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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 10

Session of  
2003

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ARMSTRONG, MARCH 28, 2003

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REFERRED TO COMMUNITY AND ECONOMIC DEVELOPMENT, MARCH 28, 2003

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AN ACT

1 Providing for an economic enhancement program in the Department  
2 of Community and Economic Development; creating tax incentive  
3 districts; establishing the Economic Enhancement Fund and the  
4 Economic Enhancement Financing Authority; providing for the  
5 issuance of bonds and for debt service reserve funds; and  
6 making an appropriation.

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

26 CHAPTER 1  
27 GENERAL PROVISIONS

28 Section 101. Short title.

29 This act shall be known and may be cited as the Economic  
30 Enhancement Act.

1 Section 102. Findings.

2 The General Assembly finds and declares as follows:

3 (1) There exist in this Commonwealth areas of economic  
4 distress which require coordinated efforts by private and  
5 public entities to restore prosperity and to enable these  
6 areas to make significant contributions to the economic and  
7 social life of this Commonwealth.

8 (2) Long-term economic viability of these areas requires  
9 the cooperative involvement of residents, businesses and  
10 State and local assistance, and it is in the best interests  
11 of this Commonwealth to create incentive zones and to provide  
12 grants and loans to persons located in these zones to  
13 encourage this long-term economic redevelopment.

14 Section 103. Definitions.

15 The following words and phrases when used in this act shall  
16 having the meaning given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Authority." The Economic Enhancement Financing Authority  
19 established by section 501.

20 "Capital costs." The actual costs of the construction of all  
21 of the following:

22 (1) Works or improvements which will become public works  
23 or improvements.

24 (2) New buildings, structures or fixtures.

25 (3) The demolition, alteration, remodeling, repair or  
26 reconstruction of existing buildings, structures or fixtures.

27 (4) The acquisition, upgrade or rehabilitation of  
28 machinery and equipment.

29 (5) The acquisition, clearing or grading of land.

30 The term includes the actual cost of the construction,

1 rehabilitation or repair of publicly owned infrastructure  
2 improvements located outside the boundaries of a tax increment  
3 district which are of direct benefit to a project.

4 "Department." The Department of Community and Economic  
5 Development of the Commonwealth.

6 "Deteriorated property." A blighted, impoverished area  
7 containing residential, industrial, commercial or other real  
8 property which is abandoned, unsafe, vacant, undervalued,  
9 underutilized, overgrown, defective, condemned or demolished or  
10 which contains economically undesirable land use. The term  
11 includes all of the following:

12 (1) A tax increment district.

13 (2) Property adjacent to deteriorated property which is  
14 significantly undervalued and underutilized due to the  
15 proximity of the deteriorated property.

16 "Fund." The Economic Enhancement Fund established by section  
17 304.

18 "Issuing authority." As that term is defined in section 3 of  
19 the act of July 11, 1990 (P.L.465, No.113), known as the Tax  
20 Increment Financing Act.

21 "Project." The undertakings or activities for the  
22 elimination of deteriorated property. The term includes property  
23 acquisition, clearance, redevelopment, rehabilitation or  
24 conservation.

25 "Project costs." An expenditure made or estimated to be made  
26 or any monetary obligation incurred or estimated to be incurred  
27 in connection with a project. Project costs include all of the  
28 following:

29 (1) Capital costs.

30 (2) Financing costs.

1 (3) Professional service costs.

2 (4) Administrative costs.

3 (5) Relocation costs.

4 (6) Organizational costs.

5 (7) Any other cost associated with a project.

6 "Qualified project." A project approved by the Department of  
7 Community and Economic Development under section 303.

8 "Tax incentive district." A contiguous geographic area  
9 approved by the Department of Community and Economic Development  
10 under section 302.

11 "Tax increment district." As that term is defined in section  
12 3 of the act of July 11, 1990 (P.L.465, No.113), known as the  
13 Tax Increment Financing Act.

#### 14 CHAPTER 3

#### 15 ECONOMIC ENHANCEMENT PROGRAM

16 Section 301. Economic Enhancement Program.

17 There is hereby established within the department the  
18 Economic Enhancement Program. The Economic Enhancement Program  
19 shall be comprised of tax incentive districts approved by the  
20 department.

21 Section 302. Tax incentive districts.

22 (a) Proposal.--The Governor may, by Executive Order,  
23 designate deteriorated property in this Commonwealth as a  
24 proposed tax incentive district. An Executive Order designating  
25 deteriorated property shall specify the time period for which  
26 the property is designated not to exceed 20 years. The  
27 department shall immediately notify municipalities located  
28 within the area designated.

29 (b) Application.--Within 90 days of receiving notification  
30 in accordance with subsection (a), a municipality may apply to

1 the department for approval of the designation of the  
2 deteriorated property as a tax incentive district. The  
3 application shall be on a form provided by the department and  
4 shall include a copy of the ordinance, resolution or other  
5 required action from the governing body of the municipality  
6 approving the establishment of the tax incentive district. All  
7 appropriate ordinances and resolutions shall be binding and  
8 nonrevocable on the municipality.

