
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2526 Session of
1998

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WOJNAROSKI, VAN HORNE, HENNESSEY, RAMOS AND MAHER,
APRIL 22, 1998

REFERRED TO COMMITTEE ON URBAN AFFAIRS, APRIL 22, 1998

AN ACT

1 Establishing the Pennsylvania Mortgage Guaranty Corporation;
2 providing for appointment of members and employees;
3 establishing the Pennsylvania Commercial and Industrial
4 Mortgage Guaranty Fund; providing for powers and duties; and
5 making an appropriation.

6 TABLE OF CONTENTS

7 Chapter 1. Preliminary Provisions

8 Section 101. Short title.

9 Section 102. Legislative declaration and findings.

10 Section 103. Definitions.

11 Chapter 3. Pennsylvania Mortgage Guaranty Corporation

12 Section 301. Establishment.

13 Section 302. Mortgage insurance fund.

14 Section 303. Disposition of funds.

15 Section 304. Agency reserves, funds and accounts.

16 Section 305. Management of fund.

17 Section 306. Fees and rates.

18 Section 307. Fund payments.

1 Section 308. Audit.
2 Chapter 5. Administration
3 Section 501. Powers and duties of agency.
4 Section 502. Rules.
5 Section 503. Annual report.
6 Section 504. Board determinations.
7 Chapter 7. Mortgage Guarantee Program
8 Section 701. Agency duties.
9 Section 702. Criteria for insuring loans.
10 Section 703. Feasibility studies.
11 Section 704. Program documents.
12 Section 705. Project criteria.
13 Section 706. Eligibility standards for mortgage insurance
14 and credit enhancement.
15 Section 707. Guarantee coverage.
16 Section 708. Contracts.
17 Section 709. Reimbursable costs.
18 Chapter 9. Miscellaneous Provisions
19 Section 901. Appropriation.
20 Section 902. Severability.
21 Section 903. Construction.
22 Section 904. Effective date.

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

25 CHAPTER 1
26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

28 This act shall be known and may be cited as the
29 Pennsylvania Mortgage Guaranty Corporation Act.

30 Section 102. Legislative declaration and findings.

1 The General Assembly finds and declares as follows:

2 (1) There exists in many areas of this Commonwealth
3 neighborhoods which are blighted, are becoming blighted or
4 may become blighted because of vacant, abandoned,
5 deteriorated or deteriorating commercial and industrial
6 buildings.

7 (2) There exists a deficiency of adequate mortgage
8 financing needed to provide sufficient funds to finance new
9 or refinance existing, mortgage indebtedness in order to
10 undertake the necessary construction, reconstruction,
11 rehabilitation, repair, renovation, replacement or other
12 improvement of commercial and industrial properties, within
13 neighborhoods which are blighted or are becoming blighted.

14 (3) Uncorrected, these conditions will increase the rate
15 of abandonment and destruction of such neighborhoods, which
16 in turn will erode the local tax base, depriving
17 municipalities of revenues needed to provide essential
18 municipal services and facilities.

19 (4) If mortgage insurance were available for loans to
20 finance new and refinance existing indebtedness needed to
21 undertake necessary construction, reconstruction,
22 rehabilitation, repair, renovation, replacement or other
23 improvement of commercial and industrial properties in
24 blighted areas, the conditions of blight within such
25 neighborhoods could be ameliorated or averted.

26 (5) Changes in the national economy, including corporate
27 downsizing and plant closures have also resulted in underused
28 and abandoned industrial sites referred to as brownfields in
29 many areas of this Commonwealth, many of which are located in
30 urban settings. These abandoned sites have further

1 contributed to neighborhood blight.

2 (6) Abandoned commercial and industrial properties
3 located in blighted areas of this Commonwealth, if
4 decontaminated and rehabilitated, have the potential to once
5 again become employment centers and serve as an economic
6 development catalyst to reverse existing and past trends
7 which resulted in the neighborhoods becoming blighted.

8 (7) According to a recent Housing and Urban Development
9 publication entitled Industrial Site Reuse and Urban
10 Redevelopment, "the inability to secure loans may stifle any
11 new enterprises whose owners would consider using abandoned
12 industrial and commercial sites is securing credit. Without
13 access to capital, these companies cannot maintain their
14 competitiveness, expand to take advantage of new market
15 opportunities, update their equipment and facilities,
16 maintain necessary inventories or create new jobs. Critical
17 funding gaps are currently the primary deterrent to
18 brownfield site facility reuse, especially for small startup
19 businesses wishing to utilize abandoned commercial or
20 industrial property in blighted areas."

21 (8) Because of the time required to structure financial
22 packages for commercial and industrial sites in blighted
23 neighborhoods, including environmental assessments and
24 detailed appraisals, brownfield sites are at a tremendous
25 competitive disadvantage and according to the report will
26 remain undeveloped without additional government incentives
27 or assistance.

