

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1045 Session of
2002

INTRODUCED BY WAUGH, WENGER, BRIGHTBILL, JUBELIRER, PUNT,
O'PAKE, KITCHEN, MADIGAN, LAVALLE, HELFRICK, MUSTO, KUKOVICH,
DENT, MOWERY, CORMAN, M. WHITE, BOSCOLA, KASUNIC, LEMMOND,
GREENLEAF, CONTI, RHOADES, EARLL, SCHWARTZ, THOMPSON,
GERLACH, ROBBINS AND SCARNATI, MARCH 11, 2002

AS AMENDED ON THIRD CONSIDERATION, APRIL 9, 2002

AN ACT

1 Amending the act of June 29, 1996 (P.L.434, No.67), entitled, as
2 amended, "An act to enhance job creation and economic
3 development by providing for an annual financing strategy,
4 for opportunity grants, for job creation tax credits, for
5 small business assistance, for the Small Business Advocacy
6 Council, for a family savings program, for industrial
7 development assistance, for community development bank grants
8 and loans and for tax-exempt bond allocation; conferring
9 powers and duties on various administrative agencies and
10 authorities; further providing for various funds; and making
11 repeals," further providing for loans for agricultural
12 producers AND FOR PROVISIONS RELATING TO ELIGIBILITY. <—

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

15 Section 1. The definitions of "capital development project"
16 and "small business enterprise" in section 1301 of the act of
17 June 29, 1996 (P.L.434, No.67), known as the Job Enhancement
18 Act, added December 3, 1998 (P.L.788, No.100), are amended and
19 the section is amended by adding definitions to read:

20 Section 1301. Definitions.

21 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Agricultural producer." A person OR ENTITY involved in the <—
5 management and use of a normal agricultural operation for the
6 production of a farm commodity.

7 * * *

8 "Capital development project" or "project." Land, buildings,
9 equipment and machinery and working capital which is acquired,
10 constructed, renovated or used by a small business enterprise:

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

14 (2) To bring a small business enterprise into compliance
15 with Federal or State environmental laws or regulations or to
16 complete an approved remediation project or to permit the
17 small business enterprise to adopt generally acceptable
18 pollution prevention practices.

19 (3) To provide assistance to small business enterprises
20 that are recyclers of municipal or commercial waste or that
21 are manufacturers using recycled municipal or commercial
22 waste materials.

23 (4) To assist a small business enterprise with defense
24 conversion activities.

25 (5) For the manufacture of products to be exported out
26 of the United States by a small business enterprise as part
27 of a for-profit project or venture not of a mercantile or
28 service-related nature, except for export-related services
29 and international export-related mercantile ventures or
30 advanced technology and computer-related services and

mercantile ventures, which will increase this Commonwealth's national or international market shares.

(6) As part of a for-profit project or venture that meets the requirements of section 1303(a.1) and (a.3).

* * *

"NATURAL DISASTER." AS DEFINED IN 35 PA.C.S. § 7102
(RELATING TO DEFINITIONS).

"Normal agricultural operation." The activities, practices, equipment and procedures which agricultural producers adopt, use or engage in the production and preparation for market of farm commodities. The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry.

* * *

"Small business [enterprises] enterprise." A for-profit corporation, partnership [or], proprietorship, LIMITED LIABILITY COMPANY OR OTHER ENTITY which meets the eligibility requirements established by the department. The term shall include, but is not limited to, a small business [enterprises] enterprise which:

(1) is located in a small business incubator
[facilities, small business enterprises which are] facility;

(2) is an agricultural [processors and small business enterprises which manufacture] processor;

(3) is an agricultural producer; or

(4) manufactures apparel products.

* * *

Section 2. Section 1303(a.2) and (b) of the act, amended November 17, 1998 (P.L.788, No.100), are amended ~~and the section is amended by adding a subsection~~ to read:

Section 1303. Eligibility for and terms and conditions of

1 loans.

2 * * *

3 (a.2) Pollution prevention assistance loans.--The Pollution
4 Prevention Assistance Account created under section 1302(b.1)
5 shall provide revolving loans to small [businesses] business
6 enterprises.

7 (1) The loans shall be for the purpose of enabling the
8 small business enterprise to adopt or install pollution
9 prevention equipment or processes to:

10 (i) Reduce or reuse raw materials onsite.

