

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10

Session of
2003

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ARMSTRONG AND RAFFERTY, MARCH 28, 2003

AS AMENDED ON THIRD CONSIDERATION, JUNE 11, 2003

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;~~ <—
6 PROVIDING FOR THE FINANCING OF GRANTS AND LOANS; and making
7 an appropriation.

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

27 CHAPTER 1

<—

28 GENERAL PROVISIONS

29 Section 101 1. Short title.

<—

30 This act shall be known and may be cited as the Economic

1 Enhancement Act.

2 Section ~~102~~ 2. Findings. <—

3 The General Assembly finds and declares as follows:

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

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

15 Section ~~103~~ 3. Definitions. <—

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

19 ~~"Authority." The Economic Enhancement Financing Authority~~ <—
20 ~~established by section 501.~~

21 "AUTHORITY." THE PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING <—
22 AUTHORITY ESTABLISHED BY THE ACT OF AUGUST 23, 1967 (P.L.251,
23 NO.102), KNOWN AS THE ECONOMIC DEVELOPMENT FINANCING LAW.

24 "Capital costs." The actual costs of the construction of all
25 of the following:

26 (1) Works or improvements which will become public works
27 or improvements.

28 (2) New buildings, structures or fixtures.

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

1 (4) The acquisition, upgrade or rehabilitation of
2 machinery and equipment.

3 (5) The acquisition, clearing or grading of land.
4 The term includes the actual cost of the construction,
5 rehabilitation or repair of publicly owned infrastructure
6 improvements located outside the boundaries of a tax increment
7 district which are of direct benefit to a project.

8 "Department." The Department of Community and Economic
9 Development of the Commonwealth.

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

16 (1) A tax increment district.

17 (2) Property adjacent to deteriorated property which is
18 significantly undervalued and underutilized due to the
19 proximity of the deteriorated property.

20 "Fund." The Economic Enhancement Fund established by section
21 ~~304~~ 7. <—

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

25 "Project." The undertakings or activities for the
26 elimination of deteriorated property. The term includes property
27 acquisition, clearance, redevelopment, rehabilitation or
28 conservation.

29 "Project costs." An expenditure made or estimated to be made
30 or any monetary obligation incurred or estimated to be incurred

1 in connection with a project. Project costs include all of the
2 following:

- 3 (1) Capital costs.
- 4 (2) Financing costs.
- 5 (3) Professional service costs.
- 6 (4) Administrative costs.
- 7 (5) Relocation costs.
- 8 (6) Organizational costs.
- 9 (7) Any other cost associated with a project.

10 "Qualified project." A project approved by the Department of
11 Community and Economic Development under section ~~303~~ 6. <—

12 "Tax incentive district." A contiguous geographic area
13 approved by the Department of Community and Economic Development
14 under section ~~302~~ 5. <—

15 "Tax increment district." As that term is defined in section
16 3 of the act of July 11, 1990 (P.L.465, No.113), known as the
17 Tax Increment Financing Act.

18 ~~CHAPTER 3~~ <—

19 ~~ECONOMIC ENHANCEMENT PROGRAM~~

20 Section ~~301~~ 4. Economic Enhancement Program. <—

21 There is hereby established within the department the
22 Economic Enhancement Program. The Economic Enhancement Program
23 shall be comprised of tax incentive districts approved by the
24 department.

25 Section ~~302~~ 5. Tax incentive districts. <—

26 (a) Proposal.--The Governor may, by Executive Order,
27 designate deteriorated property in this Commonwealth as a
28 proposed tax incentive district. An Executive Order designating
29 deteriorated property shall specify the time period for which
30 the property is designated not to exceed 20 years. The

1 department shall immediately notify municipalities located
2 within the area designated.

