

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 778 Session of 2003

INTRODUCED BY D. WHITE, KITCHEN, O'PAKE, MUSTO, ERICKSON, WAGNER, COSTA, PUNT, ORIE, C. WILLIAMS, KUKOVICH, M. WHITE, BOSCOLA, SCHWARTZ, WAUGH, SCARNATI, MELLOW, ROBBINS, LEMMOND, PILEGGI, TARTAGLIONE, WONDERLING, WOZNIAK, KASUNIC, DENT AND FERLO, JUNE 6, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 9, 2004

AN ACT

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

12 AMENDING TITLE 12 (COMMERCE AND TRADE) OF THE PENNSYLVANIA <—  
13 CONSOLIDATED STATUTES, CODIFYING PORTIONS OF THE JOB  
14 ENHANCEMENT ACT; FURTHER PROVIDING FOR CONTRACT REQUIREMENTS,  
15 FOR GUIDELINES, FOR ADMINISTRATION AND FOR APPLICATION AND  
16 REVIEW REQUIREMENTS; PROVIDING FOR KEYSTONE INNOVATION ZONES;  
17 AND MAKING REPEALS RELATING TO THE JOB ENHANCEMENT ACT.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 ~~Section 1. The act of June 29, 1996 (P.L.434, No.67), known~~ <—  
21 ~~as the Job Enhancement Act, is amended by adding a chapter to~~  
22 ~~read:~~

23 CHAPTER 19

1 ~~KEYSTONE INNOVATION ZONES~~

2 ~~Section 1901. Definitions.~~

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

6 ~~"Eligible property."— Real property which is located within~~  
7 ~~five miles radius of an institution of higher education.~~

8 ~~"Institution of higher education."— Any public or private~~  
9 ~~institution within this Commonwealth authorized by the~~  
10 ~~Department of Education to grant an associate degree or higher~~  
11 ~~academic degree.~~

12 ~~"Keystone innovation zone."— A clearly defined geographic~~  
13 ~~area comprised of eligible property designated by the~~  
14 ~~department.~~

15 ~~"Qualified employer."— An entity that meets all of the~~  
16 ~~following:~~

17 ~~(1) Is located within a keystone innovation zone.~~

18 ~~(2) Employs three or more individuals within the~~  
19 ~~keystone innovation zone.~~

20 ~~(3) Has been in operation seven years or less.~~

21 ~~Section 1902. Keystone innovation zones.~~

22 ~~(a) Establishment.— There is hereby established within the~~  
23 ~~department a keystone innovation zones program for the purpose~~  
24 ~~of increasing economic development in areas surrounding~~  
25 ~~institutions of higher education.~~

26 ~~(b) Application.— On or before January 1, 2006, an~~  
27 ~~institution of higher education may submit to the department an~~  
28 ~~application to establish a keystone innovation zone. The~~  
29 ~~application shall be on a form provided by the department and~~  
30 ~~shall include all of the following:~~

1 ~~(1) A list of eligible property which is to be included~~  
2 ~~in the keystone innovation zone.~~

3 ~~(2) The name and address of the keystone innovation~~  
4 ~~zone.~~

5 ~~(3) The name and address of the coordinator or executive~~  
6 ~~director of the keystone innovation zone.~~

7 ~~(4) Such other information as the department may~~  
8 ~~require.~~

9 ~~(c) Review and designation. The department shall review the~~  
10 ~~application. Upon being satisfied that the application is~~  
11 ~~complete and accurate, the department shall approve the~~  
12 ~~application, and the secretary shall designate the property as a~~  
13 ~~keystone innovation zone.~~

14 ~~Section 1903. Assistance.~~

15 ~~(a) Existing programs. A qualified employer shall be given~~  
16 ~~priority consideration in applying for assistance under any~~  
17 ~~program established by this act, the act of May 17, 1956 (1955~~  
18 ~~P.L.1609, No.537), known as the Pennsylvania Industrial~~  
19 ~~Development Authority Act, the act of August 23, 1967 (P.L.251,~~  
20 ~~No.102), known as the Economic Development Financing Law, the~~  
21 ~~act of June 22, 2001 (P.L.569, No.38), known as The Ben Franklin~~  
22 ~~Technology Development Authority Act, or the act of June 26,~~  
23 ~~2001 (P.L.755, No.77), known as the Tobacco Settlement Act.~~

24 ~~(b) Loans. A qualified employer with a project approved for~~  
25 ~~financing under this act or by the Pennsylvania Industrial~~  
26 ~~Development Authority shall receive the lowest interest rate~~  
27 ~~extended to borrowers.~~

28 ~~(c) Grants. The department may provide a one time \$250,000~~  
29 ~~grant to a keystone innovation zone in order to establish and~~  
30 ~~implement the zone. The grant shall be drawn down as needed over~~

~~1 a period not to exceed the first five years of authorization as  
2 a keystone innovation zone. Grant recipients shall comply with  
3 the provisions of the grant.~~

~~4 Section 1904. Expansion subzone designation.~~

~~5 (a) Establishment. Notwithstanding sections 301.1, 303 and  
6 304 of the act of October 6, 1998 (P.L.705, No.92), known as the  
7 Keystone Opportunity Zone and Keystone Opportunity Expansion  
8 Zone Act, and within one year of being designated a keystone  
9 innovation zone under this chapter, a keystone innovation zone  
10 may apply to the department to be designated as an expansion  
11 subzone under the Keystone Opportunity Zone and Keystone  
12 Opportunity Expansion Zone Act. The application shall be on a  
13 form provided by the department. In addition to the completed  
14 application, the keystone innovation zone shall submit a copy of  
15 an ordinance, resolution or other required action from the  
16 governing body of each of the political subdivisions located  
17 within the keystone innovation zone which exempts or provides  
18 the deductions, abatements or credits required by Chapter 7 of  
19 the Keystone Opportunity Zone and Keystone Opportunity Expansion  
20 Zone Act to qualified persons and qualified businesses within  
21 the keystone innovation zone as those terms are used within that  
22 act. The department shall approve the application and designate  
23 the property located within the keystone innovation zone as an  
24 expansion subzone for the period beginning on the date of  
25 designation and ending on December 31, 2013. Qualified persons  
26 and qualified businesses within the expansion subzone shall be  
27 entitled to the State tax exemptions, deductions, abatements or  
28 credits set forth in Chapter 7 of the Keystone Opportunity Zone  
29 and Keystone Opportunity Expansion Zone Act and the local tax  
30 exemptions, deductions, abatements or credits set forth in~~

1 ~~Chapter 9 of the Keystone Opportunity Zone and Keystone~~  
2 ~~Opportunity Expansion Zone Act, for the period for which the~~  
3 ~~expansion subzone has been designated.~~

4 ~~(b) Construction. A keystone innovation zone designated an~~  
5 ~~expansion subzone under this section shall be subject to the~~  
6 ~~requirements of the Keystone Opportunity Zone and Keystone~~  
7 ~~Opportunity Expansion Zone Act.~~

8 ~~Section 2. This act shall take effect immediately.~~

9 SECTION 1. THE GENERAL ASSEMBLY FINDS AND DECLARES AS ←  
10 FOLLOWS:

11 (1) AN ECONOMIC STIMULUS PROGRAM WHICH PROVIDES DIRECT  
12 IMMEDIATE ECONOMIC ASSISTANCE TO PENNSYLVANIA BUSINESSES,  
13 INDUSTRIES, COMMUNITIES, THEIR INSTRUMENTALITIES AND ECONOMIC  
14 DEVELOPMENT ORGANIZATIONS IS NECESSARY FOR THE PRESERVATION  
15 AND CREATION OF JOBS WITHIN THIS COMMONWEALTH.

16 (2) BY TARGETING GRANT AND LOAN ASSISTANCE TO THESE  
17 ENTITIES FOR JOB CREATION AND SITE DEVELOPMENT, THE  
18 COMMONWEALTH WILL TRIGGER NEEDED REDEVELOPMENT AND ECONOMIC  
19 GROWTH WITHIN THIS COMMONWEALTH.

20 (3) BY TARGETING ASSISTANCE TO THE GREATEST EXTENT  
21 POSSIBLE TO PREVIOUSLY USED SITES, THE COMMONWEALTH CAN  
22 FOSTER THE REDEVELOPMENT OF OLDER COMMUNITIES, THE REUSE OF  
23 INDUSTRIAL BROWNFIELD SITES AND THE PROTECTION OF OPEN SPACE,  
24 WHILE ENCOURAGING MORE EFFICIENT AND EFFECTIVE USE OF  
25 EXISTING ENVIRONMENTAL INFRASTRUCTURE, IMPROVING THE  
26 ENVIRONMENT AND PROTECTING THE GENERAL PUBLIC HEALTH AND  
27 SAFETY.

28 (4) BY EXPANDING TAX-BASED FINANCING OF ECONOMIC  
29 DEVELOPMENT PROJECTS, THE COMMONWEALTH WILL ASSIST  
30 COMMUNITIES IN RETAINING AND RECRUITING EMPLOYERS TO THIS

1 COMMONWEALTH.

2 (5) BY TARGETING GRANT AND LOAN ASSISTANCE TO THE  
3 TOURISM AND AGRICULTURE SECTORS OF THE COMMONWEALTH'S  
4 ECONOMY, THE COMMONWEALTH WILL PROVIDE ADDITIONAL FINANCIAL  
5 SUPPORT TO THOSE LEADING COMMONWEALTH INDUSTRIES HARD HIT BY  
6 WORLD EVENTS AND ECONOMIC INSTABILITY.

7 (6) BY TARGETING CAPITAL INVESTMENT TO EMERGING AND  
8 GROWTH SECTOR BUSINESS, THE COMMONWEALTH WILL STIMULATE THE  
9 GROWTH AND INCREASE THE STABILITY OF BUSINESSES WITHIN THIS  
10 COMMONWEALTH.

11 (7) BY PREPARING COMMUNITIES WITHIN THIS COMMONWEALTH  
12 FOR THE FEDERAL BASE REALIGNMENT AND CLOSURE (BRAC) PROCESS,  
13 THE COMMONWEALTH WILL INCREASE THE NUMBER OF EXISTING JOBS IT  
14 RETAINS DURING THE NEXT ROUND OF FEDERAL BASE REALIGNMENT AND  
15 CLOSURES.

16 SECTION 2. TITLE 12 OF THE PENNSYLVANIA CONSOLIDATED  
17 STATUTES IS AMENDED BY ADDING PARTS TO READ:

18 PART I  
19 GENERAL PROVISIONS

20 CHAPTER

- 21 1. PRELIMINARY PROVISIONS
- 22 3. ECONOMIC DEVELOPMENT FINANCING STRATEGY
- 23 5. SMALL BUSINESS COUNCIL
- 24 7. TAX-EXEMPT BOND ALLOCATION (RESERVED)

25 CHAPTER 1  
26 PRELIMINARY PROVISIONS

27 SEC.

28 101. DEFINITIONS.

29 § 101. DEFINITIONS.

30 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT

1 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC  
2 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN  
3 USED IN THIS TITLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
4 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

5 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC  
6 DEVELOPMENT OF THE COMMONWEALTH.

7 "SECRETARY." THE SECRETARY OF COMMUNITY AND ECONOMIC  
8 DEVELOPMENT.

9 CHAPTER 3

10 ECONOMIC DEVELOPMENT FINANCING STRATEGY

11 SEC.

12 301. SCOPE.

13 302. DEFINITIONS.

14 303. DEVELOPMENT.

15 304. OVERSIGHT.

16 § 301. SCOPE.

17 THIS CHAPTER RELATES TO THE DEVELOPMENT OF AN ANNUAL ECONOMIC  
18 DEVELOPMENT FINANCING STRATEGY.

19 § 302. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "ECONOMIC DEVELOPMENT PROGRAM." A PROGRAM WHICH IS  
24 ADMINISTERED BY THE DEPARTMENT, INCLUDING PROGRAMS ADMINISTERED  
25 OR STAFFED BY THE DEPARTMENT, AND WHICH PROVIDES FINANCIAL  
26 ASSISTANCE FOR ECONOMIC DEVELOPMENT TO PERSONS. THE TERM  
27 INCLUDES ALL OF THE FOLLOWING:

28 (1) ANY PROGRAM CREATED UNDER PART III (RELATING TO  
29 ECONOMIC DEVELOPMENT PROGRAMS).

30 (2) ANY PROGRAM OF AN ENTITY CREATED UNDER PART IV

1 (RELATING TO ECONOMIC DEVELOPMENT FINANCING).

2 (3) THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY.

3 (4) THE PENNSYLVANIA MINORITY BUSINESS DEVELOPMENT  
4 AUTHORITY.

5 (5) THE INFRASTRUCTURE DEVELOPMENT PROGRAM.

6 (6) THE INDUSTRIAL SITES REUSE PROGRAM.

7 (7) THE TAX CREDIT PROGRAMS ESTABLISHED IN ARTICLES  
8 XVII-B AND XVIII-B OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),  
9 KNOWN AS THE TAX REFORM CODE OF 1971.

10 § 303. DEVELOPMENT.

