

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 370

Session of  
1987

INTRODUCED BY BOWLEY, BORTNER, YANDRISEVITS, PRESSMANN, DeWEESE,  
TRELLO, COY, OLASZ, HOWLETT, ARTY, MICHLOVIC, COLAFELLA,  
DALEY, REBER, McHALE, TIGUE, LLOYD, CAPPABIANCA, FOX,  
STABACK, DOMBROWSKI, BELFANTI, KOSINSKI, RAYMOND, HALUSKA,  
PUNT, CARLSON, BLAUM, KUKOVICH, BELARDI, LEVDANSKY,  
CALTAGIRONE, MARKOSEK, VEON, PETRONE, PETRARCA, HARPER,  
SERAFINI, MAIALE, CIVERA, BUNT, CAWLEY, JOSEPHS, WOZNIAK,  
FISCHER, FREEMAN, MAINE, KASUNIC AND RUDY, FEBRUARY 11, 1987

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MARCH 14, 1988

## AN ACT

1 Providing for the establishment and operation of a Statewide  
2 disaster assistance program and fund; and imposing additional  
3 powers and duties on the Pennsylvania Emergency Management  
4 Agency.

## 5 TABLE OF CONTENTS

6 Section 1. Short title.

7 Section 2. Findings and legislative intent.

8 Section 3. Definitions.

9 ~~Section 4. Federally declared disasters.~~

&lt;—

10 ~~Section 5. Commonwealth declared disasters.~~11 ~~Section 6. Criteria.~~ SECTION 4. INDIVIDUAL AID PROGRAM.

&lt;—

12 Section 7 5. Rules and regulations.

&lt;—

13 Section 8 6. Penalty.

&lt;—

14 ~~Section 9. Funding.~~ SECTION 7. CREATION OF FUND.

&lt;—

15 Section 10 8. Severability.

&lt;—

1 Section ~~11~~ 9. Repeals. <—

2 Section ~~12~~ 10. Applicability. <—

3 Section ~~13~~ 11. Effective date. <—

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Pennsylvania  
8 Disaster Assistance Act.

9 Section 2. Findings and legislative intent.

10 (a) Findings.--

11 (1) Often individuals, ~~businesses, farms~~ and political <—  
12 subdivisions which have suffered losses due to natural or  
13 man-made disasters have received INADEQUATE OR no Federal or <—  
14 State financial assistance to aid in the restoration of  
15 homes, ~~businesses, farms~~ and public facilities. This occurs, <—  
16 in part, because the extent of damage has not been sufficient  
17 to qualify for Federal declared disaster assistance.

18 ~~(2) There are no State financial assistance programs~~  
19 ~~available to assist individuals, businesses, farms and~~  
20 ~~political subdivisions which have suffered losses due to~~  
21 ~~natural or man-made disasters which are non Federally~~  
22 ~~declared disasters.~~

23 ~~(3)~~ (2) There is a need to establish a State-funded  
24 disaster assistance program to aid Pennsylvania's citizens, <—  
25 ~~businesses, farms~~ and political subdivisions that suffer  
26 losses during Federal ~~and Commonwealth declared~~ DECLARED <—  
27 disasters.

28 ~~(4)~~ (3) It is in the public interest pursuant to section <—  
29 17 of Article VIII of the Constitution of Pennsylvania to  
30 provide additional aid to individuals, ~~businesses, farms~~ and <—

1 political subdivisions to supplement the compensation which  
2 they receive from private insurance and the Federal  
3 Government.

4 (b) Legislative intent.--It is the intent of the General  
5 Assembly to provide for comprehensive disaster assistance  
6 programs which will provide A MECHANISM FOR financial assistance <—  
7 to individuals, families, ~~businesses, farms~~ and political <—  
8 subdivisions in the event a natural or man-made disaster has  
9 occurred.

### 10 Section 3. Definitions.

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

14 "Adjusted loss." The total eligible loss excluding:

15 (1) Any amount received by or due the applicant from  
16 private insurance and Federal or State-subsidized funds,  
17 including, but not limited to, Small Business Administration  
18 loans, Federal Emergency Management Agency benefits and the  
19 Individual and Family Grant Program grants.