28 (9) As a result, it is in the public interest to
29 encourage the financing of, and otherwise support, the
30 planning, acquisition, development, construction,

1 reconstruction, rehabilitation, repair, renovation, or other
2 improvement of commercial and industrial properties in
3 blighted areas of this Commonwealth including brownfield
4 sites.

5 (10) The flow of private investment capital into
6 blighted areas for commercial and industrial development can
7 be stimulated by a system wherein qualified lending
8 institutions and local governments may be insured against
9 losses incurred as a result of nonpayment of principal,
10 interest or other sums agreed to be paid under the terms of
11 any note, mortgage, bond or other evidence of indebtedness.
12 This includes loans from local governments and other
13 qualified lending institutions to nonprofit organizations and
14 private developers.

15 (11) The provision of insurance for loans made by
16 qualified lending institutions and local governments or bonds
17 and notes issued by qualified issuers, the issuance of
18 obligations backed by mortgages or the provision of other
19 credit enhancements in support of the foregoing activities
20 will encourage and expand the flow of public and private
21 capital in support of all these activities in blighted areas.
22 Therefore, it is declared to be a public purpose of this
23 Commonwealth that, in order to promote the economic
24 revitalization of neighborhoods which are blighted or are
25 becoming blighted and to discourage further disinvestment while
26 encouraging increased investment of mortgage capital in the real
27 estate situated in such blighted neighborhoods, the Pennsylvania
28 Mortgage Guaranty Corporation should be created to insure
29 qualified industrial and commercial mortgage loans in blighted
30 neighborhoods subject to the terms and provisions set forth in

1 this act.

2 Section 103. Definitions.

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

6 "Agency." The Pennsylvania Mortgage Guaranty Corporation.

7 "Applicant." A person or company that meets the application
8 requirements as established by the Pennsylvania Mortgage
9 Guaranty Corporation.

10 "Blighted area." A geographic area that is lacking adequate
11 employment opportunities, shows signs of existing physical
12 deterioration of buildings and structures, has unsafe and
13 unsanitary living conditions within dwellings, excessive land
14 coverage of buildings or economically and socially undesirable
15 land uses.

16 "Board." The Board of Directors of the Pennsylvania Mortgage
17 Guaranty Corporation.

18 "Brownfield site." An underused or abandoned commercial or
19 industrial building or building site normally in a state of
20 deterioration, which may be contaminated or partially
21 contaminated.

22 "Credit enhancement." A guarantee, including a guarantee of
23 obligations in any form backed by a pool of mortgages or other
24 form of assurance or security device issued in order to:

25 (1) improve the credit of a qualified borrowing entity;
26 or

27 (2) upgrade the security or rating of a financial
28 obligation, including mortgage-backed securities,
29 certificates of participation and any bonds or notes issued
30 to finance any development activities eligible to be insured

by this act.

"Debt obligation." A bond, note, certificate of indebtedness and any other instrument or evidence of indebtedness, including a debt obligation issued to refund any of the foregoing.

"Economic development." A process by which government, through the adoption and implementation of programs and policies, provides incentives or inducements to stimulate growth in the private sector that is manifested in increased commercial or industrial activity resulting in new employment opportunities.

"Feasibility study." A study performed by the Pennsylvania Mortgage Guaranty Corporation pursuant to section 703.

"Financing." This term includes acquisition financing, permanent financing, short-term bridge financing, construction financing or refinancing of any type of loan or project authorized to be insured by this act.

"Financial institution." A bank, trust company, national bank, savings bank, Federal or State savings and loan association, Community Development Financial Institution (CDFI) certified by the Federal or State government, Federal or State credit union, insurance company, pension fund or retirement system of any corporation, association or any other entity which is owned or controlled by any one or more of them, provided the financial institution is supervised by or responsible to any agency of the Federal Government, the Commonwealth, any department thereof or the governing body of any municipality or any other entity approved by the Pennsylvania Mortgage Guaranty Corporation or any one or more of them when lawfully acting as a trustee or otherwise, in a fiduciary capacity.

"Fund." The Pennsylvania Mortgage Guaranty Fund created and

1 established by this act to guarantee commercial and industrial
2 mortgages in blighted areas.

3 "Guaranty fund reserve requirement." The amount of assets,
4 or their equivalent, of the Pennsylvania Mortgage Guaranty Fund
5 determined by the agency as necessary to maintain the claims
6 paying ability of the Pennsylvania Mortgage Guaranty Fund. For
7 purposes of the definition, an asset equivalent may include, but
8 is not limited to, a letter of credit, insurance policy,
9 reinsurance treaty or policy, surety, guarantee or other
10 security arrangement.

