private  
8 companies, particularly those that sell their products  
9 outside this Commonwealth.

10 (iv) Attract new industries with new products into  
11 economically distressed areas within this Commonwealth.

12 (v) Promote industrial, commercial and other  
13 economic development within this Commonwealth.

14 (vi) Promote a healthy environment through the  
15 abatement, safe storage, transportation, reduction,  
16 elimination, remediation and disposal within this  
17 Commonwealth of pollutants and wastes.

18 (vii) Otherwise promote the health, welfare and  
19 safety of the residents of this Commonwealth by promoting  
20 economic activity and efficiency or alleviating or  
21 eliminating unemployment, blight and other unhealthy  
22 conditions.

23 (c) Notice.--The department shall notify the authority of  
24 projects which have been approved by the department and which  
25 are eligible for financial assistance by the authority.

26 Section 304. Establishment of Economic Enhancement Fund.

27 (a) Establishment.--There is hereby established a special  
28 fund known as the Economic Enhancement Fund. Interest income  
29 derived from investment of the money in the fund shall be  
30 credited by the Treasury Department to the fund.

1 (b) Calculation.--Within 30 days of the end of each quarter,  
2 the Department of Revenue shall calculate and notify the  
3 Secretary of the Budget of the aggregate revenue received by the  
4 Commonwealth pursuant to Articles II, IV and VI of the act of  
5 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
6 1971, from taxpayers located within tax incentive districts.

7 (c) Transfer.--Within ten days of receiving notification in  
8 accordance with subsection (b), the Secretary of the Budget  
9 shall direct the State Treasurer to transfer the sum equal to  
10 25% of the aggregate revenue received by the Commonwealth  
11 pursuant to Articles II, IV and VI of the Tax Reform Code of  
12 1971, from taxpayers located within tax incentive districts,  
13 from the General Fund to the fund.

14 (d) Appropriation and payments.--Moneys in the fund are  
15 hereby appropriated on a continuing basis to the authority. The  
16 State Treasurer shall provide semiannual payments to the  
17 authority on August 1 and February 1 of each year until the  
18 authority is terminated in accordance with section 501. August 1  
19 payments shall be equal to the balance of the fund on July 15 of  
20 that calendar year, and February 1 payments shall be equal to  
21 the balance of the fund on January 15 of that calendar year.

## 22 CHAPTER 5

### 23 ECONOMIC ENHANCEMENT FINANCING AUTHORITY

#### 24 Section 501. Authority.

25 (a) Establishment.--There is hereby established an authority  
26 to be known as the Economic Enhancement Financing Authority. The  
27 authority shall be a body corporate and politic and shall assist  
28 persons in funding economic development in tax incentive  
29 districts.

30 (b) Governance.--The powers and duties of the authority



1 shall be exercised by a board.

2 (c) Revenues.--Expenses of the authority shall be paid from  
3 revenues derived from investment income of the authority and  
4 from money appropriated to the authority in accordance with  
5 section 304. The funds appropriated to the authority in section  
6 ~~5104~~ 5103 shall be repaid by the authority from the proceeds of <—  
7 the initial issue of bonds by the authority. The Commonwealth  
8 shall not be responsible for funding the annual budget of the  
9 authority.

10 (d) Fiscal year.--The fiscal year of the authority shall be  
11 the same as the fiscal year of the Commonwealth.

12 (e) Audit.--The authority shall conduct an independent audit  
13 of its accounts and records annually.

14 (f) General Assembly review.--

15 (1) The chairperson and minority chairperson of the  
16 Appropriations Committee of the Senate and the chairperson  
17 and minority chairperson of the Appropriations Committee of  
18 the House of Representatives shall have the right at any time  
19 to examine the books, accounts and records of the authority.

20 (2) The authority shall file an annual report with the  
21 chairperson and the minority chairperson of the  
22 Appropriations Committee of the Senate and the chairperson  
23 and the minority chairperson of the Appropriations Committee  
24 of the House of Representatives. The report shall include all  
25 of the following:

26 (i) A copy of the authority's budget.

27 (ii) The total amount of debt service to become due  
28 on authority bonds for the ensuing fiscal year, including  
29 payments of interest and principal, maturity value or  
30 sinking fund payments.