20 (2) An amount for which the applicant would have been  
21 eligible from Federal or State-subsidized funds had the  
22 applicant applied for or accepted the assistance.

23 "Agency." The Pennsylvania Emergency Management Agency.

24 ~~"Business." Private and profit making enterprises and~~ <—  
25 ~~private nonprofit educational, vocational, utilitarian,~~  
26 ~~emergency medical and custodian care facilities.~~

27 ~~"Business purposes." Real or personal property, or both,~~  
28 ~~used to generate income in one's trade, occupation, employment~~  
29 ~~or profession.~~

30 ~~"Commonwealth declared disaster." Those disasters declared~~

1 ~~as such by the Governor, on the recommendation of the~~  
2 ~~Pennsylvania Emergency Management Agency, based on the agency's~~  
3 ~~established criteria for determination of applicability and~~  
4 ~~suitability of disaster assistance.~~

5 "Disaster." A man-made or natural disaster.

6 "Family." An individual or a group of two or more  
7 individuals related by birth, marriage or adoption and residing  
8 together in their primary residence at the time of the disaster.

9 ~~"Farm." Real or personal property, or both, used in the~~ <—  
10 ~~operation of any type of farm, including dairy, crop and~~  
11 ~~livestock farms and farms for the raising of agricultural and~~  
12 ~~horticultural commodities and orchards.~~

13 "Federal declared disaster." Those disasters designated as  
14 such by the President, by the Small Business Administration  
15 (physical disaster declaration), or by the United States  
16 Secretary of Agriculture.

17 "Fund." The Pennsylvania Disaster Assistance Fund.

18 ~~"Gross income." The total annual cash receipts before taxes~~ <—  
19 ~~from all sources and receipts from an individual's business or~~  
20 ~~farm after expense deductions, using 50 Fed. Reg. 9518 (1985)~~  
21 ~~for income exclusions.~~

22 "Homeowner." The legal owner at the time of the disaster of  
23 residential property located in a disaster area.

24 "Man-made disaster." An industrial, nuclear or  
25 transportation accident, explosion, conflagration, power  
26 failure, natural resource shortage or other condition, except  
27 enemy action, resulting from man-made causes, such as oil spills  
28 and other injurious environmental contamination, which threatens  
29 or causes substantial damage to property, human suffering,  
30 hardship or loss of life.

1 "Natural disaster." A hurricane, tornado, storm, flood, high  
2 water, wind-driven water, tidal wave, earthquake, landslide,  
3 mudslide, snowstorm, drought, fire, explosion or other  
4 catastrophe which results in substantial damage to property,  
5 hardship, suffering or possible loss of life.

6 "Owner-occupied primary residence." A residence which was  
7 the principal residence of its legal owner at the time of the  
8 disaster.

9 "Political subdivisions." All counties, cities, boroughs,  
10 incorporated towns, townships, school districts and municipal  
11 authorities created under the act of May 2, 1945 (P.L.382,  
12 No.164), known as the Municipality Authorities Act of 1945.

13 "Public facility." A publicly owned flood control,  
14 navigation, irrigation, reclamation, public power, sewage  
15 treatment and collection, water supply and distribution,  
16 watershed development, or airport facility; a bridge, street,  
17 road or highway which is not a subject of Federal aid; any other  
18 public building, structure, or system, and any park.

19 "Recreation purposes." Real or personal property, or both,  
20 used for the purpose of entertainment or amusement.

21 "Tenant." One who, at the time of the disaster, was renting  
22 as his primary residence a premises located in a disaster area.

