
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1550 Session of
2013

INTRODUCED BY MILNE, THOMAS, AUMENT, BAKER, BIZZARRO, CLYMER, CUTLER, P. DALEY, DENLINGER, D. EVANS, EVERETT, FLECK, GABLER, GIBBONS, GINGRICH, GODSHALL, GROVE, HARPER, C. HARRIS, HEFFLEY, JAMES, KAMPF, F. KELLER, M. K. KELLER, KILLION, KINSEY, LAWRENCE, LONGIETTI, MACKENZIE, MAJOR, MARSHALL, MARSICO, MICOZZIE, MILLARD, R. MILLER, MIRABITO, MIRANDA, MURT, MUSTIO, NEILSON, O'NEILL, OBERLANDER, PASHINSKI, PYLE, QUINN, REED, SACCONI, SANKEY, SAYLOR, SIMMONS, SONNEY, TALLMAN, TAYLOR, TOEPEL, TOOHIL, TRUITT AND WHEATLEY, JUNE 17, 2013

REFERRED TO COMMITTEE ON COMMERCE, JUNE 17, 2013

AN ACT

1 Amending Titles 12 (Commerce and Trade) and 64 (Public
2 Authorities and Quasi-Public Corporations) of the
3 Pennsylvania Consolidated Statutes, further providing for
4 revolving loan program accounts; repealing First Industries
5 Program and Second Stage Loan Program; providing for
6 Pennsylvania Business Development Authority; imposing duties
7 on the Department of Community and Economic Development;
8 providing for First Industries Program, for Second Stage Loan
9 Program and for transfer from Commonwealth Financing
10 Authority to Pennsylvania Business Development Authority for
11 First Industries Program and Second Stage Program; and making
12 related repeals.

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

15 Section 1. Chapters 23 and 29 of Title 12 of the
16 Pennsylvania Consolidated Statutes are repealed:

17 [CHAPTER 23

18 SMALL BUSINESS FIRST

19 Sec.

- 1 2301. Scope.
- 2 2302. Definitions.
- 3 2303. Establishment.
- 4 2304. Fund and accounts.
- 5 2305. Department responsibilities.
- 6 2306. Capital development loans.
- 7 2307. EDA loans.
- 8 2308. Loans in distressed communities.
- 9 2309. Pollution prevention assistance loans.
- 10 2310. Export financing loans.
- 11 2311. Reporting and inspection.
- 12 2312. Limitations.

13 § 2301. Scope.

14 This chapter relates to the Small Business First Program.

15 § 2302. Definitions.

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

19 "Agricultural processor." A person that adds value by
20 subjecting one or more farm commodities to a process of
21 manufacture, development or preparation for sale or a person
22 that converts a farm product into a marketable form.

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

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

30 "Applicant." A person that applies for a loan in accordance

1 with this chapter.

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

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

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

16 (2) As part of an effort to:

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

19 (ii) complete an approved remediation project; or

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

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

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

28 (5) As part of a for-profit project or venture to
29 manufacture products to be exported out of the United States
30 by a small business which is not of a mercantile or service-

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

6 (6) As part of a for-profit project or venture that
7 meets the requirements of section 2308 (relating to loans in
8 distressed communities)

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

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

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

16 (1) An area loan organization for a distressed
17 community.

18 (2) A community development financial institution
19 located in a distressed community and approved by the
20 department.

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

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

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

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

30 (iii) An unemployment rate 50% higher than the

1 national average.

2 (2) An area which is designated a subzone, expansion
3 subzone or improvement subzone under the act of October 6,
4 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone
5 and Keystone Opportunity Expansion Zone Act.

6 (3) Any other geographic area designated by the
7 department as distressed. The designation shall be published
8 in the Pennsylvania Bulletin.

9 "EDA loan." A loan made under this chapter utilizing funds
10 made available to the department under the Public Works and
11 Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. §
12 3121 et seq.).

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

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

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

19 "Exports." Goods or services to be sold or performed outside
20 the United States.

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

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

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

30 (1) Regulated as a hazardous air pollutant under section

1 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787),
2 known as the Air Pollution Control Act.

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

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

9 "Hospitality industry project." A for-profit project or
10 venture which involves a small business that operates a hotel,
11 motel or other lodging facility and that employs at least five
12 full-time equivalent employees at the time an application is
13 submitted to the department for financing. The term includes a
14 for-profit project or venture which involves a small business
15 that operates a restaurant or food service operation open to the
16 public, that has been in continuous operation for at least five
17 years and that employs at least five full-time equivalent
18 employees at the time an application is submitted.

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

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

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

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

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

4 (2) A cross-media transfer.

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

6 "Pollution prevention assistance agency." Any of the
7 following:

8 (1) An area loan organization.

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

12 "Pollution prevention infrastructure." A capital development
13 project which permits a small business to adopt or install
14 pollution prevention equipment or processes to:

15 (1) Reduce or reuse raw materials onsite.

16 (2) Reduce the production of waste.

17 (3) Reduce energy consumption.

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

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

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

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

27 (2) An agricultural processor.

28 (3) An agricultural producer.

29 (4) An enterprise which manufactures apparel products.

30 (5) An enterprise which is a for-profit or not-for-

1 profit child day-care center subject to licensure by the
2 Commonwealth.

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

6 § 2303. Establishment.

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

12 § 2304. Fund and accounts.

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

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

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

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

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

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

30 (6) Any other deposits, payments or contributions from

1 any other source made available to the department for the
2 program.

3 (b) Pollution prevention assistance.--The Pollution
4 Prevention Assistance Account, created under the act of June 29,
5 1996 (P.L.434, No.67), known as the Job Enhancement Act, is
6 continued. The Treasury Department shall credit the following to
7 this account:

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

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

12 (3) Transfers from the Hazardous Sites Cleanup Fund as
13 established in section 602.3 of the act of March 4, 1971
14 (P.L.6, No.2), known as the Tax Reform Code of 1971.

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

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

20 (c) Use of fund.--

21 (1) Money in the fund may be used as follows:

22 (i) By the department to make loans in accordance
23 with this chapter and for administrative costs of the
24 department in administering the program.

25 (ii) By area loan organizations for administrative
26 costs associated with the program which are approved by
27 the department.

28 (2) Money from the fund derived from appropriations
29 specified for export financing assistance may be deposited by
30 the department in banks or trust companies in special

1 accounts. The special accounts must be continuously secured
2 by a pledge of direct obligations of the United States or of
3 the Commonwealth having an aggregate market value, exclusive
4 of accrued interest, at least equal to the balance on deposit
5 in the account. The securities shall be deposited with the
6 department to be held by a trustee or agent satisfactory to
7 the department. Banks and trust companies are authorized to
8 give security under this paragraph. Money in these special
9 accounts shall be paid out on order of the department.

10 (d) Use of Pollution Prevention Assistance Account.--Money
11 in the Pollution Prevention Assistance Account may be used by
12 the department to provide loans to small businesses for the
13 adoption or installation of pollution-prevention or energy-
14 efficient equipment or processes in accordance with section 2309
15 (relating to pollution prevention assistance loans).

16 § 2305. Department responsibilities.

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

19 (1) Administer the program.

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

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

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

28 (5) Approve community development financial
29 institutions.

30 (b) Program.--In administering the program, the department

1 may do any of the following:

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

4 (i) To establish loan reserve funds.

5 (ii) To reimburse loan losses to commercial banks
6 and other financial institutions as a means of
7 encouraging the expansion and financing of small
8 businesses.

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

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

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

19 (ii) To pay costs associated with financing.

20 § 2306. Capital development loans.

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

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

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

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

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

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

5 (b) Area loan organization review.--

6 (1) Upon receipt of a completed application, an area
7 loan organization shall investigate and determine all of the
8 following:

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

10 (ii) If the project is a capital development
11 project.

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

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

21 (v) The existence and sufficiency of collateral for
22 the loan.

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

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

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

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

6 (c) Department review.--

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

12 (i) A loan for land, buildings and machinery and
13 equipment may not exceed \$200,000 or 50% of the total
14 capital development project costs, whichever is less. For
15 the purposes of this subparagraph, capital development
16 project costs incurred during the 12-month period prior
17 to the date of submission of the application to the
18 department shall be considered part of the total capital
19 development project costs.

20 (ii) A loan for working capital may not exceed
21 \$100,000 or 50% of the total capital development project
22 costs, whichever is less.

23 (iii) Except for loans to agricultural producers, a
24 loan must create or preserve one job for every \$25,000
25 loaned.

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

28 (d) Approvals.--For applications which are approved, the
29 department shall draw an advance equal to the principal amount
30 of the loan from the fund. The advance shall be forwarded to the

1 area loan organization and, upon receipt by the area loan
2 organization, shall become an obligation of the area loan
3 organization. Prior to providing loan funds to the applicant,
4 the area loan organization shall require the applicant to
5 execute a note and to enter into a loan agreement. In addition
6 to the requirements of subsection (e), the loan agreement shall
7 include a provision requiring the recipient to use the loan
8 proceeds to pay the costs of the capital development project.
9 The department may require the area loan organization to impose
10 other terms and conditions on the recipient if the department
11 determines that they are in the best interests of this
12 Commonwealth, including a provision requiring collateral for any
13 penalty imposed under subsection (g).

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

16 (1) State the collateral securing the loan. All loans
17 shall be secured by lien positions on collateral at the
18 highest level of priority as may be determined by the area
19 loan organization with the approval of the department.

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

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

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

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

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

30 (3) State the interest rate in accordance with the

1 following:

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

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

9 (A) A declaration under 35 Pa.C.S. § 7301(c)
10 (relating to general authority of Governor) is in
11 effect for at least ten days prior to the date of
12 application.

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

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

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

24 (1) Each outstanding loan.

25 (2) The date approved.

26 (3) The original principal amount.

27 (4) The current principal balance.

28 (5) The interest rate.

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

30 (7) An enumeration of any problems or issues which have

1 arisen with regard to each loan.

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

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

7 (g) Penalty.--

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

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

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

20 (h) Defaults.--The department may by foreclosure take title
21 to a capital development project which it financed if
22 acquisition is necessary to protect a loan made under this
23 section. The department shall pay all costs arising out of the
24 foreclosure and acquisition from moneys held in the fund. The
25 department may, in order to minimize financial losses and
26 sustain employment, lease the capital development project. The
27 department may withdraw moneys from the fund to purchase first
28 mortgages and to make payments on first mortgages on any capital
29 development project which it financed where purchase or payment
30 is necessary to protect a loan made under this section. The

1 department may sell, transfer, convey and assign the first
2 mortgages and shall deposit any moneys derived from the sale of
3 any first mortgages in the fund.

4 § 2307. EDA loans.

5 (a) Application and administration procedures.--The
6 department shall establish application and administration
7 procedures to be used for EDA loans. The procedures shall be
8 established by guidelines and shall conform in all respects to
9 those procedures required or established by the Economic
10 Development Administration for use of Federal funds under the
11 Public Works and Economic Development Act of 1965 (Public Law
12 89-136, 42 U.S.C. § 3121 et seq.).

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

20 § 2308. Loans in distressed communities.

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

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

29 (2) A statement that the small business is engaged in
30 business-to-public service or in the mercantile, commercial

1 or point-of-sale retail business sectors.

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

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

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

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

9 (b) Community development institution review.--

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

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

18 (ii) If the project is a capital development
19 project.

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

26 (iv) Number of employment opportunities to be
27 created or preserved by the proposed capital development
28 project.

29 (v) If the applicant complied with all other
30 criteria established by the department.

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

6 (c) Department review.--

7 (1) Upon receipt of a recommendation and a completed
8 application, the department shall investigate and determine
9 all of the following:

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

19 (ii) The existence and sufficiency of collateral for
20 the loan.

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

24 (2) If the department is satisfied that all requirements
25 have been met, the department may approve the loan request in
26 an amount not to exceed \$200,000 or 50% of the total capital
27 development project costs, whichever is less. For the purpose
28 of this paragraph, capital development project costs, except
29 the costs related to working capital, incurred during the 12-
30 month period prior to the date of submission of the

1 application to the department shall be considered part of the
2 total capital development project costs.

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

5 (d) Approvals.--For applications which are approved, the
6 department shall draw an advance equal to the principal amount
7 of the loan from the fund and, prior to providing loan funds to
8 the applicant, the department shall require the applicant to
9 execute a note and to enter into a loan agreement. In addition
10 to the requirements of subsection (e), the loan agreement shall
11 include a provision requiring the recipient to use the loan
12 proceeds to pay the costs of the capital development project.
13 The department may impose other terms and conditions on the
14 recipient if the department determines they are in the best
15 interests of this Commonwealth, including a provision requiring
16 collateral for any penalty imposed under subsection (g).

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

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

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

23 (3) State the interest rate which may not be less than
24 2% nor more than 5% for the term of the loan.

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

28 (f) Loan administration.--A loan made under this section
29 shall be administered in accordance with departmental policies
30 and procedures.

1 (g) Penalty.--

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

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

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

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

28 § 2309. Pollution prevention assistance loans.

29 (a) Application.--A small business may submit an application
30 and any application fee to a pollution prevention assistance

1 agency requesting a loan for a pollution prevention
2 infrastructure. The application shall be on the form required by
3 the department and shall include or demonstrate all of the
4 following:

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

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

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

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

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

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

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

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

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

21 (iii) If the applicant complied with all other
22 criteria established by the department.

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

28 (c) Department review.--

29 (1) Upon receipt of a recommendation and a completed
30 application, the department shall investigate and determine

1 all of the following:

2 (i) If the pollution prevention infrastructure
3 demonstrates a substantial likelihood of preventing or
4 reducing pollution. The Department of Environmental
5 Protection shall assist the department in reviewing the
6 applications and provide technical assistance.

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

15 (iii) The existence and sufficiency of collateral
16 for the loan.

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

20 (2) If the department is satisfied that all requirements
21 have been met, the department may approve the loan request. A
22 loan approved under this subsection may not exceed the lesser
23 of:

24 (i) \$100,000; or

25 (ii) 75% of infrastructure costs.

26 (3) The department shall notify the pollution prevention
27 assistance agency and applicant of its decision.

28 (d) Approvals.--For applications which are approved, the
29 department shall draw an advance equal to the principal amount
30 of the loan from the Pollution Prevention Assistance Account.

1 Prior to providing loan funds to the applicant, the department
2 shall require the applicant to execute a note and to enter into
3 a loan agreement. In addition to the requirements of subsection
4 (e), the loan agreement shall include a provision requiring the
5 recipient to use the loan proceeds to pay the costs of the
6 pollution prevention infrastructure. The department may impose
7 other terms and conditions on the recipient if the department
8 determines they are in the best interests of this Commonwealth,
9 including a provision requiring collateral for any penalty
10 imposed under subsection (g).

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

13 (1) State the collateral securing the loan. All loans
14 shall be secured by lien positions on collateral at the
15 highest level of priority as may be determined by the
16 department.

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

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

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

22 (f) Loan administration.--A loan made under this section
23 shall be administered in accordance with departmental policies
24 and procedures.

25 (g) Penalty.--

26 (1) Except as provided in paragraph (2), the department
27 shall impose a penalty upon a recipient if the recipient
28 fails to carry out the pollution prevention infrastructure
29 project as specified in its approved application.

30 (2) The department may waive the penalty required by

1 paragraph (1) if the department determines that the failure
2 was due to circumstances outside the control of the
3 recipient.

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

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

24 § 2310. Export financing loans.

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

- 1 (1) The name and address of the applicant.
- 2 (2) A statement of the amount of loan assistance sought.
- 3 (3) A statement of the capital development project,
4 including a detailed statement of the cost of the project.
- 5 (4) A financial commitment from a responsible source for
6 any cost of the capital development project in excess of the
7 amount requested.
- 8 (5) A statement that the loan, if approved, would not
9 supplant funding from private sector sources on commercially
10 reasonable terms.

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

12 (b) Review.--Upon receipt of a completed application, the
13 department shall investigate and determine all of the following:

- 14 (1) If the applicant is an export business.
- 15 (2) If the project is a capital development project.
- 16 (3) The ability of the applicant to meet and satisfy the
17 debt service as it becomes due and payable.
- 18 (4) The existence and sufficiency of collateral for the
19 loan.
- 20 (5) Relevant criminal and credit history and ratings of
21 the applicant as determined from outside credit reporting
22 services and other sources.
- 23 (6) Number of employment opportunities to be created or
24 preserved by the proposed capital development project.
- 25 (7) If the applicant complied with all other criteria
26 established by the department.

27 (c) Approvals.--If the department is satisfied that all
28 requirements have been met, the department may approve the loan
29 request. A loan approved under this section may not exceed
30 \$350,000. The department shall notify the applicant and, if

1 applicable, the area loan organization of its decision. The
2 department shall reserve an amount equal to the principal amount
3 of the loan within the fund or the special account authorized by
4 section 2304(c)(2) (relating to fund and accounts). Prior to
5 providing funds to the applicant, the department shall require
6 the applicant to execute a note and enter into a loan agreement.
7 In addition to the requirements of subsection (d), the loan
8 agreement shall include a provision requiring the recipient to
9 use the loan proceeds to pay the costs of the capital
10 development project. The department may impose other terms and
11 conditions on the recipient if the department determines they
12 are in the best interests of this Commonwealth, including any of
13 the following:

14 (1) A provision requiring collateral for any penalty
15 imposed under subsection (f).

