HOUSE AMENDED

PRIOR PRINTER'S NOS. 606, 853, 963, 1026, 1038 PRINTER'S NO. 1501

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10 Session of 2003

INTRODUCED BY BRIGHTBILL, JUBELIRER, PICCOLA, WENGER, THOMPSON, EARLL, ROBBINS, M. WHITE, KUKOVICH, WONDERLING, D. WHITE, PILEGGI, CONTI, MADIGAN, COSTA, DENT, LEMMOND, RHOADES, ARMSTRONG, RAFFERTY AND PUNT, MARCH 28, 2003

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 30, 2004

AN ACT

~~Amending Titles 12 (Commerce and Trade) and 72 (Taxation and Fiscal Affairs) of the Pennsylvania Consolidated Statutes, codifying portions of the Economic Development Financing Law and further providing for contract requirements and for Commonwealth obligations; codifying portions of the Job Enhancement Act and further providing for contract requirements, for guidelines, for administration and for application and review requirements; codifying portions of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act and further providing for keystone opportunity expansion subzones and for keystone opportunity improvement zones; providing for the Project Review Committee, for Keystone Innovation Zones, for the Economic Enhancement Program, for the Economic Enhancement Financing Program, for the Core Industries Infrastructure Capitalization Program, for the Water and Wastewater Infrastructure Capitalization Program, for the First Industries Program, for the Secondary Growth Stage Financing Program, for primary growth stage investment providing for the Economic Enhancement Fund; codifying the Capital Facilities Debt Enabling Act; further providing for definitions, for procedures for capital budget and debt authorizing legislation, for bonds, for appropriations for and limitations on redevelopment assistance and site development capital projects, and for funding and administration of redevelopment assistance capital projects; providing for funding and administration of site development capital projects and for the Capital Project Oversight and Review Committee; continuing debt authorization; making~~ <

~~repeals; requiring a referendum; and making appropriations.~~
AMENDING TITLE 12 (COMMERCE AND TRADE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR THE INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM; AND MAKING A RELATED REPEAL. <—

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

~~Section 1. The General Assembly finds and declares as follows:~~ <—

~~(1) An economic stimulus program which provides direct immediate economic assistance to Pennsylvania businesses and industries is needed to preserve and to create jobs within this Commonwealth.~~

~~(2) By targeting grant and loan assistance to Pennsylvania businesses and industries for job creation, health care safety and industrial and commercial site development, the Commonwealth will trigger the needed redevelopment and economic growth of industrial and commercial activities conducted within this Commonwealth.~~

~~(3) By targeting grant and loan assistance to Pennsylvania communities for water and wastewater infrastructure projects, the Commonwealth will trigger the redevelopment of existing brownfield sites and improve the environment and health of all residents of this Commonwealth.~~

~~(4) By expanding tax-based financing of economic development projects, the Commonwealth will assist local governments in retaining employers of and recruiting employers to this Commonwealth.~~

~~(5) By targeting loan assistance to the tourism and agriculture sectors of the Commonwealth's economy, the Commonwealth will provide additional financial support to those leading Commonwealth industries hard hit by world~~

~~events and economic instability.~~

~~(6) By targeting capital investment and subsidized loan assistance to emerging business, the Commonwealth will stimulate the growth and increase the stability of small businesses within this Commonwealth.~~

~~(7) By preparing the Commonwealth to face the Federal Base Realignment and Closure (BRAC) process, the Commonwealth will increase the number of existing jobs it retains during the next round of Federal base realignment and closures.~~

~~Section 1.1. Title 12 of the Pennsylvania Consolidated Statutes is amended by adding parts to read:~~

~~PART I~~

~~GENERAL PROVISIONS~~

~~Chapter~~

~~1. (Reserved)~~

~~3. Economic Development Financing Strategy~~

~~5. Small Business Council~~

~~7. Tax-Exempt Bond Allocation (Reserved)~~

~~CHAPTER 1~~

~~(RESERVED)~~

~~CHAPTER 3~~

~~ECONOMIC DEVELOPMENT FINANCING STRATEGY~~

~~Sec.~~

~~301. Scope.~~

~~302. Definitions.~~

~~303. Development.~~

~~304. Oversight.~~

~~§ 301. Scope.~~

~~This chapter relates to the development of an annual economic development financing strategy.~~

§ 302. Definitions.

The following words and phrases when used in this chapter 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.

"Economic development program." A program which is administered by and which provides financial assistance for economic development to persons or a program of a public entity which provides financial assistance for economic development to persons in coordination with the Department of Community and Economic Development. The term includes all of the following:

(1) Any program created under Part III (relating to economic development programs).

(2) Any program of an entity created under Part IV (relating to economic development financing).

(3) The Pennsylvania Industrial Development Authority.

(4) The Pennsylvania Minority Business Development Authority.

(5) The Infrastructure Development Program.

(6) The Industrial Sites Reuse Program.

(7) The tax credit programs established in Articles XVII-B and XVIII-B of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

§ 303. Development.

The department shall annually develop a report containing a financing strategy for economic development within this Commonwealth. In developing the report, the department shall gather input and recommendations from businesses, community leaders and organizations, legislators and private citizens. The

~~report shall include all of the following:~~

~~(1) A financial audit or statement of operations for each economic development program.~~

~~(2) A narrative description of accomplishments for each economic development program during the preceding fiscal year.~~

~~(3) A detailed description of the parameters of operation for the economic development programs during the upcoming fiscal year. The description shall include the terms and conditions under which the economic development programs shall be administered.~~

~~(4) A description of the performance measurements and accountability factors to be applied and the performance targets or goals to be met for each economic development program.~~

~~(5) A description of long-range planning for the economic development programs through the next five fiscal years.~~

~~(6) A list of the loans, grants or credits approved by the economic development programs during the fiscal year. The list shall include a brief description of and details regarding each loan, grant or credit approved.~~

~~(7) A review of pending projects.~~

~~§ 304. Oversight.~~

~~Concurrent with the submission of the Governor's annual budget message, the department shall submit the report required by this chapter to all of the following:~~

~~(1) The Secretary of the Senate.~~

~~(2) The chairperson of the Appropriations Committee of the Senate.~~

~~(3) The Chief Clerk of the House of Representatives.~~

~~(4) The chairperson of the Appropriations Committee of the House of Representatives.~~

~~CHAPTER 5~~

~~SMALL BUSINESS COUNCIL~~

~~Sec.~~

~~501. Scope.~~

~~502. Definitions.~~

~~503. Small Business Council.~~

~~504. Regulatory review.~~

~~§ 501. Scope.~~

~~This chapter relates to the Small Business Council.~~

~~§ 502. Definitions.~~

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

~~"Council." The Small Business Council established under section 503 (relating to Small Business Council).~~

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

~~"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth. The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies or any independent agency or State-affiliated entity.~~

~~"Secretary." The Secretary of Community and Economic Development of the Commonwealth.~~

~~"Small business." A person that employs fewer than 100 employees.~~

~~§ 503. Small Business Council.~~

~~(a) Establishment.--There is established within the department an agency to be known as the Small Business Council. The council shall do all of the following:~~

~~(1) Assist with the development of policies and regulations which affect small businesses within this Commonwealth.~~

~~(2) Provide advice relating to the nature of small business practices and problems in this Commonwealth.~~

~~(3) Provide a review of existing and proposed policies and regulations which are relevant to small business.~~

~~(b) Composition.--The council shall be composed of 13 members. The secretary shall serve ex officio. Twelve members shall be appointed as follows:~~

~~(1) Four individuals appointed by the Governor.~~

~~(2) Two individuals appointed by the President pro tempore of the Senate.~~

~~(3) Two individuals appointed by the Minority Leader of the Senate.~~

~~(4) Two individuals appointed by the Speaker of the House of Representatives.~~

~~(5) Two individuals appointed by the Minority Leader of the House of Representatives.~~

~~(c) Qualifications.--In order to be eligible for appointment to the council, an individual must:~~

~~(1) have a background in improving small businesses; and~~

~~(2) be one of the following:~~

~~(i) a present owner or operator of a small business within this Commonwealth;~~

~~(ii) a member of the academic community who has~~

~~expertise regarding small business practices; or~~

~~(iii) a professional who specializes in representing small businesses.~~

~~(d) Term.--Each member of the council shall serve for a period of two years.~~

~~(e) Organization.--The secretary shall serve as chairperson. The members of the council shall elect from among themselves a vice chairperson, secretary, treasurer and such other officers as they may determine.~~

~~(f) Meetings.--The council shall meet at the call of the chairperson but shall meet at least once each quarter.~~

~~(g) Quorum.--A majority of the board shall constitute a quorum. A majority of the members present shall be necessary to transact business on behalf of the council.~~

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

~~(i) Administrative assistance.--The department shall do all of the following:~~

~~(1) Provide administrative and technical support to the council.~~

~~(2) Publish notice of council meetings in accordance with 65 Pa.C.S. Ch.7 (relating to open meetings).~~

~~(3) Maintain a mailing list of persons who have requested specific notification of meetings and activities of the council.~~

~~(4) Designate a deputy secretary to attend council meetings and to serve as the public's liaison of the council.~~

~~(j) Cooperation.--Upon the council's request, an executive agency shall provide the council with officially promulgated~~

~~regulatory and nonregulatory documents which regulate or would regulate small businesses.~~

~~§ 504. Regulatory review.~~

~~(a) Notification.--To the extent known to the secretary, the department shall, on a semiannual basis, provide the council with a list of regulations being proposed by all executive agencies which may affect small businesses in this Commonwealth.~~

~~(b) Conference.--The department shall, upon request of the council, arrange a meeting between the council and representatives of an executive agency to discuss regulatory proposals and policy initiatives of the executive agency which might affect small businesses in this Commonwealth.~~

~~(c) Written comments.--The council shall provide the department with written comments regarding the council's position on the proposed regulations. The department shall transmit the comments to the appropriate executive agencies. The written comments shall include an impact statement and any other information which the council deems necessary for the public to make an informed opinion on the proposals.~~

~~(d) Exceptions.--The requirements under subsections (a) and (b) shall not apply to the promulgation of the following regulations relating to small businesses:~~

~~(1) Regulations required by court order.~~

~~(2) Regulations necessitated by a Federal or State declaration of emergency.~~

~~(3) Interim regulations which are authorized by statute.~~

~~CHAPTER 7~~

~~TAX-EXEMPT BOND ALLOCATION~~

~~(RESERVED)~~

~~PART II~~

ECONOMIC DEVELOPMENT ENTITIES

Chapter

11. Ben Franklin (Reserved)

13. Industrial Resource Centers (Reserved)

15. (Reserved)

17. (Reserved)

19. (Reserved)

CHAPTER 11

BEN FRANKLIN

(RESERVED)

CHAPTER 13

INDUSTRIAL RESOURCE CENTERS

(RESERVED)

CHAPTER 15

(RESERVED)

CHAPTER 17

(RESERVED)

CHAPTER 19

(RESERVED)

PART III

ECONOMIC DEVELOPMENT PROGRAMS

Chapter

21. Opportunity Grants

23. Small Business First

25. Industrial Development Assistance (Reserved)

27. Customized Job Training (Reserved)

29. Machinery and Equipment (Reserved)

31. Family Savings Account (Reserved)

33. Economic Enhancement

35. Keystone Economic Development Zones

~~37. Keystone Innovation Zones~~

~~CHAPTER 21~~

~~OPPORTUNITY GRANTS~~

~~Sec.~~

~~2101. Scope.~~
~~2102. Definitions.~~
~~2103. Establishment.~~
~~2104. Application.~~
~~2105. Review.~~
~~2106. Approval.~~
~~2107. Penalty.~~
~~2108. Limitations.~~
~~2109. Guidelines.~~

~~§ 2101. Scope.~~

~~This chapter relates to the Opportunity Grant Program.~~

~~§ 2102. Definitions.~~

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

~~"Applicant." A person that applies for a grant in accordance with this chapter.~~

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

~~"Developer." A person that has as a purpose the promotion or construction of economic development projects and that is engaged in the development of real estate for use by more than one person.~~

~~"Eligible recipient." Any of the following persons:~~

~~(1) A municipality.~~

~~(2) An entity created under the act of August 23, 1967~~

~~(P.L.251, No.102), known as the Economic Development Financing Law.~~

~~(3) An entity certified as an industrial development agency under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.~~

~~(4) An entity created under 53 Pa.C.S. Ch.56 (relating to municipal authorities) or under the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.~~

~~(5) An entity created under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law.~~

~~(6) A developer.~~

~~(7) A person that is engaged in any of the following activities:~~

~~(i) The production or processing of farm commodities.~~

~~(ii) Manufacturing.~~

~~(iii) Research and development.~~

~~(iv) Export services.~~

~~(v) Any other activity which offers a significant economic impact on the Commonwealth, as determined by the department.~~

~~"Eligible use." Any of the following activities:~~

~~(1) Job training.~~

~~(2) The acquisition of land, buildings or rights-of-way.~~

~~(3) The construction or rehabilitation of buildings.~~

~~(4) The construction or rehabilitation of infrastructure.~~

~~(5) The purchase or upgrading of machinery and~~

equipment.

(6) Working capital.

(7) Site preparation, including demolition and clearance.

(8) Environmental assessments.

(9) Remediation of hazardous material.

(10) Architectural and engineering fees up to 10% of the award.

"Job-creating economic development." Includes the expansion or preservation of existing industry.

"Program." The Opportunity Grant Program established in section 2103 (relating to establishment.)

"Project." An activity conducted in this Commonwealth.

"Recipient." A person who receives a grant under this chapter.

§ 2103. Establishment.

There is established within the department a program to be known as the Opportunity Grant Program. The program shall be administered by the department to provide grants to eligible persons for certain projects which encourage job-creating economic development within this Commonwealth.

§ 2104. Application.

A person may submit an application to the department requesting a grant for a project. The application shall be on the form required by the department and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement that the applicant is an eligible recipient under the program.

(3) A statement of the amount of grant sought.

~~(4) A statement of the project, including a detailed statement of the cost of the project.~~

~~(5) A statement identifying the economic impact of the project to the region and the estimated impact on State and local revenues.~~

~~(6) A firm financial commitment from a responsible source for at least 80% of the cost of the project.~~

~~(7) A firm commitment from the applicant to complete the project.~~

~~(8) Any other information required by the department.~~

~~§ 2105. Review.~~

~~The department shall review the application to determine all of the following:~~

~~(1) If the applicant is an eligible recipient under the program.~~

~~(2) If the project is an eligible use of grant proceeds under the program.~~

~~(3) If a financial commitment exists for at least 80% of the cost of the project.~~

~~(4) If the financial commitment from the source is firm.~~

~~(5) If the source of the financial commitment is responsible.~~

~~(6) If the applicant complied with all other criteria established by the department.~~

~~§ 2106. Approval.~~

~~The following shall apply:~~

~~(1) Upon being satisfied that all requirements have been met, the department may approve the application and award a grant. Grants shall be awarded in a manner which maximizes geographic diversity.~~

~~(2) Prior to providing grant funds to the applicant, the department shall enter into a contract with the applicant. The contract shall include provisions requiring the applicant to do all of the following:~~

~~(i) Use the grant to pay the costs of the project.~~

~~(ii) Repay the grant from any proceeds resulting from a sale or partial sale of the project by the applicant in accordance with the following:~~

~~(A) If the project is sold less than two years after receipt of the grant, the applicant shall repay the Commonwealth 90% of the grant received.~~

~~(B) If the project is sold more than two years but less than four years after receipt of the grant, the applicant shall repay the Commonwealth 80% of the grant received.~~

~~(C) If the project is sold more than four years but less than six years after receipt of the grant, the applicant shall repay the Commonwealth 70% of the grant received.~~

~~(D) If the project is sold more than six years but less than eight years after receipt of the grant, the applicant shall repay the Commonwealth 60% of the grant received.~~

~~(E) If the project is sold more than eight years but less than ten years after receipt of the grant, the applicant shall repay the Commonwealth 50% of the grant received.~~

~~(3) The department may impose any other terms and conditions on the grants authorized by this chapter as the department determines is in the best interests of the~~

~~Commonwealth, including a provision requiring collateral for any penalty imposed under the program.~~

~~§ 2107. Penalty.~~

~~(a) Imposition.--Except as provided in subsection (b), the department shall impose a penalty upon a recipient for any of the following:~~

~~(1) Failing to create the number of jobs specified in the recipients application.~~

~~(2) Failing to inject the required amount of private matching funds into the project.~~

~~(b) Exception.--The department may waive the penalty required by subsection (a) if the department determines that the failure was due to circumstances outside the control of the recipient.~~

~~(c) Amount.--The amount of the penalty shall be equal to the full amount of the grant received plus an additional amount of up to 10% of the amount of the grant received. The penalty shall be payable in one lump sum or in installments, with or without interest, as the department deems appropriate.~~

~~§ 2108. Limitations.~~

~~(1) An applicant may not receive a grant under this chapter for more than two consecutive fiscal years for the same project.~~

~~(2) A grant awarded under this chapter may not be used to do any of the following:~~

~~(i) Refinance or retire existing debt.~~

~~(ii) Pay cost unrelated to a project location at a site in this Commonwealth.~~

~~(3) In no case shall the aggregate amount of grants paid in any fiscal year under this chapter exceed the annual~~

~~appropriation to the department for the program.~~

~~(4) A grant awarded under this chapter shall in no way constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.~~

~~§ 2109. Guidelines.~~

~~(a) Development.--The department shall develop written guidelines for the program. The guidelines shall do all of the following:~~

~~(1) Limit grant size for any single project.~~

~~(2) Clarify eligible uses of grants.~~

~~(3) Clarify standards for eligibility.~~

~~(b) Use.--No projects may be approved until the written guidelines have been completed and copies of the guidelines have been submitted to the General Assembly.~~

~~CHAPTER 23~~

~~SMALL BUSINESS FIRST~~

~~Sec.~~

~~2301. Scope.~~

~~2302. Definitions.~~

~~2303. Establishment.~~

~~2304. Fund and accounts.~~

~~2305. Department responsibilities.~~

~~2306. Capital development loans.~~

~~2307. EDA loans.~~

~~2308. Loans in distressed communities.~~

~~2309. Pollution prevention assistance loans.~~

~~2310. Export financing loans.~~

~~2311. Reporting and inspection.~~

~~2312. Limitations.~~

~~§ 2301. Scope.~~

~~This chapter relates to the Small Business First Program.~~

~~§ 2302. Definitions.~~

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

~~"Agricultural producer." A person involved in the management and use of a normal agricultural operation for the production of a farm commodity.~~

~~"Apparel products." Products manufactured, woven, cut, sewn or otherwise similarly processed by mechanical or human effort from fabrics, leather or cloth and made for use as clothing, shoes or other attire.~~

~~"Applicant." A person that applies for a loan in accordance with this chapter.~~

~~"Area loan organization." A local development district, an industrial development agency organized and existing under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, or any other nonprofit economic development organization certified by the Department of Community and Economic Development as possessing the qualifications necessary to evaluate and administer loans made under this chapter.~~

~~"Capital development project." Land, buildings, equipment and machinery and working capital which is acquired, constructed, renovated or used by a small business in accordance with any of the following:~~

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

~~(2) As part of an effort to:~~

~~(i) bring a small business into compliance with Federal or State environmental laws or regulations;~~

~~(ii) complete an approved remediation project; or~~

~~(iii) permit a small business to adopt generally acceptable pollution prevention practices.~~

~~(3) As part of an effort to provide assistance to a small business that is a recycler of municipal or commercial waste or that is a manufacturer using recycled municipal or commercial waste materials.~~

~~(4) As part of an effort to assist a small business with defense conversion activities.~~

~~(5) As part of a for-profit project or venture to manufacture products to be exported out of the United States by a small business which is 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 and 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 2308 (relating to loans in distressed communities)~~

~~(7) As part of an effort to assist in the start-up or expansion of a for-profit or not-for-profit child day-care center subject to licensure by the Commonwealth.~~

~~"Child day-care center." Any premises in which child day care is provided simultaneously for seven or more children who are not related to the provider.~~

~~"Community development institution." Any of the following:~~

~~(1) An area loan organization for a distressed~~

~~community.~~

~~(2) A community development financial institution located in a distressed community and approved by the Department of Community and Economic Development.~~

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

~~"Distressed community." A community which has any of the following:~~

~~(1) A census tract or other specifically defined geographic area in which there is any of the following:~~

~~(i) A median income below 80% of the median income for the United States or this Commonwealth.~~

~~(ii) Twenty percent or more of the population is below the poverty level by family size published by the Bureau of the Census.~~

~~(iii) An unemployment rate 50% higher than the national average.~~

~~(2) An area which is designated a subzone, expansion subzone, or improvement subzone under the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.~~

~~(3) Any other geographic area designated by the Department of Community and Economic Development as distressed. The designation shall be published in the Pennsylvania Bulletin.~~

~~"EDA loan." A loan made under this chapter utilizing funds made available to the department under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.).~~

~~"Ex-Im Bank." The Export-Import Bank of the United States.~~

"Export activity." An activity undertaken by a person within this Commonwealth related to exports.

"Export business." A person that is engaged in a for-profit enterprise involving export activities and that employs 250 or fewer individuals.

"Exports." Goods and services to be sold outside the United States.

"Farm commodity." Any Pennsylvania-grown agricultural, horticultural, aquacultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wools, hides, furs, poultry, eggs, dairy products, nuts, mushrooms, honey products and forest products.

"Fund." The Small Business First Fund continued under section 2304 (relating to fund and accounts).

"Hazardous substance." Any element, compound or material which is any of the following:

(1) Regulated as a hazardous air pollutant under section 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

(2) Defined as a hazardous waste under section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

(3) Regulated under the act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act.

"Hospitality industry project." A for-profit project or venture which involves a small business that operates a hotel, motel or other lodging facility and that employs at least five full-time equivalent employees at the time an application is submitted to the Department of Community and Economic

~~Development for financing. The term includes a for-profit project or venture which involves a small business that operates a restaurant or food service operation open to the public, that has been in continuous operation for at least five years and that employs at least five full-time equivalent employees at the time an application is submitted.~~

~~"Insurance policy." An export credit insurance policy for small businesses offered by the Export-Import Bank of the United States.~~

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

~~"Normal agricultural operation." As defined in section 2 of the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances.~~

~~"Pollution prevention." The reduction or elimination of pollution at its source. The term does not include any of the following:~~

~~(1) A substitution of one hazardous or toxic substance for another which will cause an increased risk to the environment or to human health.~~

~~(2) A cross-media transfer.~~

~~(3) A delisting of a hazardous waste or toxic chemical.~~

~~"Pollution prevention assistance agency." Any of the following:~~

~~(1) An area loan organization.~~

~~(2) An industrial resource center created pursuant to the act of June 22, 2001 (P.L.400, No.31), known as the Industrial Resources Center Partnership Act.~~

~~"Pollution prevention infrastructure." A capital development~~

project which permits a small business to adopt or install pollution prevention equipment or processes to:

(1) Reduce or reuse raw materials onsite.

(2) Reduce the production of waste.

(3) Reduce energy consumption.

"Program." The Small Business First Program established under section 2303 (relating to establishment).

"Reuse." Use of a product or component in its original form more than once.

"Small business." A person that is engaged in a for-profit enterprise and that employs 100 or fewer individuals. The term includes the following:

(1) An enterprise located in a small business incubator facility.

(2) An agricultural processor.

(3) An agricultural producer.

(4) An enterprise which manufactures apparel products.

(5) An enterprise which is a for-profit or not-for-profit child day-care center subject to licensure by the Commonwealth.

"Working capital." Capital used by a small business for operations, excluding fixed assets and production machinery and equipment.

§ 2303. Establishment.

There is established within the department a program to be known as the Small Business First Program. The program shall be administered by the department and provide loans to eligible persons for certain projects which encourage job creating and job preserving economic development within this Commonwealth.

§ 2304. Fund and accounts.