11 THE DEPARTMENT SHALL ANNUALLY DEVELOP A REPORT CONTAINING A  
12 FINANCING STRATEGY FOR ECONOMIC DEVELOPMENT WITHIN THIS  
13 COMMONWEALTH. IN DEVELOPING THE REPORT, THE DEPARTMENT SHALL  
14 GATHER INPUT AND RECOMMENDATIONS FROM BUSINESSES, COMMUNITY  
15 LEADERS AND ORGANIZATIONS, LEGISLATORS AND PRIVATE CITIZENS. THE  
16 REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

17 (1) A FINANCIAL AUDIT OR STATEMENT OF OPERATIONS FOR  
18 EACH ECONOMIC DEVELOPMENT PROGRAM.

19 (2) A NARRATIVE DESCRIPTION OF ACCOMPLISHMENTS FOR EACH  
20 ECONOMIC DEVELOPMENT PROGRAM DURING THE PRECEDING FISCAL  
21 YEAR.

22 (3) A DETAILED DESCRIPTION OF THE PARAMETERS OF  
23 OPERATION FOR THE ECONOMIC DEVELOPMENT PROGRAMS DURING THE  
24 UPCOMING FISCAL YEAR. THE DESCRIPTION SHALL INCLUDE THE TERMS  
25 AND CONDITIONS UNDER WHICH THE ECONOMIC DEVELOPMENT PROGRAMS  
26 SHALL BE ADMINISTERED.

27 (4) A DESCRIPTION OF THE PERFORMANCE MEASUREMENTS AND  
28 ACCOUNTABILITY FACTORS TO BE APPLIED AND THE PERFORMANCE  
29 TARGETS OR GOALS TO BE MET FOR EACH ECONOMIC DEVELOPMENT  
30 PROGRAM.



1 (5) A DESCRIPTION OF LONG-RANGE PLANNING FOR THE  
2 ECONOMIC DEVELOPMENT PROGRAMS THROUGH THE NEXT FIVE FISCAL  
3 YEARS.

4 (6) A LIST OF THE LOANS, GRANTS OR CREDITS APPROVED FOR  
5 THE ECONOMIC DEVELOPMENT PROGRAMS DURING THE FISCAL YEAR. THE  
6 LIST SHALL INCLUDE A BRIEF DESCRIPTION OF AND DETAILS  
7 REGARDING EACH LOAN, GRANT OR CREDIT APPROVED, INCLUDING  
8 PENALTIES IMPOSED BY THE DEPARTMENT.

9 (7) A REVIEW OF PENDING PROJECTS.

10 § 304. OVERSIGHT.

11 CONCURRENT WITH THE SUBMISSION OF THE GOVERNOR'S ANNUAL  
12 BUDGET MESSAGE, THE DEPARTMENT SHALL SUBMIT THE REPORT REQUIRED  
13 BY THIS CHAPTER TO ALL OF THE FOLLOWING:

14 (1) THE SECRETARY OF THE SENATE.

15 (2) THE CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF  
16 THE SENATE.

17 (3) THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES.

18 (4) THE CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF  
19 THE HOUSE OF REPRESENTATIVES.

20 CHAPTER 5

21 SMALL BUSINESS COUNCIL

22 SEC.

23 501. SCOPE.

24 502. DEFINITIONS.

25 503. SMALL BUSINESS COUNCIL.

26 504. REGULATORY REVIEW.

27 § 501. SCOPE.

28 THIS CHAPTER RELATES TO THE SMALL BUSINESS COUNCIL.

29 § 502. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "COUNCIL." THE SMALL BUSINESS COUNCIL ESTABLISHED UNDER  
4 SECTION 503 (RELATING TO SMALL BUSINESS COUNCIL).

5 "EXECUTIVE AGENCY." THE GOVERNOR AND THE DEPARTMENTS,  
6 BOARDS, COMMISSIONS, AUTHORITIES AND OTHER OFFICERS AND AGENCIES  
7 OF THE COMMONWEALTH. THE TERM DOES NOT INCLUDE ANY COURT OR  
8 OTHER OFFICER OR AGENCY OF THE UNIFIED JUDICIAL SYSTEM, THE  
9 GENERAL ASSEMBLY AND ITS OFFICERS AND AGENCIES OR ANY  
10 INDEPENDENT AGENCY OR STATE-AFFILIATED ENTITY.

11 "SMALL BUSINESS." A PERSON THAT EMPLOYS FEWER THAN 100  
12 EMPLOYEES.

13 § 503. SMALL BUSINESS COUNCIL.

14 (A) ESTABLISHMENT.--THERE IS ESTABLISHED WITHIN THE  
15 DEPARTMENT AN AGENCY TO BE KNOWN AS THE SMALL BUSINESS COUNCIL.  
16 THE COUNCIL SHALL DO ALL OF THE FOLLOWING:

17 (1) ASSIST WITH THE DEVELOPMENT OF POLICIES AND  
18 REGULATIONS WHICH AFFECT SMALL BUSINESSES WITHIN THIS  
19 COMMONWEALTH.

20 (2) PROVIDE ADVICE RELATING TO THE NATURE OF SMALL  
21 BUSINESS PRACTICES AND PROBLEMS IN THIS COMMONWEALTH.

22 (3) PROVIDE A REVIEW OF EXISTING AND PROPOSED POLICIES  
23 AND REGULATIONS WHICH ARE RELEVANT TO SMALL BUSINESS.

24 (B) COMPOSITION.--THE COUNCIL SHALL BE COMPOSED OF 13  
25 MEMBERS. THE SECRETARY SHALL SERVE EX OFFICIO. TWELVE MEMBERS  
26 SHALL BE APPOINTED AS FOLLOWS:

27 (1) FOUR INDIVIDUALS APPOINTED BY THE GOVERNOR.

28 (2) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT PRO  
29 TEMPORE OF THE SENATE.

30 (3) TWO INDIVIDUALS APPOINTED BY THE MINORITY LEADER OF

1 THE SENATE.

2 (4) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE  
3 HOUSE OF REPRESENTATIVES.

4 (5) TWO INDIVIDUALS APPOINTED BY THE MINORITY LEADER OF  
5 THE HOUSE OF REPRESENTATIVES.

6 (C) QUALIFICATIONS.--IN ORDER TO BE ELIGIBLE FOR APPOINTMENT  
7 TO THE COUNCIL, AN INDIVIDUAL MUST:

8 (1) HAVE A BACKGROUND IN IMPROVING SMALL BUSINESSES; AND

9 (2) BE ONE OF THE FOLLOWING:

10 (I) A PRESENT OWNER OR OPERATOR OF A SMALL BUSINESS  
11 WITHIN THIS COMMONWEALTH;

12 (II) A MEMBER OF THE ACADEMIC COMMUNITY WHO HAS  
13 EXPERTISE REGARDING SMALL BUSINESS PRACTICES; OR

14 (III) A PROFESSIONAL WHO SPECIALIZES IN REPRESENTING  
15 SMALL BUSINESSES.

16 (D) TERM.--EACH MEMBER OF THE COUNCIL SHALL SERVE FOR A  
17 PERIOD OF TWO YEARS.

18 (E) ORGANIZATION.--THE SECRETARY SHALL SERVE AS CHAIRPERSON.

19 (F) MEETINGS.--THE COUNCIL SHALL MEET AT THE CALL OF THE  
20 CHAIRPERSON.

21 (G) QUORUM.--A MAJORITY OF THE BOARD SHALL CONSTITUTE A  
22 QUORUM. A MAJORITY OF THE MEMBERS PRESENT SHALL BE NECESSARY TO  
23 TRANSACT BUSINESS ON BEHALF OF THE COUNCIL.

24 (H) EXPENSES.--A MEMBER SHALL NOT RECEIVE COMPENSATION OR  
25 REMUNERATION, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ALL  
26 REASONABLE AND NECESSARY ACTUAL EXPENSES.

27 (I) ADMINISTRATIVE ASSISTANCE.--THE DEPARTMENT SHALL DO ALL  
28 OF THE FOLLOWING:

29 (1) PROVIDE ADMINISTRATIVE AND TECHNICAL SUPPORT TO THE  
30 COUNCIL.

1 (2) PUBLISH NOTICE OF COUNCIL MEETINGS IN ACCORDANCE  
2 WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

3 (3) MAINTAIN A MAILING LIST OF PERSONS WHO HAVE  
4 REQUESTED SPECIFIC NOTIFICATION OF MEETINGS AND ACTIVITIES OF  
5 THE COUNCIL.

6 (4) DESIGNATE A DEPUTY SECRETARY TO ATTEND COUNCIL  
7 MEETINGS AND TO SERVE AS THE PUBLIC'S LIAISON OF THE COUNCIL.

8 (J) COOPERATION.--UPON THE COUNCIL'S REQUEST, AN EXECUTIVE  
9 AGENCY SHALL PROVIDE THE COUNCIL WITH OFFICIALLY PROMULGATED  
10 REGULATORY AND NONREGULATORY DOCUMENTS WHICH REGULATE OR WOULD  
11 REGULATE SMALL BUSINESSES.

12 § 504. REGULATORY REVIEW.

13 (A) NOTIFICATION.--TO THE EXTENT KNOWN TO THE SECRETARY, THE  
14 DEPARTMENT SHALL, ON A SEMIANNUAL BASIS, PROVIDE THE COUNCIL  
15 WITH A LIST OF REGULATIONS BEING PROPOSED BY ALL EXECUTIVE  
16 AGENCIES WHICH MAY AFFECT SMALL BUSINESSES IN THIS COMMONWEALTH.

17 (B) CONFERENCE.--THE DEPARTMENT SHALL, UPON REQUEST OF THE  
18 COUNCIL, ARRANGE A MEETING BETWEEN THE COUNCIL AND  
19 REPRESENTATIVES OF AN EXECUTIVE AGENCY TO DISCUSS REGULATORY  
20 PROPOSALS AND POLICY INITIATIVES OF THE EXECUTIVE AGENCY WHICH  
21 MIGHT AFFECT SMALL BUSINESSES IN THIS COMMONWEALTH.

22 (C) WRITTEN COMMENTS.--THE COUNCIL SHALL PROVIDE THE  
23 DEPARTMENT WITH WRITTEN COMMENTS REGARDING THE COUNCIL'S  
24 POSITION ON THE PROPOSED REGULATIONS. THE DEPARTMENT SHALL  
25 TRANSMIT THE COMMENTS TO THE APPROPRIATE EXECUTIVE AGENCIES. THE  
26 WRITTEN COMMENTS SHALL INCLUDE AN IMPACT STATEMENT AND ANY OTHER  
27 INFORMATION WHICH THE COUNCIL DEEMS NECESSARY FOR THE PUBLIC TO  
28 MAKE AN INFORMED OPINION ON THE PROPOSALS.

29 (D) EXCEPTIONS.--THE REQUIREMENTS UNDER SUBSECTIONS (A) AND  
30 (B) SHALL NOT APPLY TO THE PROMULGATION OF THE FOLLOWING

1 REGULATIONS RELATING TO SMALL BUSINESSES:

2 (1) REGULATIONS REQUIRED BY COURT ORDER.

3 (2) REGULATIONS NECESSITATED BY A FEDERAL OR STATE  
4 DECLARATION OF EMERGENCY.

5 (3) INTERIM REGULATIONS WHICH ARE AUTHORIZED BY STATUTE.

6 CHAPTER 7

7 TAX-EXEMPT BOND ALLOCATION

8 (RESERVED)

9 PART II

10 ECONOMIC DEVELOPMENT ENTITIES

11 CHAPTER

12 11. BEN FRANKLIN (RESERVED)

13 13. INDUSTRIAL RESOURCE CENTERS (RESERVED)

14 15. (RESERVED)

15 17. (RESERVED)

16 19. (RESERVED)

17 CHAPTER 11

18 BEN FRANKLIN

19 (RESERVED)

20 CHAPTER 13

21 INDUSTRIAL RESOURCE CENTERS

22 (RESERVED)

23 CHAPTER 15

24 (RESERVED)

25 CHAPTER 17

26 (RESERVED)

27 CHAPTER 19

28 (RESERVED)

29 PART III

30 ECONOMIC DEVELOPMENT PROGRAMS

- 1 CHAPTER
- 2 21. OPPORTUNITY GRANTS
- 3 23. SMALL BUSINESS FIRST
- 4 25. INDUSTRIAL DEVELOPMENT ASSISTANCE (RESERVED)
- 5 27. CUSTOMIZED JOB TRAINING (RESERVED)
- 6 29. MACHINERY AND EQUIPMENT LOAN
- 7 31. FAMILY SAVINGS ACCOUNT (RESERVED)
- 8 33. ECONOMIC ENHANCEMENT (RESERVED)
- 9 35. KEYSTONE OPPORTUNITY ZONES (RESERVED)
- 10 37. KEYSTONE INNOVATION ZONES

11 CHAPTER 21

12 OPPORTUNITY GRANTS

13 SEC.

14 2101. SCOPE.

15 2102. DEFINITIONS.

16 2103. ESTABLISHMENT.

17 2104. APPLICATION.

18 2105. REVIEW.

19 2106. APPROVAL.

20 2107. PENALTY.

21 2108. LIMITATIONS.

22 2109. GUIDELINES.

23 § 2101. SCOPE.

24 THIS CHAPTER RELATES TO THE OPPORTUNITY GRANT PROGRAM.

25 § 2102. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
27 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "APPLICANT." A PERSON THAT APPLIES FOR A GRANT IN ACCORDANCE  
30 WITH THIS CHAPTER.

1 "DEVELOPER." A PERSON THAT HAS AS A PURPOSE THE PROMOTION OR  
2 CONSTRUCTION OF ECONOMIC DEVELOPMENT PROJECTS AND THAT IS  
3 ENGAGED IN THE DEVELOPMENT OF REAL ESTATE FOR USE BY MORE THAN  
4 ONE PERSON.