16 (2) A provision requiring the person to be eligible for
17 an insurance policy.

18 (3) A provision requiring the loan to be guaranteed by
19 the Working Capital Guaranty Program offered by the Ex-Im
20 Bank.

21 (4) A provision requiring an export credit sales
22 contract insured by an insurance policy.

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

25 (1) State the collateral securing the loan. All loans
26 shall be secured by lien positions on collateral at the
27 highest level of priority as may be determined by the
28 department.

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

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

3 (e) Loan administration.--A loan made under this section
4 shall be administered in accordance with departmental policies
5 and procedures.

6 (f) Penalty.--

7 (1) Except as provided in paragraph (2), the department
8 shall impose a penalty upon a recipient if the recipient
9 fails to carry out the export activities specified in its
10 approved application.

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

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

19 (g) Defaults.--The department may, by foreclosure, take
20 title to a capital development project which it financed if
21 acquisition is necessary to protect a loan made under this
22 section. The department shall pay all costs arising out of the
23 foreclosure and acquisition from money held in the fund or a
24 special account authorized by section 2304(c)(2). The department
25 may, in order to minimize financial losses and sustain
26 employment, lease the capital development project. The
27 department may withdraw money from the fund or a special account
28 authorized by section 2304(c)(2) to purchase first mortgages and
29 to make payments on first mortgages on any capital development
30 project which it financed if purchase or payment is necessary to

1 protect a loan made under this section. The department may sell,
2 transfer, convey and assign the first mortgages and shall
3 deposit any money derived from the sale of any first mortgages
4 in the fund or a special account authorized by section 2304(c)
5 (2).

6 § 2311. Reporting and inspection.

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

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

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

18 (d) Financial and performance audits.--An agent of the
19 department shall annually submit to the department, at the
20 agent's expense, an independent financial audit. If the audit
21 reveals misconduct of a material nature on the part of the
22 agent, the department shall take appropriate action.

23 § 2312. Limitations.

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

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

30 (2) Refinance any portion of the total cost of a capital

1 development project, pollution prevention infrastructure or
2 other existing loans or debt.

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

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

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

12 CHAPTER 29

13 MACHINERY AND EQUIPMENT LOANS

14

15 Sec.

16 2901. Scope.

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19 2904. Machinery and Equipment Loan Fund.

20 2905. Eligibility for loans; terms and conditions.

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26 2911. Reports to General Assembly.

27 2912. Guidelines.

28 § 2901. Scope.

29 This chapter relates to the Machinery and Equipment Loan
30 Program.

1 § 2902. Definitions.

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

5 "Business enterprise." A for-profit corporation, partnership
6 or proprietorship. The term includes a medical facility.

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

12 "Fund." The Machinery and Equipment Loan Fund created and
13 established by this chapter.

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

18 "Normal agricultural operation." The term shall have the
19 same meaning as given to it in section 2 of the act of June 10,
20 1982 (P.L.454, No.133), entitled "An act protecting agricultural
21 operations from nuisance suits and ordinances under certain
22 circumstances."

23 "Production agriculture." The management and use of a normal
24 agricultural operation for the production of a farm commodity.

25 § 2903. Establishment.

26 There is established within the department a program to be
27 known as the Machinery and Equipment Loan Program. The program
28 shall be administered by the department and provide loans to
29 business enterprises for machinery and equipment.

30 § 2904. Machinery and Equipment Loan Fund.

1 (a) Creation.--There is created a special account in the
2 Treasury Department, to be known as the Machinery and Equipment
3 Loan Fund, to which shall be credited all program appropriations
4 made by the General Assembly, all proceeds from loan repayments
5 and any and all other deposits, payments or contributions from
6 any other source made available to the fund. The fund shall
7 operate as a revolving fund whereby all appropriations, payments
8 and interest made thereto may be applied and reapplied to the
9 purposes of this chapter.

10 (b) Credits to fund.--All appropriations, deposits and
11 contributions made to the fund shall be immediately credited in
12 full to the fund, and earnings on the moneys held in the fund
13 shall also be credited to the fund for the purposes of this
14 chapter.

15 § 2905. Eligibility for loans; terms and conditions.

16 (a) Loans; general rules.--The secretary may make advances
17 from the fund, subject to the terms, conditions and restrictions
18 provided under this chapter, for the purpose of making loans to
19 business enterprises involved in industrial processes, mining,
20 manufacturing, production agriculture, information technology,
21 biotechnology, service as a medical facility or other industrial
22 or technology sectors, as defined by the department, to acquire
23 and install new machinery and equipment or upgrade existing
24 machinery and equipment, including the acquisition, application
25 and utilization of computer hardware and software.

26 (1) All loans shall be subject to all of the following
27 conditions:

28 (i) Be made to eligible business enterprises under
29 the provisions of this chapter.

30 (ii) Have a maximum loan ceiling of \$5,000,000 or

1 50% of the cost of the project, whichever is less.

2 (iii) Be limited to the purchase and installation of
3 new equipment and machinery or the upgrade of existing
4 machinery and equipment. This subparagraph includes the
5 acquisition, application and utilization of computer
6 hardware and software.

7 (iv) Be limited to projects that demonstrate the
8 creation or retention of one job for every \$25,000
9 received from the fund. This subparagraph does not apply
10 to loans made to business enterprises involved in
11 production agriculture or to loans made to medical
12 facilities.

13 (v) Have an interest rate which shall be established
14 by the secretary.

15 (vi) Have a term of not in excess of ten years.

16 (2) For loans to medical facilities, loan funds may be
17 used only to finance the acquisition, installation and
18 utilization of machinery and equipment, including computer
19 hardware and software components, to be used in the
20 prescribing and dispensing of medication for medical facility
21 patients.

22 (b) Restrictions.--No loans shall be made that do any of the
23 following:

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

28 (2) Supplant funding that is otherwise available
29 expeditiously from private sector sources on commercially
30 reasonable terms.

1 (3) Be for the purpose of refinancing any portion of the
2 total project cost or other existing loans or debt.

3 (4) Be for the purpose of financing projects located
4 outside the geographic boundaries of this Commonwealth.

5 (5) Be for the purpose of paying off a creditor that is
6 inadequately secured and is in a position to sustain a loss.

7 (6) Be for the purpose of repaying a debt owed to a
8 small business investment company.

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

11 (c) Security.--All loans shall be secured by no less than a
12 second lien position on the equipment purchased and other
13 sufficient collateral as determined by the secretary.

14 § 2906. Application and administration.

15 (a) Procedures.--Application and administration procedures
16 for fund loans shall be established by the secretary.

17 (b) Receipt.--The secretary shall receive applications from
18 eligible business enterprises for machinery and equipment loans.
19 Applications shall be made to the secretary in the form and
20 manner as the department may require.

21 (c) Investigation.--Upon receipt of the application, the
22 secretary shall investigate and review the application and
23 either approve or disapprove the loan application by proper
24 action of the department. The decision of the secretary shall be
25 based, in whole or in part, upon the following criteria:

26 (1) Ability of the applicant to meet and satisfy all
27 debt service as it becomes due and payable.

28 (2) Sufficiency of available collateral, including
29 satisfactory lien positions on real and personal property.

30 (3) Eligibility of the applicant as a business

1 enterprise involved in industrial processes, manufacturing,
2 mining, production agriculture, information technology,
3 biotechnology, services as a medical facility or other
4 industrial or technology sectors as defined by the secretary.

5 (4) Sufficient evidence that funds shall be used only to
6 acquire and install new equipment and machinery or upgrade
7 existing equipment and machinery, including the acquisition,
8 application and utilization of computer hardware and
9 software.

10 (5) Capital needs of the applicant.

11 (6) Conformity of the project to the provisions of this
12 chapter.

13 (7) Relevant criminal and credit history and ratings of
14 applicant as determined from outside credit reporting
15 services and other sources.

16 (8) Number of net employment opportunities created and
17 retained by the proposed project. This paragraph does not
18 apply to business enterprises involved in production
19 agriculture or medical facilities.

20 (9) Supporting evidence that the loan project will
21 increase the firm's competitiveness and value added within
22 its respective industry.

23 (10) Explanation of how the loan will aid the
24 Commonwealth in its efforts to assist business enterprises to
25 increase their productivity and improve the future
26 competitive position of this Commonwealth's industries.

27 (11) Compliance with the loan amount limitations
28 provided for machinery and equipment loans.

29 (12) Payment to date of all tax obligations due and
30 owing to the Commonwealth or any political subdivision

1 thereof.

2 (13) Conformity of all aspects of the loan transaction
3 with the substantive and procedural provisions of this
4 chapter and regulations promulgated hereunder.

5 (14) Such information and documentation as the secretary
6 shall require.

7 (d) Notification.--The secretary shall notify the applicant
8 of final approval or disapproval of the loan application within
9 a reasonable period of time following the receipt of the
10 application. In the case of approval of a loan application, the
11 secretary shall arrange to draw the loan amount from the fund
12 and advance the sum to the recipient. The advance shall be made
13 available in the form of a loan transaction, which loan shall be
14 evidenced by a note executed by the recipient and secured in a
15 manner as the secretary shall require in conformity in all
16 respects to the loan as approved by the secretary.

17 (e) Policy requirements and report.--All loans shall be
18 administered and monitored by the department in accordance with
19 the policies and procedures prescribed by the secretary. On or
20 before September 1 of each year, the secretary shall prepare a
21 report that includes the following:

22 (1) Each outstanding loan.

23 (2) The date of approval.

24 (3) The original principal balance.

25 (4) The current principal balance.

26 (5) The interest rate.

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

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

30 (8) A statement regarding the progress of the business

1 enterprise in creating and retaining its requisite number of
2 employment opportunities.

3 (9) Such other information and documentation as the
4 secretary shall require.

5 (f) Penalty for noncompliance.--In the event that a loan
6 recipient shall not comply with its approved application by
7 failing to create or preserve the number of employment
8 opportunities specified in its approved application, the
9 secretary shall impose a penalty equal to an increase in the
10 interest rate to 2% greater than the current prime interest rate
11 for the remainder of the loan unless the penalty is waived by
12 the secretary because the failure is due to circumstances
13 outside the control of the loan recipient. The penalty shall be
14 payable in installments that the secretary deems appropriate.
15 § 2907. Powers of secretary.

16 The secretary shall have and may exercise all powers and
17 authority necessary to the proper administration and
18 implementation of this chapter and shall have the authority to
19 adopt policies, procedures and guidelines and promulgate rules
20 and regulations necessary to effectuate the provisions of this
21 chapter.

22 § 2908. Reporting and inspection.

23 (a) Inspection.--Each business enterprise which applies for
24 or receives assistance under this chapter, upon reasonable
25 request of the department, shall permit duly authorized
26 employees of the department to inspect the plant, books and
27 records of the business enterprise.

28 (b) Updating.--Each business enterprise shall update the
29 information given to the department in its application if
30 conditions change or to the extent that the information given

1 originally becomes inaccurate or misleading.

2 (c) Periodic reports.--Each recipient of assistance under
3 this chapter shall provide the department with periodic
4 financial reports as the secretary may require until such time
5 as the loan is paid off.

6 § 2909. Nondiscrimination.

7 No loan shall be made to a business enterprise unless the
8 business enterprise certifies to the department, in a form
9 satisfactory to the department, that it shall not discriminate
10 against any employee or any applicant for employment because of
11 race, religion, color, national origin, sex or age. The business
12 enterprise shall also certify to the department that it is not
13 currently under citation for pollution violations and that in
14 the future it will meet all applicable antipollution standards.

15 § 2910. Conflict of interest.

16 No employee of the department shall, either directly or
17 indirectly, be a party to or have any financial interest in any
18 contract or agreement arising pursuant to this chapter.

19 § 2911. Reports to General Assembly.

20 (a) Annual reports.--On or before September 1 of each year,
21 the secretary shall provide a report to the Secretary of the
22 Senate and to the Chief Clerk of the House of Representatives.
23 The report shall describe all relevant activities of the
24 department pursuant to this chapter and shall include the
25 following:

26 (1) List of business enterprises receiving loans from
27 the fund and the amounts and terms of this assistance.

28 (2) Loan amounts repaid. Information under this
29 paragraph may be reported in the aggregate.

30 (3) Loans outstanding, balances due and any penalties

1 imposed. Information under this paragraph may be reported in
2 the aggregate.

3 (4) Jobs created by businesses receiving funds in
4 previous years. Information under this paragraph may be
5 reported in the aggregate.

6 (5) Other relevant information as determined by the
7 secretary.

8 (b) Availability of departmental reports.--Reports prepared
9 by the secretary under section 2906(e) (relating to application
10 and administration) shall be made available upon request to
11 members of the General Assembly.

12 § 2912. Guidelines.

13 The department shall develop written guidelines for the
14 implementation of this chapter.]

15 Section 2. Section 1542(b) of Title 64 is amended to read:

16 § 1542. Revolving loan program accounts.

17 * * *

18 [(b) The First Industries Program account.--The authority
19 shall establish an account for the program established in
20 section 1552 (relating to First Industries Program). Proceeds of
21 bonds issued to fund the First Industries Program, any moneys
22 received as loan repayments or in repayment or recovery of loan
23 guarantees under the program, or moneys otherwise made available
24 to the program, shall be deposited in the account and made
25 available for additional planning grants or loans or used for
26 additional loan guarantees as provided in section 1552, subject
27 to the provisions of any pledge to or agreement made by the
28 authority with obligees of the authority.]

29 Section 3. Sections 1552 and 1553 of Title 64 are repealed:

30 [§ 1552. First Industries Program.

1 (a) Establishment.--There is established a program to be
2 known as the First Industries Program. The program shall provide
3 financial assistance for projects related to tourism and
4 agriculture located within this Commonwealth. The board shall
5 allocate funds made available to the program among the different
6 methods of financing authorized in this section.

7 (b) Applications for planning grants.--An applicant may
8 submit an application to the authority requesting a planning
9 grant in an amount not to exceed \$250,000 for the costs of
10 predevelopment activities and feasibility studies for a project
11 related to tourism or agriculture. The application shall be on
12 the form required by the board and shall include or demonstrate
13 all of the following:

14 (1) The applicant's name and address.

15 (2) The location of the project.

16 (3) A description of the project.

17 (4) An estimate of the cost of the predevelopment
18 activities and feasibility studies and the goal to be
19 achieved by carrying out the proposed activities or studies.

20 (5) A statement of the amount of the planning grant
21 sought.

22 (6) Any other information required by the board.

23 (c) Review and approval of planning grant applications.--

24 (1) The board shall review the application to determine
25 that the project demonstrates one or more of the following:

26 (i) The project will have a demonstrable impact on
27 the economy or well-being of the neighborhood, community
28 or region where the project will be located.

29 (ii) The project will promote research and
30 development efforts leading to increased

1 commercialization or utilization of farm commodities.

2 (iii) The project will result in environmentally
3 friendly or energy efficient operations related to
4 agriculture, including projects authorized by the act of
5 December 12, 1994 (P.L.888, No.128), known as the
6 Agricultural By-Product Management Technology Act.

7 (iv) The project will result in more cost-effective
8 and efficient marketing of regional assets related to
9 tourism or agriculture.

10 (v) The project will result in a substantial
11 increase in revenues for the Commonwealth or the host
12 municipality.

13 (vi) The project proposes to utilize Commonwealth-
14 owned natural resources for public/private development of
15 tourism.

16 (2) Upon being satisfied that the requirements of
17 paragraph (1) have been met, the board may approve the
18 application, and, if approved, the authority shall award a
19 planning grant.

20 (3) Copies of all reports and studies prepared with
21 planning grant funds shall be filed with the authority and
22 shall be made available to any person upon request.

23 (d) Loans to applicants.--If the department approves an
24 application for a loan under the programs established in 12
25 Pa.C.S. Ch. 23 (relating to small business first) or 29
26 (relating to machinery and equipment loans), the department may
27 request that the authority finance the loan. Upon being
28 satisfied that the project is related to agriculture or tourism,
29 the board may approve the request, and, if approved, the
30 authority shall award a loan. Loans made under this subsection

1 shall be administered by the department. Payments received shall
2 be forwarded to the authority and credited to the account
3 established in accordance with section 1542(b) (relating to
4 revolving loan program accounts).

5 (e) Loan guarantees.--

6 (1) An applicant may request a guarantee for a loan to
7 be made by a commercial lending institution or community
8 development financial institution to assist with the
9 financing of a project related to tourism or agriculture. The
10 applicant may be the commercial lending institution or
11 community development financial institution applying on
12 behalf of a borrower. The application must be on the form
13 required by the board and must include or demonstrate all of
14 the following:

15 (i) The applicant's name and address. If the
16 applicant is a commercial lending institution or
17 community development financial institution, the
18 borrower's name and address.

19 (ii) A description of the project.

20 (iii) A statement describing the anticipated
21 economic impact to the Commonwealth and the host
22 municipality as a result of the project.

23 (iv) A description of the proposed project
24 financing, including terms, conditions and the collateral
25 or security required for the loan for which the guarantee
26 is being requested.

27 (v) A copy of the applicant's last two years of
28 financial statements prepared or reported on by an
29 independent certified public accountant. If the applicant
30 is a commercial lending institution or a community

1 development financial institution, a copy of the
2 borrower's last two years of financial statements
3 prepared or reported on by an independent certified
4 public accountant.