~~(a) Fund.--The Small Business First Fund, created under section 1302(a) of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is continued. The Treasury Department shall credit the following to the fund:~~

~~(1) Appropriations made by the General Assembly to the department for the program.~~

~~(2) Federal funds made available under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.), or any other Federal statute, regulation or program for the program.~~

~~(3) Payments from recipients of loans made from the fund.~~

~~(4) Payments from recipients of loans made under the former act of July 2, 1984 (P.L.545, No.109), known as the Capital Loan Fund Act.~~

~~(5) Interest income derived from investment of the money in the fund.~~

~~(6) Any other deposits, payments or contributions from any other source made available to the department for the program.~~

~~(b) Pollution prevention assistance.--The Pollution Prevention Assistance Account, created under the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is continued. The Treasury Department shall credit the following to this account:~~

~~(1) Appropriations made by the General Assembly to the department for pollution prevention assistance.~~

~~(2) Payments from recipients of loans made from the Pollution Prevention Assistance Account.~~

~~(3) Transfers from the Hazardous Sites Cleanup Fund as~~

~~established in section 602.3 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~(4) Interest income derived from investment of the money in the Pollution Prevention Assistance Account.~~

~~(5) Any other deposits, payments or contributions from any other source made available to the department for pollution prevention assistance.~~

~~(c) Export financing.--There is created within the fund an account to be known as the Export Financing Assistance Account. The Treasury Department shall credit the following to this account:~~

~~(1) Appropriations made by the General Assembly to the department for export financing assistance.~~

~~(2) Payments from recipients of loans made from the Export Financing Assistance Account.~~

~~(3) Interest income derived from investment of the money in the Export Financing Assistance Account.~~

~~(4) Any other deposits, payments or contributions from any other source made available to the department for export financing assistance.~~

~~(d) Use of fund.--Money in the fund may be used as follows:~~

~~(1) By the department to make loans in accordance with this chapter and for administrative costs of the department in administering the program.~~

~~(2) By area loan organizations for administrative costs associated with the program which are approved by the department.~~

~~(e) Use of Pollution Prevention Assistance Account.--Money in the Pollution Prevention Assistance Account may be used by the department to provide loans to small businesses for the~~

~~adoption or installation of pollution-prevention or energy-efficient equipment or processes in accordance with section 2309 (relating to pollution prevention assistance loans).~~

~~(f) Use of Export Financing Assistance Account.--Money in the Export Financing Assistance Account may be used by the department to provide loans to export businesses for export activities in accordance with section 2310 (relating to export financing loans).~~

~~§ 2305. Department responsibilities.~~

~~(a) General rule.--The department shall do all of the following:~~

~~(1) Administer the program.~~

~~(2) Establish written guidelines as necessary. Any guidelines established shall be included in the report required by Chapter 3 (relating to economic development financing strategy).~~

~~(3) Deposit payments made by recipients in the fund, the Pollution Prevention Assistance Account or Export Financing Assistance Account, as appropriate.~~

~~(4) Approve standards for area loan organization application fees.~~

~~(5) Approve community development financial institutions.~~

~~(b) Program.--In administering the program, the department may do any of the following:~~

~~(1) Provide grants or other financial assistance to area loan organizations for any of the following purposes:~~

~~(i) To establish loan reserve funds.~~

~~(ii) To reimburse loan losses to commercial banks and other financial institutions as a means of~~

~~encouraging the expansion and financing of small businesses.~~

~~(2) Apply to the Ex-Im Bank for delegated authority lender status under the Ex-Im Bank's Working Capital Guaranty Program.~~

~~(3) Utilize the outstanding portfolio of loans made under this chapter to raise additional funds by selling, securing, hypothecating or otherwise using such loan proceeds as a financing vehicle if the funds raised are used by the department for either of the following purposes:~~

~~(i) To make new and additional loans under this chapter.~~

~~(ii) To pay costs associated with financing.~~

~~§ 2306. Capital development loans.~~

~~(a) Application.--A small business may submit an application and any applicable application fee to its area loan organization requesting a loan for certain costs of a capital development project. The application shall be on the form required by the department and shall include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement of the amount of loan assistance sought.~~

~~(3) A statement of the capital development project including a detailed statement of the cost of the project.~~

~~(4) A firm financial commitment from a responsible source for any cost of the capital development project in excess of the amount requested.~~

~~(5) Any other information required by the department.~~

~~(b) Area loan organization review.--~~

~~(1) Upon receipt of a completed application, an area~~

~~loan organization shall investigate and determine all of the following:~~

~~(i) If the applicant is a small business.~~

~~(ii) If the project is a capital development project.~~

~~(iii) If, when the applicant is a small business, the capital development project demonstrates a substantial likelihood of creating or preserving employment activities in this Commonwealth or if, when the applicant is an agriculture producer, the project demonstrates a substantial likelihood of enhancing and growing normal agriculture operations.~~

~~(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable.~~

~~(v) The existence and sufficiency of collateral for the loan. Collateral may include lien positions on nonresidential real property and on personal property.~~

~~(vi) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.~~

~~(vii) The number of employment opportunities to be created or preserved by the proposed capital development project.~~

~~(viii) If the applicant complied with all other criteria established by the department.~~

~~(2) Upon being satisfied that all requirements have been met, the area loan organizations shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.~~

~~(c) Department review.--~~

~~(1) Within 30 days of receiving a recommendation and application, the department shall review the application. If the department is satisfied that all requirements have been met, the department may approve the loan request in accordance with the following:~~

~~(i) A loan for land, buildings and machinery and equipment may not exceed $200,000 or 50% of the total capital development project costs, whichever is less.~~

~~(ii) A loan for working capital may not exceed $100,000 or 50% of the total capital development project costs, whichever is less.~~

~~(iii) Except for loans to agriculture producers, a loan must create or preserve one job for every $25,000 loaned.~~

~~(2) The department shall notify the area loan organization and applicant of its decision.~~

~~(d) Approvals.--For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the fund. The advance shall be forwarded to the area loan organization and, upon receipt by the area loan organization, shall become an obligation of the area loan organization. Prior to providing loan funds to the applicant, the area loan organization shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may require the area loan organization to impose other terms and conditions on the recipient if the department~~

~~determines that they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).~~

~~(e) Loan terms.--A loan agreement entered into in accordance with subsection (c) shall do all of the following:~~

~~(1) State the collateral securing the loan. All loans 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. The collateral may include nonresidential real estate purchased as part of the capital development project.~~

~~(2) State the repayment period in accordance with the following:~~

~~(i) A loan for real property shall have a repayment period of up to 15 years.~~

~~(ii) A loan for machinery and equipment shall have a repayment period of up to ten years.~~

~~(iii) A loan for working capital shall have a repayment period of up to three years.~~

~~(iv) If, in a capital development project, there are two or more uses planned, the loan terms may be blended.~~

~~(3) State the interest rate in accordance with the following:~~

~~(i) Except a provided in subparagraph (ii), loans shall be made at an interest rate not to exceed 5% for the term of the loan.~~

~~(ii) A loan to a small business which is an agricultural producer shall be made at an interest rate of not less than 2% for the term of the loan if all of the following apply:~~

~~(A) 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.~~

~~(B) The application is made within nine months of termination of the declaration.~~

~~(C) The agricultural producer is in the area which has been declared to be a natural disaster area.~~

~~(f) Loan administration.--A loan made under this section shall be administered in accordance with departmental policies and procedures by the area loan organization which made the loan. Each area loan organization shall submit an annual report on the form required by the department and which includes or demonstrates all of the following:~~

~~(1) Each outstanding loan.~~

~~(2) The date approved.~~

~~(3) The original principal amount.~~

~~(4) The current principal balance.~~

~~(5) The interest rate.~~

~~(6) The purpose for which the loan was made.~~

~~(7) An enumeration of any problems or issues which have arisen with regard to each loan.~~

~~(8) A statement regarding the progress of the small business in creating or preserving its requisite number of employment opportunities.~~

~~(9) Any other information or documentation required by the department.~~

~~(g) Penalty.--~~

~~(1) Except as provided in paragraph (2), the department~~

~~shall impose a penalty upon a recipient if the recipient fails to create or preserve the number of employment opportunities specified in its approved application.~~

~~(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.~~

~~(3) The amount of the penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.~~

~~(h) Defaults.--The department may by foreclosure take title to a capital development project which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from moneys held in the fund. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw moneys from the fund to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed where purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any moneys derived from the sale of any first mortgages in the fund.~~

~~§ 2307. EDA loans.~~

~~(a) Application and administration procedures.--The department shall establish application and administration procedures to be used for EDA loans. The procedures shall be established by guidelines and shall conform in all respects to~~

~~those procedures required or established by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.).~~

~~(b) Eligibility for EDA loans.--The department shall establish eligibility requirements to be used for EDA loans. The requirements shall be established by guidelines and shall conform in all respects to those procedures required or established by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965.~~

~~§ 2308. Loans in distressed communities.~~

~~(a) Application.--A small business located in a distressed community may submit an application and any applicable application fee to a community development institution requesting a loan for certain costs of a capital development project. The application shall be on the form required by the department and shall include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement that the small business is engaged in business-to-public service or in the mercantile, commercial or point-of-sale retail business sectors.~~

~~(3) A statement of the amount of loan assistance sought.~~

~~(4) A statement of the capital development project, including a detailed statement of the cost of the project.~~

~~(5) A firm financial commitment from a responsible source for the cost of the capital development project in excess of the amount requested.~~

~~(6) Any other information required by the department.~~

~~(b) Community development institution review.--~~

~~(1) Upon receipt of a completed application, a community development institution shall investigate and determine all of the following:~~

~~(i) If the applicant is a small business which is engaged business-to-public service or in the mercantile, commercial or point-of-sale retail business sectors in accordance with conditions or criteria established by the department.~~

~~(ii) If the project is a capital development project.~~

~~(iii) If the applicant has demonstrated a direct impact on the community in which the capital development project is or will be located, on residents of that community or on the local and/or regional economy. The department shall establish criteria that will assist in making this demonstration.~~

~~(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable. In reviewing repayment obligations, loans shall not be approved on the basis of direct financial return on investment and shall not be held to the loan loss standards of private commercial lenders. Loans shall review for the purpose of establishing a strong economic base and promoting entrepreneurial activity within the distressed community.~~

~~(v) The existence and sufficiency of collateral for the loan. Collateral may include lien positions on nonresidential real property and on personal property.~~

~~(vi) Relevant criminal and credit history and~~

~~ratings of the applicant as determined from outside credit reporting services and other sources.~~

~~(vii) Number of employment opportunities to be created or preserved by the proposed capital development project.~~

~~(viii) If the applicant complied with all other criteria established by the department.~~

~~(2) Upon being satisfied that all requirements have been met, the community development institution shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.~~

~~(c) Department review.--~~

~~(1) Within 30 days of receiving a recommendation and application, the department shall review the application. If the department is satisfied that all requirements have been met, the department may approve the loan request in accordance with the following:~~

~~(i) A loan for land, buildings and machinery and equipment may not exceed $200,000 or 50% of the total capital development project costs, whichever is less.~~

~~(ii) A loan for working capital may not exceed $100,000 or 50% of the total capital development project costs, whichever is less.~~

~~(iii) Except for loans to agriculture producers, a loan would create or preserve one job for every $25,000 loaned.~~

~~(2) The department shall notify the community development institution and applicant of its decision.~~

~~(d) Approvals.--For applications which are approved, the~~

~~department shall draw an advance equal to the principal amount of the loan from the fund. The advance shall be forwarded to the community development institution and, upon receipt by the community development institution, become an obligation of the community development institution. Prior to providing loan funds to the applicant, the community development institution shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may require the community development institution to impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).~~

~~(e) Loan terms.--A loan agreement entered into in accordance with subsection (d) shall do all of the following:~~

~~(1) State any collateral securing the loan. The department may use its best judgment to identify and secure collateral.~~

~~(2) State the repayment period which may be flexible.~~

~~(3) State the interest rate which may not be less than 2% nor more than 5% for the term of the loan.~~

~~(4) State that the recipient agrees to maintain, at a minimum, the number of jobs in existence as of the date of loan application.~~

~~(f) Loan administration.--A loan made under this section shall be administered in accordance with departmental policies and procedures by the community development institution which~~

made the loan. Each community development institution shall submit an annual report on the form required by the department which includes or demonstrates all of the following:

(1) Each outstanding loan.

(2) The date approved.

(3) The original principal amount.

(4) The current principal balance.

(5) The interest rate.

(6) The purpose for which the loan was made.

(7) An enumeration of any problems or issues which have arisen with regard to each loan.

(8) A statement regarding the progress of the small business in creating or preserving its requisite number of employment opportunities.

(9) Any other information or documentation required by the department.

(g) Penalty.--

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to create or preserve the number of employment opportunities specified in its approved application.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of any penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(h) Defaults.--The department may take title by foreclosure

~~to a capital development project which it financed where acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the fund. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw money from the fund to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed if purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit in the fund money derived from the sale of any first mortgages.~~

~~§ 2309. Pollution prevention assistance loans.~~

~~(a) Application.--A small business may submit an application and any application fee to a pollution prevention assistance agency requesting a loan for a pollution prevention infrastructure. The application shall be on the form required by the department and shall include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement of the amount of loan assistance sought.~~

~~(3) A statement of the pollution prevention infrastructure, including a detailed statement of the cost of the infrastructure.~~

~~(4) A firm financial commitment from a responsible source for the cost of the pollution prevention infrastructure in excess of the amount requested.~~

~~(5) Any other information required by the department.~~

~~(b) Pollution prevention assistance agency review.--~~

~~(1) Upon receipt of a completed application, a pollution prevention assistance agency shall investigate and determine all of the following:~~

~~(i) If the applicant is a small business.~~

~~(ii) If the project is for pollution prevention infrastructure.~~

~~(iii) If the pollution prevention infrastructure demonstrates a substantial likelihood of preventing or reducing pollution.~~

~~(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable. In reviewing repayment obligations, loans shall not be approved on the basis of direct financial return on investment and shall not be held to the loan loss standards of private commercial lenders. Loans shall be reviewed for the purpose of reducing pollution through source reduction technologies or processes.~~

~~(v) The existence and sufficiency of collateral for the loan. Collateral may include lien positions on nonresidential real property and on personal property.~~

~~(vi) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.~~

~~(vii) If the applicant complied with all other criteria established by the department.~~

~~(2) Upon being satisfied that all requirements have been met, the pollution prevention assistance agency shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.~~

~~(c) Department review.--~~

~~(1) Within 30 days of receiving a recommendation and application, the department shall review the application. The Department of Environmental Protection shall assist the department in reviewing the applications and provide technical assistance. If the department is satisfied that all requirements have been met, the department may approve the loan request. A loan approved under this subsection may not exceed the lesser of:~~

~~(i) $100,000; or~~

~~(ii) 75% of infrastructure costs.~~

~~(2) The department shall notify the pollution prevention assistance agency and applicant of its decision.~~

~~(d) Approvals.--For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the Pollution Prevention Assistance Account. The advance shall be forwarded to the pollution prevention assistance agency and, upon receipt by the pollution prevention assistance agency, become an obligation of the pollution prevention assistance agency. Prior to providing loan funds to the applicant, the pollution prevention assistance agency shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the pollution prevention infrastructure. The department may require the pollution prevention assistance agency to impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under~~

~~subsection (g).~~

~~(e) Loan terms.--A loan agreement entered into in accordance with subsection (d) shall do all of the following:~~

~~(1) State the collateral securing the loan. All loans shall be secured by lien positions on collateral at the highest level of priority as may be determined by the pollution prevention assistance agency with the approval of the department. The collateral may include nonresidential real estate purchased as part of the pollution prevention infrastructure.~~

~~(2) State the repayment period which may not exceed 10 years.~~

~~(3) State that the interest rate is 2%.~~

~~(4) State that any loan fee is not to exceed 5% of the loan amount.~~

~~(f) Loan administration.--A loan made under this section shall be administered in accordance with departmental policies and procedures by the pollution prevention assistance agency which made the loan. Each pollution prevention assistance agency shall submit an annual report on the form required by the department which includes or demonstrates all of the following:~~

~~(1) Each outstanding loan.~~

~~(2) The date approved.~~

~~(3) The original principal amount.~~

~~(4) The current principal balance.~~

~~(5) The interest rate.~~

~~(6) The purpose for which the loan was made.~~

~~(7) An enumeration of any problems or issues which have arisen with regard to each loan.~~

~~(8) Any other information or documentation required by~~

~~the department.~~

~~(g) Penalty.--~~

~~(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to prevent or reduce pollution as specified in its approved application.~~

~~(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.~~

~~(3) The amount of any penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.~~

~~(h) Defaults.--The department may take title by foreclosure to a pollution prevention infrastructure which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the Pollution Prevention Assistance Account. The department may, in order to minimize financial losses and sustain employment, lease the pollution prevention infrastructure. The department may withdraw money from the Pollution Prevention Assistance Account to purchase first mortgages and to make payments on first mortgages on any pollution prevention infrastructure which it financed if the purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any money derived from the sale of any first mortgages in the Pollution Prevention Assistance Account.~~

~~§ 2310. Export financing loans.~~

~~(a) Application.--A person may submit an application and any applicable application fee to the department or its area loan organization requesting a loan for certain costs of a capital development project which will be used in export activities. The application must be on the form required by the department and must include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement of the amount of loan assistance sought.~~

~~(3) A statement of the capital development project, including a detailed statement of the cost of the project.~~

~~(4) A statement that the capital development project is based upon an export contract which requires payment in United States dollars.~~

~~(5) A firm financial commitment from a responsible source for any cost of the capital development project in excess of the amount requested.~~

~~(6) A statement that the loan, if approved, would not supplant funding from private sector sources on commercially reasonable terms.~~

~~(7) Any other information required by the department.~~

~~(b) Review.--~~

~~(1) Upon receipt of a competed application, the department or, if applicable, an area loan organization shall investigate and determine all of the following:~~

~~(i) If the applicant is an export business.~~

~~(ii) If the project is a capital development project.~~

~~(iii) If the capital development project demonstrates a substantial likelihood of creating or~~

preserving employment activities in this Commonwealth.

(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable.

(v) The existence and sufficiency of collateral for the loan. Collateral may include lien positions on nonresidential real property and on personal property.

(vi) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.

(vii) Number of employment opportunities to be created or preserved by the proposed capital development project.

(viii) If the applicant complied with all other criteria established by the department.

(2) Upon being satisfied that all requirements have been met, the department may approve the application in accordance with subsection (c) or the area loan organization shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.

(c) Department review.--The department shall review an application within 30 days of receiving it. If the department is satisfied that all requirements have been met, the department may approve the loan request. A loan approved under this section may not exceed $350,000. The department shall notify the applicant and, if applicable, the area loan organization of its decision.

(d) Approvals.--

(1) For applications which were submitted directly to the department and which are approved, the department shall

~~draw an advance equal to the principal amount of the loan from the Export Activities Assistance Account. Prior to providing funds to the applicant, the department shall require the applicant to execute a note and enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including any of the following:~~

~~(i) A provision requiring collateral for any penalty imposed under subsection (g).~~

~~(ii) A provision requiring the person to be eligible for an insurance policy.~~

~~(iii) A provision requiring the loan to be guaranteed by the Working Capital Guaranty Program offered by the Ex-Im Bank.~~

~~(iv) A provision requiring an export credit sales contract insured by an insurance policy.~~

~~(2) For applications which were submitted to the department through an area loan organization and which are approved, the department shall draw an advance equal to the principal amount of the loan from the Export Activities Assistance Account. The advance shall be forwarded to the area loan organization and, upon receipt by the area loan organization, become an obligation of the area loan organization. Prior to providing loan funds to the applicant, the area loan organization shall require the applicant to execute a note and enter into a loan agreement. In addition~~

~~to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may require the area loan organization to impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including any of the following:~~

~~(i) A provision requiring collateral for any penalty imposed under subsection (g).~~

~~(ii) A provision requiring the person to be eligible for an insurance policy.~~

~~(iii) A provision requiring the loan to be guaranteed by the Working Capital Guaranty Program offered by the Ex-Im Bank.~~

~~(iv) A provision requiring an export credit sales contract insured by an insurance policy.~~

~~(e) Loan terms.--A loan agreement entered into in accordance with subsection (d) shall do all of the following:~~

~~(1) State the collateral securing the loan. All loans 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. The collateral may include nonresidential real estate purchased as part of a capital development project.~~

~~(2) State the repayment period as determined by the department.~~

~~(3) State the interest rate as determined by the department.~~

~~(f) Loan administration.--A loan made under this section~~

~~shall be administered in accordance with departmental policies and procedures. If a loan was made through an area loan organization, the area loan organization shall submit an annual report on the form required by the department which includes or demonstrates all of the following:~~

~~(1) Each outstanding loan.~~

~~(2) The date approved.~~

~~(3) The original principal amount.~~

~~(4) The current principal balance.~~

~~(5) The interest rate.~~

~~(6) The purpose for which the loan was made.~~

~~(7) An enumeration of any problems or issues which have arisen with regard to each loan.~~

~~(8) A statement regarding the progress of the person creating or preserving its requisite number of employment opportunities.~~

~~(9) Any other information or documentation required by the department.~~

~~(g) Penalty.--~~

~~(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to create or preserve the number of employment opportunities specified in its approved application.~~

~~(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.~~

~~(3) The amount of the penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the~~

~~remainder of the loan.~~

~~(h) Defaults.--The department may, by foreclosure, take title to a capital development project which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the Export Activities Assistance Account. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw money from the Export Activities Assistance Account to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed if purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any money derived from the sale of any first mortgages in the Export Activities Assistance Account.~~

~~§ 2311. Reporting and inspection.~~

~~(a) Inspection.--An applicant or a recipient shall, upon request, permit authorized employees of the department or its agent to inspect the plant, books and records of the applicant or recipient.~~

~~(b) Updating.--An applicant or a recipient shall provide updated information to the department and its agents if conditions change or to the extent that the information originally given becomes inaccurate or misleading.~~

~~(c) Periodic reports.--A recipient shall provide the department and its agents with such periodic financial reports as the department may require until the loan is repaid in full.~~

~~(d) Financial and performance audits.--An agent of the department shall annually submit to the department, at the~~

~~agent's expense, an independent financial audit. If the audit reveals misconduct of a material nature on the part of the agent, the department shall take appropriate action.~~

~~§ 2312. Limitations.~~

~~No loans shall be recommended or approved if the proceeds of the loan could do any of the following:~~

~~(1) Cause, aid or assist directly in 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.~~

~~(2) Refinance any portion of the total cost of a capital development project, pollution prevention infrastructure or other existing loans or debt.~~

~~(3) Finance a capital development project or pollution prevention infrastructure located outside the geographic boundaries of this Commonwealth.~~

~~(4) Provide funds, directly or directly, for payment distribution or as loan owners, partners or shareholders of a small business, except as ordinary compensation for services rendered.~~

~~(5) Provide funds for speculation in real or personal property, whether tangible or intangible.~~

~~CHAPTER 25~~

~~INDUSTRIAL DEVELOPMENT ASSISTANCE~~

~~(RESERVED)~~

~~CHAPTER 27~~

~~CUSTOMIZED JOB TRAINING~~

~~(RESERVED)~~

~~CHAPTER 29~~

~~MACHINERY AND EQUIPMENT~~

(RESERVED)

CHAPTER 31

FAMILY SAVINGS ACCOUNT

(RESERVED)

CHAPTER 33

ECONOMIC ENHANCEMENT

Sec.

3301. Scope of chapter.

3302. Definitions.

3303. Establishment.

3304. Review Committee.

3305. Application.

3306. Review and approval.

3307. Designation.

§ 3301. Scope of chapter.

This chapter relates to the Economic Enhancement Program.

§ 3302. Definitions.

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

"Authority." The Pennsylvania Economic Development Financing Authority established in Chapter 43 (relating to Pennsylvania Economic Development Financing Authority).

"Committee." The Review Committee established in section 3304 (relating to review committee).

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

"Deteriorated property." A blighted, impoverished area containing residential, industrial, commercial or other real property which is abandoned, unsafe, vacant, undervalued,

~~underutilized, overgrown, defective, condemned, demolished or which contains economically undesirable land use. The term includes all of the following:~~

~~(1) A tax increment district.~~

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

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

~~"Tax incentive district." A contiguous geographic area designated by the Department of Community and Economic Development under section 3307 (relating to designation).~~

~~"Tax increment district." The term as it is defined in the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act.~~

~~§ 3303. Establishment.~~

~~There is hereby established within the department a program to be known as the Economic Enhancement Program. The program shall provide economic assistance to deteriorated property by using certain tax revenues from property located in incentive districts to increase economic development in incentive districts.~~

~~§ 3304. Review Committee.~~

~~(a) Establishment.--There is hereby established a committee to be known as the Review Committee. The committee shall review and recommend applications to the Governor. The committee shall be composed of the following five members:~~

~~(1) The Governor or the Secretary of the Budget.~~

~~(2) The Majority Leader of the Senate, or a designee.~~

~~(3) The Minority Leader of the Senate, or a designee.~~

~~(4) The Majority Leader of the House of Representatives, or a designee.~~

~~(5) The Minority Leader of the House of Representatives, or a designee.~~

~~(b) Operation.--The Governor or the Secretary of the Budget shall serve as chairperson. The committee shall meet at the call of the chairperson. Four members shall constitute a quorum, and the consent of four members of the committee shall be required to recommend an application.~~

~~§ 3305. Application.~~

~~A person or an issuing authority may apply to the department to have deteriorated property designated an incentive district. The application shall be on a form provided by the department and shall include all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A legal description of the property which is to be included in the incentive district.~~

~~(3) A statement that the property is deteriorated.~~

~~(4) A firm commitment of future economic development on the property if the property were designated an incentive district.~~

~~(5) Any other information required by the department.~~

~~§ 3306. Review and approval.~~

~~(a) Review.--The department shall forward the application to the committee when it is complete. The committee shall review the application to determine all of the following:~~

~~(1) If the applicant is firmly committed to improving the property upon designation.~~

~~(2) If the applicant complied with all other criteria~~

~~established by the committee.~~

~~(b) Approval.--Upon being satisfied that all requirements have been met, the committee may approve the application and recommend that the property be designated an incentive district. The recommendation shall specify the time period for which the property may be designated, not to exceed 20 years. The department shall immediately notify affected municipalities of the recommendation.~~

~~§ 3307. Designation.~~

~~Within 90 days of receiving notification in accordance with section 3306 (relating to review and approval), a municipality may request the department to designate the deteriorated property as a tax incentive district. The request shall be on a form provided by the department and shall include a copy of the ordinance, resolution or other required action from the governing body of the municipality approving the designation of the property as a tax incentive district. All appropriate ordinances and resolutions shall be binding and nonrevocable on the municipality. If all municipalities within a recommended tax incentive district submit timely completed requests, the department shall approve the requests and designate the property as a tax incentive district. Upon designation, persons owning property located within a tax incentive district and issuing authorities of tax increment districts located within a tax incentive district shall be eligible to receive grants and loans under the Economic Enhancement Financing Program administered by the Pennsylvania Economic Development Financing Authority.~~

~~CHAPTER 35~~

~~KEYSTONE ECONOMIC DEVELOPMENT ZONES~~

~~Subchapter~~

A. General Provisions
B. Keystone Opportunity Zones and Keystone Opportunity Expansion Zones
C. State Taxes (Reserved)
D. Local Taxes (Reserved)
E. Administration of Tax Provisions(Reserved)
F. Procedures for Zones (Reserved)
G. Miscellaneous Provisions (Reserved)

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
3501. Scope.
3502. Legislative findings (Reserved).
3503. Definitions.

§ 3501. Scope.

This chapter relates to Keystone Opportunity Zones and Keystone Opportunity Expansion Zones.

§ 3502. Legislative findings.

(Reserved)

§ 3503. Definitions.

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

"Business." An association, partnership, corporation, sole proprietorship, limited liability company or employer.

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

"Deteriorated property." Any blighted, impoverished area containing residential, industrial, commercial or other real property which is abandoned, unsafe, vacant, undervalued,

underutilized, overgrown, defective, condemned, demolished or which contains economically undesirable land use. The term includes property adjacent to deteriorated property which is significantly undervalued and underutilized due to the proximity of the deteriorated property.

"Domicile." The place where a person has a true and fixed home and principal establishment for an indefinite time and to which, whenever absent, that person intends to return. Domicile continues until another place of domicile is established.

"Expansion subzone." A clearly defined geographic area containing a minimum of 15 contiguous acres or a minimum of five contiguous acres in a rural area.

"Improvement subzone." A clearly defined geographic area.

"Institution."

(1) Every bank operating as such and having capital stock which is incorporated under any law of this Commonwealth, under the law of the United States or under the law of any other jurisdiction and is located within this Commonwealth.

(2) Every operating company having capital stock located within this Commonwealth having any of the powers of companies entitled to the benefits of section 29 of the act of April 29, 1874 (P.L.73, No.32), entitled "An act to provide for the incorporation and regulation of certain corporations," and any supplements thereto and under the act of June 27, 1895 (P.L.399, No.286), entitled "An act conferring upon certain fidelity, insurance, safety deposit, trust and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the

~~incorporation and regulation of certain corporations,' approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto."~~

~~(3) Every company organized and operating as a bank and trust company or as a trust company having capital stock located in this Commonwealth, whether the institution is incorporated under any law of this Commonwealth, the law of the United States or any law of any jurisdiction. The term shall not include any of such companies, all of the shares of capital stock of which, other than shares necessary to qualify directors, are owned by a company which is liable to pay to the Commonwealth a tax pursuant to Article VII of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~(4) A mutual thrift institution.~~

~~"Insurance company." Every insurance company, association or exchange incorporated or organized by or under the laws of this Commonwealth, the United States, territories, dependencies, other states or foreign governments and engaged in transacting insurance business of any kind or classification within this Commonwealth, except title insurance companies subject to tax under Article VIII or XVI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, as the case may be, except purely mutual beneficial associations whose funds for the benefit of members and families or heirs are made up entirely of the weekly, monthly, quarterly, semiannual or annual contributions to their members and the accumulated interest thereon and corporations organized under the former act of June 21, 1937 (P.L.1948, No.378), known as the Nonprofit Hospital Plan Act, and under the former act of June 27, 1939 (P.L.1125,~~

No.399), known as the Nonprofit Medical, Osteopathic, Dental and Podiatry Service Corporation Act.

"Keystone Act." The act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.

"Keystone opportunity expansion zone." A defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by the Department of Community and Economic Development under Subch. B (relating to keystone opportunity zones and keystone expansion zones). A keystone opportunity expansion zone may be comprised of not more than eight expansion subzones.

"Keystone opportunity zone." A defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by the Department of Community and Economic Development under Subch. B (relating to keystone opportunity zones and keystone opportunity expansion zones). A keystone opportunity zone may be comprised of not more than 12 subzones.