5 "ELIGIBLE RECIPIENT." ANY OF THE FOLLOWING PERSONS:

6 (1) A MUNICIPALITY.

7 (2) AN ENTITY CREATED UNDER THE ACT OF AUGUST 23, 1967  
8 (P.L.251, NO.102), KNOWN AS THE ECONOMIC DEVELOPMENT  
9 FINANCING LAW.

10 (3) AN ENTITY CERTIFIED AS AN INDUSTRIAL DEVELOPMENT  
11 AGENCY UNDER THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537),  
12 KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY  
13 ACT.

14 (4) AN ENTITY CREATED UNDER 53 PA.C.S. CH.56 (RELATING  
15 TO MUNICIPAL AUTHORITIES) OR UNDER THE FORMER ACT OF MAY 2,  
16 1945 (P.L.382, NO.164), KNOWN AS THE MUNICIPALITY AUTHORITIES  
17 ACT OF 1945.

18 (5) AN ENTITY CREATED UNDER THE ACT OF MAY 24, 1945  
19 (P.L.991, NO.385), KNOWN AS THE URBAN REDEVELOPMENT LAW.

20 (6) A DEVELOPER.

21 (7) A PERSON THAT IS ENGAGED IN ANY OF THE FOLLOWING  
22 ACTIVITIES:

23 (I) THE PRODUCTION OR PROCESSING OF FARM  
24 COMMODITIES.

25 (II) MANUFACTURING.

26 (III) RESEARCH AND DEVELOPMENT.

27 (IV) EXPORT SERVICES.

28 (V) ANY OTHER ACTIVITY WHICH OFFERS A SIGNIFICANT  
29 ECONOMIC IMPACT ON THE COMMONWEALTH, AS DETERMINED BY THE  
30 DEPARTMENT.

1 "ELIGIBLE USE." ANY OF THE FOLLOWING ACTIVITIES:

2 (1) JOB TRAINING.

3 (2) THE ACQUISITION OF INTEREST IN LAND, BUILDINGS OR  
4 RIGHTS-OF-WAY.

5 (3) THE CONSTRUCTION OR REHABILITATION OF BUILDINGS.

6 (4) THE CONSTRUCTION OR REHABILITATION OF  
7 INFRASTRUCTURE.

8 (5) THE PURCHASE OR UPGRADING OF MACHINERY AND  
9 EQUIPMENT.

10 (6) WORKING CAPITAL.

11 (7) SITE PREPARATION, INCLUDING DEMOLITION AND  
12 CLEARANCE.

13 (8) ENVIRONMENTAL ASSESSMENTS.

14 (9) REMEDIATION OF HAZARDOUS MATERIAL.

15 (10) ARCHITECTURAL AND ENGINEERING FEES UP TO 10% OF THE  
16 AWARD.

17 "JOB-CREATING ECONOMIC DEVELOPMENT." INCLUDES THE EXPANSION  
18 OR PRESERVATION OF EXISTING INDUSTRY.

19 "PROGRAM." THE OPPORTUNITY GRANT PROGRAM ESTABLISHED IN  
20 SECTION 2103 (RELATING TO ESTABLISHMENT.)

21 "PROJECT." AN ACTIVITY CONDUCTED IN THIS COMMONWEALTH.

22 "RECIPIENT." A PERSON WHO RECEIVES A GRANT UNDER THIS  
23 CHAPTER.

24 § 2103. ESTABLISHMENT.

25 THERE IS ESTABLISHED WITHIN THE DEPARTMENT A PROGRAM TO BE  
26 KNOWN AS THE OPPORTUNITY GRANT PROGRAM. THE PROGRAM SHALL BE  
27 ADMINISTERED BY THE DEPARTMENT TO PROVIDE GRANTS TO ELIGIBLE  
28 PERSONS FOR CERTAIN PROJECTS WHICH ENCOURAGE JOB-CREATING  
29 ECONOMIC DEVELOPMENT WITHIN THIS COMMONWEALTH.

30 § 2104. APPLICATION.



1 A PERSON MAY SUBMIT AN APPLICATION TO THE DEPARTMENT  
2 REQUESTING A GRANT FOR A PROJECT. THE APPLICATION SHALL BE ON  
3 THE FORM REQUIRED BY THE DEPARTMENT AND SHALL INCLUDE OR  
4 DEMONSTRATE ALL OF THE FOLLOWING:

5 (1) THE NAME AND ADDRESS OF THE APPLICANT.

6 (2) A STATEMENT THAT THE APPLICANT IS AN ELIGIBLE  
7 RECIPIENT UNDER THE PROGRAM.

8 (3) A STATEMENT OF THE AMOUNT OF GRANT SOUGHT.

9 (4) A STATEMENT OF THE PROJECT, INCLUDING A DETAILED  
10 STATEMENT OF THE COST OF THE PROJECT.

11 (5) A STATEMENT IDENTIFYING THE ECONOMIC IMPACT OF THE  
12 PROJECT TO THE REGION AND THE ESTIMATED IMPACT ON STATE AND  
13 LOCAL REVENUES.

14 (6) A COMMITMENT OF PRIVATE MATCHING FUNDS OF AT LEAST  
15 \$4 FOR EVERY \$1 OF GRANT FUNDS, AND OF THE BALANCE OF FUNDING  
16 FOR THE ENTIRE PROJECT COST, FROM A RESPONSIBLE SOURCE.

17 (7) A COMMITMENT FROM THE APPLICANT TO COMPLETE THE  
18 PROJECT.

19 (8) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

20 § 2105. REVIEW.

21 THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE IF  
22 THE APPLICANT HAS MET ALL OF THE CRITERIA SET FORTH IN SECTION  
23 2104 (RELATING TO APPLICATION).

24 § 2106. APPROVAL.

25 THE FOLLOWING SHALL APPLY:

26 (1) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN  
27 MET, THE DEPARTMENT MAY APPROVE THE APPLICATION AND AWARD A  
28 GRANT.

29 (2) PRIOR TO PROVIDING GRANT FUNDS TO THE APPLICANT, THE  
30 DEPARTMENT SHALL ENTER INTO A CONTRACT WITH THE APPLICANT.

1 THE CONTRACT SHALL INCLUDE PROVISIONS REQUIRING THE APPLICANT  
2 TO USE THE GRANT TO PAY THE COSTS OF THE PROJECT.

3 (3) THE DEPARTMENT MAY IMPOSE ANY OTHER TERMS AND  
4 CONDITIONS ON THE GRANTS AUTHORIZED BY THIS CHAPTER AS THE  
5 DEPARTMENT DETERMINES IS IN THE BEST INTERESTS OF THE  
6 COMMONWEALTH, INCLUDING A PROVISION REQUIRING COLLATERAL TO  
7 SECURE REPAYMENT OF ANY PENALTY IMPOSED UNDER THE PROGRAM.

8 § 2107. PENALTY.

9 (A) IMPOSITION.--EXCEPT AS PROVIDED IN SUBSECTION (B), THE  
10 DEPARTMENT SHALL IMPOSE A PENALTY UPON A RECIPIENT FOR ANY OF  
11 THE FOLLOWING:

12 (1) FAILING TO CREATE THE NUMBER OF JOBS SPECIFIED IN  
13 THE RECIPIENT'S APPLICATION.

14 (2) FAILING TO INJECT THE REQUIRED AMOUNT OF PRIVATE  
15 MATCHING FUNDS INTO THE PROJECT.

16 (3) FAILING TO OPERATE AT THE PROJECT SITE FOR A MINIMUM  
17 PERIOD OF FIVE YEARS.

18 (B) EXCEPTION.--THE DEPARTMENT MAY WAIVE THE PENALTY  
19 REQUIRED BY SUBSECTION (A) IF THE DEPARTMENT DETERMINES THAT THE  
20 FAILURE WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE  
21 RECIPIENT.

22 (C) AMOUNT.--THE AMOUNT OF THE PENALTY SHALL BE EQUAL TO THE  
23 FULL AMOUNT OF THE GRANT RECEIVED PLUS AN ADDITIONAL AMOUNT OF  
24 UP TO 10% OF THE AMOUNT OF THE GRANT RECEIVED. THE PENALTY SHALL  
25 BE PAYABLE IN ONE LUMP SUM OR IN INSTALLMENTS, WITH OR WITHOUT  
26 INTEREST, AS THE DEPARTMENT DEEMS APPROPRIATE.

27 § 2108. LIMITATIONS.

28 (1) AN APPLICANT MAY NOT RECEIVE A GRANT UNDER THIS  
29 CHAPTER FOR MORE THAN TWO CONSECUTIVE FISCAL YEARS FOR THE  
30 SAME PROJECT.

1 (2) A GRANT AWARDED UNDER THIS CHAPTER MAY NOT BE USED  
2 TO DO ANY OF THE FOLLOWING:

3 (I) REFINANCE OR RETIRE EXISTING DEBT.

4 (II) PAY COSTS UNRELATED TO A PROJECT LOCATION AT A  
5 SITE IN THIS COMMONWEALTH.

6 (3) IN NO CASE SHALL THE AGGREGATE AMOUNT OF GRANTS PAID  
7 IN ANY FISCAL YEAR UNDER THIS CHAPTER EXCEED THE ANNUAL  
8 APPROPRIATION TO THE DEPARTMENT FOR THE PROGRAM.

9 (4) A GRANT AWARDED UNDER THIS CHAPTER SHALL IN NO WAY  
10 CONSTITUTE AN ENTITLEMENT DERIVED FROM THE COMMONWEALTH OR A  
11 CLAIM ON ANY OTHER FUNDS OF THE COMMONWEALTH.

12 § 2109. GUIDELINES.

13 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE  
14 PROGRAM. THE GUIDELINES SHALL DO ALL OF THE FOLLOWING:

15 (1) LIMIT GRANT SIZE FOR ANY SINGLE PROJECT.

16 (2) CLARIFY ELIGIBLE USES OF GRANTS.

17 (3) CLARIFY STANDARDS FOR ELIGIBILITY.

18 (4) REQUIRE GEOGRAPHIC DIVERSITY OF FUNDED PROJECTS.

19 CHAPTER 23

20 SMALL BUSINESS FIRST

21 SEC.

22 2301. SCOPE.

23 2302. DEFINITIONS.

24 2303. ESTABLISHMENT.

25 2304. FUND AND ACCOUNTS.

26 2305. DEPARTMENT RESPONSIBILITIES.

27 2306. CAPITAL DEVELOPMENT LOANS.

28 2307. EDA LOANS.

29 2308. LOANS IN DISTRESSED COMMUNITIES.

30 2309. POLLUTION PREVENTION ASSISTANCE LOANS.

1 2310. EXPORT FINANCING LOANS.

2 2311. REPORTING AND INSPECTION.

3 2312. LIMITATIONS.

4 § 2301. SCOPE.

5 THIS CHAPTER RELATES TO THE SMALL BUSINESS FIRST PROGRAM.

6 § 2302. DEFINITIONS.

7 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
8 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
9 CONTEXT CLEARLY INDICATES OTHERWISE:

10 "AGRICULTURAL PROCESSOR." A PERSON THAT ADDS VALUE BY  
11 SUBJECTING ONE OR MORE FARM COMMODITIES TO A PROCESS OF  
12 MANUFACTURE, DEVELOPMENT OR PREPARATION FOR SALE OR A PERSON  
13 THAT CONVERTS A FARM PRODUCT INTO A MARKETABLE FORM.

14 "AGRICULTURAL PRODUCER." A PERSON INVOLVED IN THE MANAGEMENT  
15 AND USE OF A NORMAL AGRICULTURAL OPERATION FOR THE PRODUCTION OF  
16 A FARM COMMODITY.

17 "APPAREL PRODUCTS." PRODUCTS MANUFACTURED, WOVEN, CUT, SEWN  
18 OR OTHERWISE SIMILARLY PROCESSED BY MECHANICAL OR HUMAN EFFORT  
19 FROM FABRICS, LEATHER OR CLOTH AND MADE FOR USE AS CLOTHING,  
20 SHOES OR OTHER ATTIRE.

21 "APPLICANT." A PERSON THAT APPLIES FOR A LOAN IN ACCORDANCE  
22 WITH THIS CHAPTER.

23 "AREA LOAN ORGANIZATION." A LOCAL DEVELOPMENT DISTRICT, AN  
24 INDUSTRIAL DEVELOPMENT AGENCY ORGANIZED AND EXISTING UNDER THE  
25 ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537), KNOWN AS THE  
26 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT, OR ANY OTHER  
27 NONPROFIT ECONOMIC DEVELOPMENT ORGANIZATION CERTIFIED BY THE  
28 DEPARTMENT AS POSSESSING THE QUALIFICATIONS NECESSARY TO  
29 EVALUATE AND ADMINISTER LOANS MADE UNDER THIS CHAPTER.

30 "CAPITAL DEVELOPMENT PROJECT." LAND, BUILDINGS, EQUIPMENT

1 AND MACHINERY AND WORKING CAPITAL WHICH IS ACQUIRED,  
2 CONSTRUCTED, RENOVATED OR USED BY A SMALL BUSINESS IN ACCORDANCE  
3 WITH ANY OF THE FOLLOWING:

4 (1) AS PART OF A FOR-PROFIT PROJECT OR VENTURE NOT OF A  
5 MERCANTILE OR SERVICE-RELATED NATURE, EXCEPT FOR HOSPITALITY  
6 INDUSTRY PROJECTS.