3 (b) Application.--Within 90 days of receiving notification
4 in accordance with subsection (a), a municipality may apply to
5 the department for approval of the designation of the
6 deteriorated property as a tax incentive district. The
7 application shall be on a form provided by the department and
8 shall include a copy of the ordinance, resolution or other
9 required action from the governing body of the municipality
10 approving the establishment of the tax incentive district. All
11 appropriate ordinances and resolutions shall be binding and
12 nonrevocable on the municipality.

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

22 Section ~~303~~ 6. Projects. <—

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

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

30 (1) The applicant is a person that owns property in a

1 tax incentive district or is an issuing authority of a tax
2 increment district located within a tax incentive district.

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

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

6 (i) Create career-oriented net new jobs or preserve
7 jobs.

8 (ii) Increase and diversify the manufacturing base
9 of this Commonwealth.

10 (iii) Aid in the expansion of existing private
11 companies, particularly those that sell their products
12 outside this Commonwealth.

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

15 (v) Promote industrial, commercial and other
16 economic development within this Commonwealth.

17 (vi) Promote a healthy environment through the
18 abatement, safe storage, transportation, reduction,
19 elimination, remediation and disposal within this
20 Commonwealth of pollutants and wastes.

21 (vii) Otherwise promote the health, welfare and
22 safety of the residents of this Commonwealth by promoting
23 economic activity and efficiency or alleviating or
24 eliminating unemployment, blight and other unhealthy
25 conditions.

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

29 Section ~~304~~ 7. Establishment of Economic Enhancement Fund. <—

30 (a) Establishment.--There is hereby established a special

1 fund known as the Economic Enhancement Fund. Interest income
2 derived from investment of the money in the fund shall be
3 credited by the Treasury Department to the fund.

4 (b) Calculation.--Within 30 days of the end of each quarter,
5 the Department of Revenue shall calculate and notify the
6 Secretary of the Budget of the aggregate revenue received by the
7 Commonwealth pursuant to Articles II, IV and VI of the act of
8 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
9 1971, from taxpayers located within tax incentive districts.

10 (c) Transfer.--Within ten days of receiving notification in
11 accordance with subsection (b), the Secretary of the Budget
12 shall direct the State Treasurer to transfer the sum equal to
13 25% of the aggregate revenue received by the Commonwealth
14 pursuant to Articles II, IV and VI of the Tax Reform Code of
15 1971, from taxpayers located within tax incentive districts,
16 from the General Fund to the fund.

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

25 ~~CHAPTER 5~~ <—

26 ~~ECONOMIC ENHANCEMENT FINANCING AUTHORITY~~

27 ~~Section 501. Authority.~~

28 ~~(a) Establishment. There is hereby established an authority~~
29 ~~to be known as the Economic Enhancement Financing Authority. The~~
30 ~~authority shall be a body corporate and politic and shall assist~~

~~persons in funding economic development in tax incentive districts.~~

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

~~(c) Revenues. Expenses of the authority shall be paid from revenues derived from investment income of the authority and from money appropriated to the authority in accordance with section 304. The funds appropriated to the authority in section 5103 shall be repaid by the authority from the proceeds of the initial issue of bonds by the authority. The Commonwealth shall not be responsible for funding the annual budget of the authority.~~

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

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

~~(f) General Assembly review.~~

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

~~(2) The authority shall file an annual report with the chairperson and the minority chairperson of the Appropriations Committee of the Senate and the chairperson and the minority chairperson of the Appropriations Committee of the House of Representatives. The report shall include all of the following:~~

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

~~(ii) The total amount of debt service to become due~~

1 ~~on authority bonds for the ensuing fiscal year, including~~
2 ~~payments of interest and principal, maturity value or~~
3 ~~sinking fund payments.~~

4 ~~(iii) The amount, if any, due to any provider of any~~
5 ~~credit or liquidity facility representing payments made~~
6 ~~by the provider as provided in the applicable resolution~~
7 ~~or trust indenture as a result of any previous failure of~~
8 ~~the authority to make any payment provided for in the~~
9 ~~applicable resolution or trust indenture, including any~~
10 ~~related reasonable interest, fees or charges.~~