"Metropolitan statistical area." A core area containing a city with a population of 50,000 or more or a Bureau of Census defined urbanized area of 50,000 with a total metropolitan population of at least 100,000.

"Mutual thrift institution." Every:

(1) savings bank without capital stock;

(2) building and loan association;

(3) savings and loan association;

(4) savings institution having capital stock;

whether the mutual thrift institution is incorporated under any law of this Commonwealth or under the law of the United States,

or is incorporated under the law of any other jurisdiction and is located within this Commonwealth.

"Opportunity plan." A written plan that addresses the criteria and meets the requirements in section 3514(a) (relating to application).

"Person." An individual.

"Political subdivision." A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth.

"Qualified business." A business authorized to do business in this Commonwealth that is located or partially located within a subzone or expansion subzone and is engaged in the active conduct of a trade or business in accordance with the requirements of section 3519 (relating to qualified businesses) for the taxable year. An agent, broker or representative of a business is not engaged in the active conduct of trade or business for the business.

"Qualified political subdivision." A political subdivision that has real property within its jurisdiction which has been designated by the department as a subzone or expansion subzone.

"Resident." A person who is domiciled and resides in an area that is designated a subzone or expansion subzone and who meets the requirements of section 3518 (relating to residency).

"Subzone." A clearly defined geographic area containing a minimum of 20 contiguous acres or a minimum of ten contiguous acres in a rural area.

"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and any subsequent amendments thereto.

SUBCHAPTER B

KEYSTONE OPPORTUNITY ZONES AND KEYSTONE OPPORTUNITY EXPANSION ZONES

Sec.

3511. Keystone opportunity zones.
3512. Keystone opportunity expansion zones.
3513. Keystone opportunity improvement zones.
3514. Application.
3515. Review.
3516. Criteria for authorization of keystone opportunity zone.
3517. Zone limitations.
3518. Residency.
3519. Qualified businesses.
3520. Forms.
3521. Decertification.

§ 3511. Keystone opportunity zones.

(a) Establishment.--There is established within the department a program providing for keystone opportunity zones. A keystone opportunity zone shall be comprised of deteriorated property and shall not exceed a total of 5,000 acres.

(b) Zone authorization.--The department shall authorize not more than 12 keystone opportunity zones in this Commonwealth. Persons and businesses within an authorized keystone opportunity zone that are qualified under this chapter shall be entitled to all tax exemptions, deductions, abatements or credits set forth in Chapters 5 and 7 of the Keystone Act for a period not to exceed 15 years beginning January 1, 1999, and ending on or before December 31, 2013.

(c) Subzone designation.--The department may designate not more than 12 subzones in each keystone opportunity zone. The

~~total number of subzone acres in a keystone opportunity zone shall not exceed 5,000 acres in the aggregate.~~

~~(d) Authorization for local tax exemption.--Every political subdivision within which a proposed subzone is located, whether in whole or in part, is authorized to provide tax exemptions, deductions, abatements or credits to persons and businesses qualified under this chapter. The political subdivision must agree to provide exemptions, deductions, abatements or credits from all local taxes set forth in Chapter 7 of the Keystone Act in order to qualify to be designated a subzone. Except as provided in section 3515(e) (relating to review), the exemptions, deductions, abatements or credits must be effective January 1, 1999, if designation of a subzone within the political subdivision is granted by the department. The exemptions, deductions, abatements or credits shall be binding upon the political subdivision for the duration of the subzone designation.~~

~~(e) Authorization to extend the duration of a keystone opportunity zone or subzone.--A subzone of a keystone opportunity zone may request to extend its designation as a subzone for a period of three years. A subzone that is part of a keystone opportunity zone that will expire on December 31, 2008, may extend its designation as a subzone to December 31, 2010, or to December 31, 2013. The request to extend a subzone designation must be made on a subzone-by-subzone basis. A qualified political subdivision having an approved subzone within its jurisdiction and seeking to extend the subzone designation must pass the required ordinances, resolutions or other required action of the qualified political subdivision for the exemptions, deductions, abatements or credits set forth in~~

~~Chapter 7 of the Keystone Act for the period beginning after December 31, 2008, or December 31, 2010, as the case may be, and must submit copies of the ordinance, resolution or other action to the department by June 30, 2001. The department may grant the request to extend if all the proper binding ordinances, resolutions or other governing documents are passed by all qualified political subdivisions within the subzone extending the necessary exemptions, deductions, abatements and credits to the entire subzone to December 31, 2010, or December 31, 2013. The department shall approve or deny the request for extension of duration of a subzone by July 31, 2001, and shall provide written notice, irrespective of whether approved or denied, to each qualified political subdivision, resident and qualified business affected. Upon approval of a request for extension of duration of a subzone, the exemptions, deductions, abatements or credits shall be binding upon the qualified political subdivision as provided in subsection (d).~~

~~(f) Authorization to enhance existing subzones.--Unless as a result of a request the limitation on size established in subsection (a) would be exceeded, a subzone of a keystone opportunity zone may request to enhance its size. The request to enhance a subzone must be made on a subzone-by-subzone basis. A qualified political subdivision having an approved subzone within its jurisdiction which is seeking to enhance its size must pass the required ordinances, resolutions or other required action of the qualified political subdivision for the exemptions, deductions, abatements or credits set forth in Chapter 7 of the Keystone Act for the period beginning on the date of designation and ending on the date the subzone expires and must submit copies of the ordinance, resolution or other~~

~~action to the department by June 1, 2003.~~

~~§ 3512. Keystone opportunity expansion zones.~~

~~(a) Establishment.--There is established within the department a program providing for keystone opportunity expansion zones. A keystone opportunity expansion zone shall be comprised of deteriorated property and shall not exceed a total of 1,500 acres.~~

~~(b) Authorization.--The department shall authorize not more than 12 keystone opportunity expansion zones in this Commonwealth. Persons and businesses within an authorized keystone opportunity expansion zone that are qualified under the Keystone Act shall be entitled to all tax exemptions, deductions, abatements or credits set forth in Chapters 5 and 7 of the Keystone Act for a period of ten or 13 years beginning January 1, 2001, and ending on December 31, 2010, or December 31, 2013.~~

~~(c) Expansion subzone designation.--The department may designate not more than eight expansion subzones in a keystone opportunity expansion zone. The total number of expansion subzone acres in a keystone opportunity expansion zone shall not exceed 1,500 acres in the aggregate.~~

~~(d) Authorization for local tax exemption.--Every political subdivision within which a proposed expansion subzone is located, whether in whole or in part, is authorized to provide tax exemptions, deductions, abatements or credits to persons and businesses qualified under this chapter for a period ending December 31, 2010, or December 31, 2013. The exemption period must be uniform within each expansion subzone. The political subdivision must agree to provide exemptions, deductions, abatements or credits from all local taxes set forth in Chapter~~

~~7 of the Keystone Act in order to qualify to be designated an expansion subzone. The exemptions, deductions, abatements or credits must be effective January 1, 2001, if designation of an expansion subzone within the political subdivision is granted by the department. The exemptions, deductions, abatements or credits shall be binding upon the political subdivision for the duration of the expansion subzone designation.~~

~~(e) Authorization to enhance existing expansion subzones.--~~ ~~Unless as a result of a request the limitation on size established in subsection (a) would be exceeded, a keystone opportunity expansion zone may request to enhance its size. The request to enhance the expansion zone must be made on an expansion-subzone-by-expansion-subzone basis. A qualified political subdivision which is seeking an expansion subzone within its jurisdiction must pass the required ordinance, resolution or other required action of the qualified political subdivision for the exemptions, deductions, abatements or credits set forth in Chapter 7 of the Keystone Act for the period beginning on January 1, 2004, and ending on December 31, 2010, or on December 31, 2013. Copies of the ordinance, resolution or other action must be submitted to the department by December 31, 2003.~~

~~§ 3513. Keystone opportunity improvement zones.~~

~~(a) Establishment.--There is established within the department a program for keystone opportunity improvement zones. A keystone opportunity improvement zone shall be comprised of improvement subzones consisting of deteriorated property designated by the Governor.~~

~~(b) Proposal.--By January 1, 2003, and notwithstanding any designation under sections 3511 (relating to keystone~~

~~opportunity zones) and 3512 (relating to keystone opportunity expansion zones), the Governor may, by executive order, designate deteriorated property in this Commonwealth as a proposed improvement subzone. The executive order shall specify the period of time, not to exceed 15 years, for which the tax exemptions, deductions, abatements or credits provided by Chapters 5 and 7 of the Keystone Act may be granted. The department shall immediately notify political subdivisions located within the area designated.~~

~~(c) Application.--By June 1, 2004, a political subdivision may apply to the department for approval of the designation of the deteriorated property as an improvement subzone for the period designated under subsection (b). The application must be on a form provided by the department and must include a copy of an ordinance, resolution or other required action from the governing body of the political subdivision exempting or providing the deductions, abatements or credits set forth in Chapter 7 of the Keystone Act to qualified persons and qualified businesses within the proposed improvement subzone. Except as provided in section 3521 (relating to decertification), all appropriate ordinances and resolutions must be effective for the period specified in the executive order and must be binding and nonrevocable on the political subdivision.~~

~~(d) Designation.--If all political subdivisions within a proposed improvement subzone submit timely completed applications, the department shall approve the applications and designate the property as an improvement subzone. If a proposed improvement subzone is an existing subzone or an existing expansion subzone, failure of a political subdivision to submit the application as required by this section shall not terminate~~

~~the existing designation as either a subzone or an expansion subzone. Qualified persons and qualified businesses within the improvement subzone shall be entitled to the State exemptions, deductions, abatements or credits set forth in Chapter 5 of the Keystone Act and the local tax exemptions, deductions, abatements or credits set forth in Chapter 7 of the Keystone Act for the period for which the improvement subzone has been designated.~~

~~§ 3514. Application.~~

~~(a) Initial application.--One or more political subdivisions, or a designee of one or more political subdivisions, may apply to the department to designate deteriorated property within the political subdivision or portions thereof a subzone or expansion subzone. The application must contain the following:~~

~~(1) The geographic area of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone. The geographic area must be located within the boundaries of the participating political subdivision and must not contain more than 5,000 acres in the case of a keystone opportunity zone or 1,500 acres in the case of a keystone opportunity expansion zone.~~

~~(2) An opportunity plan that must include the following:~~

~~(i) A detailed map of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone, including geographic boundaries, total area and present use and conditions of the land and structures of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.~~

~~(ii) Evidence of support from and participation of~~

~~local government, school districts and other educational institutions, business groups, community organizations and the public.~~

~~(iii) A proposal to increase economic opportunity, reduce crime, improve education, facilitate infrastructure improvement, reduce the local regulating burden and identify potential jobs and job training opportunities and which states whether or not the zone is located in an area which has tax revenue dedicated to the payment of debt.~~

~~(iv) A description of the current social, economic and demographic characteristics of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and anticipated improvements in education, health, human services, public safety and employment, that will result from keystone opportunity zone or keystone opportunity expansion zone designation.~~

~~(v) A description of anticipated activity in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone, including, industrial use, industrial site reuse, commercial or retail use and residential use.~~

~~(vi) Evidence of potential private and public investment in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.~~

~~(vii) The role of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone in regional economic and community development.~~

~~(viii) Plans to utilize existing resources for the administration of the proposed keystone opportunity zone~~

or proposed keystone opportunity expansion zone.

(ix) Any other information deemed appropriate by the department.

(3) A report on youth at risk to include issues relating to health, welfare and education.

(4) The duration of the proposed subzones or proposed expansion subzones. The duration of a subzone may not exceed 15 years. The duration of an expansion subzone may not exceed 13 years.

(5) A formal, binding ordinance or resolution passed by every political subdivision in which the proposed subzone or proposed expansion subzone is located that specifically provides for all local tax exemptions, deductions, abatements or credits for persons and businesses set forth in the Keystone Act.

(6) Evidence that the proposed keystone opportunity zone or proposed keystone opportunity expansion zone meets the required criteria under section 3516 (relating to criteria for authorization of keystone opportunity zone).

(a.1) Enhancement application.--One or more political subdivisions within an existing keystone opportunity zone or keystone opportunity expansion zone, or a designee of one or more political subdivisions within an existing keystone opportunity zone or keystone opportunity expansion zone, may apply to the department to designate deteriorated property within the political subdivision or portions of the political subdivision as enhancements to a subzone or an expansion subzone. The application must satisfy the requirements of subsection (a)(1), (2), (3), (5) and (6).

(b) Participation limitation.--A political subdivision may

not be a part of more than one proposed keystone opportunity zone or proposed keystone opportunity expansion zone. A proposed expansion subzone may not overlap the boundaries of a subzone.

(c) Application limitation.--A political subdivision may submit only one application to the department for authorization as a keystone opportunity zone. A political subdivision may submit only one application to the department for authorization as a keystone opportunity expansion zone. A political subdivision may submit only one application to the department for designation of enhancements to existing keystone opportunity zones and keystone opportunity expansion zones. If a political subdivision seeks to enhance its existing keystone opportunity zone under section 3511(f) (relating to keystone opportunity zones) or a keystone opportunity expansion zone under section 3512(e) (relating to keystone opportunity expansion zones) and the Governor has designated an improvement subzone located within the political subdivision under section 3513(b) (relating to keystone opportunity improvement zones), the political subdivision must submit one application containing both the request required by section 3511(f) or 3512(e) and the application required by section 3513(c).

§ 3515. Review.

(a) Action of department.--The department, in consultation with the Department of Revenue, shall review all completed applications submitted under this chapter. An application for authorization as a keystone opportunity zone and designation of subzones must be received by the department by September 30, 1998, in order to be considered by the department. An application for authorization as a keystone opportunity expansion zone and designation of expansion subzones must be

~~received by the department by February 28, 2001, in order to be considered by the department. An application for enhancement of an existing keystone opportunity zone or of a keystone opportunity expansion zone must be received by the department by December 31, 2003.~~

~~(b) Process.--The department shall authorize up to 12 keystone opportunity zones from applications meeting the criteria in section 3516 (relating to criteria for authorization of keystone opportunity zone), based upon need and likelihood of success. The department shall authorize up to 12 keystone opportunity expansion zones from applications meeting the criteria in section 3516, based upon need and likelihood of success. Additionally, the department shall not alter the geographic boundaries of a subzone or expansion subzone or the duration of a subzone or expansion subzone described in an application. The department shall designate additional enhancements to existing keystone opportunity zones and keystone opportunity expansion zones from applications meeting the criteria in section 3516 based upon need and likelihood of success.~~

~~(c) Authorizations.--The department shall authorize all keystone opportunity zones by November 30, 1998. The department shall authorize all keystone opportunity expansion zones by March 30, 2001. The department shall designate all enhancements to existing keystone opportunity zones and to keystone opportunity expansion zones by January 31, 2004.~~

~~(d) Effective date of designation.--The designation of a subzone under this chapter shall take effect on January 1, 1999. The designation of an expansion subzone under this chapter shall take effect on January 1, 2001. The designation of enhancements~~

~~to existing keystone opportunity zones and to keystone opportunity expansion zones under this chapter shall take effect January 1, 2004.~~

~~(e) Extension.--The department may extend the deadline for the receipt of applications for keystone opportunity zones until December 31, 1998, if all 12 zones have not been authorized and the extension is necessary to allow eligible political subdivisions to apply. The department shall authorize additional keystone opportunity zones under this subsection by February 28, 1999. The authorization shall take effect January 1, 1999; or, if the authorization occurs after January 1, 1999, that subsequent authorization shall for all purposes be retroactive to January 1, 1999. The keystone opportunity zone authorization shall end as provided in section 3511(b) (relating to keystone opportunity zones).~~

~~§ 3516. Criteria for authorization of keystone opportunity zone.~~

~~(a) Specific criteria.--In order to qualify for authorization under this chapter, the proposed keystone opportunity zone or proposed keystone opportunity expansion zone must meet at least two of the following criteria:~~

~~(1) At least 20% of the population is below the poverty level.~~

~~(2) The unemployment rate is 1.25 times the Statewide average.~~

~~(3) At least 20% of all real property within a five-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in a nonurban area is deteriorated or underutilized.~~

~~(4) At least 20% of all real property within a one-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in an urban area is deteriorated or underutilized.~~

~~(5) At least 20% of all occupied housing within a two-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in a nonurban area is deteriorated.~~

~~(6) At least 20% of all occupied housing within a one-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in an urban area is deteriorated.~~

~~(7) In an urban area, the median family income is 80% or less of the urban median family income for that metropolitan statistical area.~~

~~(8) In an area other than an urban area, the median family income is 80% or less of the Statewide nonurban median family income.~~

~~(9) The population loss exceeds 10% in an area that includes the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and its surrounding area but is not larger than the county or counties in which the proposed keystone opportunity zone or proposed keystone opportunity expansion zone is located, based on census data for the period between 1980 and 1990 or census estimates since 1990 establishing a pattern of population loss.~~

~~(10) The political subdivision in which the proposed~~

~~keystone opportunity zone or proposed keystone opportunity expansion zone is located has experienced a sudden or severe job loss.~~

~~(11) At least 33% of the real property in a proposed keystone opportunity zone or proposed keystone opportunity expansion zone in a nonurban area would otherwise remain underdeveloped or nonperforming due to physical characteristics of the real property.~~

~~(12) The area has substantial real property with adequate infrastructure and energy to support new or expanded development.~~

~~(b) Additional criteria.--In addition to the required criteria under subsection (a), the department shall consider the following criteria:~~

~~(1) Evidence of distress, including unemployment, percentage of population below 80% of the State median income, poverty rate, deteriorated property and adverse economic and socioeconomic conditions, in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.~~

~~(2) The strength and viability of the proposed goals, objectives and strategies, in the opportunity plan.~~

~~(3) Whether the opportunity plan is creative and innovative in comparison to other applications.~~

~~(4) Local public and private commitment to the development of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and the potential cooperation of surrounding communities.~~

~~(5) Existing resources available to the proposed keystone opportunity zone or proposed keystone opportunity~~

~~expansion zone.~~

~~(6) How keystone opportunity zone or keystone opportunity expansion zone authorization or economic redevelopment relates to other current economic and community development projects and to regional initiatives or programs.~~

~~(7) How the local regulatory burden will be eased for businesses operating in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.~~

~~(8) Proposals to implement educational opportunities and improvements.~~

~~(9) Crime statistics and proposals to implement local crime reduction measures.~~

~~(10) Proposals to establish and link job creation and job training.~~

~~(c) Tax exemption ordinances.--An area shall not be authorized as a keystone opportunity zone or a keystone opportunity expansion zone unless, as a part of the application, each political subdivision in which the proposed subzone or proposed expansion subzone is to be located adopts and provides a copy of an ordinance, resolution or other required action from the governing body of each political subdivision that exempts or provides deductions, abatements or credits to qualified persons and qualified businesses from local taxes upon designation of the area as a subzone or expansion subzone. All appropriate ordinances and resolutions must be effective by January 1, 1999, if designation as a subzone is granted. All appropriate ordinances and resolutions must be effective on January 1, 2001, if designation as an expansion subzone is granted. All appropriate ordinances and resolutions must be effective January 1, 2004, if designation of enhancements to an existing keystone~~

~~opportunity zone or to a keystone opportunity expansion zone are granted. Except as provided in section 3521 (relating to decertification), the resolution, ordinance or other required action shall be binding and nonrevocable on the qualified political subdivisions for the duration of the opportunity plan.~~

~~(d) Urban areas.--The department shall promulgate guidelines that include the definition of "urban area" for the purposes of receiving applications for authorization as a keystone opportunity zone or keystone opportunity expansion zone.~~

~~§ 3517. Zone limitations.~~

~~The department shall not authorize more than 12 keystone opportunity zones within this Commonwealth. No subzone shall encompass an entire political subdivision. The department shall not authorize more than 12 keystone opportunity expansion zones within this Commonwealth. No expansion subzones shall encompass an entire political subdivision.~~

~~§ 3518. Residency.~~

~~In order to qualify each year for the tax exemptions, deductions, abatements or credits under Chapters 5 and 7 of the Keystone Act, a person must be domiciled and must reside in a subzone or expansion subzone for a period of 184 consecutive days during each taxable year, which may begin on the date of designation by the department or on the date the person first resides within the subzone or expansion subzone.~~

~~§ 3519. Qualified businesses.~~

~~(a) Qualifications.--In order to qualify each year for the tax exemptions, deductions, abatements or credits under Chapters 5 and 7 of the Keystone Act, a business must own or lease real property in a subzone, improvement subzone or expansion subzone from which the business actively conducts a trade, profession or~~

~~business. The qualified business must receive certification from the department that the business is located and is in the active conduct of a trade, profession or business, within the subzone, improvement subzone or expansion subzone. The business must obtain annual renewal of the certification from the department to continue to qualify under this section.~~

~~(b) Relocation.--~~

~~(1) Any business that relocates from outside a subzone, improvement subzone or expansion subzone into a subzone, improvement subzone or expansion subzone shall not receive any of the exemptions, deductions, abatements or credits set forth in the Keystone Act unless that business either:~~

~~(i) increases full-time employment by at least 20% in the first full year of operation within the subzone, improvement subzone or expansion subzone; or~~

~~(ii) makes a capital investment in the property located within a subzone, improvement subzone or expansion subzone equivalent to 10% of the gross revenues of that business in the immediately preceding calendar or fiscal year.~~

~~(2) The department, in consultation with the Department of Revenue, may waive or modify the requirements of this subsection, as appropriate.~~

~~§ 3520. Forms.~~

~~(a) Application forms.--Applications for authorization as a keystone opportunity zone or keystone opportunity expansion zone must be on forms prescribed by the department.~~

~~(b) Department assistance.--The department shall assist political subdivisions in using the Internet as a tool for encouraging new business development, including assisting~~

~~political subdivisions in making available via the Internet information, applications and other forms necessary under this chapter or the Keystone Act.~~

~~§ 3521. Decertification.~~

~~(a) Application.--One or more political subdivisions, or a designee of one or more political subdivisions, may apply to the department to decertify and remove the designation of deteriorated property as part of a subzone, improvement subzone or expansion subzone. The application must contain all of the following:~~

~~(1) An identification of the property to be removed.~~

~~(2) A copy of an agreement which was supported by consideration in which each entity which possesses an interest in the real property to be removed, including any holder of an option either to purchase the real estate or to enter into a ground lease of the real estate or any other leasehold interest in the real estate, waives the party's right to any exemptions, deductions, abatements or credits granted by the Keystone Act.~~

~~(3) A copy of a binding ordinance, resolution or other governing document passed by the political subdivision removing any exemptions, deductions, abatements or credits set forth in Chapter 7 of the Keystone Act, effective upon decertification by the department.~~

~~(b) Process.--The department may grant the request to decertify and remove the property if completed applications have been submitted by all qualified political subdivisions in which the property is located.~~

~~CHAPTER 37~~

~~KEYSTONE INNOVATION ZONES~~

~~Sec.~~

~~3701. Scope of chapter.~~

~~3702. Definitions.~~

~~3703. Keystone innovation zones.~~

~~3704. Assistance.~~

~~3705. Expansion subzone designation.~~

~~§ 3701. Scope of chapter.~~

~~This chapter deals with keystone innovation zones.~~

~~§ 3702. Definitions.~~

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

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

~~"Eligible property." Real property which is located within a five-mile radius of an institution of higher education in a rural setting and which is located within a one-mile radius of an institution of higher education in an urban setting.~~

~~"Institution of higher education." A public or private institution within this Commonwealth authorized by the Department of Education to grant an associate degree or higher academic degree.~~

~~"Keystone innovation zone." A clearly defined geographic area comprised of eligible property designated by the Department of Community and Economic Development.~~

~~"Qualified employer." An entity that meets all of the following:~~

~~(1) Is located within a keystone innovation zone.~~

~~(2) Employs three or more individuals within the keystone innovation zone.~~

~~(3) Has been in operation seven years or less.~~

~~"Secretary." The Secretary of Community and Economic Development of the Commonwealth.~~

~~§ 3703. Keystone innovation zones.~~

~~(a) Establishment.--There is hereby established within the department a program to be known as the keystone innovation zones program. The program shall provide economic assistance in areas surrounding institutions of higher education.~~

~~(b) Application.--On or before January 1, 2005, an institution of higher education may submit to the department an application to establish a keystone innovation zone. The application shall be on a form provided by the department and shall include all of the following:~~

~~(1) A list of which eligible properties are to be included in the keystone innovation zone.~~

~~(2) The name and address of the keystone innovation zone.~~

~~(3) The name and address of the coordinator or executive director of the keystone innovation zone.~~

~~(4) Any other information required by the department.~~

~~(c) Review and designation.--The department shall review the application. Upon being satisfied that the application is complete and accurate, the department may approve the application. If the department approves the application, the secretary shall designate the property as a keystone innovation zone.~~

~~§ 3704. Assistance.~~

~~(a) Existing programs.--A qualified employer shall be given priority consideration in applying for assistance under any of the programs established by:~~

(1) This part and Part IV (relating to economic development financing).

(2) The act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(4) The act of June 22, 2001 (P.L.569, No.38), known as the Ben Franklin Technology Development Authority Act.

(5) The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

(b) Loans.--A qualified employer with a project approved for financing under this part, Part IV or by the Pennsylvania Industrial Development Authority shall receive the lowest interest rate extended to borrowers.

(c) Grants.--The department may provide a one-time $250,000 grant to a keystone innovation zone to establish and implement the zone. The grant shall be drawn down as needed over a period not to exceed the first five years of authorization as a keystone innovation zone. Grant recipients shall comply with the provisions of the grant.

§ 3705. Expansion subzone designation.

(a) Establishment.--Notwithstanding sections 301.1, 303 and 304 of the act of October 6, 1998 (P.L 705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, and within one year of being designated a keystone innovation zone under this chapter, a keystone innovation zone may apply to the department to be designated as an expansion subzone under the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act. The application shall be on a

~~form provided by the department. In addition to the completed application, the keystone innovation zone shall submit a copy of an ordinance, resolution or other required action from the governing body of each of the political subdivisions located within the keystone innovation zone which exempts or provides the deductions, abatements or credits required by Chapter 7 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act to qualified persons and qualified businesses within the keystone innovation zone as those terms are defined within that act. The department may approve the application and designate the property located within the keystone innovation zone as an expansion subzone for the period beginning on the date of designation and ending on December 31, 2013. Qualified persons and qualified businesses within the expansion subzone shall be entitled to the State tax exemptions, deductions, abatements or credits set forth in Chapter 5 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act and the local tax exemptions, deductions, abatements or credits set forth in Chapter 7 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act for the period for which the expansion subzone has been designated.~~

~~(b) Construction.--A keystone innovation zone designated an expansion subzone under this section shall be subject to the requirements of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.~~

~~PART IV~~

~~ECONOMIC DEVELOPMENT FINANCING~~

~~Chapter~~

~~41. Pennsylvania Industrial Development Authority (Reserved)~~

~~43. Pennsylvania Economic Development Financing Authority~~

45. Local Economic Development Financing Authority (Reserved)

47. Pennsylvania Infrastructure Investment Authority (Reserved)

CHAPTER 41

PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

(RESERVED)

CHAPTER 43

PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY

Subchapter

A. General Provisions

B. Structure and Powers

C. Bonds

D. Programs

E. Miscellaneous

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

4301. Scope of chapter.

4302. Definitions.

§ 4301. Scope of chapter.

This chapter relates to the Pennsylvania Economic Development Financing Authority.

§ 4302. Definitions.