11 (ii) Reduce the production of waste.

12 (iii) Reduce energy consumption.

13 (2) The Pollution Prevention Assistance Account shall
14 not invest on the basis of direct financial return and shall
15 not be held to the loan loss standards of commercial lenders.
16 Loans shall be for the purpose of reducing pollution through
17 source reduction technologies or processes.

18 (3) A loan under this subsection may not exceed the
19 lesser of:

20 (i) \$50,000; or

21 (ii) 75% of eligible project costs.

22 (4) Loans under this subsection shall have an interest
23 rate of 2% per year and a maximum repayment term of seven
24 years.

25 (5) An industrial resource center receiving funds under
26 the act of July 2, 1993 (P.L.439, No.64), known as the Ben
27 Franklin/IRC Partnership Act, may utilize the account to
28 provide assistance to a small business enterprise for which a
29 loan application has been made.

30 (6) Loans under this subsection shall be used to further

1 the goal of pollution prevention through the purchase and
2 installation of equipment to make operational changes and
3 modify production practices.

4 ~~(a.3) Loans to small business enterprises which are~~ <—
5 ~~agricultural producers.~~

6 ~~(1) The department may provide loans to small business~~
7 ~~enterprises which are agricultural producers. Loans shall be~~
8 ~~made in accordance with the provisions of this chapter except~~
9 ~~as follows:~~

10 ~~(i) The provisions of subsection (b) relating to~~
11 ~~required increases in employment shall not apply to loans~~
12 ~~made under this subsection.~~

13 ~~(ii) The department may authorize flexible repayment~~
14 ~~terms and an interest rate of not less than 2%.~~

15 ~~(iii) The department may utilize additional area~~
16 ~~loan organizations, including community development~~
17 ~~financial institutions, to receive loan applications and~~
18 ~~administer loans.~~

19 ~~(iv) The department may use its best judgment to~~
20 ~~identify and secure collateral.~~

21 ~~(2) The department and area loan organizations shall not~~
22 ~~make loans under this subsection on the basis of direct~~
23 ~~financial return on investment and shall not be held to the~~
24 ~~loan loss standards of private commercial lenders. Loans~~
25 ~~shall be for the purpose of enhancement and growth of normal~~
26 ~~agricultural operations.~~

27 (b) Terms and conditions.--

28 (1) The department may make advances from the Small
29 Business First Fund, subject to the terms, conditions and
30 restrictions provided under this chapter, to area loan

1 organizations for the purpose of making loans to eligible
2 small business enterprises for capital development projects
3 which demonstrate a substantial likelihood of creating or
4 preserving employment opportunities[.] OR, IN THE CASE OF A <—
5 SMALL BUSINESS ENTERPRISE THAT IS AN AGRICULTURAL PRODUCER,
6 LOANS WHICH DEMONSTRATE A SUBSTANTIAL LIKELIHOOD OF THE
7 ENHANCEMENT AND GROWTH OF NORMAL AGRICULTURAL OPERATIONS. All
8 loans, EXCEPT LOANS PROVIDED TO A SMALL BUSINESS ENTERPRISE <—
9 WHICH IS AN AGRICULTURAL PRODUCER, shall be limited to
10 projects that demonstrate the creation or preservation of one
11 job for every \$25,000 received from the Small Business First
12 Fund.

13 (2) No loans shall be made which would do any of the
14 following:

15 (i) Cause, aid or assist in, directly, the
16 relocation of any business operations from one part of
17 this Commonwealth to another unless there is at least a
18 25% net increase in employment.

19 (ii) Refinance any portion of the total project cost
20 or other existing loans or debt.

21 (iii) Finance projects located outside the
22 geographic boundaries of this Commonwealth.

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

27 (v) Provide funds for speculation in any kind of
28 property, real or personal, tangible or intangible.

29 (3) All loans shall carry an interest rate and term and
30 shall be secured by lien positions on collateral at the

highest level of priority as may be determined by the area
loan organization with the approval of the department.

SECTION 3. SECTION 1310 OF THE ACT IS AMENDED TO READ: <—

SECTION 1310. [TRANSITIONAL] ELIGIBILITY PROVISIONS.