11 "Guaranty." An undertaking or promise that is collateral to
12 the primary or principal obligation and that binds the guarantor
13 to performance in event of nonperformance by the principal
14 obligor.

15 "Holder." When used in reference to a debt obligation
16 insured by the Pennsylvania Mortgage Guaranty Corporation, means
17 any person who shall be the owner of any outstanding debt
18 obligation insured by the Pennsylvania Mortgage Guaranty
19 Corporation.

20 "Local Government." Any municipality or county, and any
21 housing or redevelopment authority in this Commonwealth.

22 "Mortgage." An interest in land created by a written
23 instrument providing security for the payment of a debt,
24 including leasehold mortgages, deeds of trust, security
25 agreements, pledges or any other security arrangements securing
26 a loan.

27 "Obligee." A qualified lending institution under a qualified
28 obligation and its successors and assigns approved by the
29 agency.

30 "Obligor." The original borrower under a qualified

1 obligation and its successor and assign approved by the agency.

2 "Operating expenses." All costs of administering the agency,
3 including, but not limited to, salaries and wages, expenses of
4 administering staff functions, fees of consultants, legal fees,
5 costs incurred for servicing insured mortgage loans, money
6 management, office rents, utility charges, cost of supplies,
7 furnishings, equipment, machinery and apparatus, maintenance and
8 repair of property and other expenses incurred in connection
9 therewith.

10 "Person." An individual, local government, partnership,
11 corporation or joint venture.

12 "Program." The Mortgage Guarantee Program established by
13 this act.

14 "Rehabilitation." Repairs, alterations or improvements to
15 commercial or industrial property located in a blighted area.

16 "Rehabilitation loan." A loan extended by a financial
17 institution which may include the refinancing of existing
18 indebtedness, if any, secured by one or more mortgages on
19 commercial or industrial property located in a blighted area
20 which is to be rehabilitated.

21 "Revenues." All rates, rents, fees, charges, surcharges,
22 money, profits, earnings, payments or principal of or interest
23 on municipal securities and other investments, gifts,
24 governmental and other grants, contributions, appropriations and
25 all other income derived or to be derived by the Pennsylvania
26 Mortgage Guaranty Corporation in connection with any project for
27 which mortgage insurance has been provided by the Pennsylvania
28 Mortgage Guaranty Corporation.

29 "Qualified lending institution." A bank, trust company,
30 national bank, savings bank, Federal or State savings and loan

1 association, Community Development Financial Institution (CDFI)
2 certified by the Federal or State Government, Federal or State
3 credit union, insurance company, private or public pension fund,
4 philanthropic institution, community development financial
5 institution or any other entity approved by the agency. All
6 qualified lending institutions must submit information,
7 sufficient in detail to demonstrate the capacity to perform the
8 functions and services itself, or through contractual
9 arrangements with third parties, necessary to adequately comply
10 with the requirements contained in the guarantee documents.
11 Information to be submitted must include a current audited
12 financial statement, a description detailing the institution's
13 experience in originating and servicing loans and a listing and
14 the qualifications of key personnel within the institution's
15 operation. If the qualified lending institution plans on
16 contracting with third parties for the servicing of the
17 qualified obligation, then this information must be provided
18 with respect to the party to provide those services.

19 "Qualified obligation." An obligation or loan which is made
20 or purchased by a qualified lending institution, deemed suitable
21 for guarantee by the agency and secured by a commercial or
22 industrial property or a mortgage of a lease thereof.

23 CHAPTER 3

24 PENNSYLVANIA MORTGAGE GUARANTY CORPORATION

25 Section 301. Establishment.

26 (a) General rule.--There is hereby established in the State
27 Treasury, an independent board politic and corporate, to be
28 known as the Pennsylvania Mortgage Guaranty Corporation. The
29 agency shall constitute an instrumentality of the Commonwealth,
30 and the exercise by the agency thereof of the powers conferred

1 by this act shall be deemed and held to be a public and
2 essential governmental function.

3 (b) Purpose.--The purpose of the agency shall be to promote,
4 encourage and provide mortgage insurance to participating
5 lenders and local governments in their efforts to promote,
6 encourage and finance the construction, reconstruction,
7 rehabilitation, repair, renovation, replacement or other
8 improvement of commercial and industrial properties in blighted
9 areas of this Commonwealth.

10 (c) Board of directors.--The agency shall be directed by a
11 nine member board of directors. The board shall be composed of
12 the State Treasurer, the Secretary of Banking, the Secretary of
13 Community and Economic Development and three persons appointed
14 by the Governor at the recommendation of the President pro
15 tempore of the Senate and three persons appointed by the
16 Governor at the recommendation of the Speaker of the House of
17 Representatives. With the exception of the State Treasurer, the
18 Secretary of Banking and the Secretary of Community and Economic
19 Development, no more than two of each group of three directors
20 shall be from the same political party and shall serve two-year
21 terms. Of the six directors appointed by the Governor, two shall
22 have experience in banking generally; two shall have experience
23 in mortgage banking specifically; and two shall be economic
24 development professionals. Each appointed director shall serve
25 until a successor has been appointed and qualified. A director
26 may be reappointed. A vacancy shall be filled in the same manner
27 as the original appointment but for the remainder of the
28 unexpired term only.