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

"Acquisition." The act of acquiring or equipping a project. The term includes installation of equipment.

"Agricultural production." The raising, preparing or

marketing of crops, livestock or other related farm products.

"Applicant." A person that applies for financial assistance in accordance with this chapter.

"Authority." The Pennsylvania Economic Development Financing Authority created in section 4303 (relating to authority).

"Board." The board of Pennsylvania Economic Development Financing Authority created in accordance with section 4304 (relating to board).

"Business site infrastructure." Tangible personal property which is purchased and used to construct utility services and to provide access to a location within the Commonwealth to be used by a business. The term includes electric lines, water pipelines, wastewater facilities and pipelines, telecommunications lines, natural gas pipelines and roads. The term does not include working capital, buildings or land except those acquired to provide utilities or access to the location.

"Committee." The Project Review Committee established in section 4303 (relating to authority).

"Construction." The act of erecting, reconstructing, expanding, extending, improving, rehabilitating, remodeling, renovating or repairing a building or structure employed in or related to a project.

"Cost of the project." An expense associated with a project. The term includes all of the following:

(1) Costs and expenses of acquisition of interests in real estate, buildings, structures, equipment, furnishings and other tangible or intangible property comprising the project.

(2) Costs and expenses of construction of buildings and structures.

~~(3) Costs and expenses of demolishing, removing or relocating any buildings or structures on lands acquired or to be acquired, including the cost or expense of acquiring any lands onto which buildings or structures may be moved or relocated.~~

~~(4) Financing charges and other costs and expenses of financing and issuing bonds.~~

~~(5) Interest expenses prior to and during construction and for a period of 12 months after construction is completed, including any reserves for interest and such other expenses as may be necessary or incidental to the development, implementation or use of the project and placement of the same in operation.~~

~~(6) Costs and expenses of administrative expenses and professional services, including the costs of engineering, financial services, accounting and legal services.~~

~~(7) Costs and expenses associated with the preparation of plans, specifications, studies, surveys necessary or incidental to determining the feasibility or practicability of constructing the project.~~

~~(8) Operating capital or other capital needs related to the project subject to limitation by the authority.~~

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

~~"Economic Enhancement Fund." The Economic Enhancement Fund established in 72 Pa.C.S. § 7203 (relating to establishment).~~

~~"Federal agency." The President of the United States of America; the Congress and any department, agency or instrumentality of the government of the United States of America.~~

"Infrastructure." Tangible personal property which is purchased and used in creation or provision of goods or services. The term does not include working capital, buildings, structures or land.

"Interagency project." A project which meets the definition of project under the provisions of the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act.

"Local economic development agency." An entity certified as an industrial development agency under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

"Local economic development financing authority." An entity created under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

"Manufacturer." An entity which is engaged in the giving of new shapes, new qualities or new combinations to matter by the application of skill and labor.

"Medical facility." A private entity licensed as a medical facility under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, or under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Medical infrastructure." Tangible personal property which is purchased and used by a medical facility in providing patient care. The term does not include working capital, buildings, structures or land.

"Municipal authority." A public authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

"Project." An activity which increases economic activity within this Commonwealth. The term includes the acquisition of real or personal property, whether tangible or intangible.

"Project user." A person that owns, leases or uses all or any part of a project.

"Water and wastewater infrastructure." Real property or tangible personal property which is part of a publicly owned facility or system:

(1) for the collection, treatment or disposal of sewage and wastewater, including industrial waste; or

(2) for the supply, treatment, storage or distribution of drinking water.

SUBCHAPTER B

STRUCTURE AND POWERS

Sec.

4303. Authority.

4304. Board.

4305. Powers and duties.

§ 4303. Authority.

(a) Establishment.--There is hereby established a public authority to be known as the Pennsylvania Economic Development Financing Authority. The authority shall be an instrumentality of the Commonwealth and a body corporate and politic which shall assist persons in funding industrial and commercial development within this Commonwealth.

(b) Governance.--The powers and duties of the authority shall be exercised by a board.

(c) Committee.--There is hereby established a committee to be known as the Project Review Committee. The committee shall review and recommend certain projects to the board. The

~~committee shall be composed of the following five members:~~

~~(1) The Governor or the Secretary of the Budget.~~

~~(2) The Majority Leader of the Senate, or a designee.~~

~~(3) The Minority Leader of the Senate, or a designee.~~

~~(4) The Majority Leader of the House of Representatives, or a designee.~~

~~(5) The Minority Leader of the House of Representatives, or a designee.~~

~~The Governor or the Secretary of the Budget shall serve as chairperson. The committee shall meet at the call of the chairperson. Four members shall constitute a quorum, and the consent of four members of the committee shall be required to award a grant or recommend a loan for a project.~~

~~(d) Revenues.--Expenses of the authority shall be paid from assets or income of the authority. Except as provided in this chapter, the Commonwealth shall not be responsible for funding the annual budget of the authority.~~

~~(e) Fiscal year.--The fiscal year of the authority shall be the same as the fiscal year of the Commonwealth.~~

~~(f) Audit.--The authority shall conduct an independent audit of its accounts and records annually.~~

~~(g) General Assembly review.--~~

~~(1) The Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives shall have the right at any time to examine the books, accounts and records of the authority.~~

~~(2) The authority shall file an annual report with the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives. The report shall include all of the following:~~

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

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

~~(iii) The amount, if any, due to any provider of any credit or liquidity facility representing payments made by the provider as provided in the applicable resolution or trust indenture as a result of any previous failure of the authority to make any payment provided for in the applicable resolution or trust indenture, including any related reasonable interest, fees or charges and interest rate exchange agreements, interest rate cap and floor agreements and other similar agreements which the authority enters into to manage the interest costs of the authority.~~

~~(iv) The amount, if any, required to restore a debt service reserve fund and the resolution of the authority establishing the fund.~~

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

~~(h) Publication.--The authority shall annually publish a concise financial statement in the Pennsylvania Bulletin.~~

~~(i) Funds of authority.--~~

~~(1) The authority may create funds and accounts necessary or desirable for its corporate purposes and shall pay into each fund or account any money of the authority available. No other provision of this chapter shall be construed to prohibit the authority from creating within any~~

~~fund one or more accounts which may be used or pledged by the authority for a special purpose.~~

~~(2) All funds of the authority received from any source shall be delivered to or upon the order of the treasurer of the authority or to such other agent of the authority as the board may designate. Funds received by the authority shall be promptly deposited in a bank or banks in this Commonwealth chosen by the board. The money in the accounts of the authority may be paid by the treasurer of the authority or other designated agent of the authority on warrant of the treasurer of the authority. All deposits of money may, if required by the authority, be secured by obligations of the United States or of the Commonwealth of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give security for such deposits.~~

~~(3) Subject to the provisions of any agreements with obligees of the authority, all funds of the authority, including the proceeds from the sale of bonds, which are not required for immediate use may be invested in obligations of the Federal Government or of the Commonwealth or other obligations which are legal investments for Commonwealth funds.~~

~~(j) Termination.--The authority may, with the approval of the Governor, terminate one year after all of its liabilities have been fully paid and discharged. Upon the termination, all of its rights and properties, including funds remaining in the debt service reserve fund, shall be paid to the Commonwealth.~~

~~(k) Applicability.--The following acts shall apply to the board:~~

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

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

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

~~§ 4304. Board.~~

~~(a) Composition.--The board of the authority shall be composed of the following 15 members:~~

~~(1) The Secretary of Community and Economic Development.~~

~~(2) The Secretary of the Budget.~~

~~(3) The Secretary of Labor and Industry.~~

~~(4) The Secretary of Agriculture.~~

~~(5) The Secretary of Banking.~~

~~(6) One member appointed by the Majority Leader of the Senate, or a designee; one member appointed by the Minority Leader of the Senate, or a designee; one member appointed by the Majority Leader of the House of Representatives, or a designee; and one member appointed by the Minority Leader of the House of Representatives, or a designee. Legislative appointments shall serve at the pleasure of the appointing authority.~~

~~(7) Six members of the public with experience in finance or management appointed, with the advice and consent of the Senate, by the Governor.~~

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

~~(c) Organization.--The Secretary of Community and Economic Development shall serve as chairperson. The members of the board~~

~~shall elect from among themselves a vice chairperson, secretary, treasurer and any other officers as they may determine.~~

~~(d) Meetings.--The board shall meet at the call of the chairperson but shall meet at least once each month.~~

~~(e) Quorum.--Eleven members of the board shall constitute a quorum for the transaction of any authority business. The consent of at least ten members of the board shall be necessary to transact business on behalf of the authority.~~

~~(f) Expenses.--A member of the board shall not receive compensation or remuneration, but shall be entitled to reimbursement for all reasonable and necessary actual expenses.~~

~~(g) Public officials and party officers.--The members of the board appointed by the Governor shall not seek or hold a position as a public official within this Commonwealth or as a party officer while being a member of the board.~~

~~(h) Liability.--Members of the board and the committee shall not be liable personally on any obligations of the authority, including, without limitation, bonds of the authority and shall be immune from suit.~~

~~§ 4305. Powers and duties.~~

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

~~(1) The power to adopt bylaws and guidelines as it deems necessary.~~

~~(2) The power to contract and to execute instruments, including financing agreements, letters of credit, guarantees, sureties, mortgages, loans, standby loan commitments and contracts of insurance, which are necessary or convenient for the carrying on of its business.~~

~~(3) The power to sue and be sued, implead and be~~

~~impleaded, complain and defend in court.~~

~~(4) The power to borrow money, obtain lines and letters of credit, incur debt and, in anticipation of the receipt of income of the authority, make, issue and secure taxable and tax-exempt bonds or notes, including limited obligation revenue bonds.~~

~~(5) The power to acquire, accept, purchase, receive, collect, hold, convey and invest funds, fees and property, whether tangible or intangible, from all sources, directly or by assignment, pledge or otherwise.~~

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

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

~~(8) The power to employ an executive director and such other persons as are necessary or convenient for the carrying on of its business.~~

~~(9) The power to retain counsel and auditors to render professional services as the authority deems appropriate.~~

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

~~(11) The power to cooperate with any Federal agency or Commonwealth agency.~~

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

~~(b) Duties.--The authority shall provide financial assistance to applicants for projects. The financial assistance shall be in the form of loans or single-year or multiyear grants and may include proceeds from the sale of bonds. Prior to~~

~~providing funds to an applicant, the authority shall enter into a contract with the applicant. The contract shall include all of the following:~~

~~(1) A provision requiring the applicant to repay any grant made under this chapter from any proceeds resulting from a sale or partial sale of the project by the applicant. Grants shall be repaid in accordance with the following:~~

~~(i) If the project is sold less than two years after receipt of the grant, the applicant shall pay to the authority 90% of the grant received.~~

~~(ii) If the project is sold more than two years but less than four years after receipt of the grant, the applicant shall pay to the authority 80% of the grant received.~~

~~(iii) If the project is sold more than four years but less than six years after receipt of the grant, the applicant shall pay to the authority 70% of the grant received.~~

~~(iv) If the project is sold more than six years but less than eight years after receipt of the grant, the applicant shall pay to the authority 60% of the grant received.~~

~~(v) If the project is sold more than eight years but less than ten years after receipt of the grant, the applicant shall pay to the authority 50% of the grant received.~~

~~(2) Any other terms or conditions on the financial assistance authorized by this chapter as the board determines to be in the best interests of the Commonwealth.~~

~~(c) Limitations.--~~

~~(1) In accordance with section 8 of Article VIII of the Constitution of Pennsylvania, the board and the authority shall have no power to pledge the credit or taxing powers of the Commonwealth or of a political subdivision or other instrumentality of the Commonwealth, nor, except as provided in this chapter, shall any of the bonds of the authority be deemed a debt or liability of the Commonwealth or a political subdivision or instrumentality of the Commonwealth.~~

~~(2) Except as provided in this chapter, the authority shall be solely liable for the payment of the principal, interest or premium on any bonds issued by the authority. Except as provided in this chapter, the Commonwealth or a political subdivision or instrumentality of the Commonwealth shall have no legal or moral obligation for the payment of any expenses or obligations of the authority, including bond principal and interest, the funding or refunding of any reserves and any administrative or operating expenses whatsoever. Bonds issued by the authority shall contain a prominent statement of the limitations set forth in this subsection and shall further recite that obligees of the authority shall have no recourse, either legal or moral, to the Commonwealth or a political subdivision or instrumentality of the Commonwealth for payment of the bonds of the authority.~~

~~SUBCHAPTER C~~

~~BONDS~~

~~Sec.~~
~~4306. Bonds issuances.~~
~~4307. Commonwealth taxation.~~
~~4308. Federal taxation.~~

~~4309. Validity of bonds; limitation on actions.~~

~~4310. Provisions of bonds; trust indentures.~~

~~4311. Remedies of obligee of authority.~~

~~4312. Validity of pledge.~~

~~4313. Commonwealth pledges.~~

~~4314. Resolution and law are contracts with holders of bonds.~~

~~4315. Bonds to be legal investments.~~

~~4316. Right to enforcement of pledge of revenues.~~

~~4317. Debt service reserve fund.~~

~~4318. Debt service funds.~~

~~§ 4306. Bonds issuances.~~

~~(a) Authorization.--~~

~~(1) Bonds of the authority, whether taxable or tax exempt, shall be authorized by a resolution of the board and shall be of a series, bear such date or dates and bear or accrue interest at the rate or rates determined by the board to be necessary to issue and sell the authorized bonds.~~

~~(2) The bonds shall:~~

~~(i) be in the denominations;~~

~~(ii) be in the form, either coupon or fully registered without coupons or in certificated or book-entry-only form;~~

~~(iii) carry such registration, exchangeability and interchangeability privileges;~~

~~(iv) be payable in the medium of payment and at such place or places;~~

~~(v) be subject to the terms of redemption; and~~

~~(vi) be entitled to the priorities of payment in the revenues or receipts of the authority as the board provides by resolution.~~

~~(3) Bonds shall be signed by or shall bear the facsimile signatures of the officer designated by the board.~~

~~(4) Interest coupons shall be attached to coupon bonds and shall bear the facsimile signature of the treasurer of the authority.~~

~~(5) Bonds shall be authenticated by an authenticating agent, fiscal agent or trustee.~~

~~(6) Bonds may be issued and delivered notwithstanding that the officer signing the bonds or the treasurer whose facsimile signature is on a coupon shall have ceased to be the officer at the time when the bond is actually delivered.~~

~~(b) Maturity date.--~~

~~(1) Except as provided in paragraph (2), bonds issued to finance the costs of a project shall mature at a time or times not exceeding the weighted average useful life of the projects being financed and in no event exceeding 30 years from their respective dates of original issue.~~

~~(2) Bonds issued in anticipation of income of the authority shall mature within the fiscal year of the date of issuance thereof, except for bonds issued in anticipation of a grant or appropriation from the Commonwealth, a Commonwealth agency or a Federal agency, which bonds shall mature no later than the time of anticipated receipt of the grant or appropriation.~~

~~(c) Sale.--Bonds may be sold at public sale or invited sale for the price or prices and at the rate or rates of interest as the authority determines. Bonds may be sold at private sale by negotiation at the price or prices and at the rate or rates of interest as the authority determines, but only if the authority makes a written public explanation of the circumstances and~~

~~justification for the private sale by negotiation. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of the bonds and shall contain the terms and conditions established by the authority. The authority shall ensure that minority-owned or minority-controlled firms shall have a opportunity to participate in a significant way in any bond sale activities.~~

~~(d) Negotiable instruments.--Bonds of the authority shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).~~

~~(e) Use of proceeds.--The proceeds of an issue of bonds may be used for any of the following:~~

~~(1) To pay the costs of issuance of the bonds.~~

~~(2) To fund reserves for the bond.~~

~~(3) To capitalize interest on the bonds for a period not to exceed 12 months.~~

~~(4) To pay costs of administration of the authority.~~

~~(5) To make grants in accordance with sections 4321 (relating to Water and Wastewater Infrastructure Capitalization Program) and 4324 (relating to Economic Enhancement Financing Program).~~

~~(6) To make loans in accordance with sections 4319 (relating to the Infrastructure Development Program), 4320 (relating to Core Industries Infrastructure Capitalization Program), 4321, 4322 (relating to Business in Our Sites Program), 4323 (relating to First Industries Program), 4324 and 4325 (relating to Secondary Growth Stage Financing Program).~~

~~(7) To purchase loans, mortgages, security interests or loan participations agreements which the authority determines~~

~~is in its best interest.~~

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

~~§ 4307. Commonwealth taxation.~~

~~The effectuation of Subchapter D (relating to programs) by the authority shall and will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvement of their health, safety, welfare and living conditions. Since the authority will be performing essential governmental functions in effectuating such purposes, the authority shall not be required to pay any taxes or assessments upon any property acquired or used or permitted to be used by the authority for its purposes, and the bonds issued by the authority, their transfer and the income therefrom, including any profits made on their sale, shall at all times be free from State and local taxation within this Commonwealth. This exemption shall not extend to gift, estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, their transfer, the income therefrom or the realization of profits on their sale.~~

§ 4308. Federal taxation.

(a) Allocation.--If the bonds issued by the authority for a project are federally tax-exempt bonds for which Federal law requires an allocation, the department shall, upon receipt of a written request from the authority, issue an allocation charging the project's pro rata share of the issue to the county in which the project will be located.

(b) Approval.--If gubernatorial approval is required by a Federal agency in order for a bond issue of the authority to qualify for tax-exempt status, the Governor shall, upon receipt of a written request from the authority, approve the bond issue. The request shall state that the authority has conducted a hearing in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings) and shall contain a description of the project to be financed, a summary of the method of financing and a summary of the comments made and questions posed at the hearing.

§ 4309. Validity of bonds; limitation on actions.

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

(b) Filing.--

(1) The authority shall file a copy of a resolution authorizing the issuance of bonds in its office for public inspection and shall publish in three newspapers of general circulation in this Commonwealth a notice stating:

(i) The fact and date of the resolution.

(ii) The places where the resolution has been filed

~~for public inspection.~~

~~(iii) The date of publication of the notice.~~

~~(iv) Any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the resolution or the validity of any covenants, agreements or contract provided for by the resolution shall be commenced within ten days after the publication of the notice.~~

~~(2) If no action or proceeding questioning the validity or proper authorization of bonds provided for by the resolution referred to in the notice required under paragraph (1) or questioning the validity of any covenant, agreement or contract provided by the resolution is commenced within ten days after the publication of the notice required under paragraph (1):~~

~~(i) All persons shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or pleading any defense to any action or proceedings questioning the validity or proper authorization of the bonds or the validity of the covenants, agreements or contracts; and~~

~~(ii) the bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.~~

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

~~§ 4310. Provisions of bonds; trust indentures.~~

~~(a) Powers.--In connection with the issuance of bonds and in~~

~~order to secure the payment of its bonds, the authority, in addition to its other powers, shall have the power to do all of the following:~~

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

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

~~(3) Covenant against:~~

~~(i) pledging or granting a security interest in all or any part of its revenues or all or any part of its personal property to which its right or title exists or which may later come into existence; or~~

~~(ii) permitting or suffering any lien on its revenues or property.~~

~~(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any of its real property.~~

~~(5) Covenant as to which other or additional debts or obligations may be incurred by it.~~

~~(6) Covenant as to the bonds to be issued and as to the issuance of the bonds, in escrow or otherwise, and as to the use and disposition of the proceeds thereof.~~

~~(7) Provide for the replacement of lost, destroyed or mutilated bonds.~~

~~(8) Covenant against extending the time for the payment of bonds or interest thereon.~~

~~(9) Redeem bonds.~~

~~(10) Covenant for their redemption and provide the terms and conditions thereof.~~

~~(11) Covenant as to the amount of revenues to be~~

~~received in each fiscal year or other period of time by the authority and to the use and disposition to be made of the revenues.~~

~~(12) Create or authorize the creation of special funds or reserves for debt service or other purposes and covenant as to the use and disposition of the money held in the special funds.~~

~~(13) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which the consent may be given.~~

~~(14) Covenant as to the use of any or all of its real or personal property to warrant its title.~~

~~(15) Covenant as to the maintenance of its real and personal property, the replacement of its real and personal property, the insurance to be carried on its real and personal property and the use and disposition of insurance proceeds.~~

~~(16) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation, except that the authority shall not be permitted to covenant that upon a breach any or all of its bonds shall become or may be declared due before their stated maturity.~~

~~(17) Pay the costs or expenses incident to:~~

~~(i) the enforcement of the bonds;~~

~~(ii) the provisions of the resolution authorizing the issuance of the bonds;~~

~~(iii) the trust indenture securing the bonds; or~~

~~(iv) any covenant or agreement of the financing~~

~~authority with the holders of the bonds, notes or other obligations.~~

~~(18) Vest in a trustee or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds.~~

~~(19) Vest in a trustee the right, in the event of default in payments of interest or on principal of bonds by the authority, to take possession and use, operate and manage any real or personal property, to collect the revenues and receipts of an authority and to dispose of the money in accordance with the agreement of the authority with the trustee.~~

~~(20) Provide for the:~~

~~(i) powers and duties of a trustee and to limit the trustee's liabilities; and~~

~~(ii) terms and conditions upon which a trustee or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.~~

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

~~(22) Obtain letters of credit, bonds insurance and other facilities for credit enhancement and liquidity.~~

~~(23) Exercise all or any part or combination of the powers granted in this chapter.~~

~~(24) Make covenants other than and in addition to the covenants expressly authorized by this chapter.~~

~~(25) Make any other covenants and do any and all other acts and things as may be necessary, convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this chapter by making the bonds more marketable, notwithstanding that the covenants, acts or things may not be specifically enumerated by this chapter.~~

~~(b) Limitations.--Notwithstanding any provision of this chapter to the contrary, the real property of the authority shall not be mortgaged and shall not be subject to attachment nor levied upon by execution or otherwise. The revenues of the authority and the personal property of the authority shall be pledged or otherwise encumbered only as expressly provided in this chapter and, except to the extent necessary to effectuate the pledge or encumbrance, shall not be subject to attachment nor levied upon by execution or otherwise.~~

~~§ 4311. Remedies of obligee of authority.~~

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

~~(1) To compel, by mandamus, suit, action or proceeding at law or in equity, the authority and the members of its governing board, officers, agents or employees to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of the obligee and to require the carrying out of any covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.~~

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

~~against any acts or things which may be unlawful or the violation of any of the rights of the obligee.~~

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

~~§ 4312. Validity of pledge.~~

~~Any pledge of or grant of a security interest in revenues or personal property of the authority made by the authority shall be valid and binding from the time when the pledge is made. The revenues or other property pledged and later received by the authority shall immediately be subject to the lien of the pledge or security interest without any physical delivery thereof or further act. The lien of the pledge or security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution nor any other instrument of the authority by which a pledge or security interest is created need be recorded or filed to perfect the pledge or security interest.~~

~~§ 4313. Commonwealth pledges.~~

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

~~(b) Lessees.--The Commonwealth does hereby pledge to and agree with any person who, as owner of property that is leased or subleased to or from the authority, that it will not limit or~~

~~alter the rights and powers vested in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all the obligations of the authority under the lease or sublease are fully met and discharged.~~

~~§ 4314. Resolution and law are contracts with holders of bonds.~~

~~Except as otherwise provided in any resolution of the authority authorizing or awarding bonds, the terms of a resolution and any agreement authorized by the resolution and the terms of this chapter as in effect when the bonds were authorized shall constitute a contract between the authority and the obligees, subject to modification by the vote by holders of the percentage of bonds as the resolution authorizing or awarding the bonds provides.~~

~~§ 4315. Bonds to be legal investments.~~

~~Bonds issued pursuant to this chapter are made securities in which all government agencies, insurance companies, trust companies, banking associations, banking corporations, savings banks, investment companies, executors, the trustees of any retirement, pension or annuity fund or system of the Commonwealth, trustees and other fiduciaries may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them. The bonds are hereby made securities which may properly and legally be deposited with and received by any government agency for any purpose for which the deposit of bonds or other obligations of the Commonwealth are authorized by law.~~

~~§ 4316. Right to enforcement of pledge of revenues.~~

~~The obligees of the authority shall have the right to enforce a pledge of or security interest in revenues of the authority~~

~~securing payment of bonds of the authority against all government agencies in possession of any such revenues at any time. The revenues may be collected directly from such officials upon notice by the obligees or a trustee for the obligees for application to the payment of the bonds as and when due or for deposits in any sinking, bond or debt service fund established in accordance with this chapter or established by resolution of the authority with the trustee at the times and in the amounts specified in the bonds or the resolution or indenture or trust agreement securing the bonds. Any government agency in possession of any such revenues shall make payment against receipt and shall be discharged from any further liability or responsibility for such revenues. If payment is made to a holder of bonds, it shall be made against surrender of the bonds to the payor for delivery to the authority in the case of payment in full; otherwise, it shall be made against production of the bonds for notation thereon of the amount of the payment. The provisions of this section with respect to the enforceability and collection of revenues which secure bonds shall supersede any contrary or inconsistent statutory provision or rule of law. This section shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating the financing of the authority by assuring to the obligees of the authority the full and immediate benefit of the security for the bonds without delay, diminution or interference based on any statute, decision, ordinance or administrative rule or practice.~~

~~§ 4317. Debt service reserve fund.~~

~~(a) Authorization.--~~

~~(1) The authority may establish one or more debt service reserve funds into which it shall deposit:~~

~~(i) Proceeds from the sale of bonds, to the extent provided in the resolution or resolutions authorizing the bonds.~~

~~(ii) Any other money made available to the authority from any source.~~

~~(2) All money held in any debt service reserve fund, except as provided in this subsection, shall be used when required solely for the:~~

~~(i) payment of the principal of bonds secured in whole or in part by the fund;~~

~~(ii) payment of sinking fund payments, if any, with respect to the bonds;~~

~~(iii) purchase or redemption of bonds;~~

~~(iv) payment of interest on bonds; or~~

~~(v) payment of any redemption premium required to be paid when bonds and notes are redeemed prior to maturity.~~

~~(3) Any debt service reserve fund established pursuant to this section shall be a trust fund held for the benefit and security of the obligees of the authority whose bonds are secured by the fund.~~

~~(4) Money in a debt service reserve fund shall not be withdrawn from the fund at any time in an amount that would reduce the amount of the fund to less than the minimum reserve fund requirement established for the fund in the resolution of the authority creating the fund, except for withdrawals for the purpose of making payments when due of principal, interest, redemption premiums and sinking fund payments, if any, with respect to the bonds for the payment of which other money of the authority are not available.~~

~~(5) Any income or interest earned by or increments to~~

any debt service reserve fund due to the investment thereof may be transferred by the authority to other funds or accounts of the authority to the extent the transfer does not reduce the amount of the debt service reserve fund below the minimum reserve fund requirement established for that fund.

(6) Funds transferred to other accounts in accordance with the requirements of paragraph (5) may be used for whatever purposes the authority deems appropriate if the purposes are consistent with this chapter and the contracts of the authority with obligees of the authority.

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

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

§ 4318. Debt service funds.

Any money deposited in any fund created by the authority to be used to pay debt service, including, without limitation, the bond payment account, any sinking fund or debt service reserve fund and all investments and proceeds of investments thereof shall, without further action or filing, be subjected to a

perfected security interest for the obligees of the authority for whom the fund is held until the money or investments shall be properly disbursed in accordance with this chapter and with the terms of the contract of the authority with its obligees.

