
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 842 Session of
2023

INTRODUCED BY KENYATTA, MADDEN, O'MARA, SANCHEZ, KINSEY,
N. NELSON, RABB, PROBST, SALISBURY, HILL-EVANS, GREEN,
FIEDLER, SCHLOSSBERG, DELLOSO, D. WILLIAMS, BRENNAN, CEPHAS,
SHUSTERMAN, CONKLIN, CIRESI, YOUNG, McANDREW, OTTEN, TAKAC
AND CEPEDA-FREYTIZ, APRIL 10, 2023

REFERRED TO COMMITTEE ON COMMERCE, APRIL 10, 2023

AN ACT

1 Providing for mandatory contract provisions to prevent misuse of
2 State grants or loans.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Clawback Act.

7 Section 2. Definitions.

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

11 "Awarding agency." A Commonwealth agency that awards a State
12 grant or loan under a State grant or loan program.

13 "Commonwealth agency." An executive agency or independent
14 agency.

15 "Executive agency." The Governor and any department, board,
16 commission, authority or other agency or officer of the

1 Commonwealth. The term does not include a court or other agency
2 or officer of the unified judicial system or the General
3 Assembly and its agencies or officers.

4 "Independent agency." A board, commission, authority or
5 other agency or officer of the Commonwealth which is not subject
6 to the policy supervision and control of the Governor. The term
7 does not include a court or other agency or officer of the
8 unified judicial system or the General Assembly and its agencies
9 or officers.

10 "Recipient." A person or entity that receives a State grant
11 or loan award from an awarding agency.

12 "State grant or loan." A State grant or loan authorized by a
13 law of this Commonwealth. The term does not include any of the
14 following:

15 (1) A tax benefit or tax credit as defined in section
16 1701-A.1 of the act of March 4, 1971 (P.L.6, No.2), known as
17 the Tax Reform Code of 1971.

18 (2) A procurement as defined in 62 Pa.C.S. § 103
19 (relating to definitions).

20 (3) Money appropriated or transferred for any other
21 purpose other than a State grant or loan.

22 Section 3. Mandatory contract provisions to prevent misuse of
23 State grants or loans.

24 A contract executed for a State grant or loan between an
25 awarding agency and a recipient on or after the effective date
26 of this section shall include, at a minimum, the following:

27 (1) The awarding agency shall notify the recipient in
28 writing upon determining any of the following:

29 (i) The awarding agency improperly awarded the State
30 grant or loan to the recipient.

1 (ii) The benefits of the State grant or loan were
2 improperly conferred.

3 (iii) The recipient failed to comply with the terms
4 of the contract.

5 (2) The determination under paragraph (1) may be
6 appealed in accordance with 2 Pa.C.S. Ch. 5 Subch. A
7 (relating to practice and procedure of Commonwealth
8 agencies).

9 (3) The recipient shall repay the proceeds of the State
10 grant or loan to the awarding agency upon receipt of the
11 notice under paragraph (1) or final disposition of the appeal
12 under paragraph (2), if applicable, and no later than the
13 deadline for repayment specified in the contract.

14 (4) The repayment under paragraph (3) shall be in the
15 form of a check payable to the Commonwealth. The recipient
16 shall forward the check to the awarding agency via first
17 class mail in a manner specified in the contract.

18 (5) The repayment under paragraph (3) shall include the
19 amount of the State grant or loan and all interest, income,
20 accumulations and the monetary equivalent of any appreciation
21 in value of real, personal or mixed property purchased with
22 the proceeds of the State grant or loan.

23 (6) Upon the failure of the recipient to make the
24 repayment under paragraph (3) in a timely manner in
25 accordance with the contract, the awarding agency may assess
26 a civil penalty equal to the repayment required under
27 paragraph (5) plus an additional amount specified in the
28 contract as determined by the awarding agency.

29 (7) In the case of an inability to collect the civil
30 penalty under paragraph (6) or failure of a recipient to pay

1 all or a portion of the civil penalty, the awarding agency
2 may refer the matter to the Office of Attorney General, which
3 shall institute an action in the appropriate court to recover
4 the penalty.

5 Section 4. Construction.

6 Nothing in this act shall be construed to prohibit a contract
7 executed for a State grant or loan between an awarding agency
8 and a recipient on or after the effective date of this section
9 from containing conditions, requirements or limitations that are
10 more stringent than required under this act.

11 Section 5. Applicability.

12 This act shall only apply to a contract executed for a State
13 grant or loan between an awarding agency and a recipient on or
14 after the effective date of this section.

15 Section 6. Effective date.

16 This act shall take effect in 60 days.