29 (d) Removal for cause.--Each appointed director may be
30 removed from the board by the Governor for cause, after a public

1 hearing, and may be suspended by the Governor pending the
2 completion of the hearing. Each appointed director, before
3 beginning duties on the board, shall take and subscribe an oath
4 to perform the duties of this office faithfully, impartially and
5 justly to the best of that person's ability. A record of oaths
6 shall be filed with the Secretary of the Commonwealth.

7 (e) Chairman.--The Governor shall designate one of the
8 appointed members to be the chairman and chief executive officer
9 of the corporation, and the directors shall elect biennially a
10 vice chairman from among the appointed directors. The chairman
11 shall serve at the pleasure of the Governor and until a
12 successor shall be designated. The directors shall elect a
13 secretary and the same person may be elected to serve as both
14 secretary and treasurer. The power of the corporation shall be
15 vested in the directors in office from time to time and five
16 directors shall constitute a quorum at any meeting. Action may
17 be taken and motions and resolutions adopted by the agency by
18 the affirmative vote of at least five directors, except an
19 affirmative vote of at least seven directors shall be necessary
20 for an action to approve and make or establish the terms and
21 conditions of a mortgage guarantee or credit enhancement for an
22 applicant. No vacancy on the board of directors shall impair the
23 right of a quorum to exercise the powers and perform the duties
24 of the agency.

25 (f) Performance bond.--Each director and the treasurer of
26 the agency shall execute a bond to be conditioned upon the
27 faithful performance of the duties of the directors or treasurer
28 in a form and amount as may be prescribed by the State
29 Treasurer. Bonds shall be filed in the office of the Secretary
30 of the Commonwealth. At all times thereafter, the directors and

1 treasurer shall maintain the bonds in full effect. All costs of
2 the bonds shall be borne by the agency.

3 (g) Compensation.--The agency shall reimburse the directors
4 for actual and necessary expenses incurred in the performance of
5 their duties.

6 (h) Designated substitute.--The State Treasurer, the
7 Secretary of Banking and the Secretary of Community and Economic
8 Development may designate an officer of their respective
9 departments to represent them at meetings of the agency. Each
10 designee may lawfully vote and otherwise act on behalf of the
11 director for whom that designee serves. The designation shall be
12 in writing delivered to the agency and shall continue in effect
13 until revoked or amended in writing.

14 (i) Dissolution of agency.--The agency may be dissolved by
15 law if it has no debts or obligations or guarantees outstanding
16 or if provision has been made for paying or retiring all debts,
17 obligations and guarantees. Upon a dissolution of the agency,
18 all of its property, funds and assets shall be vested in the
19 Commonwealth.

20 (j) Minutes of meetings.--A true copy of the minutes of
21 every meeting of the agency shall be delivered by and under the
22 certification of the secretary of the board of directors to the
23 Governor and the presiding officers of the Senate and the House
24 of Representatives.

25 Section 302. Mortgage insurance fund.

26 There is established in the State Treasury a special
27 nonlapsing fund to be known as the Pennsylvania Commercial and
28 Industrial Mortgage Guaranty Fund. The fund shall consist of:

29 (1) All fees and charges paid to the agency.

30 (2) Proceeds of any State loan to the extent provided by

1 the General Assembly or any agency or authority authorized to
2 issue bonds therefore.

3 (3) Any moneys made available to the agency for the
4 purposes set forth in this act from any public or private
5 source.

6 (4) All moneys appropriated by the General Assembly to
7 the agency for the purposes of carrying out the provisions of
8 this act.

9 Unless otherwise required by law, the earnings on the money in
10 the fund may be applied for any lawful purpose of the agency.

11 Section 303. Disposition of funds.

12 (a) Investments.--The State Treasurer shall deposit all
13 moneys of the fund in such financial institutions as the State
14 Treasurer deems proper and shall be accounted for by the Auditor
15 General. These funds shall be invested and reinvested in the
16 same manner as other State funds.

17 (b) Premiums and fee income.--All premium and fee income
18 shall be credited to the fund for the operation of the fund and
19 the provision of additional insurance, guarantees and credit
20 enhancements.

21 (c) Insurance credit reserve.--Any moneys in the fund which
22 by agreement, contract, secretarial termination or regulation
23 have been created as an identifiable insurance credit reserve
24 may only be used in conformance with the terms and conditions
25 creating such reserve.