SUBCHAPTER D

PROGRAMS

Sec.

4319. Infrastructure Development Program.
4320. Core Industries Infrastructure Capitalization Program.
4321. Water and Wastewater Infrastructure Capitalization Program.
4322. Business in Our Sites Program.
4323. First Industries Program.
4324. Economic Enhancement Financing Program.
4325. Secondary Growth Stage Financing Program.
4326. Community Development Bank Program. (Reserved)

§ 4319. Infrastructure Development Program.

(a) Establishment.--There is hereby established within the authority a program to be known as the Infrastructure Development Program. The program shall provide financial assistance in the form of loans for projects which, when completed, increase economic development within this Commonwealth.

(b) Application.--A person may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of finance assistance sought.

~~(3) A statement of the project, including a detailed statement of the cost of the project.~~

~~(4) A firm financial commitment from a responsible source for any cost of the project in excess of the amount requested.~~

~~(5) A firm commitment from the applicant or project user to use or lease the project upon completion.~~

~~(6) Any other information required by the authority.~~

~~(c) Additional requirements for certain projects.--If the applicant is not a political subdivision, local economic development agency or local economic development financing authority, the applicant shall, in addition to the information required by subsection (b), submit a copy of the document verifying approval of the project by the appropriate local economic development agency or local economic development financing authority. If the applicant is requesting financial assistance for a project which is an interagency project, the applicant shall, in addition to the information required by subsection (b), submit a copy of the document issued by the Pennsylvania Infrastructure Investment Authority referring the applicant to the authority for financial assistance. If the applicant is not a municipality or municipal authority and is requesting financial assistance for a project constructing or improving transportation infrastructure, the applicant shall, in addition to the information required by subsection (b), submit a copy of the document verifying approval of the project by the appropriate municipality or municipal authority or a Commonwealth agency and a determination by the applicant that financing the project through the authority will reduce the cost of the project.~~

~~(d) Local economic development agencies.--If the applicant is a local economic development agency, in addition to the information required by subsection (b), the applicant shall do all of the following:~~

~~(1) Be incorporated under the laws of this Commonwealth.~~

~~(2) Agree to be bound by the rules of the authority relating to projects which receive financial assistance under this chapter.~~

~~(3) Agree to submit to examination of its books, records and accounts by the authority at times as the authority may require during the term of any loan made to it by the authority.~~

~~(e) Local economic development financing authorities.--If the applicant is a local economic development financing authority, in addition to the information required by subsection (b), the applicant shall do all of the following:~~

~~(1) Submit an application verified by the chairperson of the local economic development financing authority and any other information required by the authority, including any application fee.~~

~~(2) Agree to be bound by the rules of the authority relating to projects which receive financial assistance under this chapter.~~

~~(3) Agree to submit to examination of its books, records and accounts by the authority at times as the authority may require during the term of any loan made to it by the authority.~~

~~(f) Review.--Within 45 days of a completed application being submitted, the board shall review the application to determine all of the following:~~

~~(1) If the financial commitment exists for any cost of the project in excess of the amount requested.~~

~~(2) If the financial commitment from the source is firm.~~

~~(3) If the source of the financial commitment is responsible.~~

~~(4) If the commitment to use or lease the project upon completion is firm.~~

~~(5) If, in the case where the project will not be used by the applicant, the project user may reasonably be expected to comply with the terms of the use or lease.~~

~~(6) If the applicant satisfied the requirements of subsections (c), (d) and (e), if applicable.~~

~~(7) If the project complies with all other rules and regulations of the authority governing projects.~~

~~(g) Approval.--Upon being satisfied that all applicable requirements have been met, the board may approve the application. If the board approves the application, the board shall enter into a contract with the applicant and finance the loan.~~

~~(h) Applicability.--If a project of a local economic development agency or a local economic development financing authority has been approved for financing and the project is to be financed with the proceeds of bonds which are not exempt from Federal income taxation, the provisions of Chapter 27 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, shall not apply to the financing of the project.~~

~~(i) Limitations.--~~

~~(1) Except upon foreclosure or default or violation of a loan made, the authority may not approve an application and finance a project if the authority would be required to~~

~~operate, service or maintain the project under a lease or other agreement. Nothing in this paragraph shall prohibit the authority from approving an application or financing a project if, at the end of the term of a loan, the authority transferred the project to the applicant, any project user or a designee of either.~~

~~(2) The authority may not approve an application and finance a project which is a public facility if the authority determines that, if the project was financed by an entity other than the authority, the project could receive a rating of A or better from either Moodys Investors Service or Standard & Poors Corporation.~~

~~§ 4320. Core Industries Infrastructure Capitalization Program.~~

~~(a) Establishment.--There is established within the authority a program to be known as the Core Industries Infrastructure Capitalization Program. The program shall provide financial assistance in the form of loans to all of the following:~~

~~(1) To medical facilities for the acquisition or construction of projects which, when completed, improve or construct medical infrastructure directly related to patient safety.~~

~~(2) To manufacturers for the acquisition or construction of projects which, when completed, improve or construct infrastructure which creates additional full-time jobs.~~

~~(b) Application.--A medical facility or a manufacturer may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement of the amount of financial assistance sought.~~

~~(3) A statement of the project, including a detailed statement of the cost of the project, and how it directly relates to patient safety.~~

~~(4) A firm financial commitment from a responsible source for any cost of the project in excess of the amount requested.~~

~~(5) A firm commitment from the applicant to use or lease the project upon completion.~~

~~(6) Any other information required by the authority.~~

~~(c) Review.--The authority shall forward the application to the committee when it is complete. The committee shall review the application to determine all of the following:~~

~~(1) If the project is for the construction or acquisition of medical infrastructure directly related to patient safety or for the construction or acquisition of manufacturing infrastructure which creates additional full-time jobs.~~

~~(2) If a financial commitment exists for any cost of the project in excess of the amount requested.~~

~~(3) If the financial commitment from the source is firm.~~

~~(4) If the source of the financial commitment is responsible.~~

~~(5) If the applicant is firmly committed to using or leasing the project upon completion.~~

~~(6) If the applicant complied with all other criteria established by the committee.~~

~~(d) Approval.--Upon being satisfied that all requirements~~

~~have been met, the committee may approve the application and notify the board. Upon being notified that a loan has been approved, the board shall enter into a contract with the applicant and finance the loan. As provided in subsection (e), the contract may permit performance-based loan forbearance or forgiveness.~~

~~(e) Forbearance or forgiveness.--The board, in consultation with the department, may establish guidelines permitting performance-based forbearance or forgiveness of payments by loan recipients under this program. If the board establishes guidelines, the guidelines shall permit the board to forbear or forgive payments by loan recipients under this program when, in the discretion of the board, the board determines that it is in the interest of the Commonwealth to grant forbearance or forgiveness.~~

~~(f) Applicability.--If a project of a medical facility or a manufacturer has been approved for loan financing and the project is to be financed with the proceeds of bonds which are not exempt from Federal income taxation, the provisions of Chapter 27 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, shall not apply to the financing of the project.~~

~~(g) Limitation.--Except upon foreclosure or default or violation of a loan made, the board may not approve an application or finance a project if the authority would be required to operate, service or maintain the project under a lease or other agreement. Nothing in this subsection shall prohibit the authority from approving an application or financing a project if at the end of the term of a loan the authority transferred the project to the medical facility or~~

~~manufacturer or a designee of the medical facility or manufacturer.~~

~~§ 4321. Water and Wastewater Infrastructure Capitalization Program.~~

~~(a) Establishment.--There is established within the authority a program to be known as the Water and Wastewater Infrastructure Capitalization Program. The program shall provide financial assistance in the form of loans or single-year or multiyear grants to municipalities and municipal authorities for projects which, when completed, improve or construct water and wastewater infrastructure related to economic development.~~

~~(b) Application.--A municipality or a municipal authority may submit an application to the authority requesting financial assistance for a project. The application must be on the form required by the authority and must include or demonstrate all of the following:~~

~~(1) The name and address of the municipality or municipal authority.~~

~~(2) A statement of the type and amount of financial assistance sought. If the applicant is requesting financial assistance in the form of a grant, the request may not exceed 75% of the cost of the project.~~

~~(3) A statement of the project, including a detailed statement of the cost of the project.~~

~~(4) A firm financial commitment from a responsible source for any cost of the project in excess of the amount requested. If the applicant is requesting financial assistance in the form of a grant from the authority, the commitment may not be in the form of a grant from a Commonwealth agency.~~

~~(5) A firm commitment from the municipality or municipal authority to use the project upon completion.~~

~~(6) Any other information required by the authority.~~

~~(c) Grants.--~~

~~(1) If an applicant is requesting financial assistance in the form of a grant, the authority shall forward the application to the committee when it is complete. The committee shall review the application to determine all of the following:~~

~~(i) If the project is for the improvement or construction of water and wastewater infrastructure related to economic development.~~

~~(ii) If there is a financial commitment for at least 25% of the project.~~

~~(iii) If the financial commitment from the source is firm.~~

~~(iv) If the source of the financial commitment is responsible.~~

~~(v) If the municipality or municipal authority is firmly committed to using the project upon completion.~~

~~(vi) If the municipality or municipal authority complied with all other criteria established by the committee.~~

~~(2) Upon being satisfied that all requirements have been met, the committee may approve the application and award a grant to the applicant for the project in accordance with all of the following:~~

~~(i) The grant may not exceed $10,000,000 in the aggregate.~~

~~(ii) The aggregate amount of grants awarded to all~~

~~applicants under this subsection shall not exceed $250,000,000.~~

~~(3) Upon being notified that a grant has been awarded to an applicant, the board shall enter into a contract with the applicant and finance the grant.~~

~~(d) Authority loans.--~~

~~(1) If an applicant is requesting financial assistance in the form of a loan, the authority shall forward the application to the board when it is complete. Within 45 days of a completed application being submitted, the board shall review the application to determine all of the following:~~

~~(i) If the project is for the improvement or construction of water and wastewater infrastructure related to economic development.~~

~~(ii) If a financial commitment exists for any cost of the project in excess of the amount requested.~~

~~(iii) If the financial commitment from the source is firm.~~

~~(iv) If the source of the financial commitment is responsible.~~

~~(v) If the municipality or municipal authority is firmly committed to using the project upon completion.~~

~~(vi) If the municipality or municipal authority complied with all other criteria established by the board.~~

~~(2) Upon being satisfied that all program requirements have been met, the board may approve the application. If the board approves the application, the board shall enter into a contract with the applicant and finance the loan.~~

~~(e) Pennvest loans.--In order to facilitate additional~~

~~funding for water and wastewater infrastructure projects related to economic development, the authority may utilize the remaining amount of voter-approved debt under the act of March 16, 1992 (P.L.10, No.5), known as the Small Water Systems Assistance Act, in accordance with the following:~~

~~(1) If an applicant is requesting financial assistance in the form of a loan, the authority shall forward the application to the board when it is complete. Within 45 days of a completed application being submitted, the board shall review the application to determine all of the following:~~

~~(i) If the project is for the improvement or construction of water and wastewater infrastructure related to economic development.~~

~~(ii) If a financial commitment exists for any cost of the project in excess of the amount requested.~~

~~(iii) If the financial commitment from the source is firm.~~

~~(iv) If the source of the financial commitment is responsible.~~

~~(v) If the municipality or municipal authority is firmly committed to using the project upon completion.~~

~~(vi) If the municipality or municipal authority complied with all other criteria established by the board.~~

~~(2) Upon being satisfied that all program requirements have been met, the board may approve the application. If the board approves the application, the board shall do all of the following:~~

~~(i) Notify the applicant of the approval.~~

~~(ii) Notify the Pennsylvania Infrastructure~~

~~Investment Authority of the amount approved.~~

~~(3) Loans approved under paragraph (2) shall not exceed $220,000,000 in the aggregate.~~

~~(4) Upon being notified that a loan has been approved for an applicant, the Pennsylvania Infrastructure Investment Authority shall enter into a contract with the applicant and finance the loan.~~

~~(f) Limitation.--Except upon foreclosure or default or violation of a loan made, the board may not approve an application or finance a project if the authority would be required to operate, service or maintain the project under a lease or other agreement. Nothing in this subsection shall prohibit the authority from approving an application or financing a project if, at the end of the term of a loan, the authority transferred the project to the municipal authority.~~

~~(g) Debt.--If the question is submitted to the electors and approved in accordance with law, the authority is authorized to incur a maximum of $250,000,000 to finance grants and loans awarded under subsection (c) and (d). Annual payments for principal and interest resulting from grants made under this section shall be annually appropriated to the authority from the General Fund.~~

~~§ 4322. Business in Our Sites Program.~~

~~(a) Establishment.--There is established within the authority a program to be known as the Business in Our Sites Program. The program shall provide financial assistance in the form of loans to persons for projects which, when completed, improve existing business sites, construct new business sites or improve or construct business site infrastructure.~~

~~(b) Application.--A person may submit an application to the~~

~~authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:~~

~~(1) The name and address of the applicant.~~

~~(2) A statement of the amount of financial assistance sought.~~

~~(3) A statement of the project, including a detailed statement of the cost of the project.~~

~~(4) If the applicant is not a local economic development agency, a copy of the document verifying approval of the project by the appropriate local economic development agency.~~

~~(5) A firm financial commitment from a responsible source for any cost of the project in excess of the amount requested.~~

~~(6) A firm commitment from the applicant to use or lease the project upon completion.~~

~~(7) Any other information required by the authority.~~

~~(c) Review.--The authority shall forward the application to the committee when it is complete. The committee shall review the application to determine all of the following:~~

~~(1) If the project is for the improvement of existing business sites, the construction of new business sites or the improvement or construction of business site infrastructure.~~

~~(2) If the project is approved by the appropriate local economic development agency when the applicant is not a local economic development agency.~~

~~(3) If a financial commitment exists for any cost of the project in excess of the amount requested.~~

~~(4) If the financial commitment from the source is firm.~~

~~(5) If the source of the financial commitment is~~

~~responsible.~~

~~(6) If the applicant is firmly committed to using or leasing the project upon completion.~~

~~(7) If the applicant complied with all other criteria established by the committee.~~

~~(d) Approval.--Upon being satisfied that all requirements have been met, the committee may approve the application and notify the board. Upon being notified that a loan has been approved, the board shall enter into a contract with the applicant and finance the loan. As provided in subsection (e), the contract may permit performance-based loan forbearance or forgiveness.~~

~~(e) Forbearance or forgiveness.--The board, in consultation with the department, may establish guidelines permitting performance-based forbearance or forgiveness of payments by loan recipients under this program. If the board establishes guidelines, the guidelines shall permit the board to forbear or forgive payments by loan recipients under this program when, in the discretion of the board, the board determines that it is in the interest of the authority to grant forbearance or forgiveness.~~

~~(f) Limitation.--Except upon foreclosure or default or violation of a loan made, the board may not approve an application or finance a project if the authority would be required to operate, service or maintain the project under a lease or other agreement. Nothing in this subsection shall prohibit the authority from approving an application or financing a project if, at the end of the term of a loan, the authority transferred the project to the local economic development authority.~~

~~§ 4323. First Industries Program.~~

~~(a) Establishment.--There is established within the authority a program to be known as the First Industries Program. The program shall provide financial assistance in the form of loans to persons engaged in agriculture production or to persons involved in tourism-related activities.~~

~~(b) Application.--A person may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:~~

~~(1) The name and address of the person.~~

~~(2) A statement that the person is engaged in agriculture production or is involved in tourism-related activities.~~

~~(3) A statement of the amount of financial assistance sought.~~

~~(4) A statement of the project, including a detailed statement of the cost of the project.~~

~~(5) Any additional information required by Chapter 23 (relating to small business first).~~

~~(6) Any other information required by the authority.~~

~~(c) Review.--The authority shall forward the application to the department when it is complete. The department shall review the application in accordance with the requirements of this section and Chapter 23 (relating to Small Business First). If the department is satisfied that all requirements have been met, the department may recommend approval of the application to the board.~~

~~(d) Approval.--If the board receives a recommendation for approval of an application from the department, the board may~~

approve the application and finance the loan.

(e) Loan service.--Any loan financed by the authority under this program shall be administered by the department. The authority and the department shall enter into an agreement in which the department agrees to transfer to the authority in a timely manner any payments the department receives on loans made in accordance with this section.

§ 4324. Economic Enhancement Financing Program.

(a) Establishment.--There is established within the authority a program to be known as the Economic Enhancement Financing Program. The program shall provide financial assistance to persons in the form of loans or single-year or multiyear grants for projects.

(b) Application.--A person may submit an application to the authority requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the type of financial assistance sought.

(3) A statement of the project, including a detailed statement of the cost of the project.

(4) Any other information required by the authority.

(c) Review.--The authority shall forward the application to the committee when it is complete. The committee shall review the application to determine all of the following:

(1) If the applicant is a person that owns property in a tax incentive district or if the applicant is an issuing authority of a tax increment district located within a tax incentive district.

~~(2) The project would be located in a tax incentive district or is located in a tax increment district.~~

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

~~(i) Creates career-oriented net new jobs or preserve jobs.~~

~~(ii) Increases and diversifies the manufacturing base of this Commonwealth.~~

~~(iii) Aids in the expansion of existing private companies, particularly those that sell their products outside this Commonwealth.~~

~~(iv) Attracts new industries with new products into this Commonwealth.~~

~~(v) Promotes industrial, commercial and other economic development within this Commonwealth.~~

~~(vi) Promotes a healthy environment through the abatement, safe storage, transportation, reduction, elimination, remediation and disposal within this Commonwealth of pollutants and wastes.~~

~~(vii) Otherwise promotes the health, welfare and safety of the residents of this Commonwealth by promoting economic activity and efficiency or alleviating or eliminating unemployment, blight and other unhealthy conditions.~~

~~(4) If the applicant complied with all other criteria established by the committee.~~

~~(d) Award.--Upon being satisfied that all requirements have been met, the committee may approve an application and award a grant or loan for a project in accordance with the following:~~

~~(1) The grant or loan may not exceed $10,000,000 in the aggregate.~~

~~(2) The aggregate amount of grants or loans awarded to all applicants under this section shall not exceed financing supported by the Economic Enhancement Fund.~~

~~(e) Financing.--Upon being notified that a grant or loan has been awarded to an applicant, the board shall finance the grant or loan.~~

~~(f) Debt limitation.--The authority is authorized on a continuing basis to incur debt supported by the Economic Enhancement Fund to finance grants and loans awarded under this section. All payments for the debt resulting from grants or loans made under this section shall be paid from the Economic Enhancement Fund.~~

~~(g) Contract proceeds.--Any money received from a grant or loan recipient under this program shall be deposited in the Economic Enhancement Fund.~~

~~(h) First issuance.--The first series of bonds to be issued by the authority shall be issued in a manner and at a time so that the net proceeds of the bonds shall be available on or before June 30, 2004, or as soon as practicable after June 30, 2004.~~

~~§ 4325. Secondary Growth Stage Financing Program.~~

~~(a) Establishment.--There is established within the authority a program to be known as the Secondary Growth Stage Financing Program. The program shall provide financial assistance to certain persons in the form of loans for projects.~~

~~(b) Growth stage partners.--~~

~~(1) A person may submit an application to the authority requesting designation as a growth stage partner. The application shall be on the form required by the authority and shall include or demonstrate all of the following:~~

~~(i) The name and address of the person.~~

~~(ii) A statement demonstrating that the person is experienced in financing expanding businesses.~~

~~(iii) A statement of the maximum amount of investment the person is willing to make in the program.~~

~~(iv) Any other information required by the authority.~~

~~(2) The authority shall forward the application to the committee. The committee shall review the application and determine if the person possesses prudent investment experience. Upon being satisfied that all requirements have been met, the committee shall recommend the person to the board.~~

~~(3) If the board receives a recommendation from the committee, the board shall enter into a contract with the person and designate the person a growth stage partner in accordance with all of the following:~~

~~(i) The board shall ensure that at least one growth stage partner exists in each geographic region of the Commonwealth.~~

~~(ii) The contract shall specify that loan payments will be applied on a pro rata basis.~~

~~(c) Loans.--~~

~~(1) A person may submit an application to a growth stage partner requesting financial assistance for a project. The application shall be on the form required by the authority and shall include or demonstrate all of the following:~~

~~(i) The name and address of the person.~~

~~(ii) A statement that the person has been in business more than two years but less than seven.~~

~~(iii) A statement of the amount of financial assistance sought.~~

~~(iv) A statement of the project including a detailed statement of the cost of the project.~~

~~(v) Any other information required by the authority or by the growth stage partner.~~

~~(2) The growth stage partner shall review the application to determine if the project is a responsible investment. If the growth stage partner is satisfied that the project is responsible, the growth stage partner may recommend approval of the application to the board.~~

~~(3) If the board receives a recommendation for approval of an application from a growth stage partner, the board may approve the application.~~

~~(4) Upon approval of the application, the growth stage partner and the authority shall enter into a contract with the applicant and finance the loan in accordance with the following:~~

~~(i) The growth stage partner shall finance at least 25% of the loan amount.~~

~~(ii) The authority may finance the loan in an amount not to exceed 75% of the loan.~~

~~(iii) The contract may include a provision granting the growth stage partner a mortgage interest in property owned by the applicant.~~

~~(d) Loan service.--Any loan financed by the authority under this section shall be administered by the growth stage partner. The authority and each growth stage partner shall enter into an agreement pursuant to which the growth stage partner agrees to transfer to the authority in a timely manner its pro rata share~~

of any payments received by the growth stage partner on loans made in accordance with this section.

§ 4326. Community Development Bank Program (Reserved).

SUBCHAPTER E

MISCELLANEOUS

(RESERVED)

CHAPTER 45

LOCAL ECONOMIC DEVELOPMENT FINANCING AUTHORITIES

(RESERVED)

CHAPTER 47

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

(RESERVED)

Section 2. Title 72 is amended by adding parts to read:

PART III

FUNDS

Chapter

72. Economic Enhancement Fund

CHAPTER 72

ECONOMIC ENHANCEMENT FUND

Sec.

7201. Scope.

7202 Definitions.

7203. Establishment.

7204. Calculation.

7205. Transfer.

7206. Appropriation and payments.

§ 7201. Scope.

This chapter relates to the Economic Enhancement Fund.

§ 7202. Definitions.

The following words and phrases when used in this chapter

shall having the meaning given to them in this section unless the context clearly indicates otherwise:

"Authority." The Pennsylvania Economic Development Authority established by 12 Pa.C.S. Ch. 43 (relating to Pennsylvania Economic Development Financing Authority).

"Department." The Department of Revenue of the Commonwealth.

"Fund." The Economic Enhancement Fund established by section 7203 (relating to establishment).

"Tax incentive district." Property designated by the Department of Community and Economic Development as a tax incentive district in accordance with 12 Pa.C.S. Ch. 33 (relating to economic enhancement).

"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

§ 7203. Establishment.

There is hereby established a special fund known as the Economic Enhancement Fund. Interest income derived from investment of the money in the fund shall be credited by the Treasury Department to the fund.

§ 7204. Calculation.

Within 30 days of the end of each quarter, the department shall calculate and notify the Secretary of the Budget of the aggregate revenue received pursuant to Articles II, IV and VI of the Tax Reform Code of 1971 from taxpayers located within tax incentive districts.

§ 7205. Transfer.

Within ten days of receiving notification in accordance with section 7204 (relating to calculation), the Secretary of the Budget shall direct the State Treasurer to transfer a sum, equal to 25% of the aggregate revenue received pursuant to Articles

II, IV and VI of the Tax Reform Code of 1971, from taxpayers located within tax incentive districts, from the General Fund to the fund. Transfers from the General Fund to the fund shall not exceed $10,000,000 in the aggregate in any one fiscal year.

§ 7206. Appropriation and payments.

Money in the fund is hereby appropriated on a continuing basis to the authority for the Economic Enhancement Financing Program established in 12 Pa.C.S. § 4324 (relating to Economic Enhancement Financing Program). The State Treasurer shall provide semiannual payments to the authority on August 1 and February 1 of each year until the authority is terminated in accordance with 12 Pa.C.S. § 4303(j) (relating to authority). August 1 payments shall be equal to the balance of the fund on July 15 of that calendar year, and February 1 payments shall be equal to the balance of the fund on January 15 of that calendar year.

PART IV

DEBT

Chapter

91. Capital Facilities

92. Sports Facilities

CHAPTER 91

CAPITAL FACILITIES

Sec.

9101. Scope of chapter.

9102. Definitions.

9103. Procedures for capital budget bill and debt-authorizing legislation.

9104. Certificates of the Auditor General.

9105. Constitutional limitations, authorizations, issuing

~~officials.~~

~~9106. Temporary borrowing.~~

~~9107. Bonds, issue of bonds and notes, maturity, interest.~~

~~9108. Direct obligations, exemption from taxation, means of payment.~~

~~9109. Sale of bonds.~~

~~9110. Disposition and use of proceeds.~~

~~9111. Capital Debt Fund; investments; redemption of bonds.~~

~~9112. Funding bonds.~~

~~9113. Reporting requirements.~~

~~9114. Registration of bonds.~~

~~9115. Voting requirements.~~

~~9116. Appropriation.~~

~~9117. Appropriation for and limitation on redevelopment assistance and site development capital projects.~~

~~9118. Funding and administration of redevelopment assistance capital projects.~~

~~9119. Funding and administration of site development capital projects.~~

~~9120. Capital Project Oversight and Review Committee.~~

~~§ 9101. Scope of chapter.~~

~~This chapter deals with capital facilities.~~

~~§ 9102. Definitions.~~

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

~~"Acquisition cost." The cost of acquiring:~~

~~(1) buildings;~~

~~(2) structures;~~

~~(3) facilities;~~

~~(4) property, real, personal or mixed, tangible or intangible; or~~

~~(5) any other interest;~~

~~necessary or desirable in connection with a capital project, whether the acquisition be by purchase or by condemnation, including the amount of an award or final judgment in a proceeding to acquire by condemnation lands, rights-of-way, rights-of-slope, property rights, franchises, easements or other interests as deemed necessary or convenient in connection with the acquisition or construction of a project, and costs of options and partial payments on and under options.~~

~~"Capital project." A project which is financed by debt or by other funds and which meets all of the following:~~

~~(1) Is an undertaking to construct, repair, renovate, improve, equip, furnish or acquire any:~~

~~(i) building, structure, facility or physical public betterment or improvement;~~

~~(ii) land or rights in land; or~~

~~(iii) furnishings, machinery, apparatus or equipment for a building, structure, facility or physical public betterment or improvement.~~

~~(2) Is designated in a capital budget as a capital project.~~

~~(3) Has an estimated useful life in excess of five years.~~

~~(4) Has an estimated financial cost in excess of $250,000. This paragraph does not apply to original equipment or furnishings for previously authorized public improvement projects.~~

~~Capital projects are categorized as flood control projects,~~

highway projects, public improvement projects, redevelopment assistance capital projects, site development capital projects and transportation assistance projects.

"Committee." The Capital Project Oversight and Review Committee established in section 9120 (relating to Capital Project Oversight and Review Committee).

"Commonwealth agency or authority." Excludes an agency or authority organized by action of a political subdivision.

"Construction cost." Obligations incurred:

(1) for labor and to contractors, builders and materialmen in connection with the construction, fabrication or assembly of a capital project;

(2) for machinery and equipment required for construction under paragraph (1);

(3) for the restoration of property damaged or destroyed in connection with construction under paragraph (1); and

(4) for the payment of damages incurred by others incident to or consequent upon construction under paragraph (1) which the Commonwealth or its agency or authority is under legal obligation to pay or desires to pay in settlement of a disputed claim of liability.