23 Section 4. ~~Federally declared disasters~~ INDIVIDUAL AID PROGRAM. <—

24 (a) General rule.--Disasters may occur within the  
25 Commonwealth of Pennsylvania which cause sufficient damage to  
26 qualify for a Federal Declared Disaster Declaration under the  
27 Federal Disaster Relief Act of 1974 (Public Law 93-288, 42  
28 U.S.C. § 5121). This declaration may initiate aid for  
29 individuals, businesses and local governments through the  
30 Federal Individual and Family Grant Program, the Public

1 Assistance Program, and the Small Business Administration's low-  
2 interest loan program. When a Federal declaration of disaster  
3 has been issued, the Commonwealth shall provide those State  
4 matching funds that are required by either Federal law or  
5 regulation from sources other than the Pennsylvania Disaster  
6 Assistance Fund. All moneys received from the Federal Government  
7 for the purpose of disaster relief assistance or for damages  
8 caused by the disaster are hereby appropriated to the  
9 departments, boards, commissions or agencies designated by the  
10 Governor.

11 (b) Establishment of aid program.--In order to provide funds  
12 for the Governor, in accordance with 35 Pa.C.S. Ch. 73 Subch. A  
13 (relating to the Governor and disaster emergencies) to alleviate  
14 the hardships and repair the damage caused by the disaster, the  
15 following supplemental grant program is established to assist  
16 victims of these disasters.

17 (c) Individual.--The agency shall administer a grant program  
18 which provides emergency funds to residents of counties stricken  
19 by disasters which were the subject of a Federal declaration of  
20 disaster.

21 (d) Individual eligibility.--An applicant's request for  
22 funding shall be subject to the following evaluation:

23 (1) Upon receipt and approval of a sworn application by  
24 a homeowner for nonbusiness or nonfarm real property damaged  
25 or destroyed, or a homeowner or tenant of premises he rents  
26 as his primary residence for personal property damaged or  
27 destroyed in a Federal declared disaster, the agency may make  
28 an individual grant to cover a portion of the adjusted loss.

29 (2) For the purpose of this subsection, total eligible  
30 loss shall be the loss from damage to an owner-occupied

1 primary residence and the loss from damage to personal  
2 property, including clothing, household furnishings and  
3 appliances, incurred by a homeowner in his owner-occupied  
4 primary residence or incurred by a tenant in premises he  
5 rents as a primary residence. Eligible loss shall not include  
6 an item used principally for recreational purposes.

7 (3) An applicant whose previous year's income does not  
8 exceed 300% of the previous year's poverty income guidelines  
9 using gross income before taxes shall be eligible to  
10 participate in this grant program. The applicant, in order to  
11 be eligible for this program by reason of a loss in a  
12 federally declared disaster, must have registered at a  
13 disaster assistance center, unless extenuating circumstances  
14 prevented registration. Extenuating circumstances shall be  
15 determined by the agency on an individual case-by-case basis.  
16 The determination shall be subject to appeal to the  
17 Commonwealth Court.

18 (4) The amount of the grant shall be determined in  
19 accordance with the following schedule:

- 20 (i) 50% of the first \$5,000 of adjusted loss.
- 21 (ii) 25% of the second \$5,000 of adjusted loss.
- 22 (iii) 10% of the remaining adjusted loss.
- 23 (iv) No grant shall exceed \$12,500.

24 (e) Limitation on eligibility.--If the real property is  
25 condemned under eminent domain proceedings and the measure of  
26 damage is calculated under section 602 of the act of June 22,  
27 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code,  
28 the property owner shall not be eligible for a grant under  
29 subsection (d) for property for which compensation is granted in  
30 the eminent domain proceedings.

(f) Administration.--The agency shall administer the grant program in the following manner:

(1) Grants under this section shall be administered by the agency in prompt fashion.

(2) Applications shall be made available to disaster victims within 60 days of the Federal declaration of disaster.

(3) If sufficient funds are not allocated under this act APPROPRIATED, distribution of the grants shall be on a pro rata basis.

(4) Funds for this grant program shall come from the fund APPROPRIATIONS TO THE PENNSYLVANIA DISASTER ASSISTANCE PROGRAM.