26 (d) Transfers to reserve.--Operational funds, earnings not
27 yet allocated to a particular reserve, State appropriated funds,
28 State general obligation bond proceeds or other funds received
29 and not identified to a particular reserve may, at the
30 discretion of the board, be transferred to any reserve.

1 (e) Limitation.--Insurance, guarantees, or other credit
2 enhancements provided pursuant to this act shall not pledge the
3 faith, credit, or taxing power of the Commonwealth or the agency
4 and shall be payable only to the extent of the reserve or other
5 identified funds that back the insurance, guarantee or
6 enhancement.

7 Section 304. Agency reserves, funds and accounts.

8 The agency may establish any reserves, funds or accounts as
9 it may determine necessary or desirable to further the purposes
10 of the agency or to comply with the provisions of any agreement
11 made by or any resolution of the agency.

12 Section 305. Management of fund.

13 (a) General rule.--The agency shall manage and supervise the
14 fund.

15 (b) Use of fund moneys.--Moneys in the fund shall be used:

16 (1) To insure loans accepted by the agency under this
17 act.

18 (2) To insure local government bonds or notes issued to
19 finance any project that is eligible for insurance under this
20 act.

21 (3) To guarantee any securities, evidences of
22 indebtedness or other forms of obligation backed by
23 mortgages.

24 (4) To provide other forms of credit enhancement
25 authorized by this act.

26 (c) Premiums and fees.--The agency shall establish premiums
27 and fees for insurance of loans, bonds, notes and other forms of
28 credit enhancement offered under this act, in an amount
29 calculated to cover administrative costs as well as anticipated
30 payments due to defaults on loans, bonds or notes causing

1 insured losses to the lenders, bondholders or noteholders or
2 losses or other liabilities incurred in connection with any
3 credit enhancement provided by the agency.

4 Section 306. Fees and rates.

5 For the issuance of a commercial or industrial mortgage
6 guarantee, the agency may charge fees and rates as established
7 in the applicable feasibility study to all applicants. A fee
8 based on a percentage of the total proposed qualified mortgage
9 amount shall be paid by the qualified lending institution at the
10 time a commercial or industrial loan is submitted to the agency
11 for consideration of a guarantee. A fee based on a percentage of
12 the total qualified mortgage amount shall be paid by the
13 qualified lending institution at the time a commitment to
14 guarantee is issued by the agency.

15 Section 307. Fund payments.

16 (1) General rule.--The fund shall be maintained for the
17 benefit of the qualified lending institutions and local
18 governments whose qualified obligations are guaranteed under
19 this act. Amounts in the fund shall be used in accordance
20 with this act to satisfy any valid claim payable therefrom.

21 (2) Manner of payment.--Payments pursuant to contracts
22 of guarantee and reinsurance may be made in a lump sum or in
23 partial payments made within such period of time as may be
24 agreed to by the agency and the qualified lending institution
25 or local government. These payments by the agency shall be
26 payable solely from the fund. The agency shall not guarantee
27 or issue a commitment to guarantee a qualified obligation if
28 the balance of the fund is less than the guarantee fund
29 reserve requirement.

30 Section 308. Audit.

1 At least once in each fiscal year the fund shall be examined
2 for the purposes of auditing the fund's financial condition and
3 determining the soundness of its management and operating
4 policies. The fund shall pay the cost of each such examination.
5 Copies of each report, including the findings, conclusions and
6 recommendations, shall be furnished to the Governor, the General
7 Assembly and the agency.

8 CHAPTER 5

9 ADMINISTRATION

10 Section 501. Powers and duties of agency.

11 Except as otherwise limited by this act, the agency may:

12 (1) Make and alter bylaws for its organization and
13 internal management and make rules and regulations with
14 respect to its operations.

15 (2) Adopt an official seal and alter it.

16 (3) Sue and be sued.

17 (4) Make and enter into all contracts, leases and
18 agreements necessary or incidental to the performance of its
19 duties and the exercise of its powers under this act and
20 consent to any modification, amendment or revision of any
21 contract or agreement to which the agency is a party.

22 (5) Hire an executive director and other employees
23 necessary to administer this act. The board shall set the
24 compensation of those employees.

25 (6) Engage the services of attorneys, accountants and
26 financial experts and such other advisors, consultants and
27 agents as may be necessary in its judgment and fix their
28 compensation.

29 (7) Insure or guarantee upon such terms as it may
30 prescribe any mortgage or pool of mortgages offered or any

1 bonds or notes issued which are eligible for insurance.

2 (8) Insure bridge loans which are secured by persons
3 rather than real property.

4 (9) Provide other forms of credit enhancement upon such
5 terms as it may prescribe for qualified lenders and borrowers
6 who are unable otherwise to obtain such enhancement in the
7 private market.