"Debt." The issued and outstanding obligations of the Commonwealth incurred without a vote of the electorate or incurred with such vote under a law making such debt subject to the provisions of section 7(a)(4) of Article VIII of the Constitution of Pennsylvania. The term includes obligations of Commonwealth agencies and authorities to the extent that such obligations are to be repaid from lease rentals or other charges payable directly or indirectly from revenues of the Commonwealth. The term does not include:

~~(1) that portion of debt which is to be repaid from charges made to the public for the use of the capital projects financed, as such portion of debt may be determined by the Auditor General;~~

~~(2) obligations to be repaid from lease rentals or other charges payable by a school district or other local taxing authority; or~~

~~(3) obligations to be repaid by agencies or authorities created for the joint benefit of the Commonwealth and one or more other state governments.~~

~~"Debt-authorizing act." The legislation required by section 9103(d) (relating to procedures for capital budget bill and debt-authorizing legislation).~~

~~"Financial cost." Acquisition cost and construction cost, where applicable, and an allocated portion of all of the following:~~

~~(1) Fees, expenses and costs of issuing obligations the proceeds of which are used to finance the project.~~

~~(2) Fees, expenses and costs of issuing and selling notes or replacement notes issued under this chapter.~~

~~(3) Establishing and maintaining any purchase, loan or credit agreements in connection with an issue or series of issues of notes, and the fees and expenses of any fiscal or loan and transfer agent and bond counsel incurred in connection with the issue of the obligations.~~

~~(4) Premiums on insurance in connection with a project during construction.~~

~~(5) Taxes and other municipal or governmental charges lawfully levied or assessed during construction.~~

~~(6) Fees and expenses of architects, engineers and other~~

professionals for:

(i) making preliminary studies, reports or estimates of costs;

(ii) preparing plans and specifications and inspecting and reviewing the progress of construction; and

(iii) obtaining abstracts of title, title insurance or title opinions.

(7) Costs and expenses of preliminary investigations, preplanning, surveys and reports to determine the proper scope, feasibility and probable costs of capital projects to be included in future capital budgets.

(8) Costs of administration, including the salaries and expenses of administrators, reviewing architects and engineers, construction inspectors, accountants and legal counsel of the Commonwealth and its agencies or authorities, incurred for the proper planning and supervision of the capital projects program.

"Flood control projects." Projects of the type which the Water and Power Resources Board is authorized to construct, improve, equip, maintain, acquire or operate under the provisions of the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law.

"Fund." Any fund other than a fund, or an account in a fund, established by this chapter.

"Funding bonds." General obligation bonds used to provide funds for and towards the payment of outstanding notes or to refund other outstanding bonds prior to or at or after the stated maturity date of the bonds being refunded or of the notes being funded.

"Highway projects." Projects of a type which the Department of Transportation is authorized to construct, improve, equip, maintain, acquire or operate.

"Hospital." As defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Issuing officials." The Governor, the Auditor General and the State Treasurer.

"Net debt."

(1) The aggregate principal amount of all debt; plus

(2) the amount of any past due and unpaid interest on that debt; minus

(3) all funds held exclusively for the payment of that principal and past due interest.

Neither accrued but not yet past due interest nor funds held for the payment of the interest next falling due, up to the amount of such interest, shall be included in such computations.

"Notes." Temporary obligations and replacement notes issued by the Commonwealth pursuant to this chapter in anticipation of bonds.

"Obligations." Notes or bonds of the Commonwealth, its agencies or authorities, issued pursuant to any debt authorizing act.

"Public improvement projects." Projects of a type which the General State Authority is authorized to construct, improve, equip, furnish, maintain, acquire or operate under the provisions of the act of March 31, 1949 (P.L.372, No.34), known as The General State Authority Act of one thousand nine hundred forty-nine, and projects which the Department of General Services is authorized to construct, improve, equip, furnish,

~~maintain, acquire or operate.~~

~~"Redevelopment assistance capital project." The design and construction of facilities which meet the following:~~

~~(1) Are facilities, other than housing units, highways, bridges, waste disposal facilities, sewage facilities or water facilities. This paragraph includes:~~

~~(i) water and sewer infrastructure, bridges and roads included in business or industrial park facilities; and~~

~~(ii) hospital facilities and capital improvements for hospital facilities.~~

~~(2) Are economic development projects which generate substantial increases in employment, tax revenues or other measures of economic activity. This paragraph includes projects with cultural, historical or civic significance.~~

~~(3) Are facilities which have a regional or multijurisdictional impact.~~

~~(4) Are eligible for tax-exempt bond funding under existing Federal law and regulations.~~

~~(5) Have a 50% non-State participation documented at the time of application, including a portion of any funds reserved for future physical maintenance and operation of the facilities:~~

~~(i) at least half of which is secured funding;~~

~~(ii) toward which the only noncash non-State participation permitted is land or fixed assets which have a substantial useful life and are directly related to the project;~~

~~(iii) toward which State funds from other programs may not be used; and~~

~~(iv) toward which funds from Federal sources may be used.~~

~~(6) Have a total project cost of at least $1,000,000.~~

~~Applicants must be one of the following:~~

~~(i) A redevelopment authority.~~

~~(ii) An industrial development authority.~~

~~(iii) A general purpose unit of local government.~~

~~(iv) A local development district which has an agreement with a general purpose unit of local government under which the unit assumes ultimate responsibility for debt incurred to obtain the 50% non-State participation required by paragraph (5).~~

~~(v) An industrial development corporation.~~

~~"Replacement notes." Notes:~~

~~(1) the net proceeds of which are used to pay principal, accrued interest and premium of previously issued notes or replacement notes; and~~

~~(2) which evidence the same temporary borrowing of the Commonwealth as the notes or replacement notes replaced.~~

~~"Site development capital projects." The design and construction of infrastructure and improvements for locations which meet all of the following:~~

~~(1) Are locations suitable for the siting of business, industrial or research facilities upon completion of the project.~~

~~(2) Create opportunities to develop new facilities or to expand existing facilities for business, service industries, manufacturing, research and development or other business or industrial operations which produce goods or services as determined by the Secretary of Community and Economic~~

~~Development.~~

~~(3) Result in the creation of new jobs or the preservation of existing jobs.~~

~~(4) Have a 50% non-State participation documented at the time of application:~~

~~(i) at least one-half of which is secured funding;~~

~~(ii) toward which the only noncash, non-State participation permitted is land or fixed assets which have a substantial useful life and are directly related to the project; and~~

~~(iii) toward which State funds from other programs may not be used.~~

~~(5) Have a total project cost of at least $1,000,000.~~

~~(6) The project applicant is a municipality, municipal authority, industrial development authority, redevelopment authority, industrial development corporation or a general purpose unit of local government.~~

~~(7) The project applicant can demonstrate to the secretary that the location will be occupied by a business or industrial tenant within five years of completion of the project or such other reasonable period of time as may be designated by the secretary.~~

~~"Tax revenues." All revenues from Commonwealth imposed taxes, regardless of the fund to which they are deposited, including revenues from motor vehicle licenses, which are declared to be taxes for purposes of this chapter. The term does not include revenues from any other licenses or from interest, fees, fines or penalties.~~

~~"Transportation assistance projects." Projects of a type which the Department of Transportation is authorized to~~

~~construct, improve, equip, furnish, maintain, acquire or operate under 74 Pa.C.S. Pt. II (relating to public transportation) and capital projects which the Department of Transportation is authorized to construct, improve, equip or furnish under the provisions of the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act, including the acquisition of property authorized in those statutes.~~

~~§ 9103. Procedures for capital budget bill and debt-authorizing legislation.~~

~~(a) Legislative process.--A capital budget prepared in accordance with this chapter shall be submitted for each fiscal year by the Governor to the General Assembly and shall be considered in the form of a bill as provided in Article III of the Constitution of Pennsylvania.~~

~~(b) Itemization.--~~

~~(1) Except as set forth in paragraph (2), the capital budget bill must specifically itemize, by brief identifying description and estimated financial cost, the capital projects to be financed from:~~

~~(i) the proceeds of obligations of the Commonwealth; or~~

~~(ii) current revenues.~~

~~(2) Paragraph (1) does not apply if the itemization is:~~

~~(i) contained in or approved by prior legislation referred to in the capital budget bill; or~~

~~(ii) included in one or more supplemental capital budget bills.~~

~~(3) Projects must be listed in separate categories as well as according to the fund to be charged with the~~

~~repayment of the obligations to be incurred.~~

~~(4) The capital budget bill must state the maximum amount of such obligations which may be incurred in the ensuing fiscal year to provide funds for and towards the financial costs of each category of capital projects, which shall be by the issue of general obligations of the Commonwealth.~~

~~(c) Timing.--Each year the Governor shall submit a capital budget bill for the ensuing fiscal year.~~

~~(d) Debt-authorizing legislation.--At the time the Governor submits the capital budget or a supplement, the Governor shall, to the extent the debt to be incurred is not within the limits of legislation then in force authorizing the incurring of debt, submit additional bills for each category of capital projects, authorizing the incurring of debt to provide funds for and towards the payment of the financial costs of capital projects in such category which have been specifically itemized in a capital budget for the same or any prior year.~~

~~(e) Categories.--Each debt-authorizing bill must do all of the following:~~

~~(1) State the category of capital projects to be financed by the debt so authorized but need not enumerate the capital projects to be financed.~~

~~(2) Authorize the incurring of debt in not less than the amount of the incurred or expected to be incurred financial cost of all capital projects in such category not covered by a previous debt authorization, including any overall allowance for contingencies.~~

~~(3) State the estimated useful lives of the capital projects to be financed in such detail as may be requisite if~~

~~capital projects of varying useful lives are to be combined for financing purposes.~~

~~(4) State the maximum term of the debt to be incurred.~~

~~§ 9104. Certificates of the Auditor General.~~

~~(a) Requirement.--By March 1 and September 1, the Auditor General shall certify to the Governor and the General Assembly the average annual tax revenues deposited in all funds in the five fiscal years ended next preceding the date of the certificate, determined by adding the total of such revenues so deposited and dividing the sum by five. At the time of each certification, the Auditor General shall also certify as separate items:~~

~~(1) the amount of outstanding net debt as of the end of the preceding fiscal year;~~

~~(2) the amount of outstanding net debt as of the date of the certificate;~~

~~(3) the difference between the limitation upon all outstanding net debt as provided in section 7(a)(4) of Article VIII of the Constitution of Pennsylvania and paragraph (2);~~

~~(4) the amount of outstanding net debt scheduled to be repaid during the remainder of the fiscal year in which the certificate is issued;~~

~~(5) the amount of debt authorized by law to be issued but not yet incurred; and~~

~~(6) the amount of outstanding obligations excluded from outstanding debt as self-sustaining pursuant to section 7(c)(1), (2) and (3) of Article VIII of the Constitution of Pennsylvania.~~

~~(b) Additional certificates.--As required in connection with~~

~~the sale of or settlement for obligations of the Commonwealth, the Auditor General shall issue certificates containing items listed in subsection (a)(2) and (3) as of the dates determined by the Governor to be relevant to such sales or settlements.~~

~~(c) Reliance on certifications.--In making certificates, the Auditor General shall be entitled to rely, as to any of items listed in subsection (a)(1) through (5), upon:~~

~~(1) any certificate furnished by the State Treasurer with respect to outstanding Commonwealth general obligation bonds;~~

~~(2) any certificate furnished by the Department of Revenue; and~~

~~(3) any certificate furnished by the appropriate bank or trust company operating as fiscal agent or trustee with respect to the outstanding obligations of any authority.~~

~~§ 9105. Constitutional limitations, authorizations, issuing officials.~~

~~Within the limitation set forth in section 7(a)(4) of Article VIII of the Constitution of Pennsylvania, the issuing officials are authorized and directed to borrow, on the credit of the Commonwealth and subject to the conditions and limitations of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, money necessary to carry out the purposes of debt-authorizing acts passed in accordance with the provisions of this chapter.~~

~~§ 9106. Temporary borrowing.~~

~~(a) Authorization.--Pending the issuance of bonds of the Commonwealth as authorized in section 9107 (relating to bonds, issue of bonds and notes, maturity, interest), the issuing officials are authorized, in accordance with the provisions of~~

~~this chapter and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation of the issue of bonds in order to provide funds in such amounts as deemed advisable to carry out the purposes of any debt-authorizing acts prior to the issue of bonds. In order to provide for and in connection with the temporary borrowings, the issuing officials are authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement or other agreement with banks, trust companies, lending institutions, investment banking firms or persons in the United States having the appropriate power. Agreements may contain provisions not inconsistent with the provisions of this chapter, as authorized by the issuing officials.~~

~~(b) Evidence.--All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in form and denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate of interest and time of payment of interests, as the issuing officials authorize and direct and in accordance with the applicable debt-authorizing act. Authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes. Replacement notes shall, upon issuance, evidence the borrowing and may specify other terms and conditions with respect to the notes and replacement notes authorized for issuance as the issuing officials may determine and direct.~~

~~(c) Replacement notes.--~~

~~(1) If the authorization and direction of the Governor, the Auditor General and the State Treasurer provide for the issuance of replacement notes, the Governor, the Auditor General and the State Treasurer are authorized, in the name and on behalf of the Commonwealth, to issue, enter into or authorize and direct the State Treasurer to do the following:~~

~~(i) Enter into agreements with banks, trust companies, investment banking firms or other institutions or persons in the United States having appropriate power to purchase or underwrite an issue or series of issues of notes.~~

~~(ii) Enter into a purchase, loan or credit agreement.~~

~~(iii) Draw money pursuant to a purchase, loan or credit agreement on the terms and conditions set forth in the agreement.~~

~~(iv) Issue notes as evidence of borrowings made under a purchase, loan or credit agreement.~~

~~(v) Appoint an issuing and paying agent or agents with respect to notes.~~

~~(vi) Perform acts necessary or appropriate to provide for the payment, when due, of the interest on and principal of notes.~~

~~(2) Agreements under paragraph (1) may provide that the compensation of purchasers or underwriters of notes or replacement notes, by discount in the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance of the notes, and that all other costs and expenses, including fees for agreements related to the notes, issuing and payment agent costs and costs and expenses of~~

~~issuance, may be paid from the proceeds of the notes.~~

~~(d) Issuance of replacement notes.--If the authorization and direction of the Governor, the Auditor General and the State Treasurer provide for the issuance of replacement notes, the State Treasurer shall, by the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issuance, interest rates or procedures for establishing interest rates, rates of discount, denominations and all other terms and conditions relating to the issuance and shall perform all acts necessary to pay or cause to be paid when due all principal of and interest on the notes being refunded by replacement notes and to assure that payment may draw upon any money available for that purpose pursuant to any purchase, loan or credit agreements established with respect to the notes, subject to the authorization and direction of the Governor, the Auditor General and the State Treasurer.~~

~~(e) Funding and retirement.--Outstanding notes evidencing borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth under section 9112 (relating to funding bonds). Funding bonds must be issued and sold not later than a date three years after the date of issuance of the first notes evidencing the borrowings, to the extent that payment of the notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.~~

~~(f) Proceeds.--The proceeds of temporary borrowings except those evidenced by replacement notes shall be paid to the State Treasurer to be held and disposed of under section 9110 (relating to disposition and use of proceeds). The proceeds of temporary borrowings evidenced by replacement notes shall be paid to the State Treasurer to be held and disposed of under~~

~~subsection (d).~~

~~§ 9107. Bonds, issue of bonds and notes, maturity, interest.~~

~~(a) Issue.--As evidence of indebtedness as authorized, bonds, which may be for one or more purposes, shall be issued under this chapter for all of the following purposes:~~

~~(1) To fund or retire notes issued under section 9106 (relating to temporary borrowing) and bonds issued under paragraph (2).~~

~~(2) To provide money necessary to carry out the purposes of a debt-authorizing statute.~~

~~(b) Series.--The bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth. Each series of bonds shall bear such rate of interest as determined by the issuing officials. Bonds shall be issued in denominations and in form, whether coupon or registered as to both principal and interest, and with or without such provisions of interchangeability, as the issuing officials determine. If interest coupons are attached, they shall, unless the debt-authorizing act provides otherwise, contain the facsimile signature of the State Treasurer.~~

~~(c) Terms and conditions.--~~

~~(1) Except as set forth in subsection (a) or (b), the terms and conditions of issue, redemption and maturity and time of payment of interest shall be as the issuing officials shall specify. Bonds of any series shall mature within a period not to exceed the estimated useful lives of the capital projects as stated in the debt-authorizing act but not later than 30 years from the date of issuance.~~

~~(2) The issuing officials shall provide for the~~

~~amortization of the bonds in substantial and regular amounts over the term of the debt, but the first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt.~~

~~(3) Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements computed in accordance with either a level annual debt service plan as nearly as may be or upon the equal annual maturities plan.~~

~~(4) If debt is incurred in one issue of bonds to provide funds for and towards the financial cost of capital projects having estimated useful lives of varying length, the following shall apply:~~

~~(i) The aggregate of the financial costs shall be considered as the debt to be incurred for the purpose of fixing the regular and substantial amounts of principal to be retired.~~

~~(ii) The term of the debt shall be to the end of the longest estimated useful life for the purpose of determining the first date for the retirement of principal. At the end of the estimated useful life of each project, the aggregate principal retirements required to be made at or before that date shall exceed:~~

~~(A) the aggregate financial cost of all capital projects having the same or shorter estimated useful lives; or~~

~~(B) if bonds are issued for less than the full~~

financial cost of all projects being financed in the same category, a proportionate amount in each case.

(5) The issuing officials may enter into the following agreements and contracts, which in the judgment of the issuing officials will assist in managing the interest costs of the debt of the Commonwealth:

(i) Interest rate exchange agreements, interest rate cap and floor agreements and other similar agreements.

(ii) Contracts to insure or secure payment of principal, interest or the purchase price of bonds.

(6) The issuing officials are authorized to carry out the provisions of this chapter relating to the issuance of bonds and shall determine all matters in connection with the issuance of bonds subject to the provisions hereof.

(d) Verification.--

(1) Bonds issued under the authority of this chapter, unless the debt-authorizing acts provide another method of signature, shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth of Pennsylvania and shall be countersigned by an officer of an authorized loan and transfer agent of the Commonwealth.

(2) The action taken by the issuing officials authorizing the issuance of bonds or notes shall set forth the title and citation of the debt-authorizing acts.

(3) Notes and bonds issued under the authority of this chapter shall:

(i) either contain a similar recital or refer to the recital of titles and citations set forth in the action authorizing issuance; and

~~(ii) state that the bonds or notes are issued in accordance with the provisions of this chapter. In any action or proceeding involving the validity or enforceability of bonds or notes under this chapter, a recital under paragraph (3) shall be conclusive as to their authorization.~~

~~§ 9108. Direct obligations, exemption from taxation, means of payment.~~

~~(a) Direct obligation.--Notes and bonds issued under this chapter shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth are pledged for the payment of the interest as it becomes due and the payment of the principal at maturity.~~

~~(b) Exemptions.--Notes and bonds issued under this chapter shall be exempt from taxation for State and local purposes except as provided under the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~(c) Payment.--The principal of and interest on notes and bonds issued under this chapter shall be payable in lawful money of the United States of America.~~

~~§ 9109. Sale of bonds.~~

~~(a) Public sale.--When bonds are issued under this chapter, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after public advertisement on terms and conditions and upon open competitive bidding as the issuing officials direct. The manner and times of advertising shall be prescribed by the issuing officials.~~

~~(b) Private sale.--Any portion of a bond issue offered under~~

~~subsection (a) and not sold or subscribed to may be disposed of by private sale by the issuing officials in a manner and at prices, not less than 98% of the principal amount and accrued interest, as the Governor directs. No commission shall be allowed or paid for the sale of bonds issued under this chapter.~~

~~(c) Temporary bonds.--Until permanent bonds can be prepared, the issuing officials may issue, in lieu of permanent bonds, temporary bonds in form and with privileges as to the registration and exchange for permanent bonds as may be determined by the issuing officials.~~

~~§ 9110. Disposition and use of proceeds.~~

~~(a) General rule.--The proceeds of temporary borrowings made under section 9106 (relating to temporary borrowing), other than the proceeds of replacement notes, and the proceeds from the sale of bonds, other than funding bonds, shall be paid to the State Treasurer and be held by the State Treasurer in a separate fund and shall be deposited in depositories as selected by the State Treasurer to the credit of the Capital Facilities Fund, which shall have such separate accounts as may be deemed desirable by the issuing officials, but not less than one separate account for each category of capital projects. The proceeds of replacement notes shall be deposited and applied as provided in section 9106(d). The proceeds of funding bonds shall be deposited and applied as provided in section 9112 (relating to funding bonds).~~

~~(b) Dedication.--The money in the Capital Facilities Fund is specifically dedicated to meeting the financial costs of capital projects. The money shall be paid by the State Treasurer to those departments, agencies or authorities authorized to expend it as required by them to pay financial costs at the time the~~

~~department, agency or authority certifies the payment to be due and payable.~~

~~(c) Investment.--Pending their application to the purposes authorized, money held or deposited by the State Treasurer may be invested and reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. Earnings received from the investment or deposit of the funds shall be paid into the State Treasury to the credit of the account in the Capital Facilities Fund to which the funds were originally deposited.~~

~~§ 9111. Capital Debt Fund; investments; redemption of bonds.~~

~~(a) Capital Debt Fund.--Bonds issued under this chapter shall be paid at maturity. Interest due after July 1, 1968, on bonds and on notes issued under this chapter shall be paid by the Board of Finance and Revenue from the Capital Debt Fund. The General Assembly shall appropriate annually the money necessary to pay the interest on the bonds and notes and the principal of the bonds and notes at maturity if no other provision is made. Money appropriated shall be paid into the Capital Debt Fund by the State Treasurer.~~

~~(b) Investment.--Money received under subsection (a) prior to the date for disbursement shall be invested by the board pending disbursement in securities as are provided by law for the investment of surplus money of the Commonwealth. The investment and the accumulations in the Capital Debt Fund shall be devoted to and be used exclusively for the payment of the interest accruing on the bonds and notes and for the redemption of the bonds and notes at maturity or upon the redemption date if called for prior redemption. The board is authorized to use such funds for the purchase and retirement of all or any part of~~

~~the bonds issued under this chapter; but no purchase may be made which will reduce the money in the Capital Debt Fund below the amount necessary to pay all principal and interest still to become due in the fiscal year of the purchase. If all or any part of any bonds issued under this chapter are purchased by the Commonwealth, they shall be canceled and returned to the State Treasurer as canceled and paid bonds. Thereafter, all payment of interest on the bonds shall cease; and the canceled bonds and coupons shall be destroyed in accordance with the act of April 27, 1925 (P.L.319, No.180), entitled, "An act relating to the destruction of canceled or unused bonds or other evidences of indebtedness of this Commonwealth."~~

~~§ 9112. Funding bonds.~~

~~The issuing officials, subject to the provisions of a bond resolution or trust indenture, are authorized to issue funding bonds for the purpose of refunding obligations then outstanding to provide funds to redeem and retire such outstanding obligations with accrued interest and any premium payable thereon at maturity or any call date. The issuance of funding bonds, the maturities and other details, the rights of the holders and the duties of the issuing officials shall be governed by the applicable provisions of sections 9103 (relating to procedures for capital budget bill and debt-authorizing legislation) through 9111 (relating to Capital Debt Fund; investments; redemption of bonds). Funding bonds may be issued to refund bonds previously issued for refunding purposes. The proceeds of the sale of funding bonds shall be paid to the State Treasurer and applied to the payment of the principal of, and any accrued interest and premium on, the bonds or notes for the refunding of which funding bonds have been issued. No funding~~

~~bonds shall be issued having a stated maturity date later than the expiration of the useful life of the capital projects constructed or acquired from the proceeds of the debt originally incurred in respect of the bonds or notes being refunded, nor shall funding bonds be issued to refund beyond the same fiscal year any portion of debt required by this chapter and the Constitution of Pennsylvania to be retired in the year of issue of the funding bonds in order to comply with the retirement in substantial and regular amounts as provided in section 9107(d) (relating to bonds, issue of bonds and notes, maturity, interest).~~

~~§ 9113. Reporting requirements.~~

~~The State Treasurer shall determine and report to the Secretary of the Budget and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives by January 1 of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations for the following fiscal year and the time and amounts of payments.~~

~~§ 9114. Registration of bonds.~~

~~The Auditor General shall prepare the necessary registry books to be kept in the office of the authorized loan and transfer agent of the Commonwealth for the registration of any bonds of the Commonwealth according to the terms and conditions of issue specified by the issuing officials under section 9107(d) (relating to bonds, issue of bonds and notes, maturity, interest). Bonds issued without interest coupons attached shall be registered in the registry books kept by the authorized loan and transfer agent of the Commonwealth.~~

~~§ 9115. Voting requirements.~~

~~If this chapter requires an action to be taken or a decision to be made by the issuing officials and the three officers shall not be able to agree unanimously, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.~~

~~§ 9116. Appropriation.~~

~~The money received by the Commonwealth from the issuance and sale of bonds and notes pursuant to this chapter and any debt-authorizing act adopted after July 23, 1984, shall be appropriated by the General Assembly from the Capital Facilities Fund in the debt-authorizing acts for the purposes set forth in those acts.~~

~~§ 9117. Appropriation for and limitation on redevelopment assistance and site development capital projects.~~

~~(a) Appropriation.--The amount necessary to pay principal of and interest on all obligations issued to provide funds for redevelopment assistance capital projects and site development capital projects is hereby appropriated from the General Fund and shall be transferred to the Capital Debt Fund upon authorization by the Governor.~~

~~(b) Limitation.--~~

~~(1) The maximum amount of redevelopment assistance capital projects undertaken by the Commonwealth for which obligations are outstanding shall not exceed, in the aggregate, $1,550,000,000. On or after the effective date of this section, at least $100,000,000 shall be specifically set aside for projects for the construction of or improvements to hospital facilities.~~

~~(2) The maximum amount of site development capital~~

~~projects for which obligations are outstanding shall not exceed, in the aggregate, $100,000,000.~~

~~§ 9118. Funding and administration of redevelopment assistance capital projects.~~

~~(a) Applications.--Persons seeking funding for redevelopment assistance capital projects itemized in accordance with section 9103(b) (relating to procedures for capital budget bill and debt-authorizing legislation) may request an application from the Office of the Budget. Completed applications shall be submitted to the Office of the Budget which shall review them to determine if the proposed project meets the definition of redevelopment assistance capital project and for compliance with application requirements, including the submission of all project descriptions, schedules, budgets and other materials as may be required. Deficient applications shall be returned to the applicant for revision. Applications found to be complete by the Office of the Budget shall be forwarded to the Secretary of the Budget for review.~~

~~(b) Review and approval.--The Secretary of the Budget, in consultation with the Secretary of Community and Economic Development, shall review completed applications and shall approve or disapprove applications for redevelopment assistance capital projects. If an application is approved, the Secretary of the Budget shall execute a grant agreement or contract with the applicant. State funding for approved redevelopment assistance projects shall be paid in accordance with subsection (c).~~

~~(c) Time period.--State funding for approved redevelopment assistance capital projects shall be paid over not less than a 36-month period unless the Secretary of the Budget authorizes a~~

~~shorter period.~~

~~(d) Costs.--Fees for professional services incurred for the design and construction of redevelopment assistance capital projects shall be paid from non-State funds. Land acquisition is a permissible State-funded expenditure if the acquisition cost is supported by an appraisal done by a certified appraiser.~~

~~(e) Proportion.--Expenditure of State and non-State funds shall be made on a proportional basis for direct land and building acquisition costs and construction expenses.~~

~~(f) Verification.--Redevelopment assistance capital project cost estimates must be verified by the Office of the Budget or its designated agent before final approval is given to a project application. Cost estimates include total project cost, projected use for State and non-State funds and a year-by-year schedule of costs for the entire project construction phase.~~

~~(g) Bids.--~~

~~(1) Notwithstanding any other provisions of law and subject to paragraph (2), the solicitation of a minimum of three written bids for all contracted construction work on redevelopment assistance capital projects shall be the sole requirement for the composition, solicitation, opening and award of bids on such projects.~~

~~(2) The construction work shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.~~

~~(h) Review and audit.--Redevelopment assistance capital projects shall be reviewed at regular intervals by the Office of the Budget or its designated agent during the funding phase to ensure financial and program compliance. A final closeout audit shall be performed by the Office of the Budget or its designated~~

~~agent for all projects. Copies of closeout audits shall be provided to the committee by the Office of the Budget upon completion.~~

~~(i) Grant administration.--In the event an applicant does not administer the grant, the applicant shall enter into a cooperation agreement with the entity administering the grant which agreement shall be subject to the approval of the Office of the Budget.~~

~~§ 9119. Funding and administration of site development capital projects.~~

~~(a) Applications.--Persons seeking funding for site development capital projects itemized in a capital budget itemization act may request an application from the Office of the Budget. Completed applications shall be submitted to the Office of the Budget which shall review them to determine if the proposed project meets the definition of site development capital project and for compliance with application requirements, including the submission of all project descriptions, schedules, budgets and other materials as may be required. Deficient applications shall be returned to the applicant for revision. Applications found to be complete by the Office of the Budget shall be forwarded to the committee for review. The Secretary of the Budget may recommend projects to the committee for approval. The committee shall not be bound by a recommendation by the Secretary of the Budget.~~

~~(b) Review.--The following shall apply:~~

~~(1) The committee shall review an application for a site development capital project to determine all of the following:~~

~~(i) If the project locations are suitable for the~~

~~siting of business, industrial or research facilities.~~

~~(ii) If the project creates opportunities to develop new facilities or to expand existing facilities for business, service industries, manufacturing, research and development or other business or industrial operations that produce goods or services.~~

~~(iii) If the project will result in the creation of new jobs or the preservation of existing jobs.~~

~~(iv) If the project has 50% non-State participation documented at the time of application.~~

~~(v) If the project has a total project cost of at least $1,000,000.~~

~~(vi) If it is likely that the project will be occupied by a business or industrial tenant within five years of completion or any other reasonable period of time as may be designated by the Secretary of Community and Economic Development.~~

~~(2) The committee may consider the following when reviewing site development capital projects:~~

~~(i) The geographic distribution of site development capital projects throughout this Commonwealth.~~

~~(ii) The ratio of State share to non-State share of the total project cost.~~

~~(c) Approval.--The following shall apply:~~

~~(1) The committee may approve a site development capital project for which an application has been submitted if it determines that the proposed project meets the requirements of the definitions of site development capital project contained in section 9102 (relating to definitions) and will result in a significant positive impact as evidenced by the~~

review criteria contained in subsection (b).