~~Section 5. Commonwealth declared disasters.~~

~~(a) General rule. When the Governor declares that a disaster has occurred within this Commonwealth the following programs shall be used to assist the individual residents, families, political subdivisions, businesses and farms within the counties stricken by the disaster. These programs shall be used to provide funding which is supplemental to Federal funding.~~

~~(b) Individual The department shall administer a loan program which provides emergency funds to residents of counties stricken by disasters which were the subject of a Commonwealth declaration of disaster.~~

~~(1) Individual eligibility. An applicant's request for funding shall be subject to the following evaluation:~~

~~(i) Upon receipt and approval of a sworn application by a homeowner for nonbusiness or nonfarm real property damaged or destroyed or by a homeowner or tenant of~~

1       ~~premises he rents as his primary residence for personal~~  
2       ~~property damaged or destroyed, in a Commonwealth declared~~  
3       ~~disaster, the agency may make an individual loan to cover~~  
4       ~~a portion of the adjusted loss.~~

5               ~~(ii) For the purpose of this subsection, total~~  
6       ~~eligible loss shall be the loss from damage to an owner-~~  
7       ~~occupied primary residence and the loss from damage to~~  
8       ~~personal property, including clothing, household~~  
9       ~~furnishings and appliances, incurred by a homeowner in~~  
10       ~~his owner-occupied primary residence or incurred by a~~  
11       ~~tenant in premises he rents as a primary residence. Total~~  
12       ~~eligible loss shall not include an item used principally~~  
13       ~~for recreational purposes.~~

14               ~~(iii) The amount of the loan shall be determined in~~  
15       ~~accordance with the following rules:~~

16                       ~~(A) Owner-occupied primary residence: Loans of~~  
17       ~~up to \$100,000 to cover adjusted losses to owner-~~  
18       ~~occupied primary residences shall be made for repairs~~  
19       ~~to or replacement of a primary residence. The loans~~  
20       ~~shall be repayable over a 30-year period at an~~  
21       ~~interest rate of 5%.~~

22                       ~~(B) Personal property: Loans of up to \$20,000 to~~  
23       ~~cover adjusted losses to personal property shall be~~  
24       ~~made for repairs to or replacement of personal~~  
25       ~~property. The loans shall be repayable over a 20-year~~  
26       ~~period at an interest rate of 5%.~~

27               ~~(2) Limitation on individual eligibility. If the real~~  
28       ~~property is condemned under eminent domain proceedings and~~  
29       ~~the measure of damage is calculated under section 602 of the~~  
30       ~~act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the~~

1 ~~Eminent Domain Code, the property owner is not eligible for a~~  
2 ~~loan under paragraph (1) for property for which compensation~~  
3 ~~is granted in the eminent domain proceedings.~~

4 ~~(3) Administration of loans to individuals. The agency~~  
5 ~~shall administer the program in the following manner:~~

6 ~~(i) Loans under this section shall be administered~~  
7 ~~by the department in prompt fashion.~~

8 ~~(ii) Applications shall be made available to~~  
9 ~~disaster victims within 60 days of the Commonwealth~~  
10 ~~declared disaster declaration.~~

11 ~~(iii) If sufficient funds are not allocated under~~  
12 ~~this act, distribution of the loans shall be on a pro~~  
13 ~~rata basis.~~

14 ~~(iv) Funds for this loan program shall come from the~~  
15 ~~fund.~~

16 ~~(v) Repayments of loans under this program shall be~~  
17 ~~returned to the fund.~~

18 ~~(c) Political subdivisions. The agency shall coordinate and~~  
19 ~~administer a grant and loan program which provides emergency~~  
20 ~~funds to political subdivisions stricken by disasters which were~~  
21 ~~the subject of a Commonwealth declaration of disaster.~~

22 ~~(1) Political subdivision eligibility. A political~~  
23 ~~subdivision request for funding shall be subject to the~~  
24 ~~following evaluation:~~

25 ~~(i) Upon receipt and approval of a sworn application~~  
26 ~~by an authorized official of a political subdivision for~~  
27 ~~public facilities damaged or destroyed in a Commonwealth~~  
28 ~~declared disaster, the agency may make a grant, loan, or~~  
29 ~~both, to cover a portion of the adjusted loss.~~