8 (10) Extend a line of credit sufficient to cover
9 insurance and bonding expenditures of approved nonprofit
10 corporations engaged in economic development projects,
11 including housing, in blighted areas.

12 (11) Following a default under any obligation which is
13 insured or otherwise credit enhanced under this act, acquire,
14 hold, improve, operate pending sale or other disposition,
15 sell, assign, exchange, transfer, convey, lease, mortgage or
16 otherwise dispose of or encumber real property or any
17 interest therein, personal property or any interest therein
18 or any evidence of indebtedness, including, but not limited
19 to, pass-through certificates, residual interests or other
20 securities backed by real estate or a mortgage.

21 (12) In connection with any property, acquired by the
22 agency through foreclosure, deed in lieu of foreclosure or
23 otherwise pursuant to any other payment in settlement for a
24 claim for loss; contract with private parties for services to
25 secure, maintain, operate or improve such property in
26 anticipation of disposition of the property or make a
27 mortgage loan to assist in the disposition of the property.

28 (13) Establish a fund, independent of the Pennsylvania
29 Commercial and Industrial Mortgage Guaranty Fund, to be used
30 as a line of credit to guarantee the bond and insurance needs

1 of qualified nonprofit community development corporations
2 that are uninsurable at reasonable rates due to the economic
3 conditions of the community in which their development
4 projects are located, and to guarantee the insurance needs of
5 businesses that cannot obtain affordable fire and casualty
6 insurance due to the physical condition of the buildings in
7 the immediate neighborhood in which is located their
8 principal place of business.

9 Section 502. Rules.

10 The agency shall promulgate such rules as are necessary to
11 carry out the purpose of this act.

12 Section 503. Annual report.

13 The agency shall provide a written report to the Governor and
14 to the General Assembly on or before December 1 of each year on
15 the financial status of the fund and its operations for the
16 preceding fiscal year, including, but not limited to, the types
17 and amount of insurance reserves, insurance issued, premiums
18 charged and claims made.

19 Section 504. Board determinations.

20 Any determination by the board relating to the eligibility of
21 any project, facility or undertaking for insurance or other
22 forms of credit enhancement or any other action taken by the
23 board in its own name or in the name of the Pennsylvania
24 Commercial and Industrial Mortgage Guaranty Fund, under this act
25 shall be conclusive of the matters determined therein unless
26 appealed based on new or additional information and the board
27 reverses its decision.

28 CHAPTER 7

29 MORTGAGE GUARANTEE PROGRAM

30 Section 701. Agency duties.

1 In order to implement the program, the agency shall:

2 (1) Upon board approval:

3 (i) Issue a commitment to guarantee any qualified
4 obligation or aggregate of qualified obligations,
5 guarantee any qualified obligations or aggregate of
6 qualified mortgage loans.

7 (ii) Enter into contracts, agreements or treaties of
8 insurance regarding any qualified obligations or
9 aggregate of qualified obligations.

10 (iii) Provide the guarantee on terms that minimize
11 the financial risk to the fund while making the project
12 financially feasible.

13 (2) Guarantee and issue commitments to guarantee any
14 part of the payments required on qualified obligations upon
15 such terms and conditions as contained in the program
16 documents.

17 (3) Enter into commitments to guarantee, contracts to
18 guarantee and reinsurance contracts regarding qualified
19 obligations and to fulfill its obligations and enforce its
20 rights under any guarantee so furnished.

21 (4) Fix a premium charge for its guarantee of
22 obligations in an amount to be determined in accordance with
23 the applicable feasibility study and establish and levy such
24 other charges and fees in connection with applications for
25 guarantee, guarantee commitments, contracts of guarantee as
26 are necessary to recover authorized reimbursable expenses
27 under the act or feasibility study. The premium charges,
28 other charges and fees shall be payable as incurred.

29 (5) Consent to the modification, with respect to rate of
30 interest, time of payment of any installment of principal or

1 interest, security or any other term, of any obligation, the
2 security for any obligation, contract or agreement of any
3 kind which the fund has guaranteed or to which the fund is a
4 party.

5 (6) Foreclose any obligation in default or commence any
6 action to protect or enforce any rights conferred upon the
7 agency and the fund, and to bid for and purchase such
8 property at any foreclosure or at any other sale, or
9 otherwise to acquire or take possession of any such property.

10 (7) hold, manage, administer, lease or sell any property
11 conveyed to or acquired by the agency or the fund.

12 (8) Pay, pursue to final collection, compromise, waive
13 or release any right, title, claim, lien or demand, however
14 acquired, including any equity or right of redemption.

15 (9) Sell, at public or private sale, any mortgage,
16 mortgage participation or other obligation held by the agency
17 or the fund.

18 (10) Procure insurance against any loss in connection
19 with its property and other assets.

20 (11) Establish such other contractual provisions as are
21 necessary or incidental to paragraphs (1) through (10).