11 ~~(iv) The amount, if any, required to restore the~~
12 ~~debt service reserve fund to the level required under~~
13 ~~section 713 and the resolution of the authority~~
14 ~~establishing the fund.~~

15 ~~(v) The amount, if any, required to be rebated to~~
16 ~~the United States to provide for continued Federal tax~~
17 ~~exemption for bonds of the authority.~~

18 ~~(f) Publication. The authority shall annually publish a~~
19 ~~concise financial statement in the Pennsylvania Bulletin.~~

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

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

30 ~~Section 502. Board.~~

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

~~(1) The Secretary of the Budget.~~

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

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

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

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

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

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

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

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

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

~~(h) Applicability. The provisions of the following acts~~

~~shall apply to the authority:~~

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

~~(2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.~~

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

~~Section 503. Powers and duties.~~

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

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

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

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

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

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

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

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

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

~~(9) The power to retain counsel and auditors to render such professional services as the authority deems appropriate.~~

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

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

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

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

~~(c) Limitations.—~~

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

~~(2) The authority shall be solely liable for the payment of the principal, interest or premium on any bonds issued by the authority. The Commonwealth shall have no legal or moral~~

~~obligation for the payment of any expenses or obligations of the authority, including bond principal and interest, the funding or refunding of any reserves and any administrative or operating expenses whatsoever, other than for the advance of funds for initial operating expenses of the authority contained in section 701 to be repaid by the authority as provided in this act. Bonds issued by the authority shall contain a prominent statement of the limitation set forth in this subsection and shall further recite that obligees of the authority shall have no recourse, either legal or moral, to the Commonwealth for payment of the bonds of the authority.~~

~~CHAPTER 7~~

~~BONDS OF AUTHORITY~~

~~Section 701. Bonds.~~

~~(a) Authorization. Bonds of the authority shall be authorized by a resolution of the board and shall be of a series, bear such date or dates and bear or accrue interest at the rate or rates determined by the board to be necessary to issue and sell the authorized bonds. The bonds shall be in the denominations; be in the form, either coupon or fully registered without coupons or in certificated or book entry only form; carry such registration, exchangeability and interchangeability privileges; be payable in the medium of payment and at such place or places; be subject to the terms of redemption and be entitled to the priorities of payment in the revenues or receipts of the authority as the resolution of the board provides. Bonds shall be signed by or shall bear the facsimile signature of the officer designated by the board. Interest coupons shall be attached to coupon bonds and shall bear the facsimile signature of the treasurer of the authority. Bonds~~

1 ~~shall be authenticated by an authenticating agent, fiscal agent~~
2 ~~or trustee. Bonds may be issued and delivered notwithstanding~~
3 ~~that the officer signing the bonds or the treasurer whose~~
4 ~~facsimile signature is on a coupon shall have ceased to be the~~
5 ~~officer at the time when the bond is actually delivered.~~

6 ~~(b) Maturity date.—~~

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

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

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

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

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

~~(e) Use of proceeds. The proceeds of an issue of bonds may be used to pay the costs of issuance of the bonds, to pay costs of administration of authority, to fund reserves for the bonds, to capitalize interest on the bonds for a period not to exceed 12 months, to pay the costs of capital projects in areas designated by the Governor under Chapter 3, to reimburse the Commonwealth for the appropriation made in section 5103 and to fund up to \$500,000 of initial operating expenses of the authority.~~

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

~~Section 702. Exemption from taxation.~~

~~The effectuation of the authorized purposes of the authority shall and will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvements of their health, safety, welfare and living conditions; and, since the authority will be~~