1 (iii) The amount, if any, due to any provider of any  
2 credit or liquidity facility representing payments made  
3 by the provider as provided in the applicable resolution  
4 or trust indenture as a result of any previous failure of  
5 the authority to make any payment provided for in the  
6 applicable resolution or trust indenture, including any  
7 related reasonable interest, fees or charges.

8 (iv) The amount, if any, required to restore the  
9 debt service reserve fund to the level required under  
10 section 713 and the resolution of the authority  
11 establishing the fund.

12 (v) The amount, if any, required to be rebated to  
13 the United States to provide for continued Federal tax  
14 exemption for bonds of the authority.

15 (f) Publication.--The authority shall annually publish a  
16 concise financial statement in the Pennsylvania Bulletin.

17 (g) Limitation on bankruptcy filing.--Notwithstanding any  
18 other provision of law, the authority shall not be authorized to  
19 file a petition for relief under 11 U.S.C. Ch. 9 (relating to  
20 bankruptcy) or any successor Federal bankruptcy law if the  
21 authority has outstanding bonds issued pursuant to this act.

22 (h) Termination.--The authority shall terminate one year  
23 after all of its liabilities have been fully paid and  
24 discharged. Upon the termination, all of its rights and  
25 properties, including funds remaining in the debt service  
26 reserve fund, shall be paid to the Commonwealth.

27 Section 502. Board.

28 (a) Composition.--The board of the authority shall be  
29 composed of the following five members:

30 (1) The Secretary of the Budget.

1           (2) The Secretary of the Department of Revenue.

2           (3) The Secretary of the Department of Community and  
3       Economic Development.

4           (4) Two members of the public with experience in finance  
5       or management appointed by the Governor.

6       (b) Term.--The members of the board appointed by the  
7       Governor shall serve for a term of three years.

8       (c) Organization.--The members of the board shall elect from  
9       among themselves a chairperson, vice chairperson, secretary,  
10      treasurer and such other officers as they may determine. A  
11      member may hold more than one office of the board at any time.

12      (d) Meetings.--The board shall meet at the call of the  
13      chairperson but at least once during each quarter of the fiscal  
14      year.

15      (e) Expenses.--A member shall not receive compensation or  
16      remuneration, but shall be entitled to reimbursement for all  
17      reasonable and necessary actual expenses.

18      (f) Public officials and party officers.--The members of the  
19      board appointed by the Governor shall not seek or hold a  
20      position as any other public official within this Commonwealth  
21      or as a party officer while being a member of the board of the  
22      authority.

23      (g) Liability.--Members of the board shall not be liable  
24      personally on any obligations of the authority, including,  
25      without limitation, bonds of the authority and shall be immune  
26      from suit.

27      (h) Applicability.--The provisions of the following acts  
28      shall apply to the authority:

29           (1) The act of June 21, 1957 (P.L.390, No.212), referred  
30      to as the Right-to-Know Law.

1           (2) The act of July 19, 1957 (P.L.1017, No.451), known  
2 as the State Adverse Interest Act.

3           (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to  
4 open meetings) and 11 (relating to ethic standards and  
5 financial disclosure).

6 Section 503. Powers and duties.

7       (a) Powers.--The authority, through action of the board,  
8 shall have all of the following powers:

9           (1) The power to adopt bylaws, guidelines and  
10 regulations as it deems necessary.

11          (2) The power to contract and to execute instruments,  
12 including guarantees, sureties, mortgages and contracts of  
13 insurance, necessary or convenient for the carrying on of its  
14 business.

15          (3) The power to sue and be sued, implead and be  
16 impleaded, complain and defend in court.

17          (4) The power to borrow money, incur debt and, in  
18 anticipation of the receipt of income of the authority, make,  
19 issue and secure bonds or notes.

20          (5) The power to acquire, accept, purchase, receive,  
21 hold and invest funds and property, tangible or intangible,  
22 from all available sources, directly or by assignment, pledge  
23 or otherwise.

24          (6) The power to sell, transfer, convey and dispose of  
25 any property, tangible or intangible.

26          (7) The power to adopt, use and alter at will a  
27 corporate seal.

28          (8) The power to employ such persons as are necessary or  
29 convenient for the carrying on of its business.