9 (c) Designation.--If all municipalities within a proposed  
10 tax incentive district submit timely completed applications, the  
11 department shall approve the applications and designate the  
12 property as a tax incentive district. Persons owning property  
13 located within a tax incentive district and issuing authorities  
14 of tax increment districts located within a tax incentive  
15 district shall be eligible to receive grants and loans for  
16 qualified projects from the Economic Enhancement Financing  
17 Authority.

18 Section 303. Projects.

19 (a) Application.--A person may apply to the department for  
20 approval of a project. The application shall be on the form and  
21 in the manner established by the department and shall include a  
22 detailed list of project costs.

23 (b) Review.--The department shall review the application.  
24 The department may approve the project if it determines that all  
25 of the following apply:

26 (1) The applicant is a person that owns property in a  
27 tax incentive district or is an issuing authority of a tax  
28 increment district located within a tax incentive district.

29 (2) The project would be located in a tax incentive  
30 district or is located in a tax increment district.

1 (3) The project would do or does any of the following:

2 (i) Create career-oriented net new jobs or preserve  
3 jobs.

4 (ii) Increase and diversify the manufacturing base  
5 of this Commonwealth.

6 (iii) Aid in the expansion of existing private  
7 companies, particularly those that sell their products  
8 outside this Commonwealth.

9 (iv) Attract new industries with new products into  
10 economically distressed areas within this Commonwealth.

11 (v) Promote industrial, commercial and other  
12 economic development within this Commonwealth.

13 (vi) Promote a healthy environment through the  
14 abatement, safe storage, transportation, reduction,  
15 elimination, remediation and disposal within this  
16 Commonwealth of pollutants and wastes.

17 (vii) Otherwise promote the health, welfare and  
18 safety of the residents of this Commonwealth by promoting  
19 economic activity and efficiency or alleviating or  
20 eliminating unemployment, blight and other unhealthy  
21 conditions.

22 (c) Notice.--The department shall notify the authority of  
23 projects which have been approved by the department and which  
24 are eligible for financial assistance by the authority.

25 Section 304. Establishment of Economic Enhancement Fund.

26 (a) Establishment.--There is hereby established a special  
27 fund known as the Economic Enhancement Fund. Interest income  
28 derived from investment of the money in the fund shall be  
29 credited by the Treasury Department to the fund.

30 (b) Calculation.--Within 30 days of the end of each quarter,

1 the Department of Revenue shall calculate and notify the  
2 Secretary of the Budget of the aggregate revenue received by the  
3 Commonwealth pursuant to Articles II, IV and VI of the act of  
4 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
5 1971, from taxpayers located within tax incentive districts.

6 (c) Transfer.--Within ten days of receiving notification in  
7 accordance with subsection (b), the Secretary of the Budget  
8 shall direct the State Treasurer to transfer the sum equal to  
9 25% of the aggregate revenue received by the Commonwealth  
10 pursuant to Articles II, IV and VI of the Tax Reform Code of  
11 1971, from taxpayers located within tax incentive districts,  
12 from the General Fund to the fund.

13 (d) Appropriation and payments.--Moneys in the fund are  
14 hereby appropriated on a continuing basis to the authority. The  
15 State Treasurer shall provide semiannual payments to the  
16 authority on August 1 and February 1 of each year until the  
17 authority is terminated in accordance with section 501. August 1  
18 payments shall be equal to the balance of the fund on July 15 of  
19 that calendar year, and February 1 payments shall be equal to  
20 the balance of the fund on January 15 of that calendar year.

## 21 CHAPTER 5

### 22 ECONOMIC ENHANCEMENT FINANCING AUTHORITY

23 Section 501. Authority.

24 (a) Establishment.--There is hereby established an authority  
25 to be known as the Economic Enhancement Financing Authority. The  
26 authority shall be a body corporate and politic and shall assist  
27 persons in funding economic development in tax incentive  
28 districts.

29 (b) Governance.--The powers and duties of the authority  
30 shall be exercised by a board.



1 (c) Revenues.--Expenses of the authority shall be paid from  
2 revenues derived from investment income of the authority and  
3 from money appropriated to the authority in accordance with  
4 section 304. The funds appropriated to the authority in section  
5 5104 shall be repaid by the authority from the proceeds of the  
6 initial issue of bonds by the authority. The Commonwealth shall  
7 not be responsible for funding the annual budget of the  
8 authority.

9 (d) Fiscal year.--The fiscal year of the authority shall be  
10 the same as the fiscal year of the Commonwealth.

11 (e) Audit.--The authority shall conduct an independent audit  
12 of its accounts and records annually.

13 (f) General Assembly review.--

14 (1) The chairperson and minority chairperson of the  
15 Appropriations Committee of the Senate and the chairperson  
16 and minority chairperson of the Appropriations Committee of  
17 the House of Representatives shall have the right at any time  
18 to examine the books, accounts and records of the authority.