5 (vi) The amount of the loan guarantee that is being
6 requested.

7 (vii) The total project cost and the identification
8 of all sources of capital for the project.

9 (viii) Any other information required by the board.

10 (2) The board shall review the application to determine
11 all of the following:

12 (i) (A) Except as set forth in clause (B), that the
13 project has been awarded a planning grant under this
14 section or that at least \$1,000,000 of private funds
15 are being invested in the project.

16 (B) Beginning on the effective date of this
17 paragraph through July 15, 2015, that the project has
18 been awarded a planning grant under this section or
19 that at least \$500,000 of private funds are being
20 invested in the project.

21 (ii) That the value of the proposed collateral is
22 sufficient to cover the full amount of the loan.

23 (iii) That the applicant complied with all other
24 criteria established by the board.

25 (3) Upon being satisfied that all requirements have been
26 met, the board may approve the guarantee, and, if approved,
27 the authority shall execute a guarantee agreement in favor of
28 the commercial lending institution or community development
29 financial institution stating the terms and amounts of the
30 guarantee. Except as provided in paragraph (3.1), the

1 guarantee may not exceed 50% of the outstanding principal
2 amount of the loan or \$2,500,000 at any point in time,
3 whichever is less. In addition to any other terms and
4 conditions required by the board, the guarantee agreement
5 shall provide for all of the following:

6 (i) The procedure for the submission by the
7 commercial lending institution or community development
8 financial institution of a claim for payment. This
9 procedure shall require that the commercial lending
10 institution or community development financial
11 institution demonstrate that it has exhausted all
12 available remedies against the borrower, other guarantors
13 and collateral before seeking payment under the
14 agreement.

15 (ii) A requirement that a percentage of any moneys
16 recovered subsequent to the payment of a claim by the
17 authority be remitted to the authority.

18 (iii) Periodic reporting requirements by the
19 commercial lending institution or community development
20 financial institution regarding itself and regarding the
21 loans which have been awarded guarantees under this
22 section.

23 (3.1) Beginning on the effective date of this paragraph
24 through July 15, 2015, a guarantee of 51% to 90% of the
25 principal amount of the loan to assist with the financing of
26 a project related to agriculture may be awarded by the board.
27 The guarantee shall be subject to a one-time fee of 2% of the
28 amount of the loan multiplied by the percentage of the
29 guarantee.

30 (3.2) The amount of a guarantee under this subsection,

1 if any, shall be set at the discretion of the board based
2 upon its determination of the potential financial risk to the
3 Commonwealth.

4 (4) The board may establish a subcommittee composed of
5 one or more board members and department staff to supervise
6 the progress of projects for which loan guarantees have been
7 awarded under this section.

8 (e.1) Limitation.--A Farm Credit Institution under the Farm
9 Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) shall only
10 be permitted to participate in the First Industries Program
11 established under this section and may not participate in any
12 other loan guarantee program established under this chapter.

13 (e.2) Sunset.--After July 15, 2015, no Farm Credit
14 Institution under the Farm Credit Act of 1971 shall be eligible
15 for any loan guarantees under this chapter.

16 (f) Limitations.--

17 (1) No more than \$10,000,000 of the funds available for
18 the program authorized by this section may be used for
19 planning grants awarded under subsection (c).

20 (2) At least two-thirds of the funds available for the
21 program authorized by this section shall be used for
22 financing of projects related to agriculture.

23 § 1553. Second Stage Loan Program.

24 (a) Establishment.--There is established a program to be
25 known as the Second Stage Loan Program. The program shall
26 provide loan guarantees to commercial lending institutions that
27 make loans to life sciences, advanced technology or
28 manufacturing businesses.

29 (b) Application for enrollment.--A commercial lending
30 institution may apply for enrollment in the program authorized

1 by this section. The application shall be on the form prescribed
2 by the board and shall include or demonstrate all of the
3 following:

4 (1) The name and address of the commercial lending
5 institution and the name and title of the individual who will
6 serve as the point of contact for the commercial lending
7 institution.

8 (2) A statement defining the service area of the
9 commercial lending institution.

10 (3) A statement describing the commercial lending
11 activities engaged in by the commercial lending institution
12 and how the institution intends to expand those activities as
13 a result of its participation in the program authorized by
14 this section.

15 (4) Any other information required by the board.

16 (c) Enrollment approval.--Upon being satisfied that all
17 requirements have been met, the board may enroll the commercial
18 lending institution in the program authorized by this section,
19 and, if enrolled, the authority shall execute a master guarantee
20 agreement in favor of the commercial lending institution. In
21 addition to any other terms and conditions required by the
22 board, the master guarantee agreement shall provide for the
23 following:

24 (1) The procedure for the submission of a claim for
25 payment by the commercial lending institution. This procedure
26 shall require that the commercial lending institution
27 demonstrate that it has exhausted all available remedies
28 against the borrower, other guarantors and collateral for the
29 loan before seeking payment under the agreement.

30 (2) A requirement that a percentage of any moneys

1 recovered by the commercial lending institution subsequent to
2 any payment made under the master guarantee agreement by the
3 authority be remitted to the authority.

4 (3) Periodic reporting requirements by the commercial
5 lending institution regarding itself and regarding the loans
6 for which guarantee certificates have been issued under this
7 section.

8 (d) Application for guarantee.--A commercial lending
9 institution enrolled in the program authorized by this section
10 may submit an application to the authority for the guarantee of
11 a proposed loan. The application shall be on the form prescribed
12 by the board and shall include or demonstrate all of the
13 following:

14 (1) The name and address of the borrower, the type of
15 business the borrower conducts, the location and age of the
16 business and the names and addresses of the principals of the
17 borrower.

18 (2) The number of projected new or retained employees of
19 the borrower as a result of the loan.

20 (3) A copy of the borrower's last two years of financial
21 statements prepared or reported on by an independent
22 certified public accountant.

23 (4) A statement describing the purpose of the loan, the
24 requested amount of the loan, a copy of the commercial
25 lending institution's commitment letter and applicable credit
26 underwriting that supports the repayment of the loan, as well
27 as the collateral and other guarantees offered by the
28 borrower to support the loan.

29 (5) Any other information required by the board.

30 (e) Application review.--

1 (1) The board shall review the application to determine
2 all of the following:

3 (i) That the borrower owns and operates a life
4 sciences, advanced technology or manufacturing business.

5 (ii) That the borrower's business has been in
6 existence for at least two years but no more than seven
7 years at the time of application.

8 (iii) That the borrower is financially responsible
9 and has the ability to repay the loan.

10 (iv) That the use of loan proceeds by the borrower
11 will result in jobs being created or retained within this
12 Commonwealth.

13 (v) That the borrower's business is located within
14 the commercial lending institution's service area and
15 within this Commonwealth.

16 (vi) That the borrower and the commercial lending
17 institution have met all other requirements established
18 by the board.

19 (2) Upon being satisfied that all requirements have been
20 met, the board may approve the guarantee, and, if approved,
21 the authority shall issue a guarantee certificate for the
22 loan to the commercial lending institution stating the terms
23 and amount of the guarantee.

24 (3) The board may establish a subcommittee composed of
25 one or more members of the board and staff of the department
26 to review and approve applications for guarantees under this
27 section.

28 (f) Limitations.--

29 (1) During the first two years of the term of a loan for
30 which a guarantee certificate has been issued, the guarantee

1 may not exceed 50% of the outstanding principal amount of the
2 loan. From the end of year two through either the end of year
3 seven or the end of the term of the loan, whichever occurs
4 first, the guarantee may not exceed 25% of the outstanding
5 principal amount of the loan. The guarantee will terminate at
6 the end of seven years.

7 (2) At no time may a guarantee exceed \$1,000,000 for any
8 one loan.]

9 Section 4. Title 64 is amended by adding a chapter to read:

10 CHAPTER 17

11 PENNSYLVANIA BUSINESS DEVELOPMENT AUTHORITY

12 Subchapter

13 A. General Provisions

14 B. Structure and Powers

15 C. Bonds

16 D. Accounts

17 E. Programs

18 F. Miscellaneous Provisions

19 SUBCHAPTER A

20 GENERAL PROVISIONS

21 Sec.

22 1701. Scope of chapter.

23 1702. Construction.

24 1703. Findings and declaration of policy.

25 1704. Definitions.

26 § 1701. Scope of chapter.

27 This chapter relates to the Pennsylvania Business Development
28 Authority.

29 § 1702. Construction.

30 (a) General rule.--This chapter shall be prudently construed

1 in order to effect the legislative and public purposes as set
2 forth in this subchapter.

3 (b) Rights of obligees.--The provisions of this chapter
4 providing for security, rights and remedies of obligees of the
5 authority shall be prudently construed to achieve the public
6 policy set forth in this subchapter.

7 (c) Limitation.--If a provision of this chapter is judged to
8 be invalid by a court of competent jurisdiction, the order or
9 judgment shall be confined in its operation to the controversy
10 in which it was rendered and shall not affect or invalidate a
11 remaining provision of this chapter.

12 § 1703. Findings and declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) Many existing businesses in this Commonwealth could
15 expand and become more competitive if provided with
16 additional sources of financing for modernization, expansion
17 and other capital needs. This, in turn, could increase
18 employment levels, which would help to develop a stable and
19 healthy economy and revitalize communities, thereby improving
20 the health, safety and general welfare of the citizens of
21 this Commonwealth.

22 (2) A minimum level of unemployment and a maximum level
23 of business opportunity can best be attained through the
24 promotion, stimulation and revitalization of industrial,
25 manufacturing, commercial, technological, agricultural and
26 tourism activities in this Commonwealth. Through such
27 efforts, the Commonwealth's competitiveness in the global and
28 United States economies may be enhanced.

29 (3) The Commonwealth has developed a great number of
30 programs with the objective of furthering economic

1 development within its borders. There have also been a
2 correspondingly great number of boards and authorities to
3 administer the various programs. While many of these economic
4 development programs have been successful, others have fallen
5 short.

6 (4) The economic health of our communities will improve
7 and efficiency and transparency will increase by eliminating
8 programs that have not worked for this Commonwealth,
9 consolidating the management of the successful programs that
10 remain and adding new programs as needed.

11 (5) The Pennsylvania Business Development Authority
12 shall disburse the money for and administer the economic
13 development programs encompassed in this chapter. It shall do
14 so with the prudence, proficiency and transparency that the
15 citizens of this Commonwealth expect, and will have as
16 resources the expertise and administrative assistance of the
17 Department of Community and Economic Development, as well as
18 the other State agencies. Resources will be more accessible
19 to businesses in this Commonwealth, citizens will be able to
20 see where their tax dollars are being invested and the
21 overall health of this Commonwealth's economy will improve,
22 beginning in individual communities and spreading throughout
23 this Commonwealth.

24 § 1704. Definitions.

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

28 "Agricultural processor." An entity that adds value by
29 subjecting one or more farm commodities to a process of
30 manufacture, development or preparation for sale or a person

1 that converts a farm product into a marketable form.

2 "Agricultural producer." A person or entity involved in the
3 management and use of an agricultural operation for the
4 production of a farm commodity.

5 "Agriculture." Any of the following:

6 (1) the management and use of an agricultural operation
7 for the production of a farm commodity;

8 (2) the sale of farm commodities at wholesale;

9 (3) the sale of farm commodities at retail by urban and
10 rural supermarkets in underserved areas or farmers' markets;

11 (4) energy-related activities impacting production
12 agriculture; or

13 (5) activities which implement best industry practices
14 related to agricultural waste products, agriculture by-
15 products or fertilizer.

16 "Applicant." An eligible business or economic development
17 organization that requests financial assistance from the
18 authority.

19 "Authority." The Pennsylvania Business Development Authority
20 established in section 1711 (relating to authority).

21 "Board." The board of the Pennsylvania Business Development
22 Authority established in section 1712 (relating to board).

23 "Bonds." Except where otherwise provided, bonds, notes,
24 instruments, refunding notes and bonds and other evidences of
25 indebtedness or obligations which the Pennsylvania Business
26 Development Authority is authorized to issue or assume under
27 this chapter.

28 "Business." A corporation, partnership, sole proprietorship,
29 limited liability company, business trust or other commercial
30 entity.

1 "Capital development project." The acquisition, development,
2 construction, renovation or use of land, buildings, equipment
3 and machinery and working capital by a business as part of:

4 (1) A for-profit venture not of a mercantile or service-
5 related nature, except for hospitality industry projects.

6 (2) An effort to:

7 (i) comply with Federal or State environmental laws
8 or regulations;

9 (ii) complete an approved remediation project; or

10 (iii) adopt generally acceptable pollution
11 prevention practices.

12 (3) An effort to recycle municipal or commercial waste,
13 or to use recycled municipal or commercial waste materials in
14 manufacturing.

15 (4) A for-profit project or venture to manufacture
16 products to be exported out of the United States, which will
17 increase this Commonwealth's market share.

18 "Commercial lending activities." The making of loans and the
19 provision of deposit services to business entities, except that
20 a farm credit system institution under the Farm Credit Act of
21 1971 (Public Law 92-181, 85 Stat. 583) need not offer deposit
22 services to qualify as a provider of commercial lending
23 activities under this chapter.

24 "Commercial lending institution." A federally chartered or
25 State-chartered bank, savings bank, savings and loan association
26 or farm credit system institution under the Farm Credit Act of
27 1971 (Public Law 92-181, 85 Stat. 583) which has a satisfactory
28 rating from its primary regulator and which is engaged in
29 commercial lending activities. The institution must operate at
30 least one full-service branch for deposit gathering and lending

1 located within this Commonwealth or be a farm credit system
2 institution under the Farm Credit Act of 1971.

3 "Commonwealth agency." An agency, authority or other
4 instrumentality of the Commonwealth.

5 "Community development financial institution." A community
6 development financial institution certified in accordance with
7 the Community Development Banking and Financial Institutions Act
8 of 1994 (Public Law 103-325, 108 Stat. 2163).

9 "Comprehensive county plan" or "comprehensive municipal
10 plan." The comprehensive plan adopted under applicable law by a
11 county, municipality, city of the first class or city of the
12 second class.

13 "Cost of the project" or "cost." Any of the following:

14 (1) Costs and expenses of acquisition of interests in
15 land, infrastructure, buildings, structures, equipment,
16 furnishings, fixtures and other tangible or intangible
17 property.

18 (2) Costs and expenses of construction, reconstruction,
19 erection, equipping, expansion, extension, improvement,
20 installation, rehabilitation, renovation or repair of the
21 buildings, structures and equipment.

22 (3) Costs and expenses of demolishing, removing or
23 relocating buildings or structures on lands acquired or to be
24 acquired and the expense of acquiring land to which buildings
25 or structures may be moved or relocated.

26 (4) Costs and expenses of preparing land for
27 development.

28 (5) Costs and expenses incidental to determining the
29 feasibility or practicality of the project, including
30 engineering, legal and accounting and financial services, as

1 well as any necessary studies or surveys.

2 (6) Working capital or other capital needs related to
3 the project.

4 "Department." Except where otherwise provided, the
5 Department of Community and Economic Development of the
6 Commonwealth.

7 "Distressed community." Any of the following:

8 (1) An area which is designated a subzone, expansion
9 subzone or improvement subzone under the act of October 6,
10 1998 (P.L.705, No.92), known as the Keystone Opportunity
11 Zone, Keystone Opportunity Expansion Zone and Keystone
12 Opportunity Improvement Zone Act.

13 (2) Any other area designated as distressed according to
14 standards adopted by the Pennsylvania Business Development
15 Authority.

16 "Economic development organization." A community development
17 financial institution, an industrial development agency or a
18 local development district that is certified by the authority as
19 possessing the qualifications necessary to prepare, evaluate and
20 approve applications to the authority for financial assistance.

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

22 "Exports." Goods or services to be sold or performed outside
23 the United States.

24 "Export business." Any for-profit corporation, limited
25 liability company, partnership, proprietorship or other business
26 entity involving export activities and employing 250 or fewer
27 individuals.

28 "Farm commodity." Any agricultural, horticultural,
29 aquacultural, vegetable, fruit and floricultural product of the
30 soil, livestock and meats, wools, hides, furs, poultry, eggs,

1 dairy products, nuts, mushrooms, honey products and forest
2 products.

3 "Federal agency." The United States of America, the
4 President of the United States, the Congress of the United
5 States and any department, corporation, agency or
6 instrumentality designated or established by the United States
7 of America.

8 "Financial assistance." Loans, guarantees, lines of credit,
9 letters of credit and other financial arrangements which the
10 Pennsylvania Business Development Authority is authorized to
11 undertake under Subchapter E (relating to programs).

12 "Governing body." The body or board authorized by law to
13 enact ordinances or adopt resolutions for a political
14 subdivision.

15 "Hazardous substance." Any element, compound or material
16 which is:

17 (1) Regulated as a hazardous air pollutant under section
18 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787),
19 known as the Air Pollution Control Act.

20 (2) A hazardous waste, as defined under section 103 of
21 the act of July 7, 1980 (P.L.380, No.97), known as the Solid
22 Waste Management Act.

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

26 "Hospitality industry project." A for-profit project or
27 venture which involves a business that operates a hotel, motel
28 or other lodging facility, or a restaurant or other food service
29 operation that is open to the public.