22 Section 702. Criteria for insuring loans.

23 (a) General rule.--The agency may provide mortgage insurance
24 to participating lenders or local governments when the
25 requirements set forth in this act have been met and the
26 application and approval process provided for in this act have
27 been satisfactorily completed.

28 (b) General purpose for insuring loan.--Mortgage insurance
29 approved by the agency for loans of moneys shall be for the
30 purpose of developing, constructing, reconstructing, repairing,

1 renovating, replacing, rehabilitating or expanding commercial
2 and industrial projects in blighted areas which result in or
3 promote new or expanded economic development.

4 (c) Application.--Any local government or lender which has
5 approved the financing of a commercial or industrial project in
6 a blighted area in accordance with this act applicable to it,
7 may request mortgage insurance from the agency by filing an
8 application with the agency. The application shall be in such
9 form and in compliance with such procedures as the agency may
10 from time to time fix and prescribe.

11 (d) Processing of application.--The agency shall review such
12 application in a timely fashion and shall determine whether such
13 project is in accordance with Commonwealth policies and
14 objectives and with local and regional policies and objectives
15 as expressed in local urban renewal, comprehensive and community
16 development plans. In carrying out the duties under this
17 section, the agency shall work closely and consult and cooperate
18 with elected and nonelected local government officials,
19 nonprofit corporations and citizens in consideration of the
20 needs and desires of the residents and businesses located in the
21 area served by the local government. In addition, the agency
22 shall foster local participation in the planning and development
23 of projects for which mortgage insurance is being sought from
24 the agency. After reviewing the application, the agency shall
25 determine whether or not the application conforms with all
26 appropriate criteria and shall recommend approval or disapproval
27 of the application to the board.

28 (e) Factors for mortgage insurance approval.--Prior to the
29 agency approving mortgage insurance for any applicant, the
30 agency shall consider, among others, the following factors:

1 (1) If the proposed project is consistent with the needs
2 of the local government in which the project is or is to be
3 located and will meet a substantial Commonwealth interest.

4 (2) If the project will have a significant, favorable
5 and positive impact on the economic condition of the local
6 government and region in which the project is or is to be
7 located and this Commonwealth as a whole, including the
8 generation or retention of long-term employment
9 opportunities.

10 (3) If the project is likely to occur without the
11 assistance provided by this act.

12 (f) Priority of mortgage insurance approval.--The agency
13 shall give priority to projects which provide any combination of
14 the following:

15 (1) Substantial employment or other direct benefits to
16 low-income or unemployed or underemployed persons.

17 (2) Significant improvement to the physical condition of
18 neighborhoods, especially neighborhoods designated as
19 deteriorated and blighted.

20 (3) Reinforcement for other housing and economic
21 development related investments by a local government or the
22 private sector.

23 (g) Procedures for application review.--The agency shall
24 establish and, from time to time may alter, procedures governing
25 the process by which it reviews applications under this act for
26 mortgage insurance. These procedures shall include such matters
27 as evaluation criteria, opportunity for public comment,
28 standards for the ranking of projects by priority and standards
29 for the setting of the terms and conditions of the mortgage
30 insurance, including, but not limited to, the amount, duration,

1 fees and interest charges, where applicable. The agency shall
2 not approve any mortgage insurance for any project which does
3 not substantially meet such criteria and standards.

4 Section 703. Feasibility studies.

5 The agency shall cause to be performed a commercial and
6 industrial guarantee feasibility study prior to the issuance of
7 any loan guarantee. Each such feasibility study shall be
8 accepted by the governing board of the agency prior to the
9 issuance of the guarantee pursuant thereto. This study shall
10 determine the type of eligible commercial or industrial
11 development in a blighted area for which a guarantee is required
12 for the investment of private capital, the anticipated risk of
13 default and the level of fees, charges and reimbursement
14 conditions necessary to establish a financially sound commercial
15 and industrial guarantee program that exposes the funds
16 deposited into the guarantee fund to a reasonable or acceptable
17 level of risk.

18 Section 704. Program documents.

19 (a) General rule.--The issuance of a guarantee shall require
20 the generation of the following program documents including, but
21 not limited to:

22 (1) A master guarantee agreement with the qualified
23 lending institution.

24 (2) A commitment and certificate of guarantee.

25 (3) Any additional conditions to the commitment and
26 certificate of guarantee.

27 The documents shall be binding and shall fully describe the
28 responsibilities of and remedies available to the signing
29 parties. The guarantee contract or other agreement issued by the
30 fund shall establish the procedures to be followed by an obligee

1 or other beneficiary of the guarantee in the event of a default
2 under the terms of any guaranteed obligation.