(2) Upon the approval of an application by the committee, the Secretary of the Budget shall execute a grant agreement or contract with the applicant. State funding for approved site development capital projects shall be paid in accordance with subsection (d).

(3) The Commonwealth shall not contract with or enter into a grant agreement with an applicant for a site development capital project itemized in a capital budget itemization act for the purpose of providing funding unless the project has been approved by at least four members of the committee.

(d) Time period.--State funding for approved site development capital projects shall be paid over not less than a 36-month period unless the Secretary of the Budget or the committee authorizes a shorter period.

(e) Costs.--Fees for professional services incurred for the design and construction of site development capital projects shall be paid from non-State funds. Land acquisition shall be a permissible State-funded expenditure if the acquisition cost is supported by an appraisal done by a certified appraiser.

(f) Proportion.--Expenditure of State and non-State funds shall be made on a proportional basis for direct land acquisition costs and construction expenses.

(g) Verification.--Site development capital project cost estimates must be verified by the Office of the Budget or its designated agent before final approval is given to a project application by the committee. Cost estimates shall include total project cost, projected use for State and non-State funds and a year-by-year schedule of costs for the entire project

~~construction phase.~~

~~(h) Bids.--The following shall apply:~~

~~(1) Notwithstanding any other provisions of law and subject to paragraph (2), the solicitation of a minimum of three written bids for all contracted construction work on site development capital projects shall be the sole requirement for the composition, solicitation, opening and award of bids on such projects.~~

~~(2) The construction work shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.~~

~~(i) Review and audit.--Site development capital projects shall be reviewed at regular intervals by the Office of the Budget or its designated agent during the funding phase to ensure financial and program compliance. A final closeout audit shall be performed by the Office of the Budget or its designated agent for all projects. Copies of closeout audits shall be provided to the committee by the Office of the Budget upon completion.~~

~~(j) Grant administration.--In the event an applicant does not administer the grant, the applicant shall enter into a cooperation agreement with the entity administering the grant. The cooperation agreement shall be subject to the approval of the Office of the Budget.~~

~~§ 9120. Capital Project Oversight and Review Committee.~~

~~(a) Establishment.--There is established a Capital Project Oversight and Review Committee for the purpose of reviewing and approving site development capital projects.~~

~~(b) Composition.--The following shall apply:~~

~~(1) The Capital Project Oversight and Review Committee~~

~~shall consist of:~~

~~(i) the Governor or a designee;~~

~~(ii) the Majority Leader of the Senate or a designee;~~

~~(iii) the Minority Leader of the Senate or a designee;~~

~~(iv) the Majority Leader of the House of Representatives or a designee;~~

~~(v) the Minority Leader of the House of Representatives or a designee.~~

~~(2) The Governor or the Governor's designee shall act as chairman of the committee.~~

~~(3) The Secretary of the Budget shall act as the committee secretary and shall provide staff support as required by the committee. The Secretary of the Budget shall not be a voting member of the committee.~~

~~(c) Meetings.--~~

~~(1) The committee shall meet at the call of the chairman but at least once during each quarter of the fiscal year.~~

~~(2) Four members shall constitute a quorum.~~

~~(3) The consent of four members of the committee shall be required to approve an application for a site development capital project.~~

~~CHAPTER 92~~

~~SPORTS FACILITIES~~

~~Sec.~~

~~9201. Definitions.~~

~~9202. Commonwealth funds.~~

~~9203. Eligibility.~~

~~9204. Requirement.~~

~~9205. Other agreements.~~

~~9206. Report.~~

~~9207. Financial commitment.~~

~~9208. Enforcement and penalties.~~

~~9209. Expiration.~~

~~9210. Scope.~~

~~§ 9201. Definitions.~~

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

~~"Baseline tax amount." The average of taxes referred to in section 9204(7)(i) (relating to requirement) paid to the Commonwealth in 1996, 1997 and 1998.~~

~~"Contracting authority." An authority created pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal authorities), for the purpose of constructing or renovating a facility or other authority established under the laws of this Commonwealth which is eligible to apply for and receive redevelopment assistance capital grants under Chapter 91 (relating to capital facilities) under a contract with the office to receive Commonwealth grants under this chapter.~~

~~"Contracting municipality." A city, county, township, town or borough which contracts with the office to receive Commonwealth funds to construct or renovate a facility.~~

~~"Facility." A stadium, arena or other place owned or leased by a professional sports organization at which a professional athletic event is conducted in the presence of individuals who pay admission to view the event. The term includes a facility to be constructed as well as an existing facility.~~

~~"Office." The Office of the Budget.~~

"Professional sports organization." A sole proprietorship, corporation, limited liability company, partnership or association that:

(1) owns a professional major league baseball or national football franchise; and

(2) conducts professional athletic events of the franchise at a facility.

§ 9202. Commonwealth funds.

The receipt of grants of Commonwealth funds by a contracting municipality or contracting authority under Chapter 91 (relating to capital facilities) or this chapter to finance any cost related to the construction or renovation of a facility shall be subject to the requirements of this chapter.

§ 9203. Eligibility.

In order for a facility to qualify for grants of Commonwealth funds, the professional sports organization utilizing the facility must certify that:

(1) it maintains its headquarters, principal business offices, training facilities and camps, except baseball spring training, and related enterprises and activities, except minor league activities, in this Commonwealth;

(2) except for a sole proprietorship, it is incorporated, organized or otherwise created under the laws of this Commonwealth; and

(3) it will continue to comply with the certifications under paragraphs (1) and (2) for the duration of the lease under section 9204(1) (relating to requirement) or for the initial term of the debt, whichever is longer.

§ 9204. Requirement.

In order for grants of Commonwealth funds to be used to

~~construct or renovate a facility, the contracting municipality or contracting authority must contract with the professional sports organization to ensure compliance by the professional sports organization with the following terms and conditions:~~

~~(1) Agreement by the professional sports organization to remain and conduct professional sporting events in the facility for the duration of the lease or for the term of any debt of the Commonwealth, whichever is longer, but in no event longer than 29.5 years. The contract shall include agreement by the professional sports organization that if the agreement to remain and conduct professional sporting events is violated, the contracting municipality or contracting authority shall seek specific performance of the agreement to remain and conduct professional sporting events or receive a payment in the amount set forth in the agreement between the contracting municipality or contracting authority and the professional sports organization and the amount equal to the Commonwealth's principal contribution under Chapter 91 (relating to capital facilities) or this chapter to the construction or renovation of the facility.~~

~~(2) Establishment of a procedure to provide written notice by the professional sports organization to the contracting municipality or contracting authority and the Commonwealth of any sale, transfer or relocation of its sports franchise or team immediately upon entering into any commitment to sell, transfer or relocate the sports franchise or team.~~

~~(3) Agreement that if the professional sports organization sells or transfers its sports franchise or team, the purchaser or transferee shall be bound by and shall~~

~~contract to be subject to the same terms and conditions required by this chapter as a condition of the sale.~~

~~(4) Agreement that all costs of design and construction of a new or renovated facility which are due to delays or which exceed the projected costs set forth in the financial plan or contract with the office shall be the responsibility of the contracting municipality or contracting authority or the professional sports organization.~~

~~(5) Agreement that during the term of the lease for the facility, the professional sports organization or the contracting municipality or contracting authority shall be responsible for all capital improvements to the facility and for all operating expenses relating to the use of the facility, including security, cleaning, insurance, maintenance and utilities.~~

~~(6) Agreement to set aside a specified minimum number of days, at reasonable times throughout the year, to be available for the use of the facility by the contracting municipality or contracting authority or by the Commonwealth. Under this agreement, the Commonwealth shall receive the same number of days and be entitled to the same terms as the contracting municipality or contracting authority.~~

~~(7) Agreement to make an additional rental payment of $25,000,000 reduced by available credits under subparagraphs (i) through (iii) in the tax year immediately following the expiration of the first ten-year period of occupancy or lease of the facility and at the expiration of every ten-year period thereafter. The professional sports organization shall pay the additional rental payment to the contracting municipality or contracting authority, which shall remit the~~

~~additional rental payment to the Commonwealth. The additional rental payment made by the professional sports organization shall be reduced by the following credits:~~

~~(i) The credits available for the first ten-year period of occupancy or lease shall be amounts paid to the Commonwealth which exceed the product of the baseline tax amount multiplied by 7.5. The credits available for each subsequent ten-year period of occupancy shall be the amounts paid to the Commonwealth which exceed the product of the baseline tax amount multiplied by 10. Available credits include all of the following:~~

~~(A) An amount equal to all corporate net income tax, capital stock and franchise tax and personal income tax related to the ownership and operation of the professional sports organization.~~

~~(B) An amount equal to:~~

~~(I) all personal income tax withheld from its employees by the professional sports organization;~~

~~(II) all personal income tax withheld from the employees of any provider of events at or services to, or any operator of an enterprise in, a facility or facility complex; and~~

~~(III) all personal income tax to which the Commonwealth would be entitled from performers or other participants, including visiting teams, at an event or activity at the facility.~~

~~(C) An amount equal to all sales and use tax related to the operation of the professional sports organization and the facility and enterprises~~

~~developed as part of the facility complex. This clause includes sales and use tax paid by any provider of events or activities at or services to a facility, including sales and use tax paid by vendors and concessionaires and contractors at the facility.~~

~~(D) An amount equal to all tax paid, by the professional sports organization or by any provider of events or activities at or services to a facility, to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage in the facility or facility complex.~~

~~(E) The amount paid by the professional sports organization or by any provider of events or activities at or services to a facility or facility complex of any new tax enacted by the Commonwealth after February 9, 1999.~~

~~(ii) In addition to the credits available under subparagraph (i), the professional sports organization may credit an amount equal to one-third of the following, incurred prior to the occupancy or lease of the facility:~~

~~(A) all personal income tax withheld from personnel by the professional sports organization or by a contractor or other entity involved in the construction or renovation of the facility; and~~

~~(B) sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other entity, directly related to the construction or renovation of the facility.~~

~~(iii) To the extent the amount of the credits~~

~~available for a specific ten-year period under subparagraphs (i) and (ii) exceeds $25,000,000, the excess may be carried over and added to the amount of credits claimed under subparagraphs (i) and (ii) for the following ten-year period. Any excess credit still remaining shall be carried over to subsequent ten-year periods until it is exhausted or until the expiration of this chapter under section 9209 (relating to expiration), whichever is sooner.~~

~~(iv) Payments shall be made by the professional sports organization and remitted by the contracting municipality or contracting authority at a time and in a manner, including required documentation of all credits, as the office prescribes. This subparagraph includes annual reconciliation of all credits under subparagraphs (i) through (iii). All tax records and information shall be subject to all confidentiality protections provided by the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971; however, the Department of Revenue shall provide records and information to the office as necessary for the office to enforce this chapter.~~

~~(8) An agreement that, upon sale of the facility or the expiration or termination of the lease at the facility, the Commonwealth shall have an option to purchase for $1 a one-third interest in the facility.~~

~~§ 9205. Other agreements.~~

~~The contracting municipality or the contracting authority and the professional sports organization may enter into all other agreements necessary and appropriate for the construction, renovation and operation of the facility. The contracting~~

~~municipality or the contracting authority shall enter into all contracts with the office required to receive Commonwealth funds.~~

~~§ 9206. Report.~~

~~The office shall file a report every ten years to the General Assembly regarding the additional rental payments under this chapter.~~

~~§ 9207. Financial commitment.~~

~~The contracting municipality or contracting authority and the professional sports organization must provide to the office all of the following:~~

~~(1) A financial plan for all funding related to the construction or renovation of the facility, to include details regarding the financial commitment of the parties to the project.~~

~~(2) An economic development plan for the area surrounding the facility.~~

~~(3) A plan to provide affordable seating within a portion of the facility.~~

~~(4) A representation from the contracting municipality or contracting authority that tax revenues to the Commonwealth will be increased and a description of how the grant of Commonwealth funds will provide the increase.~~

~~§ 9208. Enforcement and penalties.~~

~~(a) Injunction.--The Commonwealth may enjoin a violation of section 9204 (relating to requirement).~~

~~(b) Withhold funding.--The Commonwealth has the right to withhold funding under this chapter and to exercise all rights and remedies at law or in equity for any of the following:~~

~~(1) Failure of a professional sports organization to~~

~~comply with the provisions of this chapter in a timely and appropriate manner.~~

~~(2) A violation of a covenant under any agreement with or for the benefit of the Commonwealth relating to the construction or renovation or use of the facility.~~

~~(3) Any other violation of law applicable to the construction or renovation or use of the facility.~~

~~(c) Civil penalty.--A person that intentionally, recklessly or negligently violates this chapter shall be subject to a civil penalty of up to $100,000 per violation.~~

~~(d) Criminal penalty.--A person that intentionally or knowingly provides false or fraudulent information or makes a material misrepresentation under this chapter commits a misdemeanor of the third degree.~~

~~§ 9209. Expiration.~~

~~This chapter shall cease to apply to each participating professional sports organization 30 years following the occupancy or lease of the facility.~~

~~§ 9210. Scope.~~

~~This issuance of grants under this chapter is subject to Chapter 91.~~

~~Section 2.1. The addition of 12 Pa.C.S. § 3503 is intended to be in pari materia with section 103 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.~~

~~Section 2.2. The Pennsylvania Economic Development Financing Authority is authorized to incur debt on behalf of the Commonwealth in an amount equal to the remaining debt authorized by section 16 of act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, for~~

~~loans under 12 Pa.C.S. § 4321.~~

~~Section 3. Repeals are as follows:~~

~~(1) Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8 of the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, are repealed.~~

~~(2) The following provisions of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, are repealed:~~

~~(i) Chapter 3.~~

~~(ii) Chapter 7.~~

~~(iii) Chapter 13.~~

~~(iv) Chapter 17.~~

~~(2.1) Chapter 3 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, is repealed.~~

~~(2.2) The following apply:~~

~~(i) Except as set forth in subparagraph (ii), the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, is repealed.~~

~~(ii) Section 301 of the Capital Facilities Debt Enabling Act is saved from repeal.~~

~~(3) Section 305(e) of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, is repealed.~~

~~(4) All acts and parts of acts are repealed insofar as they are inconsistent with this act.~~

~~Section 4. Chapters 3, 7, 13, and 17 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, are continued by this codification as follows:~~

~~(1) The addition of 12 Pa.C.S. Ch. 3 is a continuation of Chapter 3 of the Job Enhancement Act. The following apply:~~

~~(i) Except as otherwise provided in 12 Pa.C.S. Ch. 3, all activities initiated under Chapter 3 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 3. Orders, regulations, rules and decisions which were made under Chapter 3 of the Job Enhancement Act and which are in effect on the effective date of section 3(2)(i) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 3. Contracts, obligations and collective bargaining agreements entered into under Chapter 3 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 3 of the Job Enhancement Act.~~

~~(ii) Any difference in language between 12 Pa.C.S. Ch. 3 and Chapter 3 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 3 of the Job Enhancement Act.~~

~~(2) The addition of 12 Pa.C.S. Ch. 5 is a continuation of Chapter 17 of the Job Enhancement Act. The following apply:~~

~~(i) All activities initiated under the Chapter 17 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 5. Orders, regulations, rules and decisions which were made under Chapter 17 of the Job Enhancement Act and which are in effect on the effective date of section 3(2)(iv) of this act shall remain in full force and~~

~~effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 5. Contracts, obligations and collective bargaining agreements entered into under Chapter 17 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 17 of the Job Enhancement Act.~~

~~(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 5 and Chapter 17 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 17 of the Job Enhancement Act.~~

~~(iii) Subparagraph (ii) does not apply to the following:~~

~~(A) The addition of 12 Pa.C.S. § 502.~~

~~(B) The addition of 12 Pa.C.S. § 503.~~

~~(iv) The members of Small Business Council in office on the effective date of section 3(2)(iv) of this act shall continue in office under the addition of 12 Pa.C.S. Ch. 5.~~

~~(3) The addition of 12 Pa.C.S. Ch. 21 is a continuation of Chapter 7 of the Job Enhancement Act. The following apply:~~

~~(i) Except as otherwise provided in 12 Pa.C.S. Ch. 21, all activities initiated under the Chapter 7 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 21. Orders, regulations, rules and decisions which were made under Chapter 7 of the Job Enhancement Act and which are in effect on the effective date of section~~

~~3(2)(ii) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 21. Contracts, obligations and collective bargaining agreements entered into under Chapter 7 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 7 of the Job Enhancement Act.~~

~~(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 21 and Chapter 7 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 7 of the Job Enhancement Act.~~

~~(iii) Subparagraph (ii) does not apply to any of the following provisions:~~

~~(A) The addition of 12 Pa.C.S. § 2106(2).~~

~~(B) The addition of 12 Pa.C.S. § 2109(b).~~

~~(4) The addition of 12 Pa.C.S. Ch. 23 is a continuation of Chapter 13 of the Job Enhancement Act. The following apply:~~

~~(i) Except as otherwise provided in 12 Pa.C.S. Ch. 23, all activities initiated under the Chapter 13 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 23. Orders, regulations, rules and decisions which were made under Chapter 13 of the Job Enhancement Act and which are in effect on the effective date of section 3(2)(iii) of this act shall remain in full force and effect until revoked, vacated or modified under 12~~

~~Pa.C.S. Ch. 23. Contracts, obligations and collective bargaining agreements entered into under Chapter 13 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 13 of the Job Enhancement Act.~~

~~(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 23 and Chapter 13 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 13 of the Job Enhancement Act.~~

~~(iii) Subparagraph (ii) does not apply to any of the following provisions:~~

~~(A) The addition of 12 Pa.C.S. § 2305(a).~~

~~(B) The addition of 12 Pa.C.S. § 2306(a), (b) and (e).~~

~~(C) The addition of 12 Pa.C.S. § 2308(a) and (b).~~

~~(D) The addition of 12 Pa.C.S. § 2309(b).~~

~~(E) The addition of 12 Pa.C.S. § 2310(b).~~

~~(iv) In continuation of section 1302 of the Job Enhancement Act, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Air Quality Improvement Fund, the Storage Tank Loan Fund and the Recycling Incentive Development Account shall be transferred to the Pollution Prevention Assistance Account and shall be administered in accordance with 12 Pa.C.S. §§ 2304 and 2309. The Department of Community and Economic Development shall~~

~~report annually to the Department of Environmental Protection on the status of the Pollution Prevention Assistance Account and the loans made under 12 Pa.C.S. § 2309.~~

~~(v) In continuation of section 1309(a) of the Job Enhancement Act, as of July 1, 1997, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Capital Loan Fund shall be transferred to the Small Business First Fund and shall thereafter be administered in accordance with 12 Pa.C.S. Ch. 23.~~

~~(vi) In continuation of section 1309(b) of the Job Enhancement Act, annually on July 1, the State Treasurer may transfer, upon approval by the Governor, up to $2,000,000 from the Hazardous Sites Cleanup Fund into the Pollution Prevention Assistance Account. This transfer shall be in addition to other appropriations, Federal funding and private contributions received by the account.~~

~~Section 4.1. The addition of 12 Pa.C.S. Ch. 35 is a continuation of Chapter 3 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act. The following apply:~~

~~(1) Except as otherwise provided in 12 Pa.C.S. Ch. 35, all activities initiated under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 35. Orders, regulations, rules and decisions which were made under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act~~

~~and which are in effect on the effective date of section 3(2.1) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 35. Contracts, obligations and collective bargaining agreements entered into under Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act are not affected nor impaired by the repeal of Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.~~

~~(2) Except as set forth in paragraph (3), any difference in language between 12 Pa.C.S. Ch. 35 and Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 3 of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act.~~

~~(3) Paragraph (2) does not apply to the following:~~

~~(i) The addition of 12 Pa.C.S. § 3512(e).~~

~~(ii) The addition of 12 Pa.C.S. § 3513(c).~~

~~(iii) The addition of 12 Pa.C.S. § 3514(c).~~

~~(iv) The addition of 12 Pa.C.S. § 3515(a) and (c).~~

~~Section 5. Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8 of the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, are continued by the addition of 12 Pa.C.S. Ch. 43. The following apply:~~

~~(1) Except as otherwise provided in 12 Pa.C.S. Ch. 43, all activities initiated under sections 6.1 through 6.8 of the Economic Development Financing Law shall continue and remain in full force and effect and may be completed under 12~~

~~Pa.C.S. Ch. 43. Orders, regulations, rules and decisions which were made under sections 6.1 through 6.8 of the Economic Development Financing Law and which are in effect on the effective date of section 3(1) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 43. Contracts, obligations, collective bargaining agreements and outstanding bonds entered into under sections 6.1 through 6.8 of the Economic Development Financing Law are not affected nor impaired by the repeal of sections 6.1 through 6.8 of the Economic Development Financing Law. The provisions of 12 Pa.C.S. Ch. 43 shall not in any way impair or in any manner affect the rights and remedies of obligees of the Pennsylvania Economic Development Authority. Notwithstanding any other provision of 12 Pa.C.S. Ch. 43, all such rights and remedies shall be preserved by 12 Pa.C.S. Ch. 43 and shall be and shall remain valid, binding and enforceable in all respects. As used in this paragraph, "obligees of the Pennsylvania Economic Development Authority" shall mean the holders of any notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness, obligees of contracts or other obligations of the Pennsylvania Economic Development Authority established under the provisions of sections 6.1 through 6.8 of the Economic Development Finance Law.~~

~~(2) Except as set forth in paragraph (3), any difference in language between 12 Pa.C.S. Ch. 43 and sections 6.1 through 6.8 of the Economic Development Financing Law is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or~~

~~administration and implementation of sections 6.1 through 6.8 of the Economic Development Financing Law.~~

~~(3) Paragraph (2) does not apply to any of the following provisions:~~

~~(i) The addition of 12 Pa.C.S. § 4303(c).~~

~~(ii) The addition of 12 Pa.C.S. § 4305(b) and (c).~~

~~(iii) The addition of 12 Pa.C.S. § 4320.~~

~~(iv) The addition of 12 Pa.C.S. § 4321.~~

~~(v) The addition of 12 Pa.C.S. § 4322.~~

~~(vi) The addition of 12 Pa.C.S. § 4323.~~

~~(vii) The addition of 12 Pa.C.S. § 4324.~~

~~(viii) The addition of 12 Pa.C.S. § 4325.~~

~~(4) The members of board of the Pennsylvania Economic Development Financing Authority in office on the effective date of section 3(1) of this act shall continue in office under the addition of 12 Pa.C.S. Ch. 43.~~

~~Section 5.1. The addition of 72 Pa.C.S. Ch. 91 is a continuation of Chapter 3 of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act. The following apply:~~

~~(1) Except as otherwise provided in 72 Pa.C.S. Ch. 91, all activities initiated under Chapter 3 of the Capital Facilities Debt Enabling Act shall continue and remain in full force and effect and may be completed under 72 Pa.C.S. Ch. 91.~~

~~(2) Orders, regulations, rules and decisions which were made under Chapter 3 of the Capital Facilities Debt Enabling Act and which are in effect on the effective date of section 3(2.2) of this act shall remain in full force and effect until revoked, vacated or modified under 72 Pa.C.S. Ch. 91.~~

~~(3) Contracts, obligations and collective bargaining agreements entered into under Chapter 3 of the Capital Facilities Debt Enabling Act are not affected nor impaired by the repeal of the Capital Facilities Debt Enabling Act.~~

~~(4) Except as set forth in paragraph (5), any difference in language between 72 Pa.C.S. Ch. 91 and Chapter 3 of the Capital Facilities Debt Enabling Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 3 of the Capital Facilities Debt Enabling Act.~~

~~(5) Paragraph (4) does not apply to any of the following provisions:~~

~~(i) The addition of 72 Pa.C.S. § 9102.~~

~~(ii) The addition of 72 Pa.C.S. § 9103(b)(1)(ii).~~

~~(iii) The addition of 72 Pa.C.S. § 9107(c)(5).~~

~~(iv) The addition of 72 Pa.C.S. § 9113.~~

~~(v) The addition of 72 Pa.C.S. § 9117.~~

~~(vi) The addition of 72 Pa.C.S. § 9118(a), (g) and (i).~~

~~(vii) The addition of 72 Pa.C.S. § 9119.~~

~~(viii) The addition of 72 Pa.C.S. § 9120.~~

~~Section 5.2. The addition of 72 Pa.C.S. Ch. 92 is a continuation of Chapter 5 of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act. The following apply:~~

~~(1) Except as otherwise provided in 72 Pa.C.S. Ch. 92, all activities initiated under Chapter 5 of the Capital Facilities Debt Enabling Act shall continue and remain in~~

~~full force and effect and may be completed under 72 Pa.C.S. Ch. 92.~~

~~(2) Orders, regulations, rules and decisions which were made under Chapter 5 of the Capital Facilities Debt Enabling Act and which are in effect on the effective date of section 3(2.2) of this act shall remain in full force and effect until revoked, vacated or modified under 72 Pa.C.S. Ch. 92.~~

~~(3) Contracts, obligations and collective bargaining agreements entered into under Chapter 5 of the Capital Facilities Debt Enabling Act are not affected nor impaired by the repeal of Chapter 5 of the Capital Facilities Debt Enabling Act.~~

~~(4) Any difference in language between 72 Pa.C.S. Ch. 92 and Chapter 5 of the Capital Facilities Debt Enabling Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 5 of the Capital Facilities Debt Enabling Act.~~

~~Section 6. The following apply to the Tobacco Settlement Investment Board:~~

~~(1) The board is authorized to invest, in addition to any amount invested on the effective date of this section in venture capital, $30,000,000 in primary growth stage investments:~~

~~(i) in which at least 70% of the investments will be made in companies located primarily in this Commonwealth or in companies willing to relocate significant business operations to this Commonwealth; and~~

~~(ii) which are equitably distributed geographically~~

~~throughout this Commonwealth.~~

~~(2) Primary growth stage investments must comply with the requirements of section 305(a) and (g) of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.~~

~~Section 7. The following shall apply:~~

~~(1) Pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the question of incurring indebtedness of $250,000,000 for grants and loans for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion and improvement of water and wastewater infrastructure, including water supply and sewage treatment systems, subject to implementation through 12 Pa.C.S. § 4321, shall be submitted to the electors at the next primary election following the effective date of this section.~~

~~(2) The Secretary of the Commonwealth shall forthwith certify the question to the county boards of elections.~~

~~(3) The question shall be in substantially the following form:~~

~~Do you favor the incurring of indebtedness by the Commonwealth in the amount of $250,000,000 for use as grants and loans for construction, expansion and improvement of water and wastewater infrastructure, including water supply and sewage treatment systems?~~

~~Section 8. Appropriations are as follows:~~

~~(1) The sum of $10,000,000, or as much thereof as may be necessary, is hereby appropriated to the Economic Enhancement Fund for the fiscal year July 1, 2003, to June 30, 2004, to carry out the provisions of 12 Pa.C.S. § 4324.~~

~~(2) The sum of $2,000,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Community and Economic Development for the fiscal year July 1, 2003, to June 30, 2004, for the following:~~

~~(i) For the Base Retention and Conversion Pennsylvania Action Committee to develop a Statewide strategy.~~

~~(ii) For matching grants for economic impact studies, environmental impact studies, encroachment studies, community and regional interaction with military bases, infrastructure needs at military bases and job training needs at or near military bases. Grants under this subparagraph:~~

~~(A) shall be awarded by the Base Retention and Conversion Pennsylvania Action Committee;~~

~~(B) require a 25% local match; and~~

~~(C) are limited to less than $75,000 per military base.~~

~~Section 8.1. The addition of 12 Pa.C.S. § 3513(c) shall apply retroactively to May 31, 2003.~~

~~Section 9. This act shall take effect July 1, 2003, or immediately, whichever is later.~~

SECTION 1. TITLE 12 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ: <——

CHAPTER 33

INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM

SEC.