30 "Industrial development agency." A nonprofit organization

1 which has as its purpose the promotion, encouragement,
2 construction, development and expansion of new or existing
3 industrial development projects.

4 "Industrial development project." A project involving the
5 acquisition or improvement of real property within this
6 Commonwealth to be occupied and operated by any of the
7 following:

8 (1) An industrial enterprise.

9 (2) A manufacturing enterprise.

10 (3) A research and development enterprise.

11 (4) An agricultural producer.

12 (5) An agricultural processor.

13 "Industrial enterprise." An enterprise other than a
14 mercantile, commercial or retail enterprise which has created or
15 will create substantial employment opportunities. The term may
16 include warehouses, distribution and terminal facilities and
17 office buildings utilized as national or regional headquarters
18 or computer or clerical operations centers.

19 "Industrial park project." A project sponsored by an
20 economic development organization for the purpose of creating
21 sites for the establishment of two or more industrial
22 development projects.

23 "Local development district." Multicounty economic and
24 community development organizations established under the act of
25 December 7, 1994 (P.L.845, No.120), known as the Local
26 Development District Act, to provide regional planning and
27 development services to improve the economy and quality of life
28 in their respective regions through a variety of activities,
29 including, but not limited to, the fostering of public and
30 private partnerships and providing assistance to businesses.

1 "Manufacturing enterprise." An enterprise which is engaged
2 in the giving of new shapes, new qualities or new combinations
3 to matter by the application of skill and labor.

4 "Multiple-tenancy building project." A project sponsored by
5 an economic development organization involving the acquisition
6 or construction of any land, site, structure or facility for
7 occupancy by two or more industrial enterprises, manufacturing
8 enterprises, research and development enterprises, agricultural
9 producers or agricultural processors, as those terms are defined
10 in this chapter.

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

15 "Municipality." Any city, borough, town or township of the
16 Commonwealth, each of which political subdivisions are separate
17 incorporated municipalities of the Commonwealth for the purposes
18 of this chapter.

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

21 "Normal agricultural operation." As defined in the act of
22 June 10, 1982 (P.L.454, No.133), referred to as the Right-to-
23 Farm Law.

24 "Obligee of the authority." Any of the following:

25 (1) A holder or owner of bonds of the Pennsylvania
26 Business Development Authority, the Pennsylvania Industrial
27 Development Authority or the Pennsylvania Minority Business
28 Development Authority.

29 (2) A trustee or other fiduciary for any holder or owner
30 of bonds of the Pennsylvania Business Development Authority

1 or its predecessors.

2 (3) A provider of a letter of credit, policy of
3 municipal bond insurance or other credit enhancement or
4 liquidity facility for bonds of the Pennsylvania Business
5 Development Authority or its predecessors.

6 (4) A lessor or installment seller demising property to
7 the Pennsylvania Business Development Authority or its
8 predecessors in connection with a project.

9 (5) A provider of an interest rate management agreement
10 or other agreement or arrangement authorized under section
11 1714 (relating to powers).

12 "Pennsylvania-related company." A business entity which has
13 significant operations in this Commonwealth or which will, as a
14 condition of any agreement under this chapter, locate
15 significant business operations in this Commonwealth.

16 "Philadelphia metropolitan statistical area." The
17 Philadelphia, Pennsylvania, metropolitan division of the
18 Philadelphia-Camden-Wilmington, Pennsylvania-New Jersey,
19 Delaware-Maryland metropolitan statistical area as announced on
20 June 6, 2003, by the United States Office of Management and
21 Budget under standards for defining metropolitan and
22 micropolitan statistical areas by the Office of Management and
23 Budget for the 2000 decennial census of the United States Bureau
24 of the Census as published in the Federal Register, Vol. 65, No.
25 249, on December 27, 2000, comprising the Pennsylvania counties
26 of Philadelphia, Delaware, Bucks, Montgomery and Chester.

27 "Pollution control technology project." The acquisition,
28 construction or installation of pollution control technology and
29 equipment that enables an electric generating unit or
30 cogeneration unit to meet any of the following requirements:

1 (1) Mercury emission reductions.

2 (2) The regulations adopted by the United States
3 Environmental Protection Agency known as the Clean Air
4 Mercury Rule codified at 40 CFR Pts. 60 (relating to
5 standards of performance for new stationary sources), 72
6 (relating to permits regulation) and 75 (relating to
7 continuous emission monitoring).

8 (3) Nitrogen oxides and sulfur dioxide emission
9 reduction under 25 Pa. Code Chs. 121 (relating to interstate
10 pollution transport reduction) and 145 (relating to general
11 provisions).

12 (4) The Clean Air Interstate Rule in 40 CFR Pt. 96
13 (relating to NOX budget trading program and CAIR NOX and SO2
14 trading programs for state implementation plans).

15 "Predecessors." The Pennsylvania Industrial Development
16 Authority or the Pennsylvania Minority Business Development
17 Authority.

18 "Private developer." A person or entity engaged in the
19 development of real estate and determined by the Pennsylvania
20 Business Development Authority to be financially responsible to
21 assume all obligations proposed to be undertaken.

22 "Production agriculture." The management and use of a normal
23 agricultural operation for the production of a farm commodity.

24 "Project user." A person, political subdivision, municipal
25 authority, Commonwealth agency or other entity that owns, leases
26 or uses all or any part of a project.

27 "Redevelopment authority." An entity created under the act
28 of May 24, 1945 (P.L.991, No.385), known as the Urban
29 Redevelopment Law.

30 "Research and development enterprise." An enterprise for the

1 discovery of new and the refinement of known substances,
2 processes, products, theories and ideas. The term does not
3 include enterprise activities directed primarily to the
4 accumulation or analysis of commercial, financial or mercantile
5 data.

6 "Server." A device on a computer network that manages
7 network resources, including devices to manage network traffic,
8 store files or process database queries.

9 "Server virtualization technology." The practice of hosting
10 a software operating system within a virtual machine.

11 "Site preparation project." The construction of water and
12 sewer lines, storm water systems, excavation, construction of
13 access roads, parking facilities, pipelines, transformers and
14 utility transmission lines and traffic control devices.

15 "Small business." An enterprise that employs fewer than 100
16 persons, in the aggregate, on an annual basis.

17 "Supermarket." A retail store operated on a self-service
18 basis, primarily selling groceries, fresh produce, meat, bakery
19 and dairy products. The term does not include a convenience
20 store.

21 "Tourism." Any activity that promotes or encourages
22 individuals or a group of individuals to travel to a location
23 within this Commonwealth to engage in an activity or service for
24 pleasure that is unavailable at home.

25 "Virtual machine." A self-contained software operating
26 environment that operates within a host operating system server
27 and simulates a hardware device, such as a computer or a server.

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

1 (f) Existence and dissolution.--

2 (1) The authority shall exist until terminated by law.

3 (2) The authority may be dissolved by law if all
4 outstanding liabilities of the authority, including bonds and
5 other contractual obligations, have been fully paid, retired,
6 satisfied or discharged or provision has been made for
7 payment of all outstanding liabilities of the authority,
8 including bonds and other contractual obligations. Upon the
9 dissolution of the authority, all funds, assets and other
10 property of the authority shall vest in the Commonwealth.

11 (g) Procurement.--The authority shall be considered as an
12 executive agency for the purposes of 62 Pa.C.S. Pt. I (relating
13 to Commonwealth Procurement Code), except that the authority
14 shall have the authority to procure its own services. When
15 acting as its own purchasing agency for the procurement of
16 services, the authority shall use the procedures provided under
17 62 Pa.C.S. Pt. I.

18 (h) Commonwealth Attorneys Act.--The authority shall be
19 considered an executive agency for the purposes of the act of
20 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
21 Attorneys Act.

22 (i) Relationship with department.--

23 (1) The department shall provide administrative services
24 and staff, including staff legal counsel, to the authority
25 and the board. The authority shall reimburse the department
26 for the costs of such services and staff.

27 (2) The authority may enter into agreements with the
28 department setting forth their respective rights and
29 obligations in carrying out their respective duties under
30 this chapter, as well as rates of reimbursement, as

1 applicable, for providing services under this subsection.

2 (j) Applicability.--The following acts shall apply to the
3 authority and the board:

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

6 (2) The act of February 14, 2008 (P.L.6, No.3), known as
7 the Right-to-Know Law.

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

11 § 1712. Board.

12 (a) Members.--

13 (1) The authority shall be governed by a board
14 consisting of 15 members.

15 (2) The following public officials shall serve as
16 members of the board:

17 (i) The Secretary of Community and Economic
18 Development.

19 (ii) The Secretary of Agriculture.

20 (iii) The Secretary of Banking.

21 (iv) The Secretary of the Budget.

22 (3) Eleven individuals from the private sector shall
23 serve as members of the board. Members appointed under this
24 paragraph shall not be members or staff of the General
25 Assembly and shall not be otherwise employed by the
26 Commonwealth. Seven members from the private sector shall be
27 appointed by the Governor and one member shall be appointed
28 by each of the following:

29 (i) The President pro tempore of the Senate.

30 (ii) The Minority Leader of the Senate.

1 (iii) The Speaker of the House of Representatives.

2 (iv) The Minority Leader of the House of
3 Representatives.

4 (b) Delegation of authority.--Public officials who are
5 members of the board pursuant to subsection (a) (2) may designate
6 a member of their staff to serve in their absence.

7 (c) Terms.--

8 (1) Public officials shall serve for the duration of
9 their tenure in office.

10 (2) Members appointed under subsection (a) (3) shall
11 serve for terms of four years, subject to the pleasure of the
12 appointing authority, except that board members appointed
13 under subsection (a) (3) (i), (ii), (iii) and (iv) shall serve
14 for initial terms of two years.

15 (3) Members appointed to fill a vacancy created
16 otherwise than by expiration of a term shall be appointed for
17 the unexpired term of the preceding member.

18 (d) Organization.--

19 (1) The Governor shall appoint one member of the board
20 to act as chairperson.

21 (2) The members shall select from among themselves and
22 staff of the department such other officers of the board as
23 they shall determine.

24 (e) Board action.--

25 (1) The board shall meet at the call of the chairperson.

26 (2) Eight members of the board shall constitute a
27 quorum. When a quorum is present, a majority of those present
28 shall be necessary to take any action on behalf of the
29 authority.

30 (f) Compensation.--Members of the board shall be entitled to

1 no compensation for their services, but shall be entitled to
2 reimbursement for all necessary and reasonable expenses incurred
3 in connection with the performance of their duties as members of
4 the board.

5 (g) Fiduciary relationship.--The members of the board and
6 the professional personnel of the board shall stand in a
7 fiduciary relationship with the Commonwealth and the authority
8 as to the moneys in the accounts of the authority and
9 investments of the authority.

10 (h) Standard of care.--The members of the board, in
11 performance of their duties under this chapter, shall exercise
12 the standard of care required by 20 Pa.C.S. Ch. 73 (relating to
13 municipalities investments).

14 (i) Liability.--Members of the board shall not be liable
15 personally on any obligations of the authority, including bonds
16 of the authority.

17 (j) Definition.--As used in this section, the term "member"
18 means an individual who serves on the board under subsection (a)
19 as a public official or an individual from the private sector.

20 § 1713. Duties.

21 (a) General rule.--The authority shall:

22 (1) Administer the programs described in Subchapter E
23 (relating to programs).

24 (2) Fund the programs described in Subchapter E using
25 the resources available under this chapter.

26 (3) Adopt bylaws.

27 (4) Adopt and publish guidelines for each program listed
28 in Subchapter E as proposed by the department and for the
29 certification of economic development organizations.

30 Guidelines shall include applicable policies and procedures,

1 criteria, application requirements and any other necessary
2 and relevant information.

3 (5) Certify on an annual basis those economic
4 development organizations that possess the qualifications
5 necessary to evaluate and approve applications to the
6 authority for financial assistance.

7 (b) Reports and publications.--

8 (1) Within 90 days of the effective date of this
9 chapter, the authority shall submit for publication in the
10 Pennsylvania Bulletin and on the Internet website of the
11 department notification of the programs to be administered
12 under this chapter. The notification shall include the name
13 and brief description of each program, the name of a contact
14 person and the anticipated time that funding, applications
15 and official guidelines will become available.

16 (2) The authority shall submit for publication in the
17 Pennsylvania Bulletin the program guidelines adopted under
18 subsections (c) and (d) and shall maintain the guidelines on
19 the department's Internet website.

20 (3) The authority shall, each year by the first day of
21 March, publish and deliver to the Governor and the General
22 Assembly a memorandum which shall outline the authority's
23 goals and planned investments for the coming fiscal year.

24 (4) The authority shall annually post and maintain on
25 the Internet website of the department an annual report,
26 which at a minimum shall include:

27 (i) A list of all applications approved during the
28 previous fiscal year.

29 (ii) The name and business address of each
30 recipient.

1 (iii) The amount and terms of the assistance.

2 (iv) A brief description of the project for which
3 the assistance was awarded. The description shall include
4 the commitment for the number of jobs created and
5 retained and the total capital investment for the
6 project.

7 (c) Audit.--

8 (1) The authority shall have the accounts and books of
9 the authority audited annually by an independent certified
10 public accounting firm.

11 (2) The authority shall, by December 31 of each year,
12 file a copy of the audit required by paragraph (1) with the
13 Secretary of the Senate, the Chief Clerk of the House of
14 Representatives and the Office of the Budget.

15 (d) Cooperation.--The authority shall cooperate with the
16 Office of Inspector General in the performance of its duties,
17 including, but not limited to, the investigation of fraud,
18 waste, misconduct or abuse in the programs, operations or
19 contracting of the authority.

20 § 1714. Powers.

21 The authority may:

22 (1) Borrow money, issue and assume bonds, obtain lines
23 and letters of credit, provide loan guarantees and incur
24 debt.

25 (2) Sue and be sued, implead and be impleaded,
26 interplead, complain and defend in any court.

27 (3) Establish new economic development programs and the
28 corresponding accounts necessary or desirable for its
29 corporate purposes.

30 (4) Transfer funds among its accounts as necessary and

1 desirable to effectuate the purposes of the programs set
2 forth in Subchapter E (relating to programs).

3 (5) Retain accountants, auditors and financial experts
4 to render services and engage the services of other advisors,
5 consultants and agents as necessary.

6 (6) Acquire, accept, purchase, receive, collect, hold,
7 convey and invest funds and property, whether tangible or
8 intangible, from all sources, directly or by assignment,
9 pledge or otherwise.

10 (7) Invest money of the authority not required for
11 immediate use, including proceeds from the sale of bonds, as
12 the board determines, subject to any agreement with
13 bondholders stated in the authorizing resolution providing
14 for the issuance of bonds.

15 (8) Contract and execute all instruments, including
16 financing agreements, letter of credit agreements, liquidity
17 agreements, guarantees, sureties, mortgages, loans, standby
18 loan commitments and contracts of insurance which are
19 necessary or appropriate for carrying on the business of the
20 authority.

21 (9) Impose and collect charges in connection with loan
22 commitments and servicing, including reimbursement of costs
23 of financing.

24 (9.1) Impose interest rate penalties on borrowers who
25 fail to fulfill commitments regarding job creation or
26 retention, private investment and site location.

27 (10) Pledge the credit of the authority and provide
28 security and liquidity to obligees of the authority as the
29 authority deems necessary or appropriate.

30 (11) Use or pledge an account for a special purpose,

1 including debt service reserves and other reserves, as may be
2 necessary or desirable to carry out its powers and duties.

3 (12) With the advice of a financial management firm
4 selected by the board, negotiate and enter into interest rate
5 cap agreements, interest rate management agreements, collar
6 agreements, corridor agreements, ceiling agreements, floor
7 agreements, forward agreements, float agreements and other
8 similar arrangements which, in the judgment of the authority,
9 will assist the authority in managing the interest costs of
10 the authority.

11 (13) Provide interest revenue-sharing on a quarterly
12 basis to the originating economic development organization on
13 loans sponsored by the economic development organization to
14 offset administrative expenses and the cost of fulfilling
15 certification obligations.

16 (14) Use moneys, excluding the proceeds of bonds, to pay
17 the administrative expenses of the authority and of the
18 department incurred under this chapter.

19 (15) Employ an executive director.

20 (16) Employ legal counsel and provide a reimbursement
21 agreement for legal services by legal counsel for the
22 Department of Community and Economic Development.

23 (17) Adopt, use and alter a corporate seal.

24 (18) Pay or satisfy obligations of the authority.

25 (19) Negotiate modifications or alterations to financing
26 agreements, mortgages or security interests.

27 (20) Foreclose on a mortgage or security interest in
28 default.

29 (21) Commence any action necessary to protect or enforce
30 any right conferred upon the authority by law, mortgage,

1 security agreement, contract or other agreement.

2 (22) Bid for or purchase property that was the subject
3 of a mortgage or security interest at a foreclosure or other
4 sale and acquire and take possession of that property.

5 (23) Sell, mortgage, pledge, encumber, transfer, convey
6 and dispose of any property, whether tangible or intangible.

7 (24) Acquire and sell loans, mortgages and security
8 interests at public or private sale.

9 (25) Provide financial assistance to applicants and
10 project users.