19 (2) The authority shall file an annual report with the  
20 chairperson and the minority chairperson of the  
21 Appropriations Committee of the Senate and the chairperson  
22 and the minority chairperson of the Appropriations Committee  
23 of the House of Representatives. The report shall include all  
24 of the following:

25 (i) A copy of the authority's budget.

26 (ii) The total amount of debt service to become due  
27 on authority bonds for the ensuing fiscal year, including  
28 payments of interest and principal, maturity value or  
29 sinking fund payments.

30 (iii) The amount, if any, due to any provider of any

1 credit or liquidity facility representing payments made  
2 by the provider as provided in the applicable resolution  
3 or trust indenture as a result of any previous failure of  
4 the authority to make any payment provided for in the  
5 applicable resolution or trust indenture, including any  
6 related reasonable interest, fees or charges.

7 (iv) The amount, if any, required to restore the  
8 debt service reserve fund to the level required under  
9 section 713 and the resolution of the authority  
10 establishing the fund.

11 (v) The amount, if any, required to be rebated to  
12 the United States to provide for continued Federal tax  
13 exemption for bonds of the authority.

14 (f) Publication.--The authority shall annually publish a  
15 concise financial statement in the Pennsylvania Bulletin.

16 (g) Limitation on bankruptcy filing.--Notwithstanding any  
17 other provision of law, the authority shall not be authorized to  
18 file a petition for relief under 11 U.S.C. Ch. 9 (relating to  
19 bankruptcy) or any successor Federal bankruptcy law if the  
20 authority has outstanding bonds issued pursuant to this act.

21 (h) Termination.--The authority shall terminate one year  
22 after all of its liabilities have been fully paid and  
23 discharged. Upon the termination, all of its rights and  
24 properties, including funds remaining in the debt service  
25 reserve fund, shall be paid to the Commonwealth.

26 Section 502. Board.

27 (a) Composition.--The board of the authority shall be  
28 composed of the following five members:

29 (1) The Secretary of the Budget.

30 (2) The Secretary of the Department of Revenue.

1           (3) The Secretary of the Department of Community and  
2       Economic Development.

3           (4) Two members of the public with experience in finance  
4       or management appointed by the Governor.

5       (b) Term.--The members of the board appointed by the  
6       Governor shall serve for a term of three years.

7       (c) Organization.--The members of the board shall elect from  
8       among themselves a chairperson, vice chairperson, secretary,  
9       treasurer and such other officers as they may determine. A  
10      member may hold more than one office of the board at any time.

11      (d) Meetings.--The board shall meet at the call of the  
12      chairperson but at least once during each quarter of the fiscal  
13      year.

14      (e) Expenses.--A member shall not receive compensation or  
15      remuneration, but shall be entitled to reimbursement for all  
16      reasonable and necessary actual expenses.

17      (f) Public officials and party officers.--The members of the  
18      board appointed by the Governor shall not seek or hold a  
19      position as any other public official within this Commonwealth  
20      or as a party officer while being a member of the board of the  
21      authority.

22      (g) Liability.--Members of the board shall not be liable  
23      personally on any obligations of the authority, including,  
24      without limitation, bonds of the authority and shall be immune  
25      from suit.

26      (h) Applicability.--The provisions of the following acts  
27      shall apply to the authority:

28           (1) The act of June 21, 1957 (P.L.390, No.212), referred  
29      to as the Right-to-Know Law.

30           (2) The act of July 19, 1957 (P.L.1017, No.451), known

1 as the State Adverse Interest Act.

2 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to  
3 open meetings) and 11 (relating to ethic standards and  
4 financial disclosure).

5 Section 503. Powers and duties.

6 (a) Powers.--The authority, through action of the board,  
7 shall have all of the following powers:

8 (1) The power to adopt bylaws, guidelines and  
9 regulations as it deems necessary.

10 (2) The power to contract and to execute instruments,  
11 including guarantees, sureties, mortgages and contracts of  
12 insurance, necessary or convenient for the carrying on of its  
13 business.

14 (3) The power to sue and be sued, implead and be  
15 impleaded, complain and defend in court.

16 (4) The power to borrow money, incur debt and, in  
17 anticipation of the receipt of income of the authority, make,  
18 issue and secure bonds or notes.

19 (5) The power to acquire, accept, purchase, receive,  
20 hold and invest funds and property, tangible or intangible,  
21 from all available sources, directly or by assignment, pledge  
22 or otherwise.

23 (6) The power to sell, transfer, convey and dispose of  
24 any property, tangible or intangible.

25 (7) The power to adopt, use and alter at will a  
26 corporate seal.

27 (8) The power to employ such persons as are necessary or  
28 convenient for the carrying on of its business.

29 (9) The power to retain counsel and auditors to render  
30 such professional services as the authority deems

1 appropriate.

2 (10) The power to pledge the credit of the authority and  
3 to provide such security and liquidity as may be required by  
4 creditors.