1 ~~performing such essential governmental functions in effectuating~~
2 ~~such purposes, the authority shall not be required to pay any~~
3 ~~taxes or assessments upon any property acquired or used or~~
4 ~~permitted to be used by the authority for its purposes; and the~~
5 ~~bonds issued by the authority, their transfer and the income~~
6 ~~therefrom, including any profits made on the sale thereon,~~
7 ~~shall, at all times, be free from State and local taxation~~
8 ~~within this Commonwealth. This exemption shall not extend to~~
9 ~~gift, estate, succession or inheritance taxes or any other taxes~~
10 ~~not levied directly on the bonds, the transfer thereof, the~~
11 ~~income therefrom or the realization of profits on the sale~~
12 ~~thereof.~~

13 ~~Section 703. Validity of bonds; limitation on actions.~~

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

19 ~~(b) Filing. The authority shall file a copy of a resolution~~
20 ~~authorizing the issuance of bonds in its office for public~~
21 ~~inspection and shall publish in three newspapers of general~~
22 ~~circulation in this Commonwealth a notice stating:~~

23 ~~(1) The fact and date of such adoption.~~

24 ~~(2) The places where such resolution has been so filed~~
25 ~~for public inspection.~~

26 ~~(3) The date of publication of such notice.~~

27 ~~(4) That any action or proceeding of any kind or nature~~
28 ~~in any court questioning the validity or proper authorization~~
29 ~~of bonds provided for by the resolution, or the validity of~~
30 ~~any covenants, agreements or contract provided for by such~~

~~resolution, shall be commenced within ten days after the
publication of such notice.~~

~~After publication of the notice, if no action or proceeding
questioning the validity or proper authorization of bonds
provided for by the resolution referred to in the notice, or the
validity of any covenants, agreements or contracts provided by
the resolution shall be commenced within ten days after the
publication of the notice, then all residents of this
Commonwealth and all other persons whatsoever shall be forever
barred and foreclosed from instituting or commencing any action
or proceeding in any court, or pleading any defense to any
action or proceedings, questioning the validity or proper
authorization of the bonds or the validity of the covenants,
agreements or contracts, and the bonds, covenants, agreements
and contracts shall be conclusively deemed to be valid and
binding obligations in accordance with their terms and tenor.~~

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

~~Section 704. Provisions of bonds; trust indentures.~~

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

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

~~(2) Grant a security interest in all or any part of its~~

1 ~~personal property then owned or thereafter acquired.~~

2 ~~(3) Covenant against pledging or granting a security~~
3 ~~interest in all or any part of its revenues or all or any~~
4 ~~part of its personal property to which its right or title~~
5 ~~exists or may thereafter come into existence, or against~~
6 ~~permitting or suffering any lien on its revenues or property;~~
7 ~~covenant with respect to limitations on its right to sell,~~
8 ~~lease or otherwise dispose of any of its real property; and~~
9 ~~covenant as to which other or additional debts or obligations~~
10 ~~may be incurred by it.~~

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

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

24 ~~(6) Prescribe the procedure, if any, by which the terms~~
25 ~~of any contract with bondholders may be amended or abrogated,~~
26 ~~and the amount of bonds the holders of which must consent~~
27 ~~thereto, and the manner in which the consent may be given.~~

28 ~~(7) Covenant as to the use of any or all of its real or~~
29 ~~personal property, to warrant its title, and covenant as to~~
30 ~~the maintenance of its real and personal property, the~~

1 ~~replacement thereof, the insurance to be carried thereon and~~
2 ~~the use and disposition of insurance proceeds.~~

3 ~~(8) Covenant as to the rights, liabilities, powers and~~
4 ~~duties arising upon the breach by it of any covenant,~~
5 ~~condition or obligation, provided that the authority shall~~
6 ~~not be permitted to covenant that, upon a breach, any or all~~
7 ~~of its bonds shall become or may be declared due before~~
8 ~~stated maturity.~~

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

23 ~~(10) Enter into interest rate exchange agreements,~~
24 ~~interest rate cap and floor agreements and other similar~~
25 ~~agreements which in the judgment of the authority will assist~~
26 ~~the authority in managing the interest costs of the~~
27 ~~authority.~~