3301. SCOPE OF CHAPTER.

3302. DEFINITIONS.

3303. ESTABLISHMENT.

3304. APPLICATION.
3305. REVIEW.
3306. APPROVAL.
§ 3301. SCOPE OF CHAPTER.
THIS CHAPTER RELATES TO THE INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM.
§ 3302. DEFINITIONS.
THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANING GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:
"APPLICANT." AN ISSUING AUTHORITY WHICH APPLIES FOR FINANCIAL ASSISTANCE UNDER SECTION 3304 (RELATING TO APPLICATION).
"CONVENTION CENTER." INTERESTS IN LAND, IMPROVEMENT, STRUCTURE, BUILDINGS OR PART OF A BUILDING, WHETHER OWNED BY, LEASED BY OR TO OR OTHERWISE ACQUIRED BY AN AUTHORITY WHICH ARE APPROPRIATE FOR LARGE PUBLIC ASSEMBLIES, THE HOLDING OF CONVENTIONS, CONFERENCES, TRADE EXHIBITIONS AND OTHER BUSINESS, SOCIAL, CULTURAL, SCIENTIFIC AND PUBLIC INTEREST EVENTS.
"CONVENTION CENTER AUTHORITY." AN ENTITY CREATED UNDER ANY OF THE FOLLOWING:
(1) ARTICLE XXV-A OF THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY CODE.
(2) ARTICLE XXIII(N) AND (O) OF THE ACT OF AUGUST 9, 1955 (P.L.323, NO.130), KNOWN AS THE COUNTY CODE.
(3) 53 PA.C.S. CH. 56 (RELATING TO MUNICIPAL AUTHORITIES) OR THE FORMER ACT OF MAY 2, 1945 (P.L. 382, NO. 164), KNOWN AS THE MUNICIPALITY AUTHORITIES ACT OF 1945 FOR PURPOSES RELATED TO CONVENTION CENTERS.
(4) 64 PA.C.S. CH. 60 (RELATING TO PENNSYLVANIA

CONVENTION CENTER AUTHORITY).

"COST OF A PROJECT." ANY OF THE FOLLOWING EXPENSES INCURRED FOR A PROJECT:

(1) EXPENSES FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, EXPANSION, EXTENSION, DEMOLITION, IMPROVEMENT, REHABILITATION OR REMODELING OF INTERESTS IN LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS OR INFRASTRUCTURE, WHICH ARE PART OF THE PROJECT.

(2) EXPENSES FOR THE REMEDIATION OF EXISTING ENVIRONMENTAL HAZARDS ON LAND WHERE THE PROJECT IS OR WILL BE LOCATED.

(3) FINANCING CHARGES AND OTHER COSTS AND EXPENSES INCURRED IN FINANCING AND ISSUING BONDS FOR THE PROJECT.

(4) COSTS AND EXPENSES OF ADMINISTRATIVE EXPENSES AND PROFESSIONAL SERVICES, INCLUDING THE COSTS OF ENGINEERING, FINANCIAL SERVICES, ACCOUNTING AND LEGAL SERVICES, RENDERED IN COMPLETING THE PROJECT.

(5) COSTS AND EXPENSES ASSOCIATED WITH THE PREPARATION OF PLANS, SPECIFICATIONS, STUDIES, AND SURVEYS, NECESSARY OR INCIDENTAL TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF CONSTRUCTING THE PROJECT.

"DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT OF THE COMMONWEALTH.

"HOSPITAL." A FACILITY OPERATED BY AN ENTITY LICENSED AS A HOSPITAL UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE OR THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT, WHICH IS USED TO PROVIDE INPATIENT CARE AND SERVICES.

"HOTEL ESTABLISHMENT." A HOTEL WHICH IS ASSOCIATED WITH A CONVENTION CENTER.

"INDUSTRIAL ENTERPRISE." AN ENTERPRISE OTHER THAN A MERCANTILE, COMMERCIAL OR RETAIL ENTERPRISE, WHICH, BY VIRTUE OF ITS SIZE, REQUIRES SUBSTANTIAL CAPITAL AND WILL CREATE SIGNIFICANT EMPLOYMENT OPPORTUNITIES.

"INFRASTRUCTURE." ANY OF THE FOLLOWING:

(1) DRAINAGE AND STORM WATER SYSTEMS.

(2) ENERGY FACILITIES WHICH DISTRIBUTE ELECTRIC POWER.

(3) WASTEWATER SYSTEMS.

(4) TRANSPORTATION FACILITIES. THE TERM INCLUDES ROADS, PARKING FACILITIES, SIDEWALKS, BRIDGES, RAILS, PORTS, WATERWAYS AND AIRPORTS.

(5) PIPELINES FOR TRANSPORTING NATURAL GAS.

(6) FACILITIES FOR THE TRANSMISSION OF INFORMATION. THE TERM INCLUDES TELECOMMUNICATION AND CABLE.

(7) WATER SUPPLY FACILITIES.

(8) INTERESTS IN LAND TO CONSTRUCT A FACILITY, PIPELINE OR SYSTEM LISTED IN PARAGRAPHS (1) THROUGH (7).

(9) ENGINEERING, DESIGN AND INSPECTION COSTS ASSOCIATED WITH THE CONSTRUCTION OF A FACILITY, PIPELINE OR SYSTEM LISTED IN PARAGRAPHS (1) THROUGH (7).

"ISSUING AUTHORITY." ANY OF THE FOLLOWING:

(1) AN AUTHORITY CREATED UNDER THE ACT OF MAY 24, 1945 (P.L. 991, NO.385), KNOWN AS THE URBAN REDEVELOPMENT LAW.

(2) AN AUTHORITY CREATED UNDER ARTICLE XXV-A OF THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY CODE.

(3) ARTICLE XXIII(N) AND (O) OF THE ACT OF AUGUST 9, 1955 (P.L.323, NO.130), KNOWN AS THE COUNTY CODE.

(4) THE PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY OR AN AUTHORITY ESTABLISHED UNDER SECTION 4 OF THE

ACT OF AUGUST 23, 1967 (P.L.251, NO.102), KNOWN AS THE ECONOMIC DEVELOPMENT FINANCING LAW.

(5) AN ISSUING AUTHORITY AS DEFINED IN SECTION 3 OF THE ACT OF JULY 11, 1990 (P.L.465, NO.113), KNOWN AS THE TAX INCREMENT FINANCING ACT.

(6) AN AUTHORITY CREATED UNDER 53 PA.C.S. CH. 56 (RELATING TO MUNICIPAL AUTHORITIES) OR THE FORMER ACT OF MAY 2, 1945 (P.L. 382, NO. 164), KNOWN AS THE MUNICIPALITY AUTHORITIES ACT OF 1945 FOR PURPOSES RELATED TO CONVENTION CENTERS.

(7) AN AUTHORITY CREATED AND CONTINUED UNDER 64 PA.C.S. CH. 60 (RELATING TO PENNSYLVANIA CONVENTION CENTER AUTHORITY).

"MANUFACTURER." AN ENTITY WHICH IS ENGAGED IN THE GIVING OF NEW SHAPES, NEW QUALITIES OR NEW COMBINATIONS TO MATTER BY THE APPLICATION OF SKILL AND LABOR.

"PROJECT." AS FOLLOWS:

(1) IF THE PROJECT USER IS AN INDUSTRIAL ENTERPRISE OR RETAIL ENTERPRISE:

(I) INFRASTRUCTURE.

(II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE PROJECT USER.

(2) IF THE PROJECT USER IS A MANUFACTURER, HOSPITAL, CONVENTION CENTER OR HOTEL ESTABLISHMENT:

(I) INFRASTRUCTURE.

(II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE PROJECT USER.

(III) INTERESTS IN LAND, BUILDINGS, STRUCTURE OR

IMPROVEMENTS REQUIRED BY THE PROJECT USER.

"PROJECT USER." AN INDUSTRIAL ENTERPRISE, RETAIL ENTERPRISE, MANUFACTURER, HOSPITAL, CONVENTION CENTER OR HOTEL ESTABLISHMENT, WHICH OWNS, LEASES OR USES ALL OR ANY PART OF A PROJECT.

"RETAIL ENTERPRISE." AN ENTITY ENGAGED IN RETAIL SALES WHICH CREATED OR WILL CREATE AT LEAST 200 FULL-TIME JOBS AND OCCUPIES OR WILL OCCUPY AT LEAST A 200,000 SQUARE FOOT FACILITY.

"SECRETARY." THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT OF THE COMMONWEALTH.

"YEAR." THE FISCAL YEAR OF THE COMMONWEALTH.

§ 3303. ESTABLISHMENT.

THERE IS ESTABLISHED WITHIN THE DEPARTMENT A PROGRAM TO BE KNOWN AS THE INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM. THE PROGRAM SHALL ENHANCE THE ECONOMIC DEVELOPMENT OF THE COMMONWEALTH BY PROVIDING FINANCIAL ASSISTANCE IN THE FORM OF MULTIYEAR GRANTS TO ISSUING AUTHORITIES TOWARD PAYMENT OF DEBT SERVICE ON PROJECTS.

§ 3304. APPLICATION.

AN ISSUING AUTHORITY MAY SUBMIT AN APPLICATION TO THE DEPARTMENT REQUESTING FINANCIAL ASSISTANCE FOR A PROJECT. THE APPLICATION MUST BE ON A FORM REQUIRED BY THE DEPARTMENT AND MUST INCLUDE ALL OF THE FOLLOWING:

(1) THE NAME AND ADDRESS OF THE APPLICANT.

(2) THE NAME, ADDRESS AND STATE TAX IDENTIFICATION NUMBERS OF THE PROJECT USER.

(3) A DESCRIPTION OF THE PROJECT. THE DESCRIPTION SHALL INCLUDE ALL OF THE FOLLOWING:

(I) A DETAILED NARRATIVE DESCRIBING THE PROJECT AND THE PROJECT USER.

(II) A DETAILED STATEMENT OF THE COST OF THE PROJECT. THE STATEMENT MUST INCLUDE THE AMOUNT AND TYPE OF DEBT TO BE ISSUED BY THE APPLICANT FOR THE PROJECT, THE IDENTITY OF THE PARTY RESPONSIBLE FOR REPAYMENT OF THE DEBT AND THE COLLATERAL OR SECURITY TO BE PROVIDED.

(III) A STATEMENT OF THE NUMBER OF NET NEW FULL-TIME JOBS TO BE CREATED BY THE PROJECT AND THE NUMBER OF EXISTING FULL-TIME JOBS TO BE PRESERVED BY THE PROJECT.

(4) A STATEMENT OF THE AMOUNT OF GRANT FUNDS BEING REQUESTED PER YEAR.

(5) A STATEMENT OF THE NUMBER OF YEARS A GRANT IS BEING REQUESTED. IF THE APPLICANT IS REQUESTING A GRANT FOR A PROJECT OF A PROJECT USER THAT IS AN INDUSTRIAL ENTERPRISE, RETAIL ENTERPRISE OR A MANUFACTURER, THE REQUEST MAY NOT EXCEED TEN YEARS. IF THE APPLICANT IS REQUESTING A GRANT FOR A PROJECT OF A PROJECT USER THAT IS A HOSPITAL, CONVENTION CENTER OR HOTEL ESTABLISHMENT, THE REQUEST MAY NOT EXCEED 20 YEARS.

(6) FINANCIAL INFORMATION FROM THE PROJECT USER PREPARED OR REPORTED ON BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT PROJECTING FOR THE NEXT THREE YEARS ALL OF THE FOLLOWING:

(I) THE SALES OR EXPECTED SALES TAX COLLECTED OR TO BE COLLECTED BY THE PROJECT USER FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(II) THE EXPECTED HOTEL OCCUPANCY TAX TO BE COLLECTED BY THE PROJECT USER FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(III) THE EXPECTED NET INCREASE IN PERSONAL INCOME TAX WITHHELD BY THE PROJECT USER AS AN EMPLOYER PURSUANT TO ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),

KNOWN AS THE TAX REFORM CODE OF 1971, FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(7) EVIDENCE OF A FIRM COMMITMENT FROM THE PROJECT USER TO USE THE PROJECT UPON COMPLETION.

(8) IF THE PROJECT IS SOLELY FOR INFRASTRUCTURE, A STATEMENT THAT A PORTION OF THE PROJECT IS BEING FUNDED UNDER THE ACT OF JULY 11, 1990 (P.L. 465, NO. 113), KNOWN AS THE TAX INCREMENT FINANCING ACT.

(9) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

SECTION 3305. REVIEW.

(A) PROJECT REVIEW.--UPON RECEIVING A COMPLETED APPLICATION, THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE ALL OF THE FOLLOWING:

(1) THAT THE COST OF THE PROJECT IS REASONABLE.

(2) THE NUMBER OF NET NEW FULL-TIME JOBS CREATED OR TO BE CREATED BY THE PROJECT AND THE NUMBER OF EXISTING FULL-TIME JOBS TO BE PRESERVED BY THE PROJECT.

(3) THAT A FIRM COMMITMENT FROM THE PROJECT USER TO USE THE PROJECT UPON COMPLETION EXISTS.

(4) THAT THE FINANCING FOR THE PROJECT IDENTIFIES A PARTY OTHER THAN THE COMMONWEALTH THAT WILL BE RESPONSIBLE FOR REPAYMENT OF THE DEBT.

(5) THAT THE APPLICANT SUBMITTED SATISFACTORY FINANCIAL INFORMATION FROM THE PROJECT USER PREPARED OR REPORTED ON BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(6) THAT THE FINANCING FOR THE PROJECT DOES NOT PLEDGE THE FULL FAITH AND CREDIT OF THE COMMONWEALTH.

(7) IF THE PROJECT IS SOLELY FOR INFRASTRUCTURE, THAT A PORTION OF THE PROJECT IS BEING FUNDED UNDER THE TAX INCREMENT FINANCING ACT.

(8) IF THE PROJECT WAS COMPLETED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THAT THE PROJECT USER IS A RETAIL ENTERPRISE.

(9) THAT THE APPLICANT AND THE PROJECT USER COMPLIED WITH ALL OTHER CRITERIA ESTABLISHED BY THE DEPARTMENT.

(B) FINANCIAL REVIEW.--

(1) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE DEPARTMENT SHALL FORWARD THE APPLICATION TO THE OFFICE OF THE BUDGET AND THE DEPARTMENT OF REVENUE. THE OFFICE, IN CONJUNCTION WITH THE DEPARTMENT OF REVENUE, SHALL REVIEW THE APPLICATION. NOTWITHSTANDING THE PROVISIONS OF SECTION 353(F) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, THE DEPARTMENT OF REVENUE MAY SUPPLY THE DEPARTMENT AND THE OFFICE WITH INFORMATION CONCERNING TAXES OWED OR PAID BY A PROJECT USER OR FOR WHICH A PROJECT USER MAY OTHERWISE BE LIABLE OR WITH ANY OTHER ASPECT OF AN APPLICANT'S TAX LIABILITY. THE OFFICE, IN CONJUNCTION WITH THE DEPARTMENT OF REVENUE, SHALL EVALUATE ALL OF THE FOLLOWING:

(I) THE SALES TAX COLLECTED OR EXPECTED TO BE COLLECTED BY THE PROJECT USER PURSUANT TO ARTICLE II OF THE TAX REFORM CODE OF 1971 FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(II) THE HOTEL OCCUPANCY TAX TO BE COLLECTED BY THE PROJECT USER PURSUANT TO ARTICLE II OF THE TAX REFORM CODE OF 1971 FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(III) THE EXPECTED NET INCREASE IN PERSONAL INCOME TAX WITHHELD BY THE PROJECT USER AS AN EMPLOYER PURSUANT TO ARTICLE III OF THE TAX REFORM CODE OF 1971 FROM ACTIVITIES AS A RESULT OF THE PROJECT.

(2) THE OFFICE OF THE BUDGET MAY ACCEPT, REJECT OR ADJUST THE ESTIMATE OF THE AMOUNT OF TAX REMITTED OR TO BE REMITTED TO THE COMMONWEALTH BY THE PROJECT USER FROM ACTIVITIES RESULTING FROM THE PROJECT.

§ 3306. APPROVAL.

(A) FINANCIAL APPROVAL.--UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE SECRETARY OF THE BUDGET SHALL ESTABLISH A MAXIMUM ANNUAL AMOUNT FOR THE GRANT AND SHALL NOTIFY THE DEPARTMENT AND THE DEPARTMENT OF REVENUE. THE ANNUAL AMOUNT ESTABLISHED SHALL BE BASED UPON THE REVIEW MADE IN SECTION 3305(B) (RELATING TO REVIEW) AND THE ANNUAL DEBT SERVICE OF THE PROJECT.

(B) GRANT APPROVAL.--UPON RECEIPT OF THE NOTIFICATION REQUIRED IN SUBSECTION (A), THE DEPARTMENT MAY APPROVE THE APPLICATION AND AWARD THE APPLICANT A GRANT IN AN ANNUAL AMOUNT NOT TO EXCEED THE AMOUNT ESTABLISHED BY THE SECRETARY OF THE BUDGET. PRIOR TO PROVIDING GRANT FUNDS TO THE APPLICANT, THE DEPARTMENT SHALL ENTER INTO A CONTRACT WITH THE APPLICANT AND THE PROJECT USER. THE CONTRACT SHALL INCLUDE PROVISIONS WHICH DO ALL OF THE FOLLOWING:

(1) SPECIFY THE AMOUNT OF THE GRANT PER YEAR FOR THE FIRST THREE YEARS.

(2) SPECIFY THE TOTAL NUMBER OF YEARS THAT GRANT FUNDS MAY BE PROVIDED TO THE APPLICANT. IF THE APPLICANT IS AN INDUSTRIAL ENTERPRISE, RETAIL ENTERPRISE OR A MANUFACTURER, THE NUMBER OF YEARS MAY NOT EXCEED TEN YEARS. IF THE APPLICANT IS A HOSPITAL, CONVENTION CENTER OR HOTEL ESTABLISHMENT, THE NUMBER OF YEARS MAY NOT EXCEED 20 YEARS.

(3) IF THE GRANT WILL BE AWARDED FOR MORE THAN THREE YEARS, ESTABLISH THE PROCEDURE FOR THE AWARD OF A GRANT AFTER

YEAR THREE. TO PROVIDE A GRANT BEYOND THE INITIAL THREE-YEAR PERIOD, THE APPLICANT SHALL BE REQUIRED TO DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT, THE SECRETARY OF THE BUDGET AND THE DEPARTMENT OF REVENUE ALL OF THE FOLLOWING:

(I) THAT THE TAX REVENUES SPECIFIED IN SECTION 3305 DURING THE FIRST OR SECOND YEAR GENERATED AN AMOUNT EQUAL TO OR EXCEEDING THE AMOUNT OF THE GRANT AWARDED FOR THAT YEAR.

(II) THAT THE TAX REVENUES SPECIFIED IN SECTION 3305(A) DURING THE THIRD YEAR ARE ANTICIPATED TO BE EQUAL TO OR EXCEED THE AMOUNT OF THE GRANT TO BE AWARDED DURING THE THIRD YEAR.

(III) THAT THE TAX REVENUES SPECIFIED IN SECTION 3305(A) DURING THE SUCCEEDING TWO-YEAR PERIOD ARE ANTICIPATED TO BE EQUAL TO OR EXCEED THE AMOUNT OF THE GRANT TO BE AWARDED DURING THAT SAME PERIOD. GRANTS MUST BE VERIFIED PRIOR TO ANY SUBSEQUENT REQUEST BEING GRANTED.

(IV) THAT THE AMOUNT OF THE ANNUAL GRANT REQUESTED IN YEAR FOUR AND THEREAFTER WILL NOT EXCEED THE AMOUNT OF THE ANNUAL DEBT SERVICE OWED ON THE PROJECT.

(4) REQUIRE THE APPLICANT TO USE THE GRANT TO PAY DEBT SERVICE FOR THE PROJECT AND TO REPAY ALL OR ANY PORTION OF A GRANT IF THE APPLICANT FAILS TO USE THE GRANT TO PAY DEBT SERVICE.

(5) SPECIFY THAT THE ANNUAL AMOUNT OF THE GRANT IN ANY ONE YEAR MAY NOT EXCEED THE ANNUAL AMOUNT OF THE DEBT SERVICE ON THE PROJECT FOR THAT YEAR.

(6) IF THE GRANT IN ANY ONE YEAR EXCEEDS THE ANNUAL PAYMENT ON DEBT SERVICE IN THAT YEAR, REQUIRE THE APPLICANT

TO REPAY THE AMOUNT OF THE GRANT FOR THAT YEAR WHICH EXCEEDS THE PAYMENT ON DEBT SERVICE FOR THAT YEAR.

(7) IF THE PROJECT USER IS NOT A GOVERNMENTAL ENTITY, PROHIBIT THE PROJECT USER FROM HOLDING TITLE TO THE PROJECT DURING THE PERIOD WHICH THE APPLICANT IS RECEIVING A GRANT FROM THE DEPARTMENT.

(8) REQUIRE THE PROJECT USER TO PAY TO THE APPLICANT A SUM EQUAL TO ANY PAYMENTS RECEIVED BY THE PROJECT USER FROM THIRD PARTIES FOR INFRASTRUCTURE WHICH IS PART OF THE PROJECT DURING THE PERIOD WHICH THE APPLICANT IS RECEIVING A GRANT FROM THE DEPARTMENT. ANY PAYMENT RECEIVED BY THE APPLICANT UNDER THIS PARAGRAPH MUST BE APPLIED TO PAYMENT OF THE DEBT SERVICE FOR THE PROJECT.

(9) REQUIRE THE APPLICANT TO INSURE THAT THE FULL AMOUNT OF ANNUAL DEBT SERVICE IS PAID FOR THE PROJECT, REGARDLESS OF THE AMOUNT OF THE GRANT RECEIVED.

(10) REQUIRE THE PROJECT USER TO USE THE PROJECT FOR THE PERIOD OF TIME THE APPLICANT IS RECEIVING GRANTS UNDER THIS CHAPTER AND TO REPAY ALL OR ANY PORTION OF A GRANT IF THE PROJECT USER FAILS TO USE THE PROJECT FOR THE PERIOD OF TIME THE APPLICANT IS RECEIVING GRANTS.

(11) REQUIRE THE PROJECT USER TO TIMELY PAY ALL COMMONWEALTH AND LOCAL TAXES AND FEES.

(12) REQUIRE THE DEPARTMENT TO APPROVE ANY CHANGE OF USE OF A PROJECT DURING THE PERIOD IN WHICH THE APPLICANT IS RECEIVING A GRANT FROM THE DEPARTMENT. THE DEPARTMENT MAY NOT UNREASONABLY WITHHOLD ITS CONSENT TO A CHANGE OF USE.

(C) LIMITATIONS.--

(1) IF SUFFICIENT FUNDS ARE NOT APPROPRIATED TO COVER THE ANTICIPATED COST OF THE GRANTS AWARDED IN ANY GIVEN

FISCAL YEAR, THE DEPARTMENT SHALL PRORATE PAYMENTS TO ISSUING AUTHORITIES.

(2) FOR GRANTS RENEWED IN ACCORDANCE WITH SUBSECTION (B)(3), GRANTS MAY NOT EXCEED THE INCREMENTAL GROWTH IN REVENUES REALIZED BY THE COMMONWEALTH FROM THE TAX SOURCES IDENTIFIED IN SECTION 3305(B).

SECTION 2. ALL ACTS OR PARTS OF ACTS ARE REPEALED INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT.

SECTION 3. THIS ACT SHALL TAKE EFFECT JULY 1, 2004, OR IMMEDIATELY, WHICHEVER IS LATER.