5 (11) The power to cooperate with any Federal agency or  
6 government agency.

7 (12) Any other power necessary or convenient for the  
8 promotion or general welfare of the authority.

9 (b) Duties.--The authority shall provide financial  
10 assistance to persons for qualified projects. The financial  
11 assistance shall be in the form of loans or multiyear grants and  
12 may include proceeds from the sale of bonds. If the financial  
13 assistance provided to a person is from the proceeds of a bond  
14 issuance, the board shall require the person to be a surety of  
15 the bonds. The board may impose such other terms and conditions  
16 on the financial assistance authorized by this subsection as the  
17 board determines is in the best interests of the authority.

18 (c) Limitations.--

19 (1) In accordance with section 8 of Article VIII of the  
20 Constitution of Pennsylvania, the board and the authority  
21 shall have no power to pledge the credit or taxing powers of  
22 the Commonwealth, nor shall any of the bonds of the authority  
23 be deemed a debt or liability of the Commonwealth.

24 (2) The authority shall be solely liable for the payment  
25 of the principal, interest or premium on any bonds issued by  
26 the authority. The Commonwealth shall have no legal or moral  
27 obligation for the payment of any expenses or obligations of  
28 the authority, including bond principal and interest, the  
29 funding or refunding of any reserves and any administrative  
30 or operating expenses whatsoever, other than for the advance

1 of funds for initial operating expenses of the authority  
2 contained in section 701 to be repaid by the authority as  
3 provided in this act. Bonds issued by the authority shall  
4 contain a prominent statement of the limitation set forth in  
5 this subsection and shall further recite that obligees of the  
6 authority shall have no recourse, either legal or moral, to  
7 the Commonwealth for payment of the bonds of the authority.

## 8 CHAPTER 7

### 9 BONDS OF AUTHORITY

#### 10 Section 701. Bonds.

11 (a) Authorization.--Bonds of the authority shall be  
12 authorized by a resolution of the board and shall be of a  
13 series, bear such date or dates and bear or accrue interest at  
14 the rate or rates determined by the board to be necessary to  
15 issue and sell the authorized bonds. The bonds shall be in the  
16 denominations; be in the form, either coupon or fully registered  
17 without coupons or in certificated or book-entry-only form;  
18 carry such registration, exchangeability and interchangeability  
19 privileges; be payable in the medium of payment and at such  
20 place or places; be subject to the terms of redemption and be  
21 entitled to the priorities of payment in the revenues or  
22 receipts of the authority as the resolution of the board  
23 provides. Bonds shall be signed by or shall bear the facsimile  
24 signature of the officer designated by the board. Interest  
25 coupons shall be attached to coupon bonds and shall bear the  
26 facsimile signature of the treasurer of the authority. Bonds  
27 shall be authenticated by an authenticating agent, fiscal agent  
28 or trustee. Bonds may be issued and delivered notwithstanding  
29 that the officer signing the bonds or the treasurer whose  
30 facsimile signature is on a coupon shall have ceased to be the

1 officer at the time when the bond is actually delivered.

2 (b) Maturity date.--

3 (1) Bonds issued to provide financial assistance to  
4 persons shall mature at such time or times not exceeding ten  
5 years from their respective dates of original issue.

6 (2) Bonds issued to finance the costs of a capital  
7 project shall mature at such time or times not exceeding the  
8 weighted average useful life of the projects being financed  
9 and in no event exceeding 30 years from their respective  
10 dates of original issue.

11 (3) Bonds issued in anticipation of income of the  
12 authority shall mature within the fiscal year of the date of  
13 issuance thereof, except for bonds issued in anticipation of  
14 grants from the Commonwealth, a government agency or Federal  
15 agency, which bonds shall mature no later than the time of  
16 anticipated receipt of such grant.

17 (c) Sale.--Bonds may be sold at public sale or invited sale  
18 for the price or prices and at the rate or rates of interest as  
19 the authority determines. Bonds may be sold at private sale by  
20 negotiation at the price or prices and at the rate or rates of  
21 interest as the authority determines, but only if the authority  
22 makes a written public explanation of the circumstances and  
23 justification for the private sale by negotiation. Pending the  
24 preparation of the definitive bonds, interim receipts may be  
25 issued to the purchaser or purchasers of the bonds and shall  
26 contain the terms and conditions established by the authority.

27 (d) Negotiable instruments.--Bonds of the authority shall  
28 have the qualities of negotiable instruments under 13 Pa.C.S.  
29 (relating to Commercial Code).

30 (e) Use of proceeds.--The proceeds of an issue of bonds may

1 be used to pay the costs of issuance of the bonds, to pay costs  
2 of administration of authority, to fund reserves for the bonds,  
3 to capitalize interest on the bonds for a period not to exceed  
4 12 months, to pay the costs of capital projects in areas  
5 designated by the Governor under Chapter 3, to reimburse the  
6 Commonwealth for the appropriation made in section 5104 and to  
7 fund up to \$500,000 of initial operating expenses of the  
8 authority.