28 ~~(11) Obtain letters of credit, bonds insurance and other~~
29 ~~facilities for credit enhancement and liquidity.~~

30 ~~(12) Exercise all or any part or combination of the~~

~~powers granted in this act, make covenants other than and in addition to the covenants expressly authorized by this act, make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this act by making the bonds more marketable, notwithstanding that such covenants, acts or things may not be specifically enumerated by this act.~~

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

~~Section 705. Remedies of obligee of authority.~~

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

~~(1) To compel, by mandamus, suit, action or proceeding at law or in equity, the authority and the members of its governing board, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of such obligee and to require the carrying out of any or all such covenants and agreements of the authority and~~

~~the fulfillment of all duties imposed upon the authority by
this act.~~

~~(2) To obtain, by proceeding in equity, an injunction
against any acts or things which may be unlawful or the
violation of any of the rights of such obligee of the
authority.~~

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

~~Section 706. Validity of pledge.~~

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

~~Section 707. Commonwealth pledges.~~

~~(a) Bondholders. The Commonwealth does hereby pledge to and
agree with each and every obligee of the authority that the
Commonwealth will not limit or alter the rights hereby vested in
the authority in any manner inconsistent with the obligations of
the authority to its obligees until all bonds at any time~~

~~issued, together with the interest thereon, are fully paid and discharged.~~

~~(b) Lessees. The Commonwealth does hereby pledge to and agree with any person who, as owner thereof, leases or subleases property to or from the authority that the Commonwealth will not limit or alter the rights and powers hereby vested in the authority or otherwise created by this act in any manner which impairs the obligations of the authority until all such obligations of the authority under the lease or sublease are fully met and discharged.~~

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

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

~~Section 709. Bonds to be legal investments.~~

~~Bonds issued pursuant to this act are hereby made securities in which all government agencies, all insurance companies, trust companies, banking associations, banking corporations, savings banks, investment companies, executors, the trustees of any retirement, pension or annuity fund or system of the Commonwealth, trustees and other fiduciaries may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them. The bonds are hereby made securities which may properly and legally be deposited with and~~

~~received by any government agency for any purpose for which the
deposit of bonds or other obligations of the Commonwealth now or
may hereafter be authorized by law.~~

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

~~The obligees of the authority shall have the right to enforce
a pledge of or security interest in revenues of the authority
securing payment of bonds of the authority against all
government agencies in possession of any such revenues at any
time, which revenues may be collected directly from such
officials upon notice by the obligees or a trustee for the
obligees for application to the payment of the bonds as and when
due or for deposits in any sinking, bond or debt service fund
established by this act or established by resolution of the
authority with the trustee at the times and in the amounts
specified in the bonds or the resolution or indenture or trust
agreement securing the bonds. Any government agency in
possession of any such revenues shall make payment against
receipt and shall thereby be discharged from any further
liability or responsibility for such revenues. If payment is
made to a holder of bonds, it shall be made against surrender of
the bonds to the payor for delivery to the authority in the case
of payment in full; otherwise, it shall be made against
production of the bonds for notation thereon of the amount of
the payment. The provisions of this section with respect to the
enforceability and collection of revenues which secure bonds
shall supersede any contrary or inconsistent statutory provision
or rule of law. This section shall be construed and applied to
fulfill the legislative purpose of clarifying and facilitating
the financing of the authority by assuring to the obligees of
the authority the full and immediate benefit of the security for~~

~~the bonds without delay, diminution or interference based on any statute, decision, ordinance or administrative rule or practice.~~