7 (2) AS PART OF AN EFFORT TO:

8 (I) BRING A SMALL BUSINESS INTO COMPLIANCE WITH  
9 FEDERAL OR STATE ENVIRONMENTAL LAWS OR REGULATIONS;

10 (II) COMPLETE AN APPROVED REMEDIATION PROJECT; OR

11 (III) PERMIT A SMALL BUSINESS TO ADOPT GENERALLY  
12 ACCEPTABLE POLLUTION PREVENTION PRACTICES.

13 (3) AS PART OF AN EFFORT TO PROVIDE ASSISTANCE TO A  
14 SMALL BUSINESS THAT IS A RECYCLER OF MUNICIPAL OR COMMERCIAL  
15 WASTE OR THAT IS A MANUFACTURER USING RECYCLED MUNICIPAL OR  
16 COMMERCIAL WASTE MATERIALS.

17 (4) AS PART OF AN EFFORT TO ASSIST A SMALL BUSINESS WITH  
18 DEFENSE CONVERSION ACTIVITIES.

19 (5) AS PART OF A FOR-PROFIT PROJECT OR VENTURE TO  
20 MANUFACTURE PRODUCTS TO BE EXPORTED OUT OF THE UNITED STATES  
21 BY A SMALL BUSINESS WHICH IS NOT OF A MERCANTILE OR SERVICE-  
22 RELATED NATURE, EXCEPT FOR EXPORT-RELATED SERVICES AND  
23 INTERNATIONAL EXPORT-RELATED MERCANTILE VENTURES OR ADVANCED  
24 TECHNOLOGY AND COMPUTER-RELATED SERVICES AND MERCANTILE  
25 VENTURES AND WHICH WILL INCREASE THIS COMMONWEALTH'S NATIONAL  
26 OR INTERNATIONAL MARKET SHARES.

27 (6) AS PART OF A FOR-PROFIT PROJECT OR VENTURE THAT  
28 MEETS THE REQUIREMENTS OF SECTION 2308 (RELATING TO LOANS IN  
29 DISTRESSED COMMUNITIES)

30 (7) AS PART OF AN EFFORT TO ASSIST IN THE START-UP OR

1 EXPANSION OF A FOR-PROFIT OR NOT-FOR-PROFIT CHILD DAY-CARE  
2 CENTER SUBJECT TO LICENSURE BY THE COMMONWEALTH.

3 "CHILD DAY-CARE CENTER." ANY PREMISES IN WHICH CHILD DAY  
4 CARE IS PROVIDED SIMULTANEOUSLY FOR SEVEN OR MORE CHILDREN WHO  
5 ARE NOT RELATED TO THE PROVIDER.

6 "COMMUNITY DEVELOPMENT INSTITUTION." ANY OF THE FOLLOWING:

7 (1) AN AREA LOAN ORGANIZATION FOR A DISTRESSED  
8 COMMUNITY.

9 (2) A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION  
10 LOCATED IN A DISTRESSED COMMUNITY AND APPROVED BY THE  
11 DEPARTMENT.

12 "DISTRESSED COMMUNITY." A COMMUNITY WHICH HAS ANY OF THE  
13 FOLLOWING:

14 (1) A CENSUS TRACT OR OTHER SPECIFICALLY DEFINED  
15 GEOGRAPHIC AREA IN WHICH THERE IS ANY OF THE FOLLOWING:

16 (I) A MEDIAN INCOME BELOW 80% OF THE MEDIAN INCOME  
17 FOR THE UNITED STATES OR THIS COMMONWEALTH.

18 (II) TWENTY PERCENT OR MORE OF THE POPULATION IS  
19 BELOW THE POVERTY LEVEL BY FAMILY SIZE PUBLISHED BY THE  
20 BUREAU OF THE CENSUS.

21 (III) AN UNEMPLOYMENT RATE 50% HIGHER THAN THE  
22 NATIONAL AVERAGE.

23 (2) AN AREA WHICH IS DESIGNATED A SUBZONE, EXPANSION  
24 SUBZONE, OR IMPROVEMENT SUBZONE UNDER THE ACT OF OCTOBER 6,  
25 1998 (P.L.705, NO.92), KNOWN AS THE KEYSTONE OPPORTUNITY ZONE  
26 AND KEYSTONE OPPORTUNITY EXPANSION ZONE ACT.

27 (3) ANY OTHER GEOGRAPHIC AREA DESIGNATED BY THE  
28 DEPARTMENT AS DISTRESSED. THE DESIGNATION SHALL BE PUBLISHED  
29 IN THE PENNSYLVANIA BULLETIN.

30 "EDA LOAN." A LOAN MADE UNDER THIS CHAPTER UTILIZING FUNDS

1 MADE AVAILABLE TO THE DEPARTMENT UNDER THE PUBLIC WORKS AND  
2 ECONOMIC DEVELOPMENT ACT OF 1965 (PUBLIC LAW 89-136, 42 U.S.C. §  
3 3121 ET SEQ.).

4 "EX-IM BANK." THE EXPORT-IMPORT BANK OF THE UNITED STATES.

5 "EXPORT ACTIVITY." AN ACTIVITY UNDERTAKEN BY A PERSON WITHIN  
6 THIS COMMONWEALTH RELATED TO EXPORTS.

7 "EXPORT BUSINESS." A PERSON THAT IS ENGAGED IN A FOR-PROFIT  
8 ENTERPRISE INVOLVING EXPORT ACTIVITIES AND THAT EMPLOYS 250 OR  
9 FEWER INDIVIDUALS.

10 "EXPORTS." GOODS OR SERVICES TO BE SOLD OR PERFORMED OUTSIDE  
11 THE UNITED STATES.

12 "FARM COMMODITY." ANY PENNSYLVANIA-GROWN AGRICULTURAL,  
13 HORTICULTURAL, AQUACULTURAL, VEGETABLE, FRUIT AND FLORICULTURAL  
14 PRODUCT OF THE SOIL, LIVESTOCK AND MEATS, WOOLS, HIDES, FURS,  
15 POULTRY, EGGS, DAIRY PRODUCTS, NUTS, MUSHROOMS, HONEY PRODUCTS  
16 AND FOREST PRODUCTS.

17 "FUND." THE SMALL BUSINESS FIRST FUND CONTINUED UNDER  
18 SECTION 2304 (RELATING TO FUND AND ACCOUNTS).

19 "HAZARDOUS SUBSTANCE." ANY ELEMENT, COMPOUND OR MATERIAL  
20 WHICH IS ANY OF THE FOLLOWING:

21 (1) REGULATED AS A HAZARDOUS AIR POLLUTANT UNDER SECTION  
22 6.6 OF THE ACT OF JANUARY 8, 1960 (1959 P.L.2119, NO.787),  
23 KNOWN AS THE AIR POLLUTION CONTROL ACT.

24 (2) DEFINED AS A HAZARDOUS WASTE UNDER SECTION 103 OF  
25 THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID  
26 WASTE MANAGEMENT ACT.

27 (3) REGULATED UNDER THE ACT OF DECEMBER 7, 1990  
28 (P.L.639, NO.165), KNOWN AS THE HAZARDOUS MATERIAL EMERGENCY  
29 PLANNING AND RESPONSE ACT.

30 "HOSPITALITY INDUSTRY PROJECT." A FOR-PROFIT PROJECT OR

1 VENTURE WHICH INVOLVES A SMALL BUSINESS THAT OPERATES A HOTEL,  
2 MOTEL OR OTHER LODGING FACILITY AND THAT EMPLOYS AT LEAST FIVE  
3 FULL-TIME EQUIVALENT EMPLOYEES AT THE TIME AN APPLICATION IS  
4 SUBMITTED TO THE DEPARTMENT FOR FINANCING. THE TERM INCLUDES A  
5 FOR-PROFIT PROJECT OR VENTURE WHICH INVOLVES A SMALL BUSINESS  
6 THAT OPERATES A RESTAURANT OR FOOD SERVICE OPERATION OPEN TO THE  
7 PUBLIC, THAT HAS BEEN IN CONTINUOUS OPERATION FOR AT LEAST FIVE  
8 YEARS AND THAT EMPLOYS AT LEAST FIVE FULL-TIME EQUIVALENT  
9 EMPLOYEES AT THE TIME AN APPLICATION IS SUBMITTED.

10 "INSURANCE POLICY." AN EXPORT CREDIT INSURANCE POLICY FOR  
11 SMALL BUSINESSES OFFERED BY THE EXPORT-IMPORT BANK OF THE UNITED  
12 STATES.

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

15 "NORMAL AGRICULTURAL OPERATION." AS DEFINED IN SECTION 2 OF  
16 THE ACT OF JUNE 10, 1982 (P.L.454, NO.133), ENTITLED "AN ACT  
17 PROTECTING AGRICULTURAL OPERATIONS FROM NUISANCE SUITS AND  
18 ORDINANCES UNDER CERTAIN CIRCUMSTANCES.

19 "POLLUTION PREVENTION." THE REDUCTION OR ELIMINATION OF  
20 POLLUTION AT ITS SOURCE. THE TERM DOES NOT INCLUDE ANY OF THE  
21 FOLLOWING:

22 (1) A SUBSTITUTION OF ONE HAZARDOUS OR TOXIC SUBSTANCE  
23 FOR ANOTHER WHICH WILL CAUSE AN INCREASED RISK TO THE  
24 ENVIRONMENT OR TO HUMAN HEALTH.

25 (2) A CROSS-MEDIA TRANSFER.

26 (3) A DELISTING OF A HAZARDOUS WASTE OR TOXIC CHEMICAL.

27 "POLLUTION PREVENTION ASSISTANCE AGENCY." ANY OF THE  
28 FOLLOWING:

29 (1) AN AREA LOAN ORGANIZATION.

30 (2) AN INDUSTRIAL RESOURCE CENTER CREATED PURSUANT TO



1 THE ACT OF JUNE 22, 2001 (P.L.400, NO.31), KNOWN AS THE  
2 INDUSTRIAL RESOURCES CENTER PARTNERSHIP ACT.

3 "POLLUTION PREVENTION INFRASTRUCTURE." A CAPITAL DEVELOPMENT  
4 PROJECT WHICH PERMITS A SMALL BUSINESS TO ADOPT OR INSTALL  
5 POLLUTION PREVENTION EQUIPMENT OR PROCESSES TO:

- 6 (1) REDUCE OR REUSE RAW MATERIALS ONSITE.
- 7 (2) REDUCE THE PRODUCTION OF WASTE.
- 8 (3) REDUCE ENERGY CONSUMPTION.

9 "PROGRAM." THE SMALL BUSINESS FIRST PROGRAM ESTABLISHED  
10 UNDER SECTION 2303 (RELATING TO ESTABLISHMENT).

11 "REUSE." USE OF A PRODUCT OR COMPONENT IN ITS ORIGINAL FORM  
12 MORE THAN ONCE.

13 "SMALL BUSINESS." A PERSON THAT IS ENGAGED IN A FOR-PROFIT  
14 ENTERPRISE AND THAT EMPLOYS 100 OR FEWER INDIVIDUALS. THE TERM  
15 INCLUDES THE FOLLOWING:

- 16 (1) AN ENTERPRISE LOCATED IN A SMALL BUSINESS INCUBATOR  
17 FACILITY.
- 18 (2) AN AGRICULTURAL PROCESSOR.
- 19 (3) AN AGRICULTURAL PRODUCER.
- 20 (4) AN ENTERPRISE WHICH MANUFACTURES APPAREL PRODUCTS.
- 21 (5) AN ENTERPRISE WHICH IS A FOR-PROFIT OR NOT-FOR-  
22 PROFIT CHILD DAY-CARE CENTER SUBJECT TO LICENSURE BY THE  
23 COMMONWEALTH.

24 "WORKING CAPITAL." CAPITAL USED BY A SMALL BUSINESS FOR  
25 OPERATIONS, EXCLUDING FIXED ASSETS AND PRODUCTION MACHINERY AND  
26 EQUIPMENT.

27 § 2303. ESTABLISHMENT.

28 THERE IS ESTABLISHED WITHIN THE DEPARTMENT A PROGRAM TO BE  
29 KNOWN AS THE SMALL BUSINESS FIRST PROGRAM. THE PROGRAM SHALL BE  
30 ADMINISTERED BY THE DEPARTMENT AND PROVIDE LOANS TO ELIGIBLE

1 PERSONS FOR CERTAIN PROJECTS WHICH ENCOURAGE JOB CREATING AND  
2 JOB PRESERVING ECONOMIC DEVELOPMENT WITHIN THIS COMMONWEALTH.  
3 § 2304. FUND AND ACCOUNTS.

4 (A) FUND.--THE SMALL BUSINESS FIRST FUND, CREATED UNDER  
5 SECTION 1302(A) OF THE ACT OF JUNE 29, 1996 (P.L.434, NO.67),  
6 KNOWN AS THE JOB ENHANCEMENT ACT, IS CONTINUED. THE TREASURY  
7 DEPARTMENT SHALL CREDIT THE FOLLOWING TO THE FUND:

8 (1) APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO THE  
9 DEPARTMENT FOR THE PROGRAM.