9 (f) Refunding.--Subject to the provisions of this act and  
10 bonds, notes or other obligations issued in accordance with this  
11 act, the authority may refund any outstanding debt of the  
12 authority, whether the debt represents principal or interest, in  
13 whole or in part, at any time. The term of any bonds issued for  
14 refunding purposes shall not extend to a maturity date which  
15 could not have been included in the original issue of bonds  
16 being refunded. For the purposes of this subsection, the term  
17 "refund" and its variations shall mean the issuance and sale of  
18 obligations the proceeds of which are used or are to be used for  
19 the payment or redemption of outstanding obligations upon or  
20 prior to maturity.

21 Section 702. Exemption from taxation.

22 The effectuation of the authorized purposes of the authority  
23 shall and will be in all respects for the benefit of the people  
24 of this Commonwealth, for the increase of their commerce and  
25 prosperity and for the improvements of their health, safety,  
26 welfare and living conditions; and, since the authority will be  
27 performing such essential governmental functions in effectuating  
28 such purposes, the authority shall not be required to pay any  
29 taxes or assessments upon any property acquired or used or  
30 permitted to be used by the authority for its purposes; and the



1 bonds issued by the authority, their transfer and the income  
2 therefrom, including any profits made on the sale thereon,  
3 shall, at all times, be free from State and local taxation  
4 within this Commonwealth. This exemption shall not extend to  
5 gift, estate, succession or inheritance taxes or any other taxes  
6 not levied directly on the bonds, the transfer thereof, the  
7 income therefrom or the realization of profits on the sale  
8 thereof.

9 Section 703. Validity of bonds; limitation on actions.

10 (a) Presumption.--A bond reciting in substance that it has  
11 been issued by the authority to accomplish the public purposes  
12 of this act shall be conclusively deemed in any suit, action or  
13 proceeding involving the validity or enforceability of the bonds  
14 or security therefor to have been issued for the purposes.

15 (b) Filing.--The authority shall file a copy of a resolution  
16 authorizing the issuance of bonds in its office for public  
17 inspection and shall publish in three newspapers of general  
18 circulation in this Commonwealth a notice stating:

19 (1) The fact and date of such adoption.

20 (2) The places where such resolution has been so filed  
21 for public inspection.

22 (3) The date of publication of such notice.

23 (4) That any action or proceeding of any kind or nature  
24 in any court questioning the validity or proper authorization  
25 of bonds provided for by the resolution, or the validity of  
26 any covenants, agreements or contract provided for by such  
27 resolution, shall be commenced within ten days after the  
28 publication of such notice.

29 After publication of the notice, if no action or proceeding  
30 questioning the validity or proper authorization of bonds

1 provided for by the resolution referred to in the notice, or the  
2 validity of any covenants, agreements or contracts provided by  
3 the resolution shall be commenced within ten days after the  
4 publication of the notice, then all residents of this  
5 Commonwealth and all other persons whatsoever shall be forever  
6 barred and foreclosed from instituting or commencing any action  
7 or proceeding in any court, or pleading any defense to any  
8 action or proceedings, questioning the validity or proper  
9 authorization of the bonds or the validity of the covenants,  
10 agreements or contracts, and the bonds, covenants, agreements  
11 and contracts shall be conclusively deemed to be valid and  
12 binding obligations in accordance with their terms and tenor.

13 (c) Estoppel.--After issuance of bonds, bonds shall be  
14 conclusively presumed to be fully authorized and issued by all  
15 the laws of this Commonwealth, and any person shall be estopped  
16 from questioning their sale, execution or delivery by the  
17 authority.

18 Section 704. Provisions of bonds; trust indentures.

19 In connection with the issuance of bonds and in order to  
20 secure the payment of its bonds, the authority, in addition to  
21 its other powers, shall have the power to do all of the  
22 following:

23 (1) Pledge or grant a security interest in all or any  
24 part of its gross or net revenues to which its right then  
25 exists or which may thereafter come into existence.

26 (2) Grant a security interest in all or any part of its  
27 personal property then owned or thereafter acquired.

28 (3) Covenant against pledging or granting a security  
29 interest in all or any part of its revenues or all or any  
30 part of its personal property to which its right or title

1 exists or may thereafter come into existence, or against  
2 permitting or suffering any lien on its revenues or property;  
3 covenant with respect to limitations on its right to sell,  
4 lease or otherwise dispose of any of its real property; and  
5 covenant as to which other or additional debts or obligations  
6 may be incurred by it.

7 (4) Covenant as to the bonds to be issued and as to the  
8 issuance of the bonds, in escrow or otherwise, and as to the  
9 use and disposition of the proceeds thereof; provide for the  
10 replacement of lost, destroyed or mutilated bonds; covenant  
11 against extending the time for the payment of bonds or  
12 interest thereon; redeem the bonds, and covenant for their  
13 redemption and provide the terms and conditions thereof.