~~Section 711. Funds of authority; source of revenue.~~

~~(a) Receipt by treasurer. All funds of the authority received from any source shall be delivered to or upon the order of the treasurer of the authority or to such other agent of the authority as the board may designate. Funds received by the authority shall be promptly deposited in a bank or banks in this Commonwealth chosen by the board. The moneys in the accounts of the authority may be paid by the treasurer of the authority or other designated agent of the authority on warrant of the treasurer of the authority. All deposits of moneys may, if required by the authority, be secured by obligations of the United States or of the Commonwealth of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give security for such deposits, provided that no moneys deposited in a debt service reserve fund may be secured by a deposit of obligations issued by or obligations guaranteed by an assisted city.~~

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

~~Section 712. Debt service reserve fund.~~

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

~~(1) Proceeds from the sale of bonds, to the extent provided in the resolution or resolutions authorizing the~~

bonds.

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

~~All moneys held in any debt service reserve fund, except as
provided hereafter, shall be used when required solely for the
payment of the principal of bonds secured in whole or in part by
the fund or of the sinking fund payments, if any, with respect
to the bonds, the purchase or redemption of the bonds, the
payment of interest on the bonds or the payment of any
redemption premium required to be paid when the bonds and notes
are redeemed prior to maturity. Any debt service reserve fund
established pursuant to this section shall be a trust fund held
for the benefit and security of the obligees of the authority
whose bonds are secured by the fund. Moneys in a debt service
reserve fund shall not be withdrawn from the fund at any time in
an amount that would reduce the amount of the fund to less than
the minimum reserve fund requirement established for the fund in
the resolution of the authority creating the fund, except for
withdrawals for the purpose of making payments when due of
principal, interest, redemption premiums and sinking fund
payments, if any, with respect to the bonds for the payment of
which other moneys of the authority are not available. Any
income or interest earned by or increments to any debt service
reserve fund due to the investment thereof may be transferred by
the authority to other funds or accounts of the authority to the
extent the transfer does not reduce the amount of the debt
service reserve fund below the minimum reserve fund requirement
established for that fund. Funds transferred to other accounts
in accordance with the preceding requirements may be used for
whatever purposes the authority deems appropriate so long as the~~

~~purposes are consistent with this act and the contracts of the authority with obligees of the authority and with assisted cities.~~

~~(b) Bond limitation. The authority shall not at any time issue bonds secured in whole or in part by a debt service reserve fund if issuance of the bonds would cause the amount in the debt reserve fund to fall below the minimum reserve requirement for the fund, unless the authority at the time of issuance of the bonds deposits in the fund an amount, from the proceeds of the bonds to be issued or from other sources, which when added to the amount already in the fund will cause the total amount on deposit in the fund to equal or exceed the minimum reserve fund requirement.~~

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

~~Section 713. Other funds and accounts.~~

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

~~(b) Use of fund money. Any moneys deposited in any fund created by the authority to be used to pay debt service,~~

~~including, without limitation, the bond payment account, any
sinking fund or debt service reserve fund and all investments
and proceeds of investments thereof shall, without further
action or filing, be subjected to a perfected security interest
for the obligees of the authority for whom the fund is held
until the moneys or investments shall be properly disbursed in
accordance with this act and with the terms of the contract of
the authority with its obligees.~~

SECTION 8. FINANCIAL ASSISTANCE. <—

THE AUTHORITY SHALL PROVIDE FINANCIAL ASSISTANCE TO PERSONS
FOR QUALIFIED PROJECTS. THE FINANCIAL ASSISTANCE SHALL BE IN THE
FORM OF LOANS OR SINGLE-YEAR OR MULTIYEAR GRANTS AND MAY INCLUDE
PROCEEDS FROM THE SALE OF BONDS. PRIOR TO PROVIDING FINANCIAL
ASSISTANCE TO A PERSON, THE AUTHORITY SHALL ENTER INTO A
CONTRACT WITH THE PERSON. THE CONTRACT SHALL INCLUDE A PROVISION
REQUIRING THE PERSON TO REPAY THE GRANT OR LOAN FROM ANY
PROCEEDS RESULTING FROM A SALE OR PARTIAL SALE OF THE PROJECT BY
THE APPLICANT IN ACCORDANCE WITH THE FOLLOWING:

(1) IF THE PROJECT IS SOLD LESS THAN TWO YEARS AFTER
RECEIPT OF THE GRANT OR LOAN, THE PERSON SHALL PAY TO THE
AUTHORITY 90% OF THE GRANT OR LOAN RECEIVED.