11 (26) Agree to and comply with conditions attached to
12 Federal or Commonwealth assistance not inconsistent with the
13 provisions of this chapter.

14 (27) Make rules regarding the operation of properties
15 and facilities of the authority subject to agreements with
16 obligees of the authority.

17 (28) Develop, adopt and implement binding policies or
18 guidelines assuring that all persons are accorded equal
19 opportunity in employment and contracting associated with the
20 programs established under Subchapter E. This paragraph
21 includes the authority's contractors, subcontractors,
22 assignees, lessees, agents, vendors and suppliers.

23 (29) Exercise rights provided by law for the benefit or
24 protection of the authority or obligees of the authority.

25 (30) Procure insurance against any loss in connection
26 with its programs, property and other assets.

27 (31) Promulgate regulations and adopt guidelines and
28 statements of policy containing restrictions as it may deem
29 necessary and appropriate to effectuate the public purposes
30 of this chapter.

1 (32) Enter into agreements with applicants and project
2 users providing, among other things, for any of the
3 following:

4 (i) Financial assistance.

5 (ii) Loan, rental or purchase price payments or
6 other payments, sufficient to amortize the principal,
7 interest and premium, if any, of bonds and contractual
8 obligations of the authority incurred to provide funds to
9 pay the costs of the projects being financed.

10 (iii) The applicants or project users to pay or
11 cause to be paid all other costs of acquiring,
12 constructing, maintaining and operating the projects
13 being financed.

14 (iv) Financial assistance to an economic development
15 organization to fund a revolving loan fund created by the
16 economic development organization for projects that are
17 eligible for financing by the authority.

18 (v) Conveyance with or without consideration of any
19 part or all of a project being financed to the project
20 user or applicant on or before payment of all bonds and
21 contractual obligations of the authority incurred with
22 respect to the project.

23 (vi) Other matters as are customary or as are deemed
24 necessary and appropriate by the authority.

25 (33) Undertake any action appropriate or necessary to
26 effectuate the purposes of this chapter, or to exercise the
27 powers set forth in this section, including any act
28 reasonably implied from those powers.

29 Before a new policy or a change of policy takes effect, the
30 board shall first approve it by a vote.

1 § 1715. Operation, service and maintenance of a project or
2 property.

3 The authority shall not approve an application or finance a
4 project if it would be required to operate, service or maintain
5 the project. The authority may operate, service or maintain a
6 property in foreclosure or default.

7 SUBCHAPTER C

8 BONDS

9 Sec.

10 1721. Bond issuance.

11 1722. Commonwealth and local taxation.

12 1723. Federal taxation.

13 1724. Validity of bonds, limitation on actions.

14 1725. Provisions of bonds and trust agreements and issuance of
15 bonds.

16 1726. Validity of pledge.

17 1727. Commonwealth pledges.

18 1728. Bonds to be legal investments.

19 1729. Rights and remedies of obligees.

20 § 1721. Bond issuance.

21 (a) Authorization.--The authority may issue limited
22 obligation revenue bonds and other types of limited obligation
23 revenue financing. Bonds of the authority shall be authorized by
24 a resolution of the board, subject to subsection (c).

25 (b) Taxability.--The authority may issue both tax-exempt
26 bonds and taxable bonds to fund the authority's programs.

27 (c) Bond requirements.--Bonds issued by the authority shall:

28 (1) Be of a series.

29 (2) Bear a date or dates.

30 (3) Be in denominations.

1 (4) Be signed by, or bear the facsimile signature of the
2 officer designated by the board.

3 (5) Carry registration, exchangeability and
4 interchangeability privileges.

5 (6) Be payable in any medium of payment and at any place
6 or places.

7 (7) Mature on a date or dates not to exceed 30 years
8 from the original issue date.

9 (8) Be subject to terms of redemption, if any.

10 (d) Issuance.--Bonds issued by the authority may:

11 (1) Be authenticated by an authenticating agent, fiscal
12 agent or trustee.

13 (2) Be in any form, either coupon or fully registered
14 without coupons, or in certificated or book-entry-only form.

15 (3) Bear or accrue interest at any rate or rates,
16 whether fixed or variable.

17 (4) Be issued and delivered notwithstanding the fact
18 that the officer whose signature appears on a coupon may no
19 longer be an authenticating officer at the time of actual
20 delivery.

21 (e) No debt or liability of the Commonwealth.--

22 (1) A bond issued by the authority shall not be a debt
23 or liability of the Commonwealth and shall not create any
24 indebtedness, liability or obligation on the part of the
25 Commonwealth.

26 (2) A bond shall be payable solely from revenues of the
27 authority or accounts pledged or otherwise available for
28 their repayment.

29 (3) A bond shall contain on its face statements that:

30 (i) The authority is obligated to pay the principal

1 of or interest on the bond only from revenues, receipts
2 or funds pledged or available for its payment as
3 authorized in this chapter.

4 (ii) Neither the Commonwealth nor any political
5 subdivision is obligated to pay the principal or
6 interest.

7 (iii) Neither the faith and credit nor the taxing
8 power of the Commonwealth or any political subdivision is
9 pledged to the payment of the principal of or interest on
10 the bonds.

11 (f) Sale.--Bonds may be sold at a public, invited or private
12 sale at a price determined by the authority.

13 (g) Interim receipts.--Pending the preparation of the
14 definitive bonds, interim receipts may be issued to the
15 purchaser or purchasers of the bonds and shall contain the terms
16 and conditions established by the authority.

17 (h) Negotiable instruments.--Bonds of the authority shall
18 have the qualities of negotiable instruments under 13 Pa.C.S.
19 (relating to commercial code).

20 (i) Use.--The authority may, as it deems necessary and
21 desirable, use the proceeds of bonds to:

22 (1) provide financial assistance;

23 (2) purchase loans, mortgages, security interests or
24 loan participations;

25 (3) pay incidental expenses in connection with activity
26 under paragraphs (1) and (2), including administrative costs
27 of the authority and the department;

28 (4) pay expenses of authorizing and issuing the bonds;

29 (5) pay principal, redemption or purchase price and
30 interest on bonds; or

1 (6) fund reserves.

2 (j) Refunding.--Subject to the provisions of this chapter,
3 terms of bonds and any contracts entered into pursuant to this
4 chapter, the authority may refund any outstanding debt of the
5 authority whether the debt represents principal or interest, in
6 whole or in part, at any time. For the purposes of this
7 subsection, the term "refund" means the issuance and sale of
8 obligations the proceeds of which are used or are to be used for
9 the payment or redemption of outstanding obligations upon or
10 prior to maturity.

11 § 1722. Commonwealth and local taxation.

12 (a) Authority.--Because the authority, as a public
13 instrumentality of the Commonwealth, will be performing
14 essential governmental functions in effectuating the purposes of
15 this chapter, the authority shall not be subject to State or
16 local taxation or assessment upon any property acquired or used
17 or permitted to be used by the authority for its purposes.

18 (b) Bonds.--Bonds issued by the authority, the transfer and
19 the income from the bonds, including any profit made on the sale
20 of such bonds, shall be free from State and local taxation
21 within this Commonwealth. The exclusion under this subsection
22 shall not extend to gift, estate, succession or inheritance
23 taxes, or any other taxes not levied or assessed directly on the
24 bonds, their transfer, the income from the bonds or the
25 realization of profits on their sale.

26 § 1723. Federal taxation.

27 (a) Allocation.--If the bonds issued by the authority for a
28 project are tax-exempt bonds for which Federal law requires an
29 allocation, the department may issue an allocation upon receipt
30 of a written request by the authority. An allocation must be

1 issued by the department prior to the approval of the resolution
2 authorizing the issuance of the bonds by the authority.

3 (b) Approval.--If gubernatorial approval is required by
4 Federal or State law, the Governor may approve the issuance of
5 bonds upon receipt of written request for approval from the
6 authority. The written request must contain all of the
7 following, to the extent required by Federal law:

8 (1) A statement that the authority has conducted a
9 public hearing, with appropriate public notice, concerning
10 the purposes for which the bonds are to be issued.

11 (2) A description of the project or projects to be
12 financed.

13 (3) A description of the method of financing the project
14 or projects.

15 (4) A summary of the comments made and questions posed
16 at the public hearing.

17 § 1724. Validity of bonds, limitation on actions.

18 (a) Presumption.--Bonds reciting in substance that they have
19 been issued by the authority to accomplish the public purposes
20 of this chapter shall be conclusively deemed in any suit, action
21 or proceeding involving the validity or enforceability of the
22 bonds or their security to have been issued for the public
23 purposes of this chapter.

24 (b) Estoppel.--After issuance, bonds shall be conclusively
25 presumed to be fully authorized and issued under the laws of
26 this Commonwealth, and any person shall be estopped from
27 questioning their validity, sale, execution or delivery by the
28 authority.

29 § 1725. Provisions of bonds and trust agreements and issuance
30 of bonds.

1 (a) Provisions.--A resolution authorizing the issuance of
2 bonds or any trust agreement approved in or by a resolution
3 authorizing the issuance of bonds may contain provisions which
4 do any of the following:

5 (1) Secure the bonds.

6 (2) Establish a covenant as to any of the following:

7 (i) Additional bonds to be issued and terms,
8 conditions and limitations on such bonds.

9 (ii) Rank or priority of bonds with respect to liens
10 or security interests.

11 (iii) Limitations on the authority's right to sell,
12 pledge or otherwise dispose of bonds or notes of
13 governmental units, loan agreements or other property.

14 (iv) Custody, application, investment and
15 disposition of proceeds of bonds.

16 (v) Incurring of other debts or obligations by the
17 authority.

18 (vi) Payment of principal of or interest on bonds.

19 (vii) Sources and methods of payment.

20 (viii) Redemption, purchase and tender of bonds by
21 the authority or the bondholders and the privilege of
22 exchange of the bonds for other bonds.

23 (ix) Use, investment and disposition of the money
24 held in special funds, accounts or reserves.

25 (x) Use of any or all of the authority's real or
26 personal property.

27 (xi) Warrant of title to the authority's real or
28 personal property.

29 (xii) Pledging or granting a security interest in
30 all or any part of the authority's revenues or any part

1 of its property to which its right or title exists or
2 which may later come into existence.

3 (3) Establish a covenant against any of the following:

4 (i) Permitting or suffering any lien on all or any
5 part of its revenues or property.

6 (ii) Extending the time for the payment of bonds or
7 interest.

8 (4) Provide for any of the following:

9 (i) Replacement of lost, stolen, destroyed or
10 mutilated bonds.

11 (ii) Maintenance of the authority's real and
12 personal property.

13 (iii) Replacement of the authority's real and
14 personal property.

15 (iv) Insurance to be carried on the authority's real
16 and personal property and the use and disposition of the
17 insurance proceeds.

18 (v) Rights, liabilities, powers and duties arising
19 upon the breach of any covenant, condition or obligation.

20 (vi) Letters of credit, bond insurance and other
21 facilities for credit enhancement and liquidity.

22 (5) Prescribe:

23 (i) Procedures, if any, by which the terms of any
24 contract with bondholders may be amended or abrogated.

25 (ii) The percentage of the principal amount of bonds
26 the holders of which must consent to the amendment or
27 abrogation of any contract.

28 (iii) The manner in which the consent under
29 subparagraph (ii) may be given.

30 (iv) Events of default.

1 (v) Terms and conditions upon which any or all of
2 the bonds become or may be declared due and payable
3 before stated maturity following an event of default.

4 (vi) Terms and conditions upon which the declaration
5 of default and its consequence may be waived.

6 (6) Create or authorize the creation of special funds or
7 accounts to be held in trust or otherwise for the benefit of
8 bondholders or of reserves for debt service or other
9 purposes.

10 (7) Vest in a trustee any property, rights, powers and
11 duties in trust for the benefit of bondholders.

12 (8) Limit the rights, powers and duties of a trustee,
13 and the right of bondholders to appoint a trustee.

14 (9) Establish the terms and conditions upon which a
15 trustee or the bondholders may enforce a covenant or rights
16 securing or relating to the bonds.

17 (10) Exercise all or any part or combination of the
18 powers granted in this chapter.

19 (11) Do or refrain from doing any other act and thing
20 necessary, convenient or desirable in order to better secure
21 the bonds of the authority or, in the absolute discretion of
22 the authority, as will tend to make bonds of the authority
23 more marketable. This paragraph applies notwithstanding that
24 the covenant, act or thing may not be specifically enumerated
25 in this chapter as long as the covenant, act or thing is in
26 accordance with the intent of this chapter.

27 (12) Pay the costs or expenses incident to any of the
28 foregoing.

29 (b) Issuance of bonds.--Bonds may be issued under one or
30 more separate resolutions or trust agreements. A series of bonds

1 may be separately secured from another series of bonds under the
2 resolutions or trust agreements.

3 § 1726. Validity of pledge.

4 A pledge of or grant of a security interest in revenues or
5 instruments made by the authority shall be valid and binding
6 from the time when the pledge is made or, where applicable, when
7 the authority enters into a written agreement to request the
8 applicable appropriation from the department. The revenues,
9 receipts, money, funds or other property or instruments pledged
10 and later received by the authority shall immediately be subject
11 to the lien of the pledge or security interest without any
12 physical delivery of the property pledged or further act. The
13 lien of the pledge or security interest shall be valid and
14 binding as against all parties having claims of any kind in
15 tort, contract or otherwise against the authority irrespective
16 of whether the parties have notice of the lien, pledge or
17 security interest. No instrument by which a pledge or security
18 interest is created, evidenced or noticed need be recorded or
19 filed to perfect the pledge or security interest except in the
20 records of the authority.

21 § 1727. Commonwealth pledges.

22 (a) Bondholders.--The Commonwealth pledges to and agrees
23 with each obligee of the authority that the Commonwealth will
24 not limit or alter the rights and powers vested in the authority
25 or otherwise created by this chapter in any manner inconsistent
26 with the obligations of the authority to its obligees until all
27 bonds at any time issued, together with the interest on the
28 bonds, are fully paid and discharged.

29 (b) Lessees.--The Commonwealth pledges and agrees with any
30 person that, as owner of property which is leased or subleased

1 to or from the authority, it will not limit or alter the rights
2 and powers vested in the authority or otherwise created by this
3 chapter in any manner which impairs the obligations of the
4 authority until all the obligations of the authority under the
5 lease or sublease are fully met and discharged.

6 § 1728. Bonds to be legal investments.

7 (a) Investments.--Bonds issued pursuant to this chapter
8 shall constitute securities in which any person or entity may
9 properly and legally invest funds, including capital, deposits
10 or other funds in their control or belonging to them.

11 (b) Deposits.--Bonds issued by the authority are securities
12 which may properly and legally be deposited with and received by
13 a government agency for any purpose for which the deposit of
14 bonds or other obligations of the Commonwealth are authorized by
15 law.

16 § 1729. Rights and remedies of obligees.

17 The rights and remedies conferred upon or granted to obligees
18 of the authority pursuant to this chapter shall be in addition
19 to and not in limitation of rights and remedies lawfully granted
20 to obligees of the authority by the resolution providing for the
21 issuance of bonds or by any trust agreement or other agreement
22 under which the bonds may be issued or secured.

23 SUBCHAPTER D

24 ACCOUNTS

25 Sec.

26 1731. Establishment of accounts.

27 1732. Deposits.

28 1733. Use.

29 1734. Account restrictions.

30 § 1731. Establishment of accounts.

1 In addition to other accounts that may be established by the
2 authority from time to time, there are established the following
3 accounts:

4 (1) The Small Business First Account.

5 (2) The Community Economic Development Account.

6 (3) The Export Financing Account.

7 (4) The Pennsylvania Industrial Development Account.

8 (5) The Machinery and Equipment Loan Account.

9 (6) The Disadvantaged Business Development Account.

10 (7) The First Industries Account.

11 (8) The Second Stage Loan Guarantee Account.

12 § 1732. Deposits.

13 Loan repayments, recaptured funds and bond proceeds from the
14 programs described in Subchapter E (relating to programs), as
15 well as appropriations, including, without limitation, those
16 appropriations made prior to the effective date of this act for
17 the same programs or similar programs to those described in
18 Subchapter E and any other available funds which are or may
19 become available, not pledged to be deposited or used elsewhere,
20 shall be deposited in the respective program accounts. Separate
21 subaccounts may be established in each program account for
22 purposes of pledging funds in the subaccounts to secure specific
23 bonds and other obligations of the authority.

24 § 1733. Use.

25 Funds deposited in each of the program accounts shall be made
26 available for additional loans, guarantees and other financing
27 tools as provided by the respective programs.

28 § 1734. Account restrictions.

29 (a) Pennsylvania Industrial Development Account.--

30 (1) The Pennsylvania Industrial Development Account,

1 established in section 1731 (relating to establishment of
2 accounts), shall be a revolving fund, whereby all
3 appropriations and payments made into the account, including
4 repayment of loans or funds from mortgages and any other
5 agreements made and entered into by the authority under the
6 program, shall be applied and reapplied to the purposes of
7 the Pennsylvania Industrial Development Program.

8 (2) If at any time the authority determines that funds
9 held in the Pennsylvania Industrial Development Account
10 exceed the amount required to carry out the purposes of the
11 program, the authority shall take such action as may be
12 required to transfer the excess funds to the General Fund of
13 the State Treasury, subject to the provisions of section
14 1771.1 (relating to transfer from Pennsylvania Industrial
15 Development Authority to Pennsylvania Business Development
16 Authority).