14 (5) Covenant as to the amount of revenues to be received  
15 in each fiscal year or other period of time by the authority,  
16 as well as to the use and disposition to be made thereof,  
17 create or authorize the creation of special funds or reserves  
18 for debt service or other purposes and covenant as to the use  
19 and disposition of the moneys held in such funds.

20 (6) Prescribe the procedure, if any, by which the terms  
21 of any contract with bondholders may be amended or abrogated,  
22 and the amount of bonds the holders of which must consent  
23 thereto, and the manner in which the consent may be given.

24 (7) Covenant as to the use of any or all of its real or  
25 personal property, to warrant its title, and covenant as to  
26 the maintenance of its real and personal property, the  
27 replacement thereof, the insurance to be carried thereon and  
28 the use and disposition of insurance proceeds.

29 (8) Covenant as to the rights, liabilities, powers and  
30 duties arising upon the breach by it of any covenant,

1 condition or obligation, provided that the authority shall  
2 not be permitted to covenant that, upon a breach, any or all  
3 of its bonds shall become or may be declared due before  
4 stated maturity.

5 (9) Vest in a trustee or the holders of bonds, or any  
6 proportion of them, the right to enforce the payment of the  
7 bonds or any covenants securing or relating to the bonds;  
8 vest in a trustee the right, in the event of default in  
9 payments of interest or on principal of bonds by the  
10 authority, to take possession and use, operate and manage any  
11 real or personal property and to collect the revenues and  
12 receipts of an authority and to dispose of such moneys in  
13 accordance with the agreement of the authority with the  
14 trustee; provide for the powers and duties of a trustee and  
15 to limit liabilities thereof; and provide the terms and  
16 conditions upon which a trustee or the holders of bonds, or  
17 any proportion of them, may enforce any covenant or rights  
18 securing or relating to the bonds.

19 (10) Enter into interest rate exchange agreements,  
20 interest rate cap and floor agreements and other similar  
21 agreements which in the judgment of the authority will assist  
22 the authority in managing the interest costs of the  
23 authority.

24 (11) Obtain letters of credit, bonds insurance and other  
25 facilities for credit enhancement and liquidity.

26 (12) Exercise all or any part or combination of the  
27 powers granted in this act, make covenants other than and in  
28 addition to the covenants expressly authorized by this act,  
29 make such covenants and do any and all such acts and things  
30 as may be necessary or convenient or desirable in order to

1 secure its bonds or, in the absolute discretion of the  
2 authority, as will tend to accomplish the purposes of this  
3 act by making the bonds more marketable, notwithstanding that  
4 such covenants, acts or things may not be specifically  
5 enumerated by this act.

6 Notwithstanding any provision of this act to the contrary, the  
7 real property of the authority shall not be mortgaged and shall  
8 not be subject to attachment nor levied upon by execution or  
9 otherwise. The revenues of the authority and the personal  
10 property of the authority shall be pledged or otherwise  
11 encumbered only as expressly provided in this section and,  
12 except to the extent necessary to effectuate the pledge or  
13 encumbrance, shall not be subject to attachment nor levied upon  
14 by execution or otherwise.

15 Section 705. Remedies of obligee of authority.

16 In addition to all other rights which may be conferred on the  
17 obligee subject only to any contractual restrictions binding  
18 upon the obligee, an obligee of the authority shall have all of  
19 the following rights:

20 (1) To compel, by mandamus, suit, action or proceeding  
21 at law or in equity, the authority and the members of its  
22 governing board, officers, agents or employees thereof to  
23 perform each and every term, provision and covenant contained  
24 in any bond or contract of the authority with or for the  
25 benefit of such obligee and to require the carrying out of  
26 any or all such covenants and agreements of the authority and  
27 the fulfillment of all duties imposed upon the authority by  
28 this act.

29 (2) To obtain, by proceeding in equity, an injunction  
30 against any acts or things which may be unlawful or the

1 violation of any of the rights of such obligee of the  
2 authority.

3 (3) To require the authority to account as if it were  
4 the trustee of an express trust for the obligees of the  
5 authority for any pledged revenues received.

6 Section 706. Validity of pledge.

7 Any pledge of or grant of a security interest in revenues of  
8 the authority or personal property of an authority made by the  
9 authority shall be valid and binding from the time when the  
10 pledge is made. The revenues or other property pledged and  
11 thereafter received by the authority shall immediately be  
12 subject to the lien of the pledge or security interest without  
13 any physical delivery thereof or further act. The lien of the  
14 pledge or security interest shall be valid and binding as  
15 against all parties having claims of any kind in tort, contract  
16 or otherwise against the authority irrespective of whether such  
17 parties have notice thereof. Neither the resolution nor any  
18 other instrument of the authority by which a pledge or security  
19 interest is created need be recorded or filed to perfect the  
20 pledge or security interest.

21 Section 707. Commonwealth pledges.

22 (a) Bondholders.--The Commonwealth does hereby pledge to and  
23 agree with each and every obligee of the authority that the  
24 Commonwealth will not limit or alter the rights hereby vested in  
25 the authority in any manner inconsistent with the obligations of  
26 the authority to its obligees until all bonds at any time  
27 issued, together with the interest thereon, are fully paid and  
28 discharged.