30 ~~(ii) For the purpose of this subsection, total~~

1       ~~eligible loss shall be any loss from damages to public~~  
2       ~~facilities.~~

3       ~~(iii) Only political subdivisions which are~~  
4       ~~designated as distressed under the act of July 2, 1984~~  
5       ~~(P.L.520, No.105), known as the Business Infrastructure~~  
6       ~~Development Act, shall be eligible for assistance in the~~  
7       ~~form of grants. Other local governments shall receive~~  
8       ~~assistance in the form of no interest loans, including~~  
9       ~~provisions for deferrals of repayments with a maximum~~  
10      ~~term of 10 years.~~

11      ~~(iv) The amount of a grant shall be determined by~~  
12      ~~multiplying the adjusted losses for each municipality by~~  
13      ~~the ratio of the total funds available under the program~~  
14      ~~to the total adjusted losses of all governments applying~~  
15      ~~for assistance. However, no local government may receive~~  
16      ~~a grant for more than 50% of its adjusted losses.~~

17      ~~(2) Limitation on eligibility of political~~  
18      ~~subdivisions. If the real property was condemned under~~  
19      ~~eminent domain proceedings and where the measure of damage is~~  
20      ~~calculated under section 602 of the Eminent Domain Code, the~~  
21      ~~property owner is not eligible for a grant or loan under~~  
22      ~~paragraph (1) for property for which compensation is granted~~  
23      ~~in the eminent domain proceedings.~~

24      ~~(3) Administration of political subdivision grant and~~  
25      ~~loan program. The agency shall administer the program in the~~  
26      ~~following manner:~~

27      ~~(i) Grants and loans to political subdivisions shall~~  
28      ~~be administered by the agency in prompt fashion.~~

29      ~~(ii) Applications shall be made available to~~  
30      ~~political subdivisions within 60 days of the~~

~~Commonwealth declared disaster.~~

~~(iii) If sufficient funds are not allocated under this section, distribution of the grants and loans shall be on a pro rata basis.~~

~~(iv) Funds for this program shall come from the fund.~~

~~(v) Repayment of loans under this program shall be returned to the fund.~~

~~(d) Businesses and farm. The agency shall administer a loan program which provides emergency funds to qualifying businesses and farms located in areas covered by a Commonwealth declared disaster.~~

~~(1) Business and farm eligibility. An applicant's request for funding shall be subject to the following evaluation:~~

~~(i) Upon receipt and approval of a sworn application by an owner of business or farm real property damaged or destroyed in a Commonwealth declared disaster, the agency may make a loan to cover a portion of the adjusted loss.~~

~~(ii) For the purpose of this subsection, total eligible loss shall be the loss from damages to business or farm. Total eligible loss shall not include an item used principally for recreational purposes.~~

~~(iii) An applicant may be eligible to receive a low-interest loan of up to \$500,000 for repair, reconstruction or replacement of the applicant's business or farm, subject to the following terms:~~

~~(A) Loans in excess of \$100,000 shall be repayable over a 30 year period at an interest rate of 5%.~~

~~(B) Loans for less than \$100,000 shall be repayable over a 20 year period at an interest rate of 5%.~~

~~(2) Limitation on eligibility of business or farm. If the real property was condemned under eminent domain proceedings and where the measure of damage is calculated under section 602 of the Eminent Domain Code, the property owner is not eligible for a loan under paragraph (1) for property for which compensation is granted in the eminent domain proceedings.~~

~~(3) Administration of business and farm program. The agency shall administer the program in the following manner:~~

~~(i) Loans under this section shall be administered by the agency in prompt fashion.~~

~~(ii) Application shall be made available to disaster victims within 60 days of the Commonwealth declaration of disaster.~~

~~(iii) If sufficient funds are not allocated under this act, distribution of the funds shall be on a pro rata basis.~~

~~(iv) Funds for this loan program shall come from the fund.~~

~~(v) Repayments of loans under this program shall be returned to the fund.~~

#### ~~Section 6. Criteria.~~

~~The agency shall develop and promulgate, within 90 days of the effective date of this act, the criteria on which it makes its recommendation to the Governor regarding a Commonwealth declaration of disaster.~~

#### ~~Section 7 5. Rules and regulations.~~

<—

1 The agency shall promulgate rules and regulations necessary  
2 to carry out the provisions of this act and cause them to be  
3 published in the Pennsylvania Bulletin. Regulations shall be  
4 subject to review pursuant to the act of June 25, 1982 (P.L.633,  
5 No.181), known as the Regulatory Review Act.