17 (b) Export Financing Account.--Funds in the Export Financing
18 Account must be continuously secured by a pledge of direct
19 obligations of the United States or of the Commonwealth having
20 an aggregate market value, exclusive of accrued interest, at
21 least equal to the balance on deposit in the account. The
22 securities shall be deposited with the authority to be held by a
23 trustee or agent satisfactory to the authority. Bank and trust
24 companies are authorized to give security under this subsection.

25 SUBCHAPTER E

26 PROGRAMS

27 Sec.

28 1750. Programs generally.

29 1751. Small Business First Program.

30 1752. Community Economic Development Program.

1 1753. Export Financing Program.
2 1754. Pennsylvania Industrial Development Program.
3 1755. Machinery and Equipment Loan Program.
4 1756. Disadvantaged Business Development Program.
5 1757. First Industries Program.
6 1758. Second Stage Loan Guarantee Program.
7 § 1750. Programs generally.

8 (a) Establishment of programs.--In addition to the programs
9 described in this subchapter, the authority may from time to
10 time establish new programs that further economic development
11 within this Commonwealth.

12 (b) Application process.--Applications for financial
13 assistance under this chapter must be prepared with the
14 assistance of a certified economic development organization that
15 shall approve the application before it is submitted to the
16 authority and shall comply with subsection (c) and with any
17 additional requirement of the applicable program or programs.
18 Applications shall be in the form required by the authority and
19 shall bear the applicant's name and address together with a
20 description of the type and amount of financial assistance
21 requested. Upon review of an application, the authority shall
22 notify the applicant of its decision or request additional
23 information or certifications prior to making its decision.

24 (c) Application requirements.--Applications shall include
25 the following information, where applicable:

26 (1) A description of the applicant's business or, if the
27 applicant is not the borrower, the borrower's business,
28 including:

29 (i) The type of business conducted.

30 (ii) The location and age of the business.

1 (iii) A list of all offices of the applicant located
2 in this Commonwealth.

3 (iv) The names and addresses of the principals.

4 (v) The number of current employees and an estimate
5 of future employment.

6 (2) A description of the project, including:

7 (i) The location.

8 (ii) The total estimated project cost, prepared by
9 an engineer or other qualified professional, where
10 appropriate, and the identification of all sources of
11 capital for the project.

12 (iii) A legal description of all real property held
13 or to be acquired for the establishment of the project.

14 (iv) A general description and statement of value of
15 any real or personal property of the applicant and, if
16 applicable, the buyer or tenant of the project, to be
17 applied to the establishment of the project.

18 (3) A statement that the project is consistent with any
19 existing comprehensive county plan where the project is
20 located.

21 (4) A firm commitment from the intended project user to
22 use the project upon completion.

23 (5) A brief description of the anticipated economic
24 impact to this Commonwealth and the host municipality as a
25 result of the project.

26 (6) Any plans and other documents as may be required to
27 show the type, structure and general character of the
28 project.

29 (7) Financial statements of the applicant, proposed
30 guarantors and any other party whose credit is significant to

1 the approval of the financial assistance. The authority may
2 by guideline specify the period to be covered by the
3 financial statements and whether they must be compiled,
4 reviewed or prepared by a certified public accountant.

5 (8) Any information required by the program or programs
6 under which financial assistance may be provided.

7 (9) Any other information required by the authority.

8 (d) Review and approval.--

9 (1) In reviewing applications, the authority shall
10 consider the following, where applicable:

11 (i) Whether the value of the proposed collateral and
12 the financial resources offered by the applicant are
13 sufficient to repay the loan.

14 (ii) Whether the project will enable future
15 employment opportunities in or have a net positive
16 economic impact on the surrounding community.

17 (iii) Whether the statement of the estimated cost of
18 the project is reasonable.

19 (iv) Whether the sources of financial commitments
20 for funds in excess of the amount requested under this
21 chapter are reliable.

22 (v) Whether the applicant has complied with terms
23 required by the applicable program or programs listed
24 under the corresponding sections of this chapter.

25 (vi) Whether the applicant has a history of
26 investment in Pennsylvania-related companies.

27 (vii) Whether the applicant has demonstrated strong
28 relationships with organizations in this Commonwealth
29 which foster economic development.

30 (viii) Whether the applicant has a strong

1 performance record.

2 (ix) Whether the applicant has demonstrated an
3 ability to meet and satisfy debt service, if applicable,
4 as it becomes due and payable.

5 (x) Any other information deemed relevant by the
6 authority.

7 (2) Subject to any applicable limitations under this
8 chapter, the amount, duration, interest rate, security
9 required and any other terms of the loan shall be set at the
10 discretion of the authority based upon its determination of
11 the potential financial risk to the Commonwealth.

12 (3) No financial assistance shall be approved if the
13 proceeds would be used to:

14 (i) refinance any portion of the total cost of a
15 capital development project, pollution prevention
16 infrastructure or other existing loans or debt;

17 (ii) finance a project located outside the
18 geographic boundaries of this Commonwealth;

19 (iii) relocate a business to another part of this
20 Commonwealth, unless approved in advance by the authority
21 which shall consider the negative economic impact on the
22 community that the business is leaving; or

23 (iv) provide funds, directly or indirectly, for
24 payment distribution or as a loan to owners, partners or
25 shareholders of a small business, except as ordinary
26 compensation for services rendered.

27 (4) (i) The terms of all agreements for financial
28 assistance awarded under this chapter shall include any
29 material terms, requirements or other conditions provided
30 for agreements entered into under this chapter. The

1 authority may impose other terms and conditions if it
2 determines they are in the best interests of this
3 Commonwealth, including a provision requiring collateral
4 for any penalty which may be imposed.

5 (ii) Upon approving an application for a loan, the
6 authority shall draw an advance equal to the principal
7 amount of the loan from the appropriate account or
8 accounts; and prior to providing loan funds to the
9 applicant, the authority shall require the applicant to
10 execute a note and to enter into a loan agreement and any
11 other agreement as the authority shall require.

12 (e) Reporting and inspection.--An applicant for or a
13 recipient of financial assistance made under this chapter shall,
14 upon request:

15 (1) Permit the authority to inspect its premises, books
16 and records.

17 (2) Provide updated information to the authority if
18 conditions change to the extent that the information
19 originally given becomes inaccurate or misleading.

20 (3) Provide the authority with any periodic financial
21 reports and audits that the authority may require.

22 § 1751. Small Business First Program.

23 (a) General rule.--The Small Business First Program shall
24 provide low-interest loans and lines of credit to small
25 businesses for capital development projects that will stimulate
26 the expansion and assist in the viability of small businesses,
27 thereby creating new jobs and retaining existing jobs in this
28 Commonwealth.

29 (b) Application.--In addition to the requirements listed in
30 section 1750(b) (relating to programs generally), the

1 application shall include the following:

2 (1) A description of the capital development project,
3 including the following:

4 (i) The number of employment opportunities to be
5 created or preserved by the proposed capital development
6 project.

7 (ii) If the applicant is an agricultural producer, a
8 demonstration that there is a substantial likelihood that
9 the project will enhance the agricultural operation.

10 (2) A financial commitment from a responsible source for
11 any cost of the project in excess of the amount requested.

12 (3) A demonstration of the ability of the applicant to
13 meet and satisfy the debt service as it becomes due and
14 payable.

15 (4) The existence and sufficiency of collateral for the
16 loan.

17 (c) Conditions and restrictions.--A loan made under this
18 section may:

19 (1) Finance the development, construction, renovation or
20 acquisition of land, buildings, machinery or equipment,
21 licenses for wholesalers and distributors to sell alcoholic
22 beverages or may be used for working capital.

23 (2) Not exceed 50% of the total capital development
24 project costs. For the purposes of this paragraph, capital
25 development project costs incurred during the 12-month period
26 prior to the date of submission of the application to the
27 authority shall be considered part of the total capital
28 development project costs.

29 (d) Loan terms.--The following terms shall apply:

30 (1) A loan for real property shall have a repayment

1 period of up to 15 years.

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

4 (3) A loan or line of credit for working capital shall
5 have a repayment period of up to three years.

6 (4) If, in a capital development project, two or more
7 uses are planned, the loan terms may be combined.

8 (5) The interest rate shall be determined by the
9 authority.

10 (6) The authority shall determine the job retention or
11 job creation requirements of each project financed in whole
12 or in part through a loan made under this section.

13 (7) All loans shall be secured by lien positions on
14 collateral at the highest level of priority, as determined by
15 the authority.

16 (e) Penalty for noncompliance.--In the event that a loan
17 recipient fails to create or preserve the number of employment
18 opportunities specified in the approved application, the
19 authority may impose a penalty equal to an increase of up to 5%
20 above the existing loan interest rate for the remainder of the
21 loan, unless it determines that the failure is due to
22 circumstances outside the control of the loan recipient.

23 § 1752. Community Economic Development Program.

24 (a) General rule.--The Community Economic Development
25 Program shall provide loans for small businesses located in
26 distressed communities which are involved in the business-to-
27 public service, mercantile, commercial or point-of-sale retail
28 sectors in order to enhance the economic well-being of the
29 community by employing residents of the community and by
30 providing products or services to that community.

1 (b) Conditions and restrictions.--The following shall apply:

2 (1) A loan for land, buildings, machinery, equipment or
3 working capital may not exceed 50% of the total capital
4 development project costs. For the purposes of this
5 paragraph, capital development project costs incurred during
6 the 12-month period prior to the date of submission of the
7 application to the authority shall be considered part of the
8 total capital development project costs.

9 (2) Each capital development project shall meet the job
10 retention or job creation requirements established by the
11 authority.

12 (3) The maximum loan amount available under this program
13 will be set by the authority.

14 (4) No loans shall be approved if the proceeds of the
15 loan would be used to provide funds for speculation in real
16 or personal property, whether tangible or intangible.

17 (c) Loan terms.--The following terms shall apply:

18 (1) A loan for real property shall have a repayment
19 period of up to 15 years.

20 (2) A loan for machinery and equipment shall have a
21 repayment period of up to ten years.

22 (3) A loan or line of credit for working capital shall
23 have a repayment period of up to three years.

24 (4) All loans shall be secured by lien positions on
25 collateral at the highest level of priority, as determined by
26 the authority.

27 (d) Application.--In addition to the requirements listed in
28 section 1750(b) (relating to programs generally), the
29 application shall include the following:

30 (1) A financial commitment from a responsible source for

1 the cost of the capital development project in excess of the
2 amount requested.

3 (2) A demonstration that the capital development project
4 will have a direct impact on the community in which the
5 capital development project is or will be located, on
6 residents of that community or on the local and regional
7 economy. The authority shall establish criteria that will
8 assist in making this demonstration.

9 (3) A projection of the number of employment
10 opportunities to be created or preserved by the proposed
11 capital development project.

12 (e) Penalty for noncompliance.--In the event that a loan
13 recipient fails to create or preserve the number of employment
14 opportunities specified in the approved application, the
15 authority may impose a penalty equal to an increase of up to 5%
16 above the existing rate for the remainder of the loan, unless it
17 determines that the failure is due to circumstances outside the
18 control of the loan recipient.

19 § 1753. Export Financing Program.

20 (a) General rule.--The Export Financing Program shall
21 provide loans and lines of credit to export businesses for
22 working capital and accounts receivable financing, in order to
23 increase the level of foreign exports and the number of
24 Pennsylvania companies exporting goods and services.

25 (b) Application.--In addition to the requirements listed in
26 section 1750(b) (relating to programs generally), the
27 application shall include the following:

28 (1) The number of employment opportunities to be created
29 or preserved by the proposed capital development project.

30 (2) A financial commitment from a responsible source for

1 any cost of the capital development project in excess of the
2 amount requested.

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

6 (4) A demonstration that the applicant will be able to
7 meet and satisfy the debt service as it becomes due and
8 payable.

9 (5) The existence and sufficiency of collateral for the
10 loan.

11 (c) Conditions and restrictions.--

12 (1) The maximum loan amount, repayment period and
13 interest rate available under this program will be set by the
14 authority.

15 (2) The authority may, in its discretion, require any of
16 the following:

17 (i) That the applicant be eligible for an export
18 credit insurance policy for small businesses offered by
19 the Ex-Im Bank.

20 (ii) That the export credit sales contract be
21 insured by an export credit insurance policy offered by
22 the Ex-Im Bank.

23 (iii) That the loan be guaranteed by the working
24 capital guaranty program offered by the Ex-Im Bank.

25 (3) No loan shall be approved if the proceeds of the
26 loan would be used to provide funds for speculation in real
27 or personal property, whether tangible or intangible.

28 (4) All loans shall be secured by lien positions on
29 collateral at the highest level of priority, as may be
30 determined by the authority.

1 (d) Penalty for noncompliance.--In the event that a loan
2 recipient fails to create or preserve the number of employment
3 opportunities specified in the approved application, the
4 authority may impose a penalty equal to an increase of up to 5%
5 above the existing loan interest rate for the remainder of the
6 loan, unless it determines that the failure is due to
7 circumstances outside the control of the loan recipient.
8 § 1754. Pennsylvania Industrial Development Program.

9 (a) General rule.--The Pennsylvania Industrial Development
10 Program shall provide loans for industrial development projects,
11 industrial parks and multiple-tenancy building projects, in
12 order to increase employment levels and the overall economic
13 health of this Commonwealth.

14 (b) Loans for industrial development projects.--The
15 authority may contract to loan an amount not to exceed 50% of
16 the cost of establishing the industrial development project,
17 subject, however, to the following conditions:

18 (1) Prior to the making of any loan under this
19 paragraph, the authority shall determine that:

20 (i) The borrower is responsible to assume all
21 obligations imposed by the authority in connection with
22 the project, financial or otherwise, and to undertake the
23 operation of the project.

24 (ii) The borrower has obtained from other
25 independent and responsible sources a firm commitment for
26 any funds which, in addition to the loan made pursuant to
27 this paragraph and any other property or assets held by
28 the borrower, shall be necessary for the completion and
29 operation of the project.

30 (2) The authority shall determine the interest rate and

1 repayment period of any loan made under this section.

2 (3) A loan made under this section shall be evidenced by
3 note of the borrower, and secured by a mortgage on the
4 project for which such loan was made, subordinate only to the
5 mortgage securing the first lien obligation issued to secure
6 the commitment of funds provided to pay the cost of the
7 project from the aforesaid independent and responsible
8 sources, and used in the financing of the project.

9 (4) The authority may require such additional security
10 it may deem necessary.

11 (c) Loans for industrial parks.--The authority may contract
12 to loan an amount not to exceed 90% of the cost of establishing
13 an industrial park project, subject to the following conditions:

14 (1) (Reserved).

15 (2) The authority shall determine the interest rate and
16 repayment period of any loan made under this subsection.

17 (3) A loan made under this section shall be evidenced by
18 note of the borrower and secured by a first mortgage on the
19 industrial park or by participation in a first mortgage. If,
20 however, a Federal agency is participating in the financing
21 of the industrial park, the authority may take as security
22 for its loan a mortgage on the industrial park which is
23 second only to the mortgage given to the Federal agency.

24 (4) If a loan made under this section is secured by
25 participation in a first mortgage on the industrial park, a
26 portion of the loan, not to exceed 10% of the cost of the
27 project, may be secured by a second mortgage on the
28 industrial park which is second only to the participating
29 first mortgage.

30 (d) Loans for multiple-tenancy building projects.--The

1 authority may contract to loan an amount not to exceed 75% of
2 the cost of establishing the multiple-tenancy building project,
3 subject, however, to the following conditions:

4 (1) (Reserved).

5 (2) The authority shall determine the interest rate and
6 repayment period of any loan made under this section.

7 (3) A loan made under this section shall be evidenced by
8 note of the borrower and secured by a first mortgage or
9 participation in a first mortgage on the multiple-tenancy
10 building project.

11 (4) The authority may contract to loan an amount not to
12 exceed 75% of the cost of the project if the loan is secured
13 by a first mortgage or participation in a first mortgage on
14 the project; otherwise, the authority may contract to loan an
15 amount not to exceed 40% of the cost of the project.

16 (5) If a loan made under this section is secured by a
17 participation in a first mortgage on the project, the
18 authority may permit a portion of its loan, not to exceed 10%
19 of the cost of the project, to be secured by a second
20 mortgage on the project which is second only to the
21 participating first mortgage.

22 (e) Application.--In addition to the requirements listed in
23 section 1750(b) (relating to programs generally), the
24 application shall include the following:

25 (1) A general description of the type, classes and
26 number of employees employed or to be employed in the
27 operation of the project.

28 (2) The cost or estimate of the cost of establishing the
29 project. As used in this section, "cost" shall include
30 financing charges, including interest incurred prior to and

1 during construction, but shall not include the cost of any
2 machinery, equipment or fixtures necessary for the project or
3 the installation or maintenance of any such machinery,
4 equipment or fixtures.

5 (3) Evidence of the arrangement made by the borrower for
6 the financing of all costs of the project over and above the
7 participation of the authority.

8 (4) Evidence that the establishment of the project will
9 not cause the removal of an industrial enterprise,
10 manufacturing enterprise, research and development
11 enterprise, agricultural producer or agricultural processor
12 from one area of this Commonwealth to another area of this
13 Commonwealth, as determined by the authority.