10 (2) FEDERAL FUNDS MADE AVAILABLE UNDER THE PUBLIC WORKS  
11 AND ECONOMIC DEVELOPMENT ACT OF 1965 (PUBLIC LAW 89-136, 42  
12 U.S.C. § 3121 ET SEQ.), OR ANY OTHER FEDERAL STATUTE,  
13 REGULATION OR PROGRAM FOR THE PROGRAM.

14 (3) PAYMENTS FROM RECIPIENTS OF LOANS MADE FROM THE  
15 FUND.

16 (4) PAYMENTS FROM RECIPIENTS OF LOANS MADE UNDER THE  
17 FORMER ACT OF JULY 2, 1984 (P.L.545, NO.109), KNOWN AS THE  
18 CAPITAL LOAN FUND ACT.

19 (5) INTEREST INCOME DERIVED FROM INVESTMENT OF THE MONEY  
20 IN THE FUND.

21 (6) ANY OTHER DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM  
22 ANY OTHER SOURCE MADE AVAILABLE TO THE DEPARTMENT FOR THE  
23 PROGRAM.

24 (B) POLLUTION PREVENTION ASSISTANCE.--THE POLLUTION  
25 PREVENTION ASSISTANCE ACCOUNT, CREATED UNDER THE ACT OF JUNE 29,  
26 1996 (P.L.434, NO.67), KNOWN AS THE JOB ENHANCEMENT ACT, IS  
27 CONTINUED. THE TREASURY DEPARTMENT SHALL CREDIT THE FOLLOWING TO  
28 THIS ACCOUNT:

29 (1) APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO THE  
30 DEPARTMENT FOR POLLUTION PREVENTION ASSISTANCE.

1           (2) PAYMENTS FROM RECIPIENTS OF LOANS MADE FROM THE  
2 POLLUTION PREVENTION ASSISTANCE ACCOUNT.

3           (3) TRANSFERS FROM THE HAZARDOUS SITES CLEANUP FUND AS  
4 ESTABLISHED IN SECTION 602.3 OF THE ACT OF MARCH 4, 1971  
5 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

6           (4) INTEREST INCOME DERIVED FROM INVESTMENT OF THE MONEY  
7 IN THE POLLUTION PREVENTION ASSISTANCE ACCOUNT.

8           (5) ANY OTHER DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM  
9 ANY OTHER SOURCE MADE AVAILABLE TO THE DEPARTMENT FOR  
10 POLLUTION PREVENTION ASSISTANCE.

11 (C) USE OF FUND.--

12           (1) MONEY IN THE FUND MAY BE USED AS FOLLOWS:

13               (I) BY THE DEPARTMENT TO MAKE LOANS IN ACCORDANCE  
14 WITH THIS CHAPTER AND FOR ADMINISTRATIVE COSTS OF THE  
15 DEPARTMENT IN ADMINISTERING THE PROGRAM.

16               (II) BY AREA LOAN ORGANIZATIONS FOR ADMINISTRATIVE  
17 COSTS ASSOCIATED WITH THE PROGRAM WHICH ARE APPROVED BY  
18 THE DEPARTMENT.

19           (2) MONEY FROM THE FUND DERIVED FROM APPROPRIATIONS  
20 SPECIFIED FOR EXPORT FINANCING ASSISTANCE MAY BE DEPOSITED BY  
21 THE DEPARTMENT IN BANKS OR TRUST COMPANIES IN SPECIAL  
22 ACCOUNTS. THE SPECIAL ACCOUNTS MUST BE CONTINUOUSLY SECURED  
23 BY A PLEDGE OF DIRECT OBLIGATIONS OF THE UNITED STATES OR OF  
24 THE COMMONWEALTH, HAVING AN AGGREGATE MARKET VALUE, EXCLUSIVE  
25 OF ACCRUED INTEREST, AT LEAST EQUAL TO THE BALANCE ON DEPOSIT  
26 IN THE ACCOUNT. THE SECURITIES SHALL BE DEPOSITED WITH THE  
27 DEPARTMENT TO BE HELD BY A TRUSTEE OR AGENT SATISFACTORY TO  
28 THE DEPARTMENT. BANKS AND TRUST COMPANIES ARE AUTHORIZED TO  
29 GIVE SECURITY UNDER THIS PARAGRAPH. MONEY IN THESE SPECIAL  
30 ACCOUNTS SHALL BE PAID OUT ON ORDER OF THE DEPARTMENT.

1 (D) USE OF POLLUTION PREVENTION ASSISTANCE ACCOUNT.--MONEY  
2 IN THE POLLUTION PREVENTION ASSISTANCE ACCOUNT MAY BE USED BY  
3 THE DEPARTMENT TO PROVIDE LOANS TO SMALL BUSINESSES FOR THE  
4 ADOPTION OR INSTALLATION OF POLLUTION-PREVENTION OR ENERGY-  
5 EFFICIENT EQUIPMENT OR PROCESSES IN ACCORDANCE WITH SECTION 2309  
6 (RELATING TO POLLUTION PREVENTION ASSISTANCE LOANS).

7 § 2305. DEPARTMENT RESPONSIBILITIES.

8 (A) GENERAL RULE.--THE DEPARTMENT SHALL DO ALL OF THE  
9 FOLLOWING:

10 (1) ADMINISTER THE PROGRAM.

11 (2) ESTABLISH WRITTEN GUIDELINES AS NECESSARY. ANY  
12 GUIDELINES ESTABLISHED SHALL BE INCLUDED IN THE REPORT  
13 REQUIRED BY CHAPTER 3 (RELATING TO ECONOMIC DEVELOPMENT  
14 FINANCING STRATEGY).

15 (3) DEPOSIT PAYMENTS MADE BY RECIPIENTS IN THE FUND OR  
16 THE POLLUTION PREVENTION ASSISTANCE ACCOUNT, AS APPROPRIATE.

17 (4) APPROVE STANDARDS FOR AREA LOAN ORGANIZATION  
18 APPLICATION FEES.

19 (5) APPROVE COMMUNITY DEVELOPMENT FINANCIAL  
20 INSTITUTIONS.

21 (B) PROGRAM.--IN ADMINISTERING THE PROGRAM, THE DEPARTMENT  
22 MAY DO ANY OF THE FOLLOWING:

23 (1) PROVIDE GRANTS OR OTHER FINANCIAL ASSISTANCE TO AREA  
24 LOAN ORGANIZATIONS FOR ANY OF THE FOLLOWING PURPOSES:

25 (I) TO ESTABLISH LOAN RESERVE FUNDS.

26 (II) TO REIMBURSE LOAN LOSSES TO COMMERCIAL BANKS  
27 AND OTHER FINANCIAL INSTITUTIONS AS A MEANS OF  
28 ENCOURAGING THE EXPANSION AND FINANCING OF SMALL  
29 BUSINESSES.

30 (2) APPLY TO THE EX-IM BANK FOR DELEGATED AUTHORITY

1 LENDER STATUS UNDER THE EX-IM BANK'S WORKING CAPITAL GUARANTY  
2 PROGRAM.

3 (3) UTILIZE THE OUTSTANDING PORTFOLIO OF LOANS MADE  
4 UNDER THIS CHAPTER TO RAISE ADDITIONAL FUNDS BY SELLING,  
5 SECURING, HYPOTHECATING OR OTHERWISE USING SUCH LOAN PROCEEDS  
6 AS A FINANCING VEHICLE IF THE FUNDS RAISED ARE USED BY THE  
7 DEPARTMENT FOR EITHER OF THE FOLLOWING PURPOSES:

8 (I) TO MAKE NEW AND ADDITIONAL LOANS UNDER THIS  
9 CHAPTER.

10 (II) TO PAY COSTS ASSOCIATED WITH FINANCING.

11 § 2306. CAPITAL DEVELOPMENT LOANS.

12 (A) APPLICATION.--A SMALL BUSINESS MAY SUBMIT AN APPLICATION  
13 AND ANY APPLICABLE APPLICATION FEE TO ITS AREA LOAN ORGANIZATION  
14 REQUESTING A LOAN FOR CERTAIN COSTS OF A CAPITAL DEVELOPMENT  
15 PROJECT. THE APPLICATION SHALL BE ON THE FORM REQUIRED BY THE  
16 DEPARTMENT AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE  
17 FOLLOWING:

18 (1) THE NAME AND ADDRESS OF THE APPLICANT.

19 (2) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

20 (3) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT  
21 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

22 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR  
23 ANY COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE  
24 AMOUNT REQUESTED.

25 (5) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

26 (B) AREA LOAN ORGANIZATION REVIEW.--

27 (1) UPON RECEIPT OF A COMPLETED APPLICATION, AN AREA  
28 LOAN ORGANIZATION SHALL INVESTIGATE AND DETERMINE ALL OF THE  
29 FOLLOWING:

30 (I) IF THE APPLICANT IS A SMALL BUSINESS.

1 (II) IF THE PROJECT IS A CAPITAL DEVELOPMENT  
2 PROJECT.

3 (III) IF, WHEN THE APPLICANT IS A SMALL BUSINESS,  
4 THE CAPITAL DEVELOPMENT PROJECT DEMONSTRATES A  
5 SUBSTANTIAL LIKELIHOOD OF CREATING OR PRESERVING  
6 EMPLOYMENT ACTIVITIES IN THIS COMMONWEALTH OR IF, WHEN  
7 THE APPLICANT IS AN AGRICULTURAL PRODUCER, THE PROJECT  
8 DEMONSTRATES A SUBSTANTIAL LIKELIHOOD OF ENHANCING AND  
9 GROWING NORMAL AGRICULTURE OPERATIONS.

10 (IV) THE ABILITY OF THE APPLICANT TO MEET AND  
11 SATISFY THE DEBT SERVICE AS IT BECOMES DUE AND PAYABLE.

12 (V) THE EXISTENCE AND SUFFICIENCY OF COLLATERAL FOR  
13 THE LOAN.

14 (VI) RELEVANT CRIMINAL AND CREDIT HISTORY AND  
15 RATINGS OF THE APPLICANT AS DETERMINED FROM OUTSIDE  
16 CREDIT REPORTING SERVICES AND OTHER SOURCES.

17 (VII) THE NUMBER OF EMPLOYMENT OPPORTUNITIES TO BE  
18 CREATED OR PRESERVED BY THE PROPOSED CAPITAL DEVELOPMENT  
19 PROJECT.

20 (VIII) IF THE APPLICANT COMPLIED WITH ALL OTHER  
21 CRITERIA ESTABLISHED BY THE DEPARTMENT.

22 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN  
23 MET, THE AREA LOAN ORGANIZATIONS SHALL RECOMMEND THE  
24 APPLICANT TO THE DEPARTMENT AND FORWARD THE APPLICATION WITH  
25 ALL SUPPORTING DOCUMENTATION TO THE DEPARTMENT FOR ITS REVIEW  
26 AND APPROVAL.

27 (C) DEPARTMENT REVIEW.--

28 (1) WITHIN 30 DAYS OF RECEIVING A RECOMMENDATION AND A  
29 COMPLETED APPLICATION, THE DEPARTMENT SHALL REVIEW THE  
30 APPLICATION. IF THE DEPARTMENT IS SATISFIED THAT ALL

1       REQUIREMENTS HAVE BEEN MET, THE DEPARTMENT MAY APPROVE THE  
2       LOAN REQUEST IN ACCORDANCE WITH THE FOLLOWING:

3               (I)    A LOAN FOR LAND, BUILDINGS AND MACHINERY AND  
4       EQUIPMENT MAY NOT EXCEED \$200,000 OR 50% OF THE TOTAL  
5       CAPITAL DEVELOPMENT PROJECT COSTS, WHICHEVER IS LESS. FOR  
6       THE PURPOSES OF THIS SUBPARAGRAPH, CAPITAL DEVELOPMENT  
7       PROJECT COSTS INCURRED DURING THE 12-MONTH PERIOD PRIOR  
8       TO THE DATE OF SUBMISSION OF THE APPLICATION TO THE  
9       DEPARTMENT SHALL BE CONSIDERED PART OF THE TOTAL CAPITAL  
10      DEVELOPMENT PROJECT COSTS.

11              (II)   A LOAN FOR WORKING CAPITAL MAY NOT EXCEED  
12      \$100,000 OR 50% OF THE TOTAL CAPITAL DEVELOPMENT PROJECT  
13      COSTS, WHICHEVER IS LESS.

14              (III)  EXCEPT FOR LOANS TO AGRICULTURAL PRODUCERS, A  
15      LOAN MUST CREATE OR PRESERVE ONE JOB FOR EVERY \$25,000  
16      LOANED.

17              (2)    THE DEPARTMENT SHALL NOTIFY THE AREA LOAN  
18      ORGANIZATION AND APPLICANT OF ITS DECISION.