6 Section 8 6. Penalty. <—

7 A person ~~or political subdivision~~ making a false claim under <—  
8 the provisions of this act shall be subject to a penalty in the  
9 amount of three times the amount of the loan with interest of 6%  
10 from the effective date of the loan. This penalty may be  
11 enforced by the Attorney General in an assumpsit action and  
12 collected in the manner that other debts due and owing the  
13 Commonwealth are collected.

14 ~~Section 9. Funding.~~ SECTION 7. CREATION OF FUND. <—

15 (a) Creation of Pennsylvania Disaster Assistance Fund.--

16 There is hereby created a ~~restricted revenue account in the~~ <—  
17 ~~General Fund~~ SPECIAL FUND to be known as the Pennsylvania <—  
18 Disaster Assistance Fund. ~~This fund shall be maintained with a~~ <—  
19 ~~minimum balance of \$5,000,000 each fiscal year by transferring~~  
20 ~~up to \$5,000,000 of the real property transfer tax to this~~  
21 ~~account to fund the programs provided for in this act.~~ FUND <—

22 WHICH SHALL BE ONLY AVAILABLE FOR THE PURPOSES OF THIS ACT OR  
23 SUCH OTHER DISASTER ASSISTANCE AS THE GENERAL ASSEMBLY MAY, FROM  
24 TIME TO TIME, APPROPRIATE FUNDS.

25 (b) ~~Nonlapsing allocation.~~ ~~Allocations~~ APPROPRIATION.-- <—  
26 APPROPRIATIONS to the fund shall not lapse to the General Fund  
27 if not used during the fiscal year.

28 ~~(c) Repayment of loans. When and as the amounts granted or~~ <—  
29 ~~loaned by the agency to individuals, political subdivisions,~~  
30 ~~businesses and farms are repaid to the agency pursuant to the~~

1 ~~terms of the agreements made and entered into with the agency,~~  
2 ~~it shall pay such amounts into the fund, which shall operate as~~  
3 ~~a revolving fund, whereby all allocations, appropriations and~~  
4 ~~repayments made to the fund may be applied and reapplied to the~~  
5 ~~purpose of this act.~~

6 Section ~~10~~ 8. Severability. <—

7 The provisions of this act are severable. If any provision of  
8 this act or its application to any person or circumstance is  
9 held invalid, the invalidity shall not affect other provisions  
10 or applications of this act which can be given effect without  
11 the invalid provision or application.

12 Section ~~11~~ 9. Repeals. <—

13 All acts and parts of acts are repealed insofar as they are  
14 inconsistent with this act.

15 Section ~~12~~ 10. Applicability. <—

16 This act shall apply to disasters occurring in this  
17 Commonwealth on or after ~~January 1, 1987,~~ THE EFFECTIVE DATE OF <—  
18 THIS ACT which were the subject of ~~either a Federal or~~ <—  
19 ~~Commonwealth disaster~~ A FEDERAL DISASTER declaration. Political <—  
20 ~~subdivisions suffering losses which were a result of a disaster~~  
21 ~~occurring between January 1, 1986, and the effective date of~~  
22 ~~this act but which were not the subject of a Federal declaration~~  
23 ~~of disaster by the President or a Commonwealth declaration of~~  
24 ~~disaster by the Governor, and where funding or reimbursement for~~  
25 ~~such repairs and replacements cannot be obtained under other~~  
26 ~~State or Federal programs, shall have 60 days from the~~  
27 ~~development of criteria under section 6 in which to apply for~~  
28 ~~the relief provided under this act.~~

29 Section ~~13~~ 11. Effective date. <—

30 This act shall take effect immediately.