30          (9) The power to retain counsel and auditors to render

1 such professional services as the authority deems  
2 appropriate.

3 (10) The power to pledge the credit of the authority and  
4 to provide such security and liquidity as may be required by  
5 creditors.

6 (11) The power to cooperate with any Federal agency or  
7 government agency.

8 (12) Any other power necessary or convenient for the  
9 promotion or general welfare of the authority.

10 (b) Duties.--The authority shall provide financial  
11 assistance to persons for qualified projects. The financial  
12 assistance shall be in the form of loans or multiyear grants and  
13 may include proceeds from the sale of bonds. If the financial  
14 assistance provided to a person is from the proceeds of a bond  
15 issuance, the board shall require the person to be a surety of  
16 the bonds. The board may impose such other terms and conditions  
17 on the financial assistance authorized by this subsection as the  
18 board determines is in the best interests of the authority.

19 (c) Limitations.--

20 (1) In accordance with section 8 of Article VIII of the  
21 Constitution of Pennsylvania, the board and the authority  
22 shall have no power to pledge the credit or taxing powers of  
23 the Commonwealth, nor shall any of the bonds of the authority  
24 be deemed a debt or liability of the Commonwealth.

25 (2) The authority shall be solely liable for the payment  
26 of the principal, interest or premium on any bonds issued by  
27 the authority. The Commonwealth shall have no legal or moral  
28 obligation for the payment of any expenses or obligations of  
29 the authority, including bond principal and interest, the  
30 funding or refunding of any reserves and any administrative

1 or operating expenses whatsoever, other than for the advance  
2 of funds for initial operating expenses of the authority  
3 contained in section 701 to be repaid by the authority as  
4 provided in this act. Bonds issued by the authority shall  
5 contain a prominent statement of the limitation set forth in  
6 this subsection and shall further recite that obligees of the  
7 authority shall have no recourse, either legal or moral, to  
8 the Commonwealth for payment of the bonds of the authority.

## 9 CHAPTER 7

### 10 BONDS OF AUTHORITY

#### 11 Section 701. Bonds.

12 (a) Authorization.--Bonds of the authority shall be  
13 authorized by a resolution of the board and shall be of a  
14 series, bear such date or dates and bear or accrue interest at  
15 the rate or rates determined by the board to be necessary to  
16 issue and sell the authorized bonds. The bonds shall be in the  
17 denominations; be in the form, either coupon or fully registered  
18 without coupons or in certificated or book-entry-only form;  
19 carry such registration, exchangeability and interchangeability  
20 privileges; be payable in the medium of payment and at such  
21 place or places; be subject to the terms of redemption and be  
22 entitled to the priorities of payment in the revenues or  
23 receipts of the authority as the resolution of the board  
24 provides. Bonds shall be signed by or shall bear the facsimile  
25 signature of the officer designated by the board. Interest  
26 coupons shall be attached to coupon bonds and shall bear the  
27 facsimile signature of the treasurer of the authority. Bonds  
28 shall be authenticated by an authenticating agent, fiscal agent  
29 or trustee. Bonds may be issued and delivered notwithstanding  
30 that the officer signing the bonds or the treasurer whose

1 facsimile signature is on a coupon shall have ceased to be the  
2 officer at the time when the bond is actually delivered.

3 (b) Maturity date.--

4 (1) Bonds issued to provide financial assistance to  
5 persons shall mature at such time or times not exceeding ten  
6 years from their respective dates of original issue.

7 (2) Bonds issued to finance the costs of a capital  
8 project shall mature at such time or times not exceeding the  
9 weighted average useful life of the projects being financed  
10 and in no event exceeding 30 years from their respective  
11 dates of original issue.

12 (3) Bonds issued in anticipation of income of the  
13 authority shall mature within the fiscal year of the date of  
14 issuance thereof, except for bonds issued in anticipation of  
15 grants from the Commonwealth, a government agency or Federal  
16 agency, which bonds shall mature no later than the time of  
17 anticipated receipt of such grant.