19              (D)    APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE  
20      DEPARTMENT SHALL DRAW AN ADVANCE EQUAL TO THE PRINCIPAL AMOUNT  
21      OF THE LOAN FROM THE FUND. THE ADVANCE SHALL BE FORWARDED TO THE  
22      AREA LOAN ORGANIZATION AND, UPON RECEIPT BY THE AREA LOAN  
23      ORGANIZATION, SHALL BECOME AN OBLIGATION OF THE AREA LOAN  
24      ORGANIZATION. PRIOR TO PROVIDING LOAN FUNDS TO THE APPLICANT,  
25      THE AREA LOAN ORGANIZATION SHALL REQUIRE THE APPLICANT TO  
26      EXECUTE A NOTE AND TO ENTER INTO A LOAN AGREEMENT. IN ADDITION  
27      TO THE REQUIREMENTS OF SUBSECTION (E), THE LOAN AGREEMENT SHALL  
28      INCLUDE A PROVISION REQUIRING THE RECIPIENT TO USE THE LOAN  
29      PROCEEDS TO PAY THE COSTS OF THE CAPITAL DEVELOPMENT PROJECT.  
30      THE DEPARTMENT MAY REQUIRE THE AREA LOAN ORGANIZATION TO IMPOSE

1 OTHER TERMS AND CONDITIONS ON THE RECIPIENT IF THE DEPARTMENT  
2 DETERMINES THAT THEY ARE IN THE BEST INTERESTS OF THIS  
3 COMMONWEALTH, INCLUDING A PROVISION REQUIRING COLLATERAL FOR ANY  
4 PENALTY IMPOSED UNDER SUBSECTION (G).

5 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE  
6 WITH SUBSECTION (C) SHALL DO ALL OF THE FOLLOWING:

7 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS  
8 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE  
9 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE AREA  
10 LOAN ORGANIZATION WITH THE APPROVAL OF THE DEPARTMENT.

11 (2) STATE THE REPAYMENT PERIOD IN ACCORDANCE WITH THE  
12 FOLLOWING:

13 (I) A LOAN FOR REAL PROPERTY SHALL HAVE A REPAYMENT  
14 PERIOD OF UP TO 15 YEARS.

15 (II) A LOAN FOR MACHINERY AND EQUIPMENT SHALL HAVE A  
16 REPAYMENT PERIOD OF UP TO TEN YEARS.

17 (III) A LOAN FOR WORKING CAPITAL SHALL HAVE A  
18 REPAYMENT PERIOD OF UP TO THREE YEARS.

19 (IV) IF, IN A CAPITAL DEVELOPMENT PROJECT, THERE ARE  
20 TWO OR MORE USES PLANNED, THE LOAN TERMS MAY BE BLENDED.

21 (3) STATE THE INTEREST RATE IN ACCORDANCE WITH THE  
22 FOLLOWING:

23 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II), LOANS  
24 SHALL BE MADE AT AN INTEREST RATE NOT TO EXCEED 5% FOR  
25 THE TERM OF THE LOAN.

26 (II) A LOAN TO A SMALL BUSINESS WHICH IS AN  
27 AGRICULTURAL PRODUCER SHALL BE MADE AT AN INTEREST RATE  
28 OF NOT LESS THAN 2% FOR THE TERM OF THE LOAN IF ALL OF  
29 THE FOLLOWING APPLY:

30 (A) A DECLARATION UNDER 35 PA.C.S. § 7301(C)



1 (RELATING TO GENERAL AUTHORITY OF GOVERNOR) IS IN  
2 EFFECT FOR AT LEAST TEN DAYS PRIOR TO THE DATE OF  
3 APPLICATION.

4 (B) THE APPLICATION IS MADE WITHIN NINE MONTHS  
5 OF TERMINATION OF THE DECLARATION.

6 (C) THE AGRICULTURAL PRODUCER IS IN THE AREA  
7 WHICH HAS BEEN DECLARED TO BE A NATURAL DISASTER  
8 AREA.

9 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION  
10 SHALL BE ADMINISTERED IN ACCORDANCE WITH DEPARTMENTAL POLICIES  
11 AND PROCEDURES BY THE AREA LOAN ORGANIZATION WHICH MADE THE  
12 LOAN. EACH AREA LOAN ORGANIZATION SHALL SUBMIT AN ANNUAL REPORT  
13 ON THE FORM REQUIRED BY THE DEPARTMENT AND WHICH INCLUDES OR  
14 DEMONSTRATES ALL OF THE FOLLOWING:

15 (1) EACH OUTSTANDING LOAN.

16 (2) THE DATE APPROVED.

17 (3) THE ORIGINAL PRINCIPAL AMOUNT.

18 (4) THE CURRENT PRINCIPAL BALANCE.

19 (5) THE INTEREST RATE.

20 (6) THE PURPOSE FOR WHICH THE LOAN WAS MADE.

21 (7) AN ENUMERATION OF ANY PROBLEMS OR ISSUES WHICH HAVE  
22 ARISEN WITH REGARD TO EACH LOAN.

23 (8) A STATEMENT REGARDING THE PROGRESS OF THE SMALL  
24 BUSINESS IN CREATING OR PRESERVING ITS REQUISITE NUMBER OF  
25 EMPLOYMENT OPPORTUNITIES.

26 (9) ANY OTHER INFORMATION OR DOCUMENTATION REQUIRED BY  
27 THE DEPARTMENT.

28 (G) PENALTY.--

29 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT  
30 SHALL IMPOSE A PENALTY UPON A RECIPIENT IF THE RECIPIENT

1 FAILS TO CREATE OR PRESERVE THE NUMBER OF EMPLOYMENT  
2 OPPORTUNITIES SPECIFIED IN ITS APPROVED APPLICATION.

3 (2) THE DEPARTMENT MAY WAIVE THE PENALTY REQUIRED BY  
4 PARAGRAPH (1) IF THE DEPARTMENT DETERMINES THAT THE FAILURE  
5 WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE  
6 RECIPIENT.

7 (3) THE AMOUNT OF THE PENALTY IMPOSED UNDER PARAGRAPH  
8 (1) SHALL BE EQUAL TO AN INCREASE IN THE INTEREST RATE TO 2%  
9 GREATER THAN THE CURRENT PRIME INTEREST RATE FOR THE  
10 REMAINDER OF THE LOAN.

11 (H) DEFAULTS.--THE DEPARTMENT MAY BY FORECLOSURE TAKE TITLE  
12 TO A CAPITAL DEVELOPMENT PROJECT WHICH IT FINANCED IF  
13 ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS  
14 SECTION. THE DEPARTMENT SHALL PAY ALL COSTS ARISING OUT OF THE  
15 FORECLOSURE AND ACQUISITION FROM MONEYS HELD IN THE FUND. THE  
16 DEPARTMENT MAY, IN ORDER TO MINIMIZE FINANCIAL LOSSES AND  
17 SUSTAIN EMPLOYMENT, LEASE THE CAPITAL DEVELOPMENT PROJECT. THE  
18 DEPARTMENT MAY WITHDRAW MONEYS FROM THE FUND TO PURCHASE FIRST  
19 MORTGAGES AND TO MAKE PAYMENTS ON FIRST MORTGAGES ON ANY CAPITAL  
20 DEVELOPMENT PROJECT WHICH IT FINANCED WHERE PURCHASE OR PAYMENT  
21 IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS SECTION. THE  
22 DEPARTMENT MAY SELL, TRANSFER, CONVEY AND ASSIGN THE FIRST  
23 MORTGAGES AND SHALL DEPOSIT ANY MONEYS DERIVED FROM THE SALE OF  
24 ANY FIRST MORTGAGES IN THE FUND.

25 § 2307. EDA LOANS.

26 (A) APPLICATION AND ADMINISTRATION PROCEDURES.--THE  
27 DEPARTMENT SHALL ESTABLISH APPLICATION AND ADMINISTRATION  
28 PROCEDURES TO BE USED FOR EDA LOANS. THE PROCEDURES SHALL BE  
29 ESTABLISHED BY GUIDELINES AND SHALL CONFORM IN ALL RESPECTS TO  
30 THOSE PROCEDURES REQUIRED OR ESTABLISHED BY THE ECONOMIC

1 DEVELOPMENT ADMINISTRATION FOR USE OF FEDERAL FUNDS UNDER THE  
2 PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 (PUBLIC LAW  
3 89-136, 42 U.S.C. § 3121 ET SEQ.).

4 (B) ELIGIBILITY FOR EDA LOANS.--THE DEPARTMENT SHALL  
5 ESTABLISH ELIGIBILITY REQUIREMENTS TO BE USED FOR EDA LOANS. THE  
6 REQUIREMENTS SHALL BE ESTABLISHED BY GUIDELINES AND SHALL  
7 CONFORM IN ALL RESPECTS TO THOSE PROCEDURES REQUIRED OR  
8 ESTABLISHED BY THE ECONOMIC DEVELOPMENT ADMINISTRATION FOR USE  
9 OF FEDERAL FUNDS UNDER THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT  
10 ACT OF 1965.

11 § 2308. LOANS IN DISTRESSED COMMUNITIES.

12 (A) APPLICATION.--A SMALL BUSINESS LOCATED IN A DISTRESSED  
13 COMMUNITY MAY SUBMIT AN APPLICATION AND ANY APPLICABLE  
14 APPLICATION FEE TO A COMMUNITY DEVELOPMENT INSTITUTION  
15 REQUESTING A LOAN FOR CERTAIN COSTS OF A CAPITAL DEVELOPMENT  
16 PROJECT. THE APPLICATION SHALL BE ON THE FORM REQUIRED BY THE  
17 DEPARTMENT AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE  
18 FOLLOWING:

19 (1) THE NAME AND ADDRESS OF THE APPLICANT.

20 (2) A STATEMENT THAT THE SMALL BUSINESS IS ENGAGED IN  
21 BUSINESS-TO-PUBLIC SERVICE OR IN THE MERCANTILE, COMMERCIAL  
22 OR POINT-OF-SALE RETAIL BUSINESS SECTORS.

23 (3) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

24 (4) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT,  
25 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

26 (5) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR  
27 THE COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE  
28 AMOUNT REQUESTED.

29 (6) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

30 (B) COMMUNITY DEVELOPMENT INSTITUTION REVIEW.--

1 (1) UPON RECEIPT OF A COMPLETED APPLICATION, A COMMUNITY  
2 DEVELOPMENT INSTITUTION SHALL INVESTIGATE AND DETERMINE ALL  
3 OF THE FOLLOWING:

4 (I) IF THE APPLICANT IS A SMALL BUSINESS WHICH IS  
5 ENGAGED IN BUSINESS-TO-PUBLIC SERVICE OR IN THE  
6 MERCANTILE, COMMERCIAL OR POINT-OF-SALE RETAIL BUSINESS  
7 SECTORS IN ACCORDANCE WITH CONDITIONS OR CRITERIA  
8 ESTABLISHED BY THE DEPARTMENT.

9 (II) IF THE PROJECT IS A CAPITAL DEVELOPMENT  
10 PROJECT.

11 (III) IF THE APPLICANT HAS DEMONSTRATED A DIRECT  
12 IMPACT ON THE COMMUNITY IN WHICH THE CAPITAL DEVELOPMENT  
13 PROJECT IS OR WILL BE LOCATED, ON RESIDENTS OF THAT  
14 COMMUNITY OR ON THE LOCAL AND/OR REGIONAL ECONOMY. THE  
15 DEPARTMENT SHALL ESTABLISH CRITERIA THAT WILL ASSIST IN  
16 MAKING THIS DEMONSTRATION.

17 (IV) NUMBER OF EMPLOYMENT OPPORTUNITIES TO BE  
18 CREATED OR PRESERVED BY THE PROPOSED CAPITAL DEVELOPMENT  
19 PROJECT.

20 (V) IF THE APPLICANT COMPLIED WITH ALL OTHER  
21 CRITERIA ESTABLISHED BY THE DEPARTMENT.

22 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN  
23 MET, THE COMMUNITY DEVELOPMENT INSTITUTION SHALL RECOMMEND  
24 THE APPLICANT TO THE DEPARTMENT AND FORWARD THE APPLICATION  
25 WITH ALL SUPPORTING DOCUMENTATION TO THE DEPARTMENT FOR ITS  
26 REVIEW AND APPROVAL.

27 (C) DEPARTMENT REVIEW.--

28 (1) UPON RECEIPT OF A RECOMMENDATION AND A COMPLETED  
29 APPLICATION, THE DEPARTMENT SHALL INVESTIGATE AND DETERMINE  
30 ALL OF THE FOLLOWING:

1 (I) THE ABILITY OF THE APPLICANT TO MEET AND SATISFY  
2 THE DEBT SERVICE AS IT BECOMES DUE AND PAYABLE. IN  
3 REVIEWING REPAYMENT OBLIGATIONS, LOANS SHALL NOT BE  
4 APPROVED ON THE BASIS OF DIRECT FINANCIAL RETURN ON  
5 INVESTMENT AND SHALL NOT BE HELD TO THE LOAN LOSS  
6 STANDARDS OF PRIVATE COMMERCIAL LENDERS. LOANS SHALL BE  
7 REVIEWED FOR THE PURPOSE OF ESTABLISHING A STRONG  
8 ECONOMIC BASE AND PROMOTING ENTREPRENEURIAL ACTIVITY  
9 WITHIN THE DISTRESSED COMMUNITY.

10 (II) THE EXISTENCE AND SUFFICIENCY OF COLLATERAL FOR  
11 THE LOAN.

12 (III) RELEVANT CRIMINAL AND CREDIT HISTORY AND  
13 RATINGS OF THE APPLICANT AS DETERMINED FROM OUTSIDE  
14 CREDIT REPORTING SERVICES AND OTHER SOURCES.