(2) IF THE PROJECT IS SOLD TWO OR MORE YEARS BUT LESS
THAN FOUR YEARS AFTER RECEIPT OF THE GRANT OR LOAN, THE
PERSON SHALL PAY TO THE AUTHORITY 80% OF THE GRANT OR LOAN
RECEIVED.

(3) IF THE PROJECT IS SOLD FOUR OR MORE YEARS BUT LESS
THAN SIX YEARS AFTER RECEIPT OF THE GRANT OR LOAN, THE PERSON
SHALL PAY TO THE AUTHORITY 70% OF THE GRANT OR LOAN RECEIVED.

(4) IF THE PROJECT IS SOLD SIX OR MORE YEARS BUT LESS
THAN EIGHT YEARS AFTER RECEIPT OF THE GRANT OR LOAN, THE

PERSON SHALL PAY TO THE AUTHORITY 60% OF THE GRANT OR LOAN
RECEIVED.

(5) IF THE PROJECT IS SOLD EIGHT OR MORE YEARS BUT LESS
THAN TEN YEARS AFTER RECEIPT OF THE GRANT OR LOAN, THE PERSON
SHALL PAY TO THE AUTHORITY 50% OF THE GRANT OR LOAN RECEIVED.
THE AUTHORITY MAY IMPOSE ANY OTHER TERMS AND CONDITIONS ON THE
FINANCIAL ASSISTANCE AS THE BOARD DETERMINES IS IN THE BEST
INTERESTS OF THE AUTHORITY.

~~Section 714~~ 9. Initial issue of authority bonds. <—

The first series of bonds to be issued by the authority FOR
LOANS OR GRANTS AUTHORIZED IN ACCORDANCE WITH THIS ACT shall be
issued in a manner and at a time so that the net proceeds of the
bonds shall be available on or before June 30, ~~2003~~ 2004, or as
soon as practicable thereafter. <—

~~CHAPTER 51~~

 <—

~~MISCELLANEOUS PROVISIONS~~

~~Section 5101. Original jurisdiction of Supreme Court.~~

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

~~Section 5102~~ 20. Construction. <—

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

~~Section 5103~~ 21. Appropriation. <—

The sum of \$500,000 is hereby appropriated to the ~~Economic~~

1 ~~Enhancement Financing Authority~~ AUTHORITY from the General Fund. <—

2 The appropriation in this section is an advance which shall be
3 repaid by the authority from ~~sources described in section 501(c)~~ <—

4 THE FIRST ISSUE OF BONDS USED TO FINANCE GRANTS AND LOANS UNDER <—
5 THIS ACT as soon as is practicable and in no event later than
6 June 30, 2004.

7 ~~Section 5104. Severability.~~ <—

8 ~~The provisions of this act are severable. If any provision of~~
9 ~~this act is judged to be invalid by a court of competent~~
10 ~~jurisdiction, the order or judgment shall be confined in its~~
11 ~~operation to the controversy in which it was rendered and shall~~
12 ~~not affect or invalidate the remainder of any provisions.~~

13 ~~Section 5105. Effective date.~~

14 ~~This act shall take effect July 1, 2003.~~

15 SECTION 22. SEVERABILITY. <—

16 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
17 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
18 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
19 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
20 THE INVALID PROVISION OR APPLICATION.

21 SECTION 23. EFFECTIVE DATE.

22 THIS ACT SHALL TAKE EFFECT JULY 1, 2003, OR IMMEDIATELY,
23 WHICHEVER IS LATER.