THE FOLLOWING ELIGIBILITY REQUIREMENTS AND ELIGIBLE USES
SHALL APPLY TO ALL REQUESTS FOR FUNDING [RECEIVED AFTER THIS
CHAPTER BECOMES EFFECTIVE AND BEFORE SUBMISSION OF THE FIRST
ANNUAL FINANCING STRATEGY]:

(1) A SMALL BUSINESS ENTERPRISE WITH 100 FULL-TIME
EMPLOYEES OR LESS THAT PROPOSES TO UNDERTAKE A CAPITAL
DEVELOPMENT.

(2) (I) THE MAXIMUM LOAN AMOUNT FOR LAND, BUILDINGS AND
MACHINERY AND EQUIPMENT IS \$200,000 OR 50% OF THE TOTAL
ELIGIBLE PROJECT COSTS, WHICHEVER IS LESS. THE MAXIMUM
LOAN AMOUNT FOR WORKING CAPITAL IS \$100,000 OR 50% OF THE
TOTAL ELIGIBLE PROJECT COSTS, WHICHEVER IS LESS.

(II) LOANS USED FOR REAL ESTATE SHALL HAVE A
REPAYMENT PERIOD OF UP TO TEN YEARS. LOANS USED FOR
MACHINERY AND EQUIPMENT SHALL HAVE A REPAYMENT PERIOD OF
UP TO SEVEN YEARS. LOANS USED FOR WORKING CAPITAL SHALL
HAVE A REPAYMENT PERIOD OF UP TO THREE YEARS. IN PROJECTS
WHERE TWO OR MORE USES OF FUNDS ARE PLANNED, THE LOAN
TERMS MAY BE BLENDED.

(III) INTEREST RATES SHALL [BE FIXED AT 5%.] NOT
EXCEED 5%, EXCEPT AS PROVIDED IN CLAUSE (IV).

(IV) LOANS MADE TO A SMALL BUSINESS ENTERPRISE THAT
IS AN AGRICULTURAL PRODUCER SHALL BE MADE AT AN INTEREST
RATE OF NOT LESS THAN 2% IF A DECLARATION UNDER 35
P.A.C.S. § 7301(C) (RELATING TO GENERAL AUTHORITY OF
GOVERNOR) IS IN EFFECT FOR AT LEAST TEN DAYS FOR A

1 NATURAL DISASTER.

2 [(IV)] (V) ALL LOANS MUST BE ADEQUATELY SECURED.

3 (3) (I) APPLICATIONS FOR ASSISTANCE UNDER THE CAPITAL
4 LOAN FUND ACT WHICH HAVE BEEN APPROVED PRIOR TO THE
5 EFFECTIVE DATE OF THIS CHAPTER WILL BE PROCESSED IN
6 ACCORDANCE WITH THE ACT OF JULY 2, 1984 (P.L.545,
7 NO.109), KNOWN AS THE CAPITAL LOAN FUND ACT. APPLICATIONS
8 FOR ASSISTANCE WHICH HAVE BEEN RECEIVED BUT WHICH HAVE
9 NOT BEEN APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS
10 CHAPTER WILL BE EVALUATED AND PROCESSED IN ACCORDANCE
11 WITH THIS CHAPTER.

12 (II) APPLICATIONS FOR ASSISTANCE UNDER SECTION 7.13
13 OF THE ACT OF JANUARY 8, 1960 (1959 P.L.2119, NO.787),
14 KNOWN AS THE AIR POLLUTION CONTROL ACT, SECTION 709 OF
15 THE ACT OF JULY 6, 1989 (P.L.169, NO.32), KNOWN AS THE
16 STORAGE TANK AND SPILL PREVENTION ACT, AND THE RECYCLING
17 INCENTIVE DEVELOPMENT ACCOUNT WHICH HAVE BEEN APPROVED
18 PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER SHALL BE
19 PROCESSED IN ACCORDANCE WITH THOSE RESPECTIVE PROVISIONS.
20 APPLICATIONS FOR ASSISTANCE WHICH HAVE BEEN RECEIVED BUT
21 WHICH HAVE NOT BEEN APPROVED PRIOR TO THE EFFECTIVE DATE
22 OF THIS CHAPTER SHALL BE EVALUATED AND PROCESSED IN
23 ACCORDANCE WITH THIS CHAPTER.

24 Section 3 4. This act shall take effect immediately.

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