18 (c) Sale.--Bonds may be sold at public sale or invited sale  
19 for the price or prices and at the rate or rates of interest as  
20 the authority determines. Bonds may be sold at private sale by  
21 negotiation at the price or prices and at the rate or rates of  
22 interest as the authority determines, but only if the authority  
23 makes a written public explanation of the circumstances and  
24 justification for the private sale by negotiation. Pending the  
25 preparation of the definitive bonds, interim receipts may be  
26 issued to the purchaser or purchasers of the bonds and shall  
27 contain the terms and conditions established by the authority.

28 (d) Negotiable instruments.--Bonds of the authority shall  
29 have the qualities of negotiable instruments under 13 Pa.C.S.  
30 (relating to Commercial Code).

1 (e) Use of proceeds.--The proceeds of an issue of bonds may  
2 be used to pay the costs of issuance of the bonds, to pay costs  
3 of administration of authority, to fund reserves for the bonds,  
4 to capitalize interest on the bonds for a period not to exceed  
5 12 months, to pay the costs of capital projects in areas  
6 designated by the Governor under Chapter 3, to reimburse the  
7 Commonwealth for the appropriation made in section ~~5104~~ 5103 and <—  
8 to fund up to \$500,000 of initial operating expenses of the  
9 authority.

10 (f) Refunding.--Subject to the provisions of this act and  
11 bonds, notes or other obligations issued in accordance with this  
12 act, the authority may refund any outstanding debt of the  
13 authority, whether the debt represents principal or interest, in  
14 whole or in part, at any time. The term of any bonds issued for  
15 refunding purposes shall not extend to a maturity date which  
16 could not have been included in the original issue of bonds  
17 being refunded. For the purposes of this subsection, the term  
18 "refund" and its variations shall mean the issuance and sale of  
19 obligations the proceeds of which are used or are to be used for  
20 the payment or redemption of outstanding obligations upon or  
21 prior to maturity.

22 Section 702. Exemption from taxation.

23 The effectuation of the authorized purposes of the authority  
24 shall and will be in all respects for the benefit of the people  
25 of this Commonwealth, for the increase of their commerce and  
26 prosperity and for the improvements of their health, safety,  
27 welfare and living conditions; and, since the authority will be  
28 performing such essential governmental functions in effectuating  
29 such purposes, the authority shall not be required to pay any  
30 taxes or assessments upon any property acquired or used or



1 permitted to be used by the authority for its purposes; and the  
2 bonds issued by the authority, their transfer and the income  
3 therefrom, including any profits made on the sale thereon,  
4 shall, at all times, be free from State and local taxation  
5 within this Commonwealth. This exemption shall not extend to  
6 gift, estate, succession or inheritance taxes or any other taxes  
7 not levied directly on the bonds, the transfer thereof, the  
8 income therefrom or the realization of profits on the sale  
9 thereof.

10 Section 703. Validity of bonds; limitation on actions.

11 (a) Presumption.--A bond reciting in substance that it has  
12 been issued by the authority to accomplish the public purposes  
13 of this act shall be conclusively deemed in any suit, action or  
14 proceeding involving the validity or enforceability of the bonds  
15 or security therefor to have been issued for the purposes.

16 (b) Filing.--The authority shall file a copy of a resolution  
17 authorizing the issuance of bonds in its office for public  
18 inspection and shall publish in three newspapers of general  
19 circulation in this Commonwealth a notice stating:

20 (1) The fact and date of such adoption.

21 (2) The places where such resolution has been so filed  
22 for public inspection.

23 (3) The date of publication of such notice.

24 (4) That any action or proceeding of any kind or nature  
25 in any court questioning the validity or proper authorization  
26 of bonds provided for by the resolution, or the validity of  
27 any covenants, agreements or contract provided for by such  
28 resolution, shall be commenced within ten days after the  
29 publication of such notice.

30 After publication of the notice, if no action or proceeding

1 questioning the validity or proper authorization of bonds  
2 provided for by the resolution referred to in the notice, or the  
3 validity of any covenants, agreements or contracts provided by  
4 the resolution shall be commenced within ten days after the  
5 publication of the notice, then all residents of this  
6 Commonwealth and all other persons whatsoever shall be forever  
7 barred and foreclosed from instituting or commencing any action  
8 or proceeding in any court, or pleading any defense to any  
9 action or proceedings, questioning the validity or proper  
10 authorization of the bonds or the validity of the covenants,  
11 agreements or contracts, and the bonds, covenants, agreements  
12 and contracts shall be conclusively deemed to be valid and  
13 binding obligations in accordance with their terms and tenor.