29 (b) Lessees.--The Commonwealth does hereby pledge to and  
30 agree with any person who, as owner thereof, leases or subleases

1 property to or from the authority that the Commonwealth will not  
2 limit or alter the rights and powers hereby vested in the  
3 authority or otherwise created by this act in any manner which  
4 impairs the obligations of the authority until all such  
5 obligations of the authority under the lease or sublease are  
6 fully met and discharged.

7 Section 708. Resolution and law are contracts with holders of  
8 bonds.

9 Except as otherwise provided in any resolution of the  
10 authority authorizing or awarding bonds, the terms of a  
11 resolution and any agreement authorized by the resolution and  
12 the terms of this act as in effect when the bonds were  
13 authorized shall constitute a contract between the authority and  
14 the obligees, subject to modification by the vote by holders of  
15 the percentage of bonds as the resolution authorizing or  
16 awarding the bonds provides.

17 Section 709. Bonds to be legal investments.

18 Bonds issued pursuant to this act are hereby made securities  
19 in which all government agencies, all insurance companies, trust  
20 companies, banking associations, banking corporations, savings  
21 banks, investment companies, executors, the trustees of any  
22 retirement, pension or annuity fund or system of the  
23 Commonwealth, trustees and other fiduciaries may properly and  
24 legally invest funds, including capital, deposits or other funds  
25 in their control or belonging to them. The bonds are hereby made  
26 securities which may properly and legally be deposited with and  
27 received by any government agency for any purpose for which the  
28 deposit of bonds or other obligations of the Commonwealth now or  
29 may hereafter be authorized by law.

30 Section 710. Right to enforcement of pledge of revenues.

1       The obligees of the authority shall have the right to enforce  
2 a pledge of or security interest in revenues of the authority  
3 securing payment of bonds of the authority against all  
4 government agencies in possession of any such revenues at any  
5 time, which revenues may be collected directly from such  
6 officials upon notice by the obligees or a trustee for the  
7 obligees for application to the payment of the bonds as and when  
8 due or for deposits in any sinking, bond or debt service fund  
9 established by this act or established by resolution of the  
10 authority with the trustee at the times and in the amounts  
11 specified in the bonds or the resolution or indenture or trust  
12 agreement securing the bonds. Any government agency in  
13 possession of any such revenues shall make payment against  
14 receipt and shall thereby be discharged from any further  
15 liability or responsibility for such revenues. If payment is  
16 made to a holder of bonds, it shall be made against surrender of  
17 the bonds to the payor for delivery to the authority in the case  
18 of payment in full; otherwise, it shall be made against  
19 production of the bonds for notation thereon of the amount of  
20 the payment. The provisions of this section with respect to the  
21 enforceability and collection of revenues which secure bonds  
22 shall supersede any contrary or inconsistent statutory provision  
23 or rule of law. This section shall be construed and applied to  
24 fulfill the legislative purpose of clarifying and facilitating  
25 the financing of the authority by assuring to the obligees of  
26 the authority the full and immediate benefit of the security for  
27 the bonds without delay, diminution or interference based on any  
28 statute, decision, ordinance or administrative rule or practice.  
29 Section 711. Funds of authority; source of revenue.

30       (a) Receipt by treasurer.--All funds of the authority



1 received from any source shall be delivered to or upon the order  
2 of the treasurer of the authority or to such other agent of the  
3 authority as the board may designate. Funds received by the  
4 authority shall be promptly deposited in a bank or banks in this  
5 Commonwealth chosen by the board. The moneys in the accounts of  
6 the authority may be paid by the treasurer of the authority or  
7 other designated agent of the authority on warrant of the  
8 treasurer of the authority. All deposits of moneys may, if  
9 required by the authority, be secured by obligations of the  
10 United States or of the Commonwealth of a market value equal at  
11 all times to the amount of the deposit, and all banks and trust  
12 companies are authorized to give security for such deposits,  
13 provided that no moneys deposited in a debt service reserve fund  
14 may be secured by a deposit of obligations issued by or  
15 obligations guaranteed by an assisted city.

16 (b) Investment of funds.--Subject to the provisions of any  
17 agreements with obligees of the authority, all funds of the  
18 authority, including the proceeds of bonds, which are not  
19 required for immediate use may be invested in obligations of the  
20 Federal Government or of the Commonwealth or obligations which  
21 are legal investments for Commonwealth funds.

22 Section 712. Debt service reserve fund.

23 (a) Authorization.--The authority may establish one or more  
24 debt service reserve funds into which it shall deposit:

25 (1) Proceeds from the sale of bonds, to the extent  
26 provided in the resolution or resolutions authorizing the  
27 bonds.

28 (2) Any other moneys made available to the authority  
29 from any source.