14 (f) Employment projection audits.--The authority shall
15 implement a procedure to determine whether the employment
16 projections set out in the loan application are achieved.
17 § 1755. Machinery and Equipment Loan Program.

18 (a) General rule.--The Machinery and Equipment Loan Program
19 shall provide loans to businesses involved in industrial
20 processes, manufacturing, mining, production agriculture,
21 information technology or biotechnology for the purchase,
22 installation or upgrade of equipment and machinery, including
23 computer hardware and software.

24 (b) Application.--In addition to the requirements listed in
25 section 1750(b) (relating to programs generally), the
26 application shall include the following:

27 (1) A demonstration that the applicant is able to meet
28 and satisfy all debt service as it becomes due and payable.

29 (2) Evidence of available and sufficient collateral,
30 including satisfactory lien positions on real and personal

1 property.

2 (3) Sufficient evidence that funds shall be used only to
3 acquire and install new equipment and machinery or upgrade
4 existing equipment and machinery, including the acquisition,
5 application and utilization of computer hardware and
6 software.

7 (4) The number of net employment opportunities to be
8 created by the proposed project unless the business is
9 involved in production agriculture.

10 (5) Evidence that the loan project will increase the
11 business's competitiveness within its respective industry.

12 (c) Loan terms and limitations.--The following shall apply:

13 (1) No loan shall exceed 50% of the cost of the project.

14 (2) Loan terms shall not exceed ten years in duration.

15 (3) Proceeds of loans made under this section may not be
16 used for speculation in any kind of property, real or
17 personal, tangible or intangible.

18 (4) Loans shall be made only for projects that
19 demonstrate a significant likelihood of resulting in job
20 creation or retention, as established by the authority. This
21 paragraph does not apply to loans made to business
22 enterprises involved in production agriculture.

23 (d) Security.--All loans shall be secured by no less than a
24 second lien position on the equipment purchased and other
25 sufficient collateral as determined by the authority.

26 (e) Penalty for noncompliance.--In the event that a loan
27 recipient fails to create or preserve the number of employment
28 opportunities specified in the approved application, the
29 authority may impose a penalty equal to an increase of up to 5%
30 above the existing rate for the remainder of the loan, unless it

1 determines that the failure is due to circumstances outside the
2 control of the loan recipient.

3 § 1756. Disadvantaged Business Development Program.

4 (a) General rule.--The Disadvantaged Business Development
5 Program shall provide financial assistance to businesses owned
6 by socially and economically disadvantaged persons.

7 (b) Application.--In addition to the requirements listed in
8 section 1750(b) (relating to programs generally), the
9 application shall include the following:

10 (1) A statement that the applicant is a United States
11 citizen, resident of this Commonwealth and member of a group
12 or groups which have suffered disadvantages arising from
13 chronic racial, ethnic or economic circumstances.

14 (2) An explanation as to how the applicant's ability to
15 compete in the free enterprise system has been impaired due
16 to diminished capital and credit opportunities, as compared
17 to others in the same or a similar line of business who are
18 not socially and economically disadvantaged.

19 (c) Loan terms and conditions.--The authority shall have the
20 power to lend money to and to guarantee, endorse or act as
21 surety on the bonds, notes, contracts or other obligations of,
22 or otherwise financially assist a business owned by a person who
23 meets the criteria in subsection (a), and to establish and
24 regulate the terms, security and conditions with respect to any
25 such loans or financial assistance and the charges for interest
26 and service connected therewith.

27 § 1757. First Industries Program.

28 (a) General purpose.--The First Industries Program shall
29 provide financial assistance for projects related to tourism and
30 agriculture located within this Commonwealth.

1 (b) Loans.--The First Industries Program shall provide loans
2 to businesses involved in tourism and agriculture that would
3 otherwise satisfy the requirements for a loan under section 1751
4 (relating to Small Business First Program), 1752 (relating to
5 Community Economic Development Program) or 1755 (relating to
6 Machinery and Equipment Loan Fund Program).

7 (c) Loan guarantees.--An applicant may request a guarantee
8 for a loan to be made by a commercial lending institution or
9 community development financial institution to assist with the
10 financing of a project related to tourism or agriculture.

11 (d) Application.--In addition to the requirements listed in
12 section 1750(b) (relating to programs generally), the
13 application shall include the following:

14 (1) A description of the proposed project financing,
15 including terms, conditions and the collateral or security
16 required for the loan for which the guarantee is being
17 requested.

18 (2) A copy of the borrower's last two years of financial
19 statements.

20 (e) Terms and limitations.--

21 (1) The maximum guarantee amount and percentage made
22 under this section shall be determined by the authority.

23 (2) No less than \$500,000 of private funds must be
24 invested in the project.

25 (3) In addition to any other terms and conditions
26 required by the authority, the guarantee agreement shall
27 provide for the following:

28 (i) The procedure for the submission by the
29 commercial lending institution or community development
30 financial institution of a claim for payment. This

1 procedure shall require that the commercial lending
2 institution or community development financial
3 institution demonstrate that it has exhausted all
4 available remedies against the borrower, other guarantors
5 and collateral before seeking payment under the
6 agreement.

7 (ii) A requirement that a percentage of any moneys
8 recovered subsequent to the payment of a claim by the
9 authority be remitted to the authority.

10 (iii) Periodic reporting requirements by the
11 commercial lending institution or community development
12 financial institution regarding itself and the loans that
13 have been awarded guarantees under this section.

14 § 1758. Second Stage Loan Guarantee Program.

15 (a) General purpose.--The Second Stage Loan Guarantee
16 Program shall provide loan guarantees to commercial lending
17 institutions that make loans to life sciences, advanced
18 technology or manufacturing businesses located in this
19 Commonwealth.

20 (b) Application for enrollment.--A commercial lending
21 institution may apply for enrollment in the program authorized
22 by this section. The application shall be in the form required
23 by the authority and, in addition to the requirements listed in
24 section 1750(b) (relating to programs generally), shall include
25 the following:

26 (1) The name and address of the commercial lending
27 institution and the name and title of the individual who will
28 serve as the point of contact for the commercial lending
29 institution.

30 (2) A statement defining the service area of the

1 commercial lending institution.

2 (3) A statement describing the commercial lending
3 activities engaged in by the commercial lending institution
4 and how the institution intends to expand those activities as
5 a result of its participation in the program authorized by
6 this section.

7 (c) Enrollment approval.--Upon approval of an application
8 for enrollment, the authority shall execute a master guarantee
9 agreement in favor of the commercial lending institution. In
10 addition to any other terms and conditions required by the
11 authority, the master guarantee agreement shall provide for the
12 following:

13 (1) The procedure for the submission of a claim for
14 payment by the commercial lending institution. The procedure
15 shall require that the commercial lending institution
16 demonstrate that it has exhausted all available remedies
17 against the borrower, other guarantors and collateral for the
18 loan before seeking payment under the agreement.

19 (2) A requirement that a percentage of any moneys
20 recovered by the commercial lending institution subsequent to
21 any payment made under the master guarantee agreement by the
22 authority be remitted to the authority.

23 (3) Periodic reporting requirements by the commercial
24 lending institution regarding itself and regarding the loans
25 for which guarantee certificates have been issued under this
26 section.

27 (d) Application for guarantee.--A commercial lending
28 institution enrolled in the program authorized by this section
29 may submit an application to the authority for the guarantee of
30 a proposed loan. The application shall be in the form required

1 by the authority and, in addition to the requirements listed in
2 section 1750(b), shall include the following:

3 (1) A demonstration that the use of loan proceeds by the
4 borrower will result in jobs being created or retained within
5 this Commonwealth, and an estimate as to the number of
6 projected new or retained employees as a result of the loan.

7 (2) A statement that the borrower's business is located
8 within the commercial lending institution's service area and
9 within this Commonwealth.

10 (3) A copy of the borrower's last two years of financial
11 statements prepared or reported on by an independent
12 certified public accountant.

13 (4) A statement describing the purpose of the loan, the
14 requested amount of the loan, a copy of the commercial
15 lending institution's commitment letter and applicable credit
16 underwriting that supports the repayment of the loan, as well
17 as the collateral and other guarantees offered by the
18 borrower to support the loan.

19 (5) Certification that the borrower's business has been
20 in existence for at least two years at the time of
21 application.

22 (6) Demonstration that the borrower is financially
23 responsible and has the ability to repay the loan.

24 (e) Limitations.--

25 (1) The maximum guarantee amount and percentage shall be
26 determined by the authority and shall terminate at the end of
27 seven years.

28 (2) At no time may a guarantee exceed \$1,000,000 for any
29 one loan.

30 SUBCHAPTER F

1 MISCELLANEOUS PROVISIONS

2 Sec.

3 1771. Definitions.

4 1771.1 Transfer from Pennsylvania Industrial Development

5 Authority to Pennsylvania Business Development

6 Authority.

7 1772. Transfer from Commonwealth Financing Authority to

8 Pennsylvania Business Development Authority for First

9 Industries Program and Second Stage Program.

10 1773. Transfer from Pennsylvania Minority Business Development

11 Authority to Pennsylvania Business Development

12 Authority.

13 1774. Successorship and transfer of assets and liabilities.

14 § 1771. Definitions.

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

18 "Account." The Pennsylvania Industrial Development Account
19 and any similar account established by a successor to the
20 Pennsylvania Business Development Authority that assumes the
21 obligations under the Pennsylvania Industrial Development
22 Authority bond indenture.

23 "Debt." Notes, instruments and other evidences of
24 indebtedness or obligations which were issued prior to the
25 effective date of this section for the same programs or similar
26 programs to those described under Subchapter E (relating to
27 programs) and under the following:

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

1 (2) The act of July 22, 1974 (P.L.598, No.206), known as
2 the Pennsylvania Minority Business Development Authority Act.

3 (3) 12 Pa.C.S. Chs. 23 (relating to small business
4 first) and 29 (relating to machinery and equipment loans).

5 "Debt instrument." Any trust instrument or indenture or
6 other financial instrument pursuant to which debt was issued,
7 incurred or secured.

8 "Program." The Pennsylvania Industrial Development Program.
9 The term shall include any similar program established by a
10 successor to the Pennsylvania Business Development Authority
11 that assumes the obligations under the Pennsylvania Industrial
12 Development Authority bond indenture.

13 "Prior programs." Except for programs transferred under
14 sections 1771.1 (relating to transfer from Pennsylvania
15 Industrial Development Authority to Pennsylvania Business
16 Development Authority) and 1773 (relating to transfer from
17 Pennsylvania Minority Business Development Authority to
18 Pennsylvania Business Development Authority), the same programs
19 or similar programs to those described under Subchapter E
20 (relating to programs) and created under the following acts
21 which are repealed, in whole or in part, pursuant to this
22 chapter:

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

26 (2) The act of July 22, 1974 (P.L.598, No.206), known as
27 the Pennsylvania Minority Business Development Authority Act.

28 (3) 12 Pa.C.S. Chs. 23 (relating to small business
29 first) and 29 (relating to machinery and equipment loans).

30 (4) Sections 1552 (relating to First Industries Program)

1 and 1553 (relating to Second Stage Loan Program).

2 § 1771.1. Transfer from Pennsylvania Industrial Development
3 Authority to Pennsylvania Business Development
4 Authority.

5 (a) (Reserved).

6 (b) Designation of Pennsylvania Business Development
7 Authority as successor to Pennsylvania Industrial Development
8 Authority.--The Pennsylvania Business Development Authority, as
9 a public instrumentality of the Commonwealth, shall be and is
10 designated as successor to Pennsylvania Industrial Development
11 Authority. The separate existence of the Pennsylvania Industrial
12 Development Authority shall cease.

13 (c) Transfer of assets and liabilities of Pennsylvania
14 Industrial Development Authority.--The following shall occur:

15 (1) The following shall be taken and deemed to be
16 transferred to and vested in the Pennsylvania Business
17 Development Authority, subject to any pledge in favor of the
18 holders of bonds:

19 (i) All of the real, personal and mixed property and
20 all interests in the property of the Pennsylvania
21 Industrial Development Authority, including loans to
22 industrial development agencies and property acquired as
23 a result of foreclosures or in lieu of foreclosures of
24 mortgages securing the loans.

25 (ii) Any debts or amount due to the Pennsylvania
26 Industrial Development Authority.

27 (iii) The Pennsylvania Industrial Development
28 Authority's right, title and interest in and to revenues
29 pledged to secure bonds, the interests of the
30 Pennsylvania Industrial Development Authority under trust

1 instruments securing its bonds, including the right to
2 issue obligations pursuant to and secured by the
3 instruments, sinking funds on deposit and all funds
4 deposited under trust instruments, leaseholds and rights
5 and deposits under the trust instruments.

6 (iv) Rights under interest rate exchange agreements
7 and other financial instruments.

8 (v) Appropriations.

9 (vi) All other rights and assets of the Pennsylvania
10 Industrial Development Authority of any nature.

11 (2) (i) The Pennsylvania Business Development Authority
12 shall succeed to, assume and become liable for all
13 liabilities and obligations of the Pennsylvania
14 Industrial Development Authority, including the bonds and
15 the Pennsylvania Industrial Development Authority bond
16 indenture, obligations under interest rate exchange
17 agreements and other financial instruments, contracts for
18 purchase of goods or services and other liabilities of
19 any nature.

20 (ii) The liabilities and obligations under subparagraph
21 (i) shall be subject to the same limitations as were
22 applicable to the Pennsylvania Industrial Development
23 Authority prior to the transfer of assets and liabilities,
24 including limitations as to payment source, pledges,
25 assignments, liens, charges, terms and conditions.

26 (iii) The transfer of assets and liabilities to the
27 Pennsylvania Business Development Authority as successor are
28 assumed by the Pennsylvania Business Development Authority
29 and shall not impair the rights or the security of holders of
30 bonds or other creditors, persons dealing with Pennsylvania

1 Industrial Development Authority, liens upon the property of
2 Pennsylvania Industrial Development Authority or persons
3 holding claims against Pennsylvania Industrial Development
4 Authority.

5 (iv) Any claim existing or action or proceeding pending
6 by or against the Pennsylvania Industrial Development
7 Authority shall be prosecuted to judgment as if the transfer
8 had not taken place or the Pennsylvania Business Development
9 Authority may be proceeded against or substituted in its
10 place.

11 (d) Rights and powers.--

12 (1) Nothing under this chapter shall alter or limit the
13 rights and powers vested in the Pennsylvania Business
14 Development Authority as successor to the Pennsylvania
15 Industrial Development Authority or otherwise created under
16 the act of May 17, 1956 (1955 P.L.1609, No.537), known as the
17 Pennsylvania Industrial Development Authority Act, in any
18 manner inconsistent with the obligations of the Pennsylvania
19 Industrial Development Authority and, after the effective
20 date of this section, the Pennsylvania Business Development
21 Authority, to obligees of the Pennsylvania Industrial
22 Development Authority until all bonds issued by the
23 Pennsylvania Industrial Development Authority, together with
24 the interest on the bonds, are fully paid and discharged.

25 (2) Nothing under this chapter shall authorize personal
26 recourse for any claim based on bonds or trust instruments
27 securing the bonds or trust instruments, against any member,
28 officer or employee of the Pennsylvania Industrial
29 Development Authority, either directly or through the
30 Pennsylvania Industrial Development Authority or the

1 Pennsylvania Business Development Authority under any
2 constitutional provision, statute or rule of law or by the
3 enforcement of any assessment or penalty or otherwise.

4 (e) Pennsylvania Industrial Development Account and
5 Program.--

6 (1) The provisions of this chapter relating to the
7 account and the program shall apply to the assets and
8 revenues of the Pennsylvania Industrial Development Authority
9 transferring to the Pennsylvania Business Development
10 Authority as successor in addition to the assets and revenues
11 arising from the continuing program subsequent to the
12 transfer.

13 (2) The pledge made by the trust instruments securing
14 the Pennsylvania Industrial Development Authority bonds shall
15 apply to revenues of the Pennsylvania Business Development
16 Authority from the program and to assets held in the account.
17 No withdrawals from the account may be made except in
18 compliance with the trust instruments securing the
19 Pennsylvania Industrial Development Authority bonds.

20 (f) Definition.--As used in this section, the term "bond"
21 means any bond, note or other financial obligation of the
22 Pennsylvania Industrial Development Authority, including
23 interest rate exchange agreements or other financial instruments
24 related to bonds.

25 § 1772. Transfer from Commonwealth Financing Authority to the
26 Pennsylvania Business Development Authority for the
27 First Industries Program and Second Stage Loan
28 Program.

29 On the effective date of this chapter, the trust accounts
30 established by the Commonwealth Financing Authority under

1 sections 1541 (relating to trust accounts) and 1542(b) (relating
2 to revolving loan program accounts) for the First Industries
3 Program and the Second Stage Loan Program shall be transferred
4 to and vested in the authority without further act or deed.

5 § 1773. Transfer from Pennsylvania Minority Business
6 Development Authority to Pennsylvania Business
7 Development Authority.

8 (a) (Reserved).

9 (b) Designation of Pennsylvania Business Development
10 Authority as successor to the Pennsylvania Minority Business
11 Development Authority.--The Pennsylvania Business Development
12 Authority, as a public instrumentality of the Commonwealth,
13 shall be and is designated as successor to the Pennsylvania
14 Minority Business Development Authority. The separate existence
15 of the Pennsylvania Minority Business Development Authority
16 shall cease.