15 (2) IF THE DEPARTMENT IS SATISFIED THAT ALL REQUIREMENTS  
16 HAVE BEEN MET, THE DEPARTMENT MAY APPROVE THE LOAN REQUEST IN  
17 AN AMOUNT NOT TO EXCEED \$200,000 OR 50% OF THE TOTAL CAPITAL  
18 DEVELOPMENT PROJECT COSTS, WHICHEVER IS LESS. FOR THE PURPOSE  
19 OF THIS PARAGRAPH, CAPITAL DEVELOPMENT PROJECT COSTS, EXCEPT  
20 THE COSTS RELATED TO WORKING CAPITAL, INCURRED DURING THE 12-  
21 MONTH PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE  
22 APPLICATION TO THE DEPARTMENT SHALL BE CONSIDERED PART OF THE  
23 TOTAL CAPITAL DEVELOPMENT PROJECT COSTS.

24 (3) THE DEPARTMENT SHALL NOTIFY THE COMMUNITY  
25 DEVELOPMENT INSTITUTION AND APPLICANT OF ITS DECISION.

26 (D) APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE  
27 DEPARTMENT SHALL DRAW AN ADVANCE EQUAL TO THE PRINCIPAL AMOUNT  
28 OF THE LOAN FROM THE FUND AND, PRIOR TO PROVIDING LOAN FUNDS TO  
29 THE APPLICANT, THE DEPARTMENT SHALL REQUIRE THE APPLICANT TO  
30 EXECUTE A NOTE AND TO ENTER INTO A LOAN AGREEMENT. IN ADDITION

1 TO THE REQUIREMENTS OF SUBSECTION (E), THE LOAN AGREEMENT SHALL  
2 INCLUDE A PROVISION REQUIRING THE RECIPIENT TO USE THE LOAN  
3 PROCEEDS TO PAY THE COSTS OF THE CAPITAL DEVELOPMENT PROJECT.  
4 THE DEPARTMENT MAY IMPOSE OTHER TERMS AND CONDITIONS ON THE  
5 RECIPIENT IF THE DEPARTMENT DETERMINES THEY ARE IN THE BEST  
6 INTERESTS OF THIS COMMONWEALTH, INCLUDING A PROVISION REQUIRING  
7 COLLATERAL FOR ANY PENALTY IMPOSED UNDER SUBSECTION (G).

8 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE  
9 WITH SUBSECTION (D) SHALL DO ALL OF THE FOLLOWING:

10 (1) STATE ANY COLLATERAL SECURING THE LOAN. THE  
11 DEPARTMENT MAY USE ITS BEST JUDGMENT TO IDENTIFY AND SECURE  
12 COLLATERAL.

13 (2) STATE THE REPAYMENT PERIOD WHICH MAY BE FLEXIBLE.

14 (3) STATE THE INTEREST RATE WHICH MAY NOT BE LESS THAN  
15 2% NOR MORE THAN 5% FOR THE TERM OF THE LOAN.

16 (4) STATE THAT THE RECIPIENT AGREES TO MAINTAIN, AT A  
17 MINIMUM, THE NUMBER OF JOBS IN EXISTENCE AS OF THE DATE OF  
18 LOAN APPLICATION.

19 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION  
20 SHALL BE ADMINISTERED IN ACCORDANCE WITH DEPARTMENTAL POLICIES  
21 AND PROCEDURES.

22 (G) PENALTY.--

23 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT  
24 SHALL IMPOSE A PENALTY UPON A RECIPIENT IF THE RECIPIENT  
25 FAILS TO PRESERVE THE NUMBER OF EMPLOYMENT OPPORTUNITIES  
26 SPECIFIED IN ITS APPROVED APPLICATION.

27 (2) THE DEPARTMENT MAY WAIVE THE PENALTY REQUIRED BY  
28 PARAGRAPH (1) IF THE DEPARTMENT DETERMINES THAT THE FAILURE  
29 WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE  
30 RECIPIENT.

1           (3) THE AMOUNT OF ANY PENALTY IMPOSED UNDER PARAGRAPH  
2           (1) SHALL BE EQUAL TO AN INCREASE IN THE INTEREST RATE TO 2%  
3           GREATER THAN THE CURRENT PRIME INTEREST RATE FOR THE  
4           REMAINDER OF THE LOAN.

5           (H) DEFAULTS.--THE DEPARTMENT MAY TAKE TITLE BY FORECLOSURE  
6 TO A CAPITAL DEVELOPMENT PROJECT WHICH IT FINANCED WHERE  
7 ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS  
8 SECTION. THE DEPARTMENT SHALL PAY ALL COSTS ARISING OUT OF THE  
9 FORECLOSURE AND ACQUISITION FROM MONEY HELD IN THE FUND. THE  
10 DEPARTMENT MAY, IN ORDER TO MINIMIZE FINANCIAL LOSSES AND  
11 SUSTAIN EMPLOYMENT, LEASE THE CAPITAL DEVELOPMENT PROJECT. THE  
12 DEPARTMENT MAY WITHDRAW MONEY FROM THE FUND TO PURCHASE FIRST  
13 MORTGAGES AND TO MAKE PAYMENTS ON FIRST MORTGAGES ON ANY CAPITAL  
14 DEVELOPMENT PROJECT WHICH IT FINANCED IF PURCHASE OR PAYMENT IS  
15 NECESSARY TO PROTECT A LOAN MADE UNDER THIS SECTION. THE  
16 DEPARTMENT MAY SELL, TRANSFER, CONVEY AND ASSIGN THE FIRST  
17 MORTGAGES AND SHALL DEPOSIT IN THE FUND MONEY DERIVED FROM THE  
18 SALE OF ANY FIRST MORTGAGES.

19 § 2309. POLLUTION PREVENTION ASSISTANCE LOANS.

20           (A) APPLICATION.--A SMALL BUSINESS MAY SUBMIT AN APPLICATION  
21 AND ANY APPLICATION FEE TO A POLLUTION PREVENTION ASSISTANCE  
22 AGENCY REQUESTING A LOAN FOR A POLLUTION PREVENTION  
23 INFRASTRUCTURE. THE APPLICATION SHALL BE ON THE FORM REQUIRED BY  
24 THE DEPARTMENT AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE  
25 FOLLOWING:

26           (1) THE NAME AND ADDRESS OF THE APPLICANT.

27           (2) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

28           (3) A STATEMENT OF THE POLLUTION PREVENTION

29           INFRASTRUCTURE, INCLUDING A DETAILED STATEMENT OF THE COST OF  
30           THE INFRASTRUCTURE.

1 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR  
2 THE COST OF THE POLLUTION PREVENTION INFRASTRUCTURE IN EXCESS  
3 OF THE AMOUNT REQUESTED.

4 (5) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

5 (B) POLLUTION PREVENTION ASSISTANCE AGENCY REVIEW.--

6 (1) UPON RECEIPT OF A COMPLETED APPLICATION, A POLLUTION  
7 PREVENTION ASSISTANCE AGENCY SHALL INVESTIGATE AND DETERMINE  
8 ALL OF THE FOLLOWING:

9 (I) IF THE APPLICANT IS A SMALL BUSINESS.

10 (II) IF THE PROJECT IS FOR POLLUTION PREVENTION  
11 INFRASTRUCTURE.

12 (III) IF THE APPLICANT COMPLIED WITH ALL OTHER  
13 CRITERIA ESTABLISHED BY THE DEPARTMENT.

14 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN  
15 MET, THE POLLUTION PREVENTION ASSISTANCE AGENCY SHALL  
16 RECOMMEND THE APPLICANT TO THE DEPARTMENT AND FORWARD THE  
17 APPLICATION WITH ALL SUPPORTING DOCUMENTATION TO THE  
18 DEPARTMENT FOR ITS REVIEW AND APPROVAL.

19 (C) DEPARTMENT REVIEW.--

20 (1) UPON RECEIPT OF A RECOMMENDATION AND A COMPLETED  
21 APPLICATION, THE DEPARTMENT SHALL INVESTIGATE AND DETERMINE  
22 ALL OF THE FOLLOWING:

23 (I) IF THE POLLUTION PREVENTION INFRASTRUCTURE  
24 DEMONSTRATES A SUBSTANTIAL LIKELIHOOD OF PREVENTING OR  
25 REDUCING POLLUTION. THE DEPARTMENT OF ENVIRONMENTAL  
26 PROTECTION SHALL ASSIST THE DEPARTMENT IN REVIEWING THE  
27 APPLICATIONS AND PROVIDE TECHNICAL ASSISTANCE.

28 (II) THE ABILITY OF THE APPLICANT TO MEET AND  
29 SATISFY THE DEBT SERVICE AS IT BECOMES DUE AND PAYABLE.

30 IN REVIEWING REPAYMENT OBLIGATIONS, LOANS SHALL NOT BE



1 APPROVED ON THE BASIS OF DIRECT FINANCIAL RETURN ON  
2 INVESTMENT AND SHALL NOT BE HELD TO THE LOAN LOSS  
3 STANDARDS OF PRIVATE COMMERCIAL LENDERS. LOANS SHALL BE  
4 REVIEWED FOR THE PURPOSE OF REDUCING POLLUTION THROUGH  
5 SOURCE REDUCTION TECHNOLOGIES OR PROCESSES.

6 (III) THE EXISTENCE AND SUFFICIENCY OF COLLATERAL  
7 FOR THE LOAN.

8 (IV) RELEVANT CRIMINAL AND CREDIT HISTORY AND  
9 RATINGS OF THE APPLICANT AS DETERMINED FROM OUTSIDE  
10 CREDIT REPORTING SERVICES AND OTHER SOURCES.

11 (2) IF THE DEPARTMENT IS SATISFIED THAT ALL REQUIREMENTS  
12 HAVE BEEN MET, THE DEPARTMENT MAY APPROVE THE LOAN REQUEST. A  
13 LOAN APPROVED UNDER THIS SUBSECTION MAY NOT EXCEED THE LESSER  
14 OF:

15 (I) \$100,000; OR

16 (II) 75% OF INFRASTRUCTURE COSTS.

17 (3) THE DEPARTMENT SHALL NOTIFY THE POLLUTION PREVENTION  
18 ASSISTANCE AGENCY AND APPLICANT OF ITS DECISION.

19 (D) APPROVALS.--FOR APPLICATIONS WHICH ARE APPROVED, THE  
20 DEPARTMENT SHALL DRAW AN ADVANCE EQUAL TO THE PRINCIPAL AMOUNT  
21 OF THE LOAN FROM THE POLLUTION PREVENTION ASSISTANCE ACCOUNT.  
22 PRIOR TO PROVIDING LOAN FUNDS TO THE APPLICANT, THE DEPARTMENT  
23 SHALL REQUIRE THE APPLICANT TO EXECUTE A NOTE AND TO ENTER INTO  
24 A LOAN AGREEMENT. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION  
25 (E), THE LOAN AGREEMENT SHALL INCLUDE A PROVISION REQUIRING THE  
26 RECIPIENT TO USE THE LOAN PROCEEDS TO PAY THE COSTS OF THE  
27 POLLUTION PREVENTION INFRASTRUCTURE. THE DEPARTMENT MAY IMPOSE  
28 OTHER TERMS AND CONDITIONS ON THE RECIPIENT IF THE DEPARTMENT  
29 DETERMINES THEY ARE IN THE BEST INTERESTS OF THIS COMMONWEALTH,  
30 INCLUDING A PROVISION REQUIRING COLLATERAL FOR ANY PENALTY

1 IMPOSED UNDER SUBSECTION (G).

2 (E) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE  
3 WITH SUBSECTION (D) SHALL DO ALL OF THE FOLLOWING:

4 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS  
5 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE  
6 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE  
7 DEPARTMENT.

8 (2) STATE THE REPAYMENT PERIOD WHICH MAY NOT EXCEED 10  
9 YEARS.

10 (3) STATE THAT THE INTEREST RATE IS 2%.

11 (4) STATE THAT ANY LOAN FEE IS NOT TO EXCEED 5% OF THE  
12 LOAN AMOUNT.

13 (F) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION  
14 SHALL BE ADMINISTERED IN ACCORDANCE WITH DEPARTMENTAL POLICIES  
15 AND PROCEDURES.

16 (G) PENALTY.--

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT  
18 SHALL IMPOSE A PENALTY UPON A RECIPIENT IF THE RECIPIENT  
19 FAILS TO CARRY OUT THE POLLUTION PREVENTION INFRASTRUCTURE  
20 PROJECT AS SPECIFIED IN ITS APPROVED APPLICATION.

21 (2) THE DEPARTMENT MAY WAIVE THE PENALTY REQUIRED BY  
22 PARAGRAPH (1) IF THE DEPARTMENT DETERMINES THAT THE FAILURE  
23 WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE  
24 RECIPIENT.

25 (3) THE AMOUNT OF ANY PENALTY IMPOSED UNDER PARAGRAPH  
26 (1) SHALL BE EQUAL TO AN INCREASE IN THE INTEREST RATE TO 2%  
27 GREATER THAN THE CURRENT PRIME INTEREST RATE FOR THE  
28 REMAINDER OF THE LOAN.