3 (b) Actions relating to pledged collateral.--Prior to
4 submitting a claim for payment, the obligee shall pursue such
5 actions with respect to the pledged collateral as may be
6 directed by the agency from among the following:

7 (1) becoming lawfully the obligee in possession thereof;

8 (2) causing a receiver to be appointed for such
9 property;

10 (3) obtaining voluntary conveyance of their obligor's
11 right and title to such property; or

12 (4) obtaining by foreclosure, clear and unencumbered
13 title to such property.

14 These actions shall be pursued in accordance with the directions
15 provided by the agency on the advice of counsel.

16 Section 705. Project criteria.

17 In order to be eligible for a commercial or industrial loan
18 guarantee issued by the agency, the project shall meet the
19 eligibility criteria provided in the applicable feasibility
20 study. In order for an obligation to be eligible for guarantee,
21 the agency must first find that:

22 (1) Except as otherwise permitted by this act, the
23 repayment of a qualified obligation is secured by a mortgage.

24 (2) The obligor is credit worthy as determined by
25 comparison to similarly situated obligors.

26 (3) The obligation is in such principal amount and form
27 and contains such terms and provisions with respect to
28 property insurance, repairs, alterations, payment of taxes
29 and assessments, delinquency charges, default remedies,
30 additional security and other matters as the agency, with the

1 advice of counsel, shall determine and are considered
2 customary in the industry.

3 (4) The requirements of the act are adequately met by
4 the terms of the mortgage guarantee contract or other
5 agreements.

6 Section 706. Eligibility standards for mortgage insurance and
7 credit enhancements.

8 (a) General rule.--The agency shall prescribe such
9 eligibility standards for insurance and other forms of credit
10 enhancement to be offered as are reasonable to provide that the
11 insurance and credit enhancements shall aid in:

12 (1) The financing of the construction, reconstruction,
13 rehabilitation, repair, renovation, replacement or other
14 improvement of commercial or industrial property in blighted
15 areas.

16 (2) The sale or other transfer of an obligation, whether
17 denoted as bond, note, collateralized obligation, grantor
18 trust, conduit or any other form of security or obligation
19 however denoted, backed directly or indirectly by mortgages
20 or payments derived from mortgages.

21 (b) Lenders.--The standards under this section shall assure
22 that any lender, including a local government, benefiting from
23 insurance or other credit enhancement provided by the agency for
24 a loan made by that lender shall be responsible and able to
25 service the loan or has made other arrangements for the
26 servicing of the loan that are acceptable to the agency.

27 Section 707. Guarantee coverage.

28 (a) Amount.--The guarantee percentage of the outstanding
29 principal indebtedness of an obligation or any aggregate of
30 obligations authorized to be guaranteed under this act may be

1 only for such percentage as minimizes the financial risk to the
2 fund while making the project financially feasible.

3 (b) Ownership of property.--An obligor shall be, or by
4 reason of an obligation guaranteed by the fund shall become, the
5 owner or lessee of the property that secures the qualified
6 obligation, and shall be able to bear the usual expenses of
7 maintaining the structure and repay the obligation.

8 Section 708. Contracts.

9 The agency shall establish contractual provisions, which may
10 include a right of foreclosure, to foster secure reimbursement
11 of moneys paid pursuant to a guarantee in the event of a covered
12 default for which the qualified lending institution submits a
13 claim for loss as defined in the guaranty program documents. A
14 copy of the guaranty program documents shall be available from
15 the agency upon request.

16 Section 709. Reimbursable costs.

17 All expenses, exclusive of agency administrative costs,
18 incurred in the course of processing a request for a guarantee,
19 whether a guarantee is ever issued, shall be paid by the
20 qualified lending institution or local government.

21 CHAPTER 9

22 MISCELLANEOUS PROVISIONS

23 Section 901. Appropriation.

24 The sum of \$50,000,000 is hereby appropriated to the
25 Pennsylvania Mortgage Guaranty Corporation for deposit into the
26 Pennsylvania Commercial and Industrial Mortgage Guaranty Fund
27 established and to be used to implement the provisions of this
28 act. This sum shall be repaid, without interest, to the
29 Commonwealth as soon as practicable.

30 Section 902. Severability.

1 If any provision of this act, or the application thereof to
2 any person, party, corporation, public or private, shall be
3 judged invalid by a court of competent jurisdiction, such order
4 or judgment shall be confined in its operation to the
5 controversy in which it was rendered and shall not affect or
6 invalidate the remainder of any other provision of this act, or
7 the application of any part thereof to any other person, party,
8 corporation, public or private, or circumstance, and, to this
9 end, the provisions of this act hereby are declared to be
10 severable. It is hereby declared as the legislative intent that
11 this act would have been adopted had any provision declared
12 unconstitutional not been included herein.

13 Section 903. Construction.

14 This act shall be liberally construed in furtherance of the
15 findings and declarations set forth in section 102.

16 Section 904. Effective date.

17 This act shall take effect in 180 days.