14 (c) Estoppel.--After issuance of bonds, bonds shall be  
15 conclusively presumed to be fully authorized and issued by all  
16 the laws of this Commonwealth, and any person shall be estopped  
17 from questioning their sale, execution or delivery by the  
18 authority.

19 Section 704. Provisions of bonds; trust indentures.

20 In connection with the issuance of bonds and in order to  
21 secure the payment of its bonds, the authority, in addition to  
22 its other powers, shall have the power to do all of the  
23 following:

24 (1) Pledge or grant a security interest in all or any  
25 part of its gross or net revenues to which its right then  
26 exists or which may thereafter come into existence.

27 (2) Grant a security interest in all or any part of its  
28 personal property then owned or thereafter acquired.

29 (3) Covenant against pledging or granting a security  
30 interest in all or any part of its revenues or all or any

1 part of its personal property to which its right or title  
2 exists or may thereafter come into existence, or against  
3 permitting or suffering any lien on its revenues or property;  
4 covenant with respect to limitations on its right to sell,  
5 lease or otherwise dispose of any of its real property; and  
6 covenant as to which other or additional debts or obligations  
7 may be incurred by it.

8 (4) Covenant as to the bonds to be issued and as to the  
9 issuance of the bonds, in escrow or otherwise, and as to the  
10 use and disposition of the proceeds thereof; provide for the  
11 replacement of lost, destroyed or mutilated bonds; covenant  
12 against extending the time for the payment of bonds or  
13 interest thereon; redeem the bonds, and covenant for their  
14 redemption and provide the terms and conditions thereof.

15 (5) Covenant as to the amount of revenues to be received  
16 in each fiscal year or other period of time by the authority,  
17 as well as to the use and disposition to be made thereof,  
18 create or authorize the creation of special funds or reserves  
19 for debt service or other purposes and covenant as to the use  
20 and disposition of the moneys held in such funds.

21 (6) Prescribe the procedure, if any, by which the terms  
22 of any contract with bondholders may be amended or abrogated,  
23 and the amount of bonds the holders of which must consent  
24 thereto, and the manner in which the consent may be given.

25 (7) Covenant as to the use of any or all of its real or  
26 personal property, to warrant its title, and covenant as to  
27 the maintenance of its real and personal property, the  
28 replacement thereof, the insurance to be carried thereon and  
29 the use and disposition of insurance proceeds.

30 (8) Covenant as to the rights, liabilities, powers and

1 duties arising upon the breach by it of any covenant,  
2 condition or obligation, provided that the authority shall  
3 not be permitted to covenant that, upon a breach, any or all  
4 of its bonds shall become or may be declared due before  
5 stated maturity.

6 (9) Vest in a trustee or the holders of bonds, or any  
7 proportion of them, the right to enforce the payment of the  
8 bonds or any covenants securing or relating to the bonds;  
9 vest in a trustee the right, in the event of default in  
10 payments of interest or on principal of bonds by the  
11 authority, to take possession and use, operate and manage any  
12 real or personal property and to collect the revenues and  
13 receipts of an authority and to dispose of such moneys in  
14 accordance with the agreement of the authority with the  
15 trustee; provide for the powers and duties of a trustee and  
16 to limit liabilities thereof; and provide the terms and  
17 conditions upon which a trustee or the holders of bonds, or  
18 any proportion of them, may enforce any covenant or rights  
19 securing or relating to the bonds.

20 (10) Enter into interest rate exchange agreements,  
21 interest rate cap and floor agreements and other similar  
22 agreements which in the judgment of the authority will assist  
23 the authority in managing the interest costs of the  
24 authority.

25 (11) Obtain letters of credit, bonds insurance and other  
26 facilities for credit enhancement and liquidity.

27 (12) Exercise all or any part or combination of the  
28 powers granted in this act, make covenants other than and in  
29 addition to the covenants expressly authorized by this act,  
30 make such covenants and do any and all such acts and things

1 as may be necessary or convenient or desirable in order to  
2 secure its bonds or, in the absolute discretion of the  
3 authority, as will tend to accomplish the purposes of this  
4 act by making the bonds more marketable, notwithstanding that  
5 such covenants, acts or things may not be specifically  
6 enumerated by this act.