17 (c) Transfer of assets and liabilities of the Pennsylvania
18 Minority Business Development Authority.--The following shall
19 occur:

20 (1) The following shall be taken and deemed to be
21 transferred to and vested in the Pennsylvania Business
22 Development Authority, subject to any pledge in favor of the
23 holders of bonds:

24 (i) All of the real, personal and mixed property and
25 all interests in the property of the Pennsylvania
26 Minority Business Development Authority, including loans
27 and other debts owing to the Pennsylvania Minority
28 Business Development Authority and amounts due to the
29 Pennsylvania Minority Business Development Authority
30 under the loans and debts.

1 (ii) The right, title and interest of the
2 Pennsylvania Minority Business Development Authority
3 under bond indentures, including all revenues pledged as
4 security for the right, title and interest and the right
5 to issue obligations pursuant to and secured by the bond
6 indentures, sinking funds on deposit and all funds
7 deposited under bond indentures, leaseholds and rights
8 and deposits under bond indentures.

9 (iii) Appropriations.

10 (iv) All other rights and assets of the Pennsylvania
11 Minority Business Development Authority.

12 (2) (i) The Pennsylvania Business Development Authority
13 shall succeed to, assume and become liable for all
14 liabilities and obligations of the Pennsylvania Minority
15 Business Development Authority, including the bonds, bond
16 indentures, contracts for purchase of goods or services
17 and other liabilities.

18 (ii) The liabilities and obligations under
19 subparagraph (i) shall be subject to the same limitations
20 as were applicable to the Pennsylvania Minority Business
21 Development Authority prior to the transfer of assets and
22 liabilities, including limitations as to payment source,
23 pledges, assignments, liens, charges, terms and
24 conditions.

25 (iii) The transfer of assets and liabilities to the
26 Pennsylvania Business Development Authority as successor
27 are assumed by the Pennsylvania Business Development
28 Authority and shall not impair the rights or the security
29 of holders of bonds or other creditors of the
30 Pennsylvania Minority Business Development Authority,

1 persons dealing with the Pennsylvania Minority Business
2 Development Authority, liens upon the property of the
3 Pennsylvania Minority Business Development Authority or
4 persons holding claims against the Pennsylvania Minority
5 Business Development Authority.

6 (iv) Any claim existing or action or proceeding
7 pending by or against the Pennsylvania Minority Business
8 Development Authority shall be prosecuted to judgment as
9 if the transfer had not taken place or the Pennsylvania
10 Business Development Authority may be proceeded against
11 or substituted in its place.

12 (d) Rights and powers.--

13 (1) Nothing under this chapter shall alter or limit the
14 rights and powers vested in the Pennsylvania Business
15 Development Authority as successor to the Pennsylvania
16 Minority Business Development Authority or otherwise created
17 by the act of July 22, 1974 (P.L.598, No.206), known as the
18 Pennsylvania Minority Business Development Authority Act,
19 and, after the effective date of this section, the
20 Pennsylvania Business Development Authority, to obligees of
21 the Pennsylvania Minority Business Development Authority
22 until all bonds issued by the Pennsylvania Minority Business
23 Development Authority, together with the interest on the
24 bonds, are fully paid and discharged.

25 (2) Nothing under this chapter shall authorize personal
26 recourse for any claim based on any obligation of the
27 Pennsylvania Minority Business Development Authority,
28 including its bonds or bond indentures, against any member,
29 officer or employee of the Pennsylvania Minority Business
30 Development Authority either directly or through the

1 Pennsylvania Minority Business Development Authority or the
2 Pennsylvania Business Development Authority under any
3 constitutional provision, statute or rule of law or by the
4 enforcement of any assessment or penalty or otherwise.

5 (e) Definition.--As used in this section, the term "bond"
6 means bonds, notes and other evidences of indebtedness or
7 obligations which the Pennsylvania Minority Business Development
8 Authority issued under the act of July 22, 1974 (P.L.598,
9 No.206), known as the Pennsylvania Minority Business Development
10 Authority Act.

11 § 1774. Successorship and transfer of assets and liabilities.

12 (a) (Reserved).

13 (b) Transfer of assets and liabilities of prior programs.--
14 The following shall occur:

15 (1) The following shall be taken and deemed to be
16 transferred to and vested in the Pennsylvania Business
17 Development Authority, subject to any pledge in favor of the
18 holders of debt:

19 (i) All of the real, personal and mixed property and
20 all interests in the property of the prior programs,
21 including loans and other debts owing to the prior
22 programs and amounts due to the prior programs under the
23 loans and other debts.

24 (ii) The right, title and interest of the prior
25 programs under debt instruments, including all revenues
26 pledged as security for the right, title and interest and
27 the right to issue obligations pursuant to and secured by
28 the debt instruments, sinking funds on deposit and all
29 funds deposited under debt instruments, leaseholds and
30 rights and deposits under the debt instruments.

1 (iii) Appropriations made with respect to the prior
2 programs.

3 (iv) All other rights and assets of the prior
4 programs.

5 (2) (i) The Pennsylvania Business Development Authority
6 shall succeed to, assume and become liable for all
7 liabilities and obligations of the prior programs,
8 including the debt, debt instruments, contracts for
9 purchase of goods or services, and other liabilities.

10 (ii) The liabilities and obligations under
11 subparagraph (i) shall be subject to the same limitations
12 as were applicable to the prior programs prior to the
13 transfer of assets and liabilities, including limitations
14 as to payment source, pledges, assignments, liens,
15 charges, terms and conditions.

16 (iii) The transfer of assets and liabilities to the
17 Pennsylvania Business Development Authority as successor
18 shall not impair the rights or the security of holders of
19 debt or other creditors of the prior programs, persons
20 dealing with the prior programs, liens upon the property
21 of the prior programs or persons holding claims against
22 the prior programs, all of which are assumed by the
23 Pennsylvania Business Development Authority.

24 (iv) Any claim existing or action or proceeding
25 pending by or against the prior programs shall be
26 prosecuted to judgment as if the transfer had not taken
27 place or the Pennsylvania Business Development Authority
28 may be proceeded against or substituted in its place.

29 (c) Rights and powers.--

30 (1) Nothing under this chapter shall alter or limit the

1 rights and powers vested in the Pennsylvania Business
2 Development Authority as successor to the prior programs or
3 otherwise created by the acts under which the prior programs
4 were initiated in any manner inconsistent with the
5 obligations of the prior programs and, after the effective
6 date of this section, the Pennsylvania Business Development
7 Authority, to obligees of the prior programs until all debt
8 at any time issued by the prior programs, together with the
9 interest on the debt, are fully paid and discharged.

10 (2) Nothing under this chapter shall authorize personal
11 recourse for any claim based on any obligation of the prior
12 programs, including without limitation its debt or debt
13 instruments, against any member, officer or employee of the
14 prior programs whether directly or through the prior programs
15 or the Pennsylvania Business Development Authority under any
16 constitutional provision, statute or rule of law or by the
17 enforcement of any assessment or penalty or otherwise.

18 Section 5. Any money that has been allocated or appropriated
19 and has been expended prior to the effective date of this
20 section for the same programs or similar programs to those
21 described under 64 Pa.C.S. Ch. 17 Subch. E shall be deducted
22 from the corresponding allocation or appropriation under 64
23 Pa.C.S. Ch. 17.

24 Section 6. Repeals are as follows:

25 (1) The General Assembly declares that the repeal under
26 paragraph (2) is necessary to effectuate the addition of the
27 following provisions of 64 Pa.C.S.:

- 28 (i) Ch. 17 Subch. C.
- 29 (ii) Section 1731(4).
- 30 (iii) Section 1734(a).

1 (iv) Section 1754.

2 (v) Section 1771.1.

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

6 (3) The General Assembly declares that the repeal under
7 paragraph (4) is necessary to effectuate the addition of the
8 following provisions of 64 Pa.C.S.:

9 (i) Ch. 17 Subch C.

10 (ii) Section 1731(6).

11 (iii) Section 1756.

12 (iv) Section 1773.

13 (4) The act of July 22, 1974 (P.L.598, No.206), known as
14 the Pennsylvania Minority Business Development Authority Act,
15 is repealed.

16 Section 7. This act continues repealed provisions of the
17 Pennsylvania Consolidated Statutes as follows:

18 (1) The addition of 64 Pa.C.S. §§ 1731(1) and 1751 is a
19 continuation of 12 Pa.C.S. Ch. 23. Except as otherwise
20 provided in 64 Pa.C.S. § 1731(1) or 1751, all activities
21 initiated under 12 Pa.C.S. Ch. 23 shall continue and remain
22 in full force and effect and may be completed under 64
23 Pa.C.S. §§ 1731(1) and 1751. Orders, regulations, rules and
24 decisions which were made under the 12 Pa.C.S. Ch. 23 and
25 which are in effect on the effective date of section 1 {12
26 Pa.C.S. Ch. 23} of this act shall remain in full force and
27 effect until revoked, vacated or modified under 64 Pa.C.S. §
28 1731(1) or 1751. Contracts, obligations and collective
29 bargaining agreements entered into under 12 Pa.C.S. Ch. 23
30 are not affected nor impaired by the repeal of 12 Pa.C.S. Ch.

1 23.

2 (2) The addition of 64 Pa.C.S. §§ 1731(5) and 1755 is a
3 continuation of 12 Pa.C.S. Ch. 29. Except as otherwise
4 provided in 64 Pa.C.S. § 1731(5) or 1755, all activities
5 initiated under 12 Pa.C.S. Ch. 29 shall continue and remain
6 in full force and effect and may be completed under 64
7 Pa.C.S. §§ 1731(5) and 1755. Orders, regulations, rules and
8 decisions which were made under the 12 Pa.C.S. Ch. 29 and
9 which are in effect on the effective date of section 1 {12
10 Pa.C.S. Ch. 29} of this act shall remain in full force and
11 effect until revoked, vacated or modified under 64 Pa.C.S. §
12 1731(5) or 1755. Contracts, obligations and collective
13 bargaining agreements entered into under 12 Pa.C.S. Ch. 29
14 are not affected nor impaired by the repeal of 12 Pa.C.S. Ch.
15 29.

16 (3) The addition of 64 Pa.C.S. §§ 1731(7), 1757 and 1772
17 is a continuation of 64 Pa.C.S. §§ 1542(b) and 1552. Except
18 as otherwise provided in 64 Pa.C.S. § 1731(7), 1757 or 1772,
19 all activities initiated under 64 Pa.C.S. §§ 1542(b) and 1552
20 shall continue and remain in full force and effect and may be
21 completed under 64 Pa.C.S. §§ 1731(7), 1757 and 1772. Orders,
22 regulations, rules and decisions which were made under 64
23 Pa.C.S. §§ 1542(b) and 1552 and which are in effect on the
24 effective date of sections 2 and 3 {64 Pa.C.S. §§ 1542(b) and
25 1552} of this act shall remain in full force and effect until
26 revoked, vacated or modified under 64 Pa.C.S. § 1731(7), 1757
27 or 1772. Contracts, obligations and collective bargaining
28 agreements entered into under 64 Pa.C.S. §§ 1542(b) and 1552
29 are not affected nor impaired by the repeal of 64 Pa.C.S. §§
30 1542(b) and 1552.

1 (4) The addition of 64 Pa.C.S. §§ 1731(8), 1758 and 1772
2 is a continuation of 64 Pa.C.S. § 1553. Except as otherwise
3 provided in 64 Pa.C.S. § 1731(8), 1758 or 1772, all
4 activities initiated under 64 Pa.C.S. § 1553 shall continue
5 and remain in full force and effect and may be completed
6 under 64 Pa.C.S. §§ 1731(8), 1758 and 1772. Orders,
7 regulations, rules and decisions which were made under 64
8 Pa.C.S. § 1553 and which are in effect on the effective date
9 of section 3 {64 Pa.C.S. § 1553} of this act shall remain in
10 full force and effect until revoked, vacated or modified
11 under 64 Pa.C.S. § 1731(7), 1757 or 1772. Contracts,
12 obligations and collective bargaining agreements entered into
13 under 64 Pa.C.S. § 1553 are not affected nor impaired by the
14 repeal of 64 Pa.C.S. § 1553.

15 Section 8. The addition of 64 Pa.C.S. Ch. 17 Subch. C is a
16 continuation of the act of May 17, 1956 (1955 P.L.1609, No.537),
17 known as the Pennsylvania Industrial Development Authority Act
18 and the act of July 22, 1974 (P.L.598, No.206), known as the
19 Pennsylvania Minority Business Development Authority Act. The
20 following apply:

21 (1) Except as otherwise provided in 64 Pa.C.S. Ch. 17
22 Subch. C, all activities related to bonds initiated under the
23 Pennsylvania Industrial Development Authority Act or the
24 Pennsylvania Minority Business Development Authority Act
25 shall continue and remain in full force and effect and may be
26 completed under 64 Pa.C.S. Ch. 17 Subch. C. Orders,
27 regulations, rules and decisions which were related to bonds,
28 which were made under the Pennsylvania Industrial Development
29 Authority Act or the Pennsylvania Minority Business
30 Development Authority Act and which are in effect on the

1 effective date of section 7 of this act shall remain in full
2 force and effect until revoked, vacated or modified under 64
3 Pa.C.S. Ch. 17 Subch. C. Contracts, obligations and
4 collective bargaining agreements which are related to bonds
5 and which were entered into under the the Pennsylvania
6 Industrial Development Authority Act or the Pennsylvania
7 Minority Business Development Authority Act are not affected
8 nor impaired by the repeal of the the Pennsylvania Industrial
9 Development Authority Act or the Pennsylvania Minority
10 Business Development Authority Act.

11 (2) Any difference in language between 64 Pa.C.S. Ch. 17
12 Subch C and the Pennsylvania Industrial Development Authority
13 Act or the Pennsylvania Minority Business Development
14 Authority Act is intended only to conform to the style of the
15 Pennsylvania Consolidated Statutes and is not intended to
16 change or affect the legislative intent, judicial
17 construction or administration and implementation of the
18 Pennsylvania Industrial Development Authority Act or the
19 Pennsylvania Minority Business Development Authority Act.

20 Section 9. The addition of 64 Pa.C.S. §§ 1731(4), 1734(a),
21 1754 and 1771.1 is a continuation of the act of May 17, 1956
22 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial
23 Development Authority Act. The following apply:

24 (1) Except as otherwise provided in 64 Pa.C.S. §
25 1731(4), 1734(a), 1754 or 1771.1, all activities initiated
26 under the Pennsylvania Industrial Development Authority Act
27 shall continue and remain in full force and effect and may be
28 completed under 64 Pa.C.S. § 1731(4), 1734(a), 1754 or
29 1771.1. Orders, regulations, rules and decisions which were
30 made under the Pennsylvania Industrial Development Authority

1 Act and which are in effect on the effective date of section
2 7(2) of this act shall remain in full force and effect until
3 revoked, vacated or modified under 64 Pa.C.S. § 1731(4),
4 1734(a), 1754 or 1771.1. Contracts, obligations and
5 collective bargaining agreements entered into under the
6 Pennsylvania Industrial Development Authority Act are not
7 affected nor impaired by the repeal of the Pennsylvania
8 Industrial Development Authority Act.

9 (2) Any difference in language between 64 Pa.C.S. §
10 1731(4), 1734(a), 1754 or 1771.1 and the Pennsylvania
11 Industrial Development Authority Act is intended only to
12 conform to the style of the Pennsylvania Consolidated
13 Statutes and is not intended to change or affect the
14 legislative intent, judicial construction or administration
15 and implementation of the Pennsylvania Industrial Development
16 Authority Act.

17 Section 10. The addition of 64 Pa.C.S. §§ 1731(6), 1756 and
18 1773 is a continuation of the act of July 22, 1974 (P.L.598,
19 No.206), known as the Pennsylvania Minority Business Development
20 Authority Act. The following apply:

21 (1) Except as otherwise provided in 64 Pa.C.S. §
22 1731(6), 1756 or 1773, all activities initiated under the
23 Pennsylvania Minority Business Development Authority Act
24 shall continue and remain in full force and effect and may be
25 completed under 64 Pa.C.S. §§ 1731(6), 1756 and 1773. Orders,
26 regulations, rules and decisions which were made under the
27 the Pennsylvania Minority Business Development Authority Act
28 and which are in effect on the effective date of section
29 7(4) of this act shall remain in full force and effect until
30 revoked, vacated or modified under 64 Pa.C.S. §§ 1731(6),

1 1756 and 1773. Contracts, obligations and collective
2 bargaining agreements entered into under the Pennsylvania
3 Minority Business Development Authority Act are not affected
4 nor impaired by the repeal of the Pennsylvania Minority
5 Business Development Authority Act.

6 (2) Any difference in language between 64 Pa.C.S. §§
7 1731(6), 1756 and 1773 and the Pennsylvania Minority Business
8 Development Authority Act is intended only to conform to the
9 style of the Pennsylvania Consolidated Statutes and is not
10 intended to change or affect the legislative intent, judicial
11 construction or administration and implementation of the
12 Pennsylvania Minority Business Development Authority Act.
13 Section 11. This act shall take effect in 60 days.