30 All moneys held in any debt service reserve fund, except as

1 provided hereafter, shall be used when required solely for the  
2 payment of the principal of bonds secured in whole or in part by  
3 the fund or of the sinking fund payments, if any, with respect  
4 to the bonds, the purchase or redemption of the bonds, the  
5 payment of interest on the bonds or the payment of any  
6 redemption premium required to be paid when the bonds and notes  
7 are redeemed prior to maturity. Any debt service reserve fund  
8 established pursuant to this section shall be a trust fund held  
9 for the benefit and security of the obligees of the authority  
10 whose bonds are secured by the fund. Moneys in a debt service  
11 reserve fund shall not be withdrawn from the fund at any time in  
12 an amount that would reduce the amount of the fund to less than  
13 the minimum reserve fund requirement established for the fund in  
14 the resolution of the authority creating the fund, except for  
15 withdrawals for the purpose of making payments when due of  
16 principal, interest, redemption premiums and sinking fund  
17 payments, if any, with respect to the bonds for the payment of  
18 which other moneys of the authority are not available. Any  
19 income or interest earned by or increments to any debt service  
20 reserve fund due to the investment thereof may be transferred by  
21 the authority to other funds or accounts of the authority to the  
22 extent the transfer does not reduce the amount of the debt  
23 service reserve fund below the minimum reserve fund requirement  
24 established for that fund. Funds transferred to other accounts  
25 in accordance with the preceding requirements may be used for  
26 whatever purposes the authority deems appropriate so long as the  
27 purposes are consistent with this act and the contracts of the  
28 authority with obligees of the authority and with assisted  
29 cities.

30 (b) Bond limitation.--The authority shall not at any time

1 issue bonds secured in whole or in part by a debt service  
2 reserve fund if issuance of the bonds would cause the amount in  
3 the debt reserve fund to fall below the minimum reserve  
4 requirement for the fund, unless the authority at the time of  
5 issuance of the bonds deposits in the fund an amount, from the  
6 proceeds of the bonds to be issued or from other sources, which  
7 when added to the amount already in the fund will cause the  
8 total amount on deposit in the fund to equal or exceed the  
9 minimum reserve fund requirement.

10 (c) Definition.--For the purposes of this section, the term  
11 "minimum reserve fund requirement" shall mean that amount  
12 defined as the minimum reserve fund requirement in the  
13 resolution or resolutions of the authority authorizing the  
14 bonds.

15 Section 713. Other funds and accounts.

16 (a) Authorization.--The authority shall create funds and  
17 accounts as may be necessary or desirable for its corporate  
18 purposes and shall pay into each fund or account any moneys of  
19 the authority available for such purposes or any moneys made  
20 available by any other person for the purposes of the fund or  
21 account. No other provision of this act shall be construed to  
22 prohibit the authority from creating within any fund one or more  
23 accounts which may be used or pledged by the authority for a  
24 special purpose.

25 (b) Use of fund money.--Any moneys deposited in any fund  
26 created by the authority to be used to pay debt service,  
27 including, without limitation, the bond payment account, any  
28 sinking fund or debt service reserve fund and all investments  
29 and proceeds of investments thereof shall, without further  
30 action or filing, be subjected to a perfected security interest

1 for the obligees of the authority for whom the fund is held  
2 until the moneys or investments shall be properly disbursed in  
3 accordance with this act and with the terms of the contract of  
4 the authority with its obligees.

5 Section 714. Initial issue of authority bonds.

6 The first series of bonds to be issued by the authority shall  
7 be issued in a manner and at a time so that the net proceeds of  
8 the bonds shall be available on or before June 30, 2003, or as  
9 soon as practicable thereafter.

10 CHAPTER 51

11 MISCELLANEOUS PROVISIONS

12 Section 5101. Original jurisdiction of Supreme Court.

13 The Pennsylvania Supreme Court shall have exclusive  
14 jurisdiction to hear any challenge to or to render a declaratory  
15 judgment concerning the constitutionality of this act, the  
16 contractual rights of the parties relating to bonds issued under  
17 this act or any action of the authority in issuing or attempting  
18 to issue bonds.

19 Section 5102. Construction.

20 The provisions of this act providing for security for and  
21 rights and remedies of obligees of the authority shall be  
22 liberally construed to achieve the purposes stated and provided  
23 for in this act.

24 Section 5103. Appropriation.

25 The sum of \$500,000 is hereby appropriated to the Economic  
26 Enhancement Financing Authority from the General Fund. The  
27 appropriation in this section is an advance which shall be  
28 repaid by the authority from sources described in section 501(c)  
29 as soon as is practicable and in no event later than June 30,  
30 2004.

1 Section 5104. Severability.

2 The provisions of this act are severable. If any provision of  
3 this act is judged to be invalid by a court of competent  
4 jurisdiction, the order or judgment shall be confined in its  
5 operation to the controversy in which it was rendered and shall  
6 not affect or invalidate the remainder of any provisions.

7 Section 5105. Effective date.

8 This act shall take effect July 1, 2003.