7 Notwithstanding any provision of this act to the contrary, the  
8 real property of the authority shall not be mortgaged and shall  
9 not be subject to attachment nor levied upon by execution or  
10 otherwise. The revenues of the authority and the personal  
11 property of the authority shall be pledged or otherwise  
12 encumbered only as expressly provided in this section and,  
13 except to the extent necessary to effectuate the pledge or  
14 encumbrance, shall not be subject to attachment nor levied upon  
15 by execution or otherwise.

16 Section 705. Remedies of obligee of authority.

17 In addition to all other rights which may be conferred on the  
18 obligee subject only to any contractual restrictions binding  
19 upon the obligee, an obligee of the authority shall have all of  
20 the following rights:

21 (1) To compel, by mandamus, suit, action or proceeding  
22 at law or in equity, the authority and the members of its  
23 governing board, officers, agents or employees thereof to  
24 perform each and every term, provision and covenant contained  
25 in any bond or contract of the authority with or for the  
26 benefit of such obligee and to require the carrying out of  
27 any or all such covenants and agreements of the authority and  
28 the fulfillment of all duties imposed upon the authority by  
29 this act.

30 (2) To obtain, by proceeding in equity, an injunction

1 against any acts or things which may be unlawful or the  
2 violation of any of the rights of such obligee of the  
3 authority.

4 (3) To require the authority to account as if it were  
5 the trustee of an express trust for the obligees of the  
6 authority for any pledged revenues received.

7 Section 706. Validity of pledge.

8 Any pledge of or grant of a security interest in revenues of  
9 the authority or personal property of an authority made by the  
10 authority shall be valid and binding from the time when the  
11 pledge is made. The revenues or other property pledged and  
12 thereafter received by the authority shall immediately be  
13 subject to the lien of the pledge or security interest without  
14 any physical delivery thereof or further act. The lien of the  
15 pledge or security interest shall be valid and binding as  
16 against all parties having claims of any kind in tort, contract  
17 or otherwise against the authority irrespective of whether such  
18 parties have notice thereof. Neither the resolution nor any  
19 other instrument of the authority by which a pledge or security  
20 interest is created need be recorded or filed to perfect the  
21 pledge or security interest.

22 Section 707. Commonwealth pledges.

23 (a) Bondholders.--The Commonwealth does hereby pledge to and  
24 agree with each and every obligee of the authority that the  
25 Commonwealth will not limit or alter the rights hereby vested in  
26 the authority in any manner inconsistent with the obligations of  
27 the authority to its obligees until all bonds at any time  
28 issued, together with the interest thereon, are fully paid and  
29 discharged.

30 (b) Lessees.--The Commonwealth does hereby pledge to and

1 agree with any person who, as owner thereof, leases or subleases  
2 property to or from the authority that the Commonwealth will not  
3 limit or alter the rights and powers hereby vested in the  
4 authority or otherwise created by this act in any manner which  
5 impairs the obligations of the authority until all such  
6 obligations of the authority under the lease or sublease are  
7 fully met and discharged.

8 Section 708. Resolution and law are contracts with holders of  
9 bonds.

10 Except as otherwise provided in any resolution of the  
11 authority authorizing or awarding bonds, the terms of a  
12 resolution and any agreement authorized by the resolution and  
13 the terms of this act as in effect when the bonds were  
14 authorized shall constitute a contract between the authority and  
15 the obligees, subject to modification by the vote by holders of  
16 the percentage of bonds as the resolution authorizing or  
17 awarding the bonds provides.

18 Section 709. Bonds to be legal investments.

19 Bonds issued pursuant to this act are hereby made securities  
20 in which all government agencies, all insurance companies, trust  
21 companies, banking associations, banking corporations, savings  
22 banks, investment companies, executors, the trustees of any  
23 retirement, pension or annuity fund or system of the  
24 Commonwealth, trustees and other fiduciaries may properly and  
25 legally invest funds, including capital, deposits or other funds  
26 in their control or belonging to them. The bonds are hereby made  
27 securities which may properly and legally be deposited with and  
28 received by any government agency for any purpose for which the  
29 deposit of bonds or other obligations of the Commonwealth now or  
30 may hereafter be authorized by law.

1 Section 710. Right to enforcement of pledge of revenues.

2 The obligees of the authority shall have the right to enforce  
3 a pledge of or security interest in revenues of the authority  
4 securing payment of bonds of the authority against all  
5 government agencies in possession of any such revenues at any  
6 time, which revenues may be collected directly from such  
7 officials upon notice by the obligees or a trustee for the  
8 obligees for application to the payment of the bonds as and when  
9 due or for deposits in any sinking, bond or debt service fund  
10 established by this act or established by resolution of the  
11 authority with the trustee at the times and in the amounts  
12 specified in the bonds or the resolution or indenture or trust  
13 agreement securing the bonds. Any government agency in  
14 possession of any such revenues shall make payment against  
15 receipt and shall thereby be discharged from any further  
16 liability or responsibility for such revenues. If payment is  
17 made to a holder of bonds, it shall be made against surrender of  
18 the bonds to the payor for delivery to the authority in the case  
19 of payment in full; otherwise, it shall be made against  
20 production of the bonds for notation thereon of the amount of  
21 the payment. The provisions of this section with respect to the  
22 enforceability and collection of revenues which secure bonds  
23 shall supersede any contrary or inconsistent statutory provision  
24 or rule of law. This section shall be construed and applied to  
25 fulfill the legislative purpose of clarifying and facilitating  
26 the financing of the authority by assuring to the obligees of  
27 the authority the full and immediate benefit of the security for  
28 the bonds without delay, diminution or interference based on any  
29 statute, decision, ordinance or administrative rule or practice.

30 Section 711. Funds of authority; source of revenue.



1 (a) Receipt by treasurer.--All funds of the authority  
2 received from any source shall be delivered to or upon the order  
3 of the treasurer of the authority or to such other agent of the  
4 authority as the board may designate. Funds received by the  
5 authority shall be promptly deposited in a bank or banks in this  
6 Commonwealth chosen by the board. The moneys in the accounts of  
7 the authority may be paid by the treasurer of the authority or  
8 other designated agent of the authority on warrant of the  
9 treasurer of the authority. All deposits of moneys may, if  
10 required by the authority, be secured by obligations of the  
11 United States or of the Commonwealth of a market value equal at  
12 all times to the amount of the deposit, and all banks and trust  
13 companies are authorized to give security for such deposits,  
14 provided that no moneys deposited in a debt service reserve fund  
15 may be secured by a deposit of obligations issued by or  
16 obligations guaranteed by an assisted city.

17 (b) Investment of funds.--Subject to the provisions of any  
18 agreements with obligees of the authority, all funds of the  
19 authority, including the proceeds of bonds, which are not  
20 required for immediate use may be invested in obligations of the  
21 Federal Government or of the Commonwealth or obligations which  
22 are legal investments for Commonwealth funds.

23 Section 712. Debt service reserve fund.

24 (a) Authorization.--The authority may establish one or more  
25 debt service reserve funds into which it shall deposit:

26 (1) Proceeds from the sale of bonds, to the extent  
27 provided in the resolution or resolutions authorizing the  
28 bonds.

29 (2) Any other moneys made available to the authority  
30 from any source.

1 All moneys held in any debt service reserve fund, except as  
2 provided hereafter, shall be used when required solely for the  
3 payment of the principal of bonds secured in whole or in part by  
4 the fund or of the sinking fund payments, if any, with respect  
5 to the bonds, the purchase or redemption of the bonds, the  
6 payment of interest on the bonds or the payment of any  
7 redemption premium required to be paid when the bonds and notes  
8 are redeemed prior to maturity. Any debt service reserve fund  
9 established pursuant to this section shall be a trust fund held  
10 for the benefit and security of the obligees of the authority  
11 whose bonds are secured by the fund. Moneys in a debt service  
12 reserve fund shall not be withdrawn from the fund at any time in  
13 an amount that would reduce the amount of the fund to less than  
14 the minimum reserve fund requirement established for the fund in  
15 the resolution of the authority creating the fund, except for  
16 withdrawals for the purpose of making payments when due of  
17 principal, interest, redemption premiums and sinking fund  
18 payments, if any, with respect to the bonds for the payment of  
19 which other moneys of the authority are not available. Any  
20 income or interest earned by or increments to any debt service  
21 reserve fund due to the investment thereof may be transferred by  
22 the authority to other funds or accounts of the authority to the  
23 extent the transfer does not reduce the amount of the debt  
24 service reserve fund below the minimum reserve fund requirement  
25 established for that fund. Funds transferred to other accounts  
26 in accordance with the preceding requirements may be used for  
27 whatever purposes the authority deems appropriate so long as the  
28 purposes are consistent with this act and the contracts of the  
29 authority with obligees of the authority and with assisted  
30 cities.

1 (b) Bond limitation.--The authority shall not at any time  
2 issue bonds secured in whole or in part by a debt service  
3 reserve fund if issuance of the bonds would cause the amount in  
4 the debt reserve fund to fall below the minimum reserve  
5 requirement for the fund, unless the authority at the time of  
6 issuance of the bonds deposits in the fund an amount, from the  
7 proceeds of the bonds to be issued or from other sources, which  
8 when added to the amount already in the fund will cause the  
9 total amount on deposit in the fund to equal or exceed the  
10 minimum reserve fund requirement.

11 (c) Definition.--For the purposes of this section, the term  
12 "minimum reserve fund requirement" shall mean that amount  
13 defined as the minimum reserve fund requirement in the  
14 resolution or resolutions of the authority authorizing the  
15 bonds.

16 Section 713. Other funds and accounts.

17 (a) Authorization.--The authority shall create funds and  
18 accounts as may be necessary or desirable for its corporate  
19 purposes and shall pay into each fund or account any moneys of  
20 the authority available for such purposes or any moneys made  
21 available by any other person for the purposes of the fund or  
22 account. No other provision of this act shall be construed to  
23 prohibit the authority from creating within any fund one or more  
24 accounts which may be used or pledged by the authority for a  
25 special purpose.

26 (b) Use of fund money.--Any moneys deposited in any fund  
27 created by the authority to be used to pay debt service,  
28 including, without limitation, the bond payment account, any  
29 sinking fund or debt service reserve fund and all investments  
30 and proceeds of investments thereof shall, without further

1 action or filing, be subjected to a perfected security interest  
2 for the obligees of the authority for whom the fund is held  
3 until the moneys or investments shall be properly disbursed in  
4 accordance with this act and with the terms of the contract of  
5 the authority with its obligees.

6 Section 714. Initial issue of authority bonds.

7 The first series of bonds to be issued by the authority shall  
8 be issued in a manner and at a time so that the net proceeds of  
9 the bonds shall be available on or before June 30, 2003, or as  
10 soon as practicable thereafter.

## 11 CHAPTER 51

### 12 MISCELLANEOUS PROVISIONS

13 Section 5101. Original jurisdiction of Supreme Court.

14 The Pennsylvania Supreme Court shall have exclusive  
15 jurisdiction to hear any challenge to or to render a declaratory  
16 judgment concerning the constitutionality of this act, the  
17 contractual rights of the parties relating to bonds issued under  
18 this act or any action of the authority in issuing or attempting  
19 to issue bonds.

20 Section 5102. Construction.

21 The provisions of this act providing for security for and  
22 rights and remedies of obligees of the authority shall be  
23 liberally construed to achieve the purposes stated and provided  
24 for in this act.

25 Section 5103. Appropriation.

26 The sum of \$500,000 is hereby appropriated to the Economic  
27 Enhancement Financing Authority from the General Fund. The  
28 appropriation in this section is an advance which shall be  
29 repaid by the authority from sources described in section 501(c)  
30 as soon as is practicable and in no event later than June 30,

1 2004.

2 Section 5104. Severability.

3 The provisions of this act are severable. If any provision of  
4 this act is judged to be invalid by a court of competent  
5 jurisdiction, the order or judgment shall be confined in its  
6 operation to the controversy in which it was rendered and shall  
7 not affect or invalidate the remainder of any provisions.

8 Section 5105. Effective date.

9 This act shall take effect July 1, 2003.