29 (H) DEFAULTS.--THE DEPARTMENT MAY TAKE TITLE BY FORECLOSURE  
30 TO A POLLUTION PREVENTION INFRASTRUCTURE WHICH IT FINANCED IF

1 ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS  
2 SECTION. THE DEPARTMENT SHALL PAY ALL COSTS ARISING OUT OF THE  
3 FORECLOSURE AND ACQUISITION FROM MONEY HELD IN THE POLLUTION  
4 PREVENTION ASSISTANCE ACCOUNT. THE DEPARTMENT MAY, IN ORDER TO  
5 MINIMIZE FINANCIAL LOSSES AND SUSTAIN EMPLOYMENT, LEASE THE  
6 POLLUTION PREVENTION INFRASTRUCTURE. THE DEPARTMENT MAY WITHDRAW  
7 MONEY FROM THE POLLUTION PREVENTION ASSISTANCE ACCOUNT TO  
8 PURCHASE FIRST MORTGAGES AND TO MAKE PAYMENTS ON FIRST MORTGAGES  
9 ON ANY POLLUTION PREVENTION INFRASTRUCTURE WHICH IT FINANCED IF  
10 THE PURCHASE OR PAYMENT IS NECESSARY TO PROTECT A LOAN MADE  
11 UNDER THIS SECTION. THE DEPARTMENT MAY SELL, TRANSFER, CONVEY  
12 AND ASSIGN THE FIRST MORTGAGES AND SHALL DEPOSIT ANY MONEY  
13 DERIVED FROM THE SALE OF ANY FIRST MORTGAGES IN THE POLLUTION  
14 PREVENTION ASSISTANCE ACCOUNT.

15 § 2310. EXPORT FINANCING LOANS.

16 (A) APPLICATION.--A PERSON MAY SUBMIT AN APPLICATION AND ANY  
17 APPLICABLE APPLICATION FEE TO THE DEPARTMENT OR ITS AREA LOAN  
18 ORGANIZATION REQUESTING A LOAN FOR CERTAIN COSTS OF A CAPITAL  
19 DEVELOPMENT PROJECT WHICH WILL BE USED IN EXPORT ACTIVITIES. THE  
20 APPLICATION MUST BE ON THE FORM REQUIRED BY THE DEPARTMENT AND  
21 MUST INCLUDE OR DEMONSTRATE ALL OF THE FOLLOWING:

22 (1) THE NAME AND ADDRESS OF THE APPLICANT.

23 (2) A STATEMENT OF THE AMOUNT OF LOAN ASSISTANCE SOUGHT.

24 (3) A STATEMENT OF THE CAPITAL DEVELOPMENT PROJECT,  
25 INCLUDING A DETAILED STATEMENT OF THE COST OF THE PROJECT.

26 (4) A FINANCIAL COMMITMENT FROM A RESPONSIBLE SOURCE FOR  
27 ANY COST OF THE CAPITAL DEVELOPMENT PROJECT IN EXCESS OF THE  
28 AMOUNT REQUESTED.

29 (5) A STATEMENT THAT THE LOAN, IF APPROVED, WOULD NOT  
30 SUPPLANT FUNDING FROM PRIVATE SECTOR SOURCES ON COMMERCIALY

1 REASONABLE TERMS.

2 (6) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

3 (B) REVIEW.--UPON RECEIPT OF A COMPLETED APPLICATION, THE  
4 DEPARTMENT SHALL INVESTIGATE AND DETERMINE ALL OF THE FOLLOWING:

5 (1) IF THE APPLICANT IS AN EXPORT BUSINESS.

6 (2) IF THE PROJECT IS A CAPITAL DEVELOPMENT PROJECT.

7 (3) THE ABILITY OF THE APPLICANT TO MEET AND SATISFY THE  
8 DEBT SERVICE AS IT BECOMES DUE AND PAYABLE.

9 (4) THE EXISTENCE AND SUFFICIENCY OF COLLATERAL FOR THE  
10 LOAN.

11 (5) RELEVANT CRIMINAL AND CREDIT HISTORY AND RATINGS OF  
12 THE APPLICANT AS DETERMINED FROM OUTSIDE CREDIT REPORTING  
13 SERVICES AND OTHER SOURCES.

14 (6) NUMBER OF EMPLOYMENT OPPORTUNITIES TO BE CREATED OR  
15 PRESERVED BY THE PROPOSED CAPITAL DEVELOPMENT PROJECT.

16 (7) IF THE APPLICANT COMPLIED WITH ALL OTHER CRITERIA  
17 ESTABLISHED BY THE DEPARTMENT.

18 (C) APPROVALS.--IF THE DEPARTMENT IS SATISFIED THAT ALL  
19 REQUIREMENTS HAVE BEEN MET, THE DEPARTMENT MAY APPROVE THE LOAN  
20 REQUEST. A LOAN APPROVED UNDER THIS SECTION MAY NOT EXCEED  
21 \$350,000. THE DEPARTMENT SHALL NOTIFY THE APPLICANT AND, IF  
22 APPLICABLE, THE AREA LOAN ORGANIZATION OF ITS DECISION. THE  
23 DEPARTMENT SHALL RESERVE AN AMOUNT EQUAL TO THE PRINCIPAL AMOUNT  
24 OF THE LOAN WITHIN THE FUND OR THE SPECIAL ACCOUNT AUTHORIZED BY  
25 SECTION 2304(C)(2) (RELATING TO FUND AND ACCOUNTS). PRIOR TO  
26 PROVIDING FUNDS TO THE APPLICANT, THE DEPARTMENT SHALL REQUIRE  
27 THE APPLICANT TO EXECUTE A NOTE AND ENTER INTO A LOAN AGREEMENT.  
28 IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (D), THE LOAN  
29 AGREEMENT SHALL INCLUDE A PROVISION REQUIRING THE RECIPIENT TO  
30 USE THE LOAN PROCEEDS TO PAY THE COSTS OF THE CAPITAL

1 DEVELOPMENT PROJECT. THE DEPARTMENT MAY IMPOSE OTHER TERMS AND  
2 CONDITIONS ON THE RECIPIENT IF THE DEPARTMENT DETERMINES THEY  
3 ARE IN THE BEST INTERESTS OF THIS COMMONWEALTH, INCLUDING ANY OF  
4 THE FOLLOWING:

5 (1) A PROVISION REQUIRING COLLATERAL FOR ANY PENALTY  
6 IMPOSED UNDER SUBSECTION (F).

7 (2) A PROVISION REQUIRING THE PERSON TO BE ELIGIBLE FOR  
8 AN INSURANCE POLICY.

9 (3) A PROVISION REQUIRING THE LOAN TO BE GUARANTEED BY  
10 THE WORKING CAPITAL GUARANTY PROGRAM OFFERED BY THE EX-IM  
11 BANK.

12 (4) A PROVISION REQUIRING AN EXPORT CREDIT SALES  
13 CONTRACT INSURED BY AN INSURANCE POLICY.

14 (D) LOAN TERMS.--A LOAN AGREEMENT ENTERED INTO IN ACCORDANCE  
15 WITH SUBSECTION (C) SHALL DO ALL OF THE FOLLOWING:

16 (1) STATE THE COLLATERAL SECURING THE LOAN. ALL LOANS  
17 SHALL BE SECURED BY LIEN POSITIONS ON COLLATERAL AT THE  
18 HIGHEST LEVEL OF PRIORITY AS MAY BE DETERMINED BY THE  
19 DEPARTMENT.

20 (2) STATE THE REPAYMENT PERIOD AS DETERMINED BY THE  
21 DEPARTMENT.

22 (3) STATE THE INTEREST RATE AS DETERMINED BY THE  
23 DEPARTMENT.

24 (E) LOAN ADMINISTRATION.--A LOAN MADE UNDER THIS SECTION  
25 SHALL BE ADMINISTERED IN ACCORDANCE WITH DEPARTMENTAL POLICIES  
26 AND PROCEDURES.

27 (F) PENALTY.--

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT  
29 SHALL IMPOSE A PENALTY UPON A RECIPIENT IF THE RECIPIENT  
30 FAILS TO CARRY OUT THE EXPORT ACTIVITIES SPECIFIED IN ITS

1 APPROVED APPLICATION.

2 (2) THE DEPARTMENT MAY WAIVE THE PENALTY REQUIRED BY  
3 PARAGRAPH (1) IF THE DEPARTMENT DETERMINES THAT THE FAILURE  
4 WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE  
5 RECIPIENT.

6 (3) THE AMOUNT OF THE PENALTY IMPOSED UNDER PARAGRAPH  
7 (1) SHALL BE EQUAL TO AN INCREASE IN THE INTEREST RATE TO 2%  
8 GREATER THAN THE CURRENT PRIME INTEREST RATE FOR THE  
9 REMAINDER OF THE LOAN.

10 (G) DEFAULTS.--THE DEPARTMENT MAY, BY FORECLOSURE, TAKE  
11 TITLE TO A CAPITAL DEVELOPMENT PROJECT WHICH IT FINANCED IF  
12 ACQUISITION IS NECESSARY TO PROTECT A LOAN MADE UNDER THIS  
13 SECTION. THE DEPARTMENT SHALL PAY ALL COSTS ARISING OUT OF THE  
14 FORECLOSURE AND ACQUISITION FROM MONEY HELD IN THE FUND OR A  
15 SPECIAL ACCOUNT AUTHORIZED BY SECTION 2304(C)(2). THE DEPARTMENT  
16 MAY, IN ORDER TO MINIMIZE FINANCIAL LOSSES AND SUSTAIN  
17 EMPLOYMENT, LEASE THE CAPITAL DEVELOPMENT PROJECT. THE  
18 DEPARTMENT MAY WITHDRAW MONEY FROM THE FUND OR A SPECIAL ACCOUNT  
19 AUTHORIZED BY SECTION 2304(C)(2) TO PURCHASE FIRST MORTGAGES AND  
20 TO MAKE PAYMENTS ON FIRST MORTGAGES ON ANY CAPITAL DEVELOPMENT  
21 PROJECT WHICH IT FINANCED IF PURCHASE OR PAYMENT IS NECESSARY TO  
22 PROTECT A LOAN MADE UNDER THIS SECTION. THE DEPARTMENT MAY SELL,  
23 TRANSFER, CONVEY AND ASSIGN THE FIRST MORTGAGES AND SHALL  
24 DEPOSIT ANY MONEY DERIVED FROM THE SALE OF ANY FIRST MORTGAGES  
25 IN THE FUND OR A SPECIAL ACCOUNT AUTHORIZED BY SECTION  
26 2304(C)(2).

27 § 2311. REPORTING AND INSPECTION.

28 (A) INSPECTION.--AN APPLICANT OR A RECIPIENT SHALL, UPON  
29 REQUEST, PERMIT AUTHORIZED EMPLOYEES OF THE DEPARTMENT OR ITS  
30 AGENT TO INSPECT THE PLANT, BOOKS AND RECORDS OF THE APPLICANT

1 OR RECIPIENT.

2 (B) UPDATING.--AN APPLICANT OR A RECIPIENT SHALL PROVIDE  
3 UPDATED INFORMATION TO THE DEPARTMENT AND ITS AGENTS IF  
4 CONDITIONS CHANGE OR TO THE EXTENT THAT THE INFORMATION  
5 ORIGINALLY GIVEN BECOMES INACCURATE OR MISLEADING.

6 (C) PERIODIC REPORTS.--A RECIPIENT SHALL PROVIDE THE  
7 DEPARTMENT AND ITS AGENTS WITH SUCH PERIODIC FINANCIAL REPORTS  
8 AS THE DEPARTMENT MAY REQUIRE UNTIL THE LOAN IS REPAID IN FULL.

9 (D) FINANCIAL AND PERFORMANCE AUDITS.--AN AGENT OF THE  
10 DEPARTMENT SHALL ANNUALLY SUBMIT TO THE DEPARTMENT, AT THE  
11 AGENT'S EXPENSE, AN INDEPENDENT FINANCIAL AUDIT. IF THE AUDIT  
12 REVEALS MISCONDUCT OF A MATERIAL NATURE ON THE PART OF THE  
13 AGENT, THE DEPARTMENT SHALL TAKE APPROPRIATE ACTION.

14 § 2312. LIMITATIONS.

15 NO LOANS SHALL BE RECOMMENDED OR APPROVED IF THE PROCEEDS OF  
16 THE LOAN COULD DO ANY OF THE FOLLOWING:

17 (1) CAUSE, AID OR ASSIST DIRECTLY IN THE RELOCATION OF  
18 ANY BUSINESS OPERATIONS FROM ONE PART OF THIS COMMONWEALTH TO  
19 ANOTHER UNLESS THERE IS AT LEAST A 25% NET INCREASE IN  
20 EMPLOYMENT.

21 (2) REFINANCE ANY PORTION OF THE TOTAL COST OF A CAPITAL  
22 DEVELOPMENT PROJECT, POLLUTION PREVENTION INFRASTRUCTURE OR  
23 OTHER EXISTING LOANS OR DEBT.

24 (3) FINANCE A CAPITAL DEVELOPMENT PROJECT OR POLLUTION  
25 PREVENTION INFRASTRUCTURE LOCATED OUTSIDE THE GEOGRAPHIC  
26 BOUNDARIES OF THIS COMMONWEALTH.

27 (4) PROVIDE FUNDS, DIRECTLY OR INDIRECTLY, FOR PAYMENT  
28 DISTRIBUTION OR AS LOAN OWNERS, PARTNERS OR SHAREHOLDERS OF A  
29 SMALL BUSINESS, EXCEPT AS ORDINARY COMPENSATION FOR SERVICES  
30 RENDERED.

1 (5) PROVIDE FUNDS FOR SPECULATION IN REAL OR PERSONAL  
2 PROPERTY, WHETHER TANGIBLE OR INTANGIBLE.

3 CHAPTER 25  
4 INDUSTRIAL DEVELOPMENT ASSISTANCE

5 (RESERVED)

6 CHAPTER 27  
7 CUSTOMIZED JOB TRAINING

8 (RESERVED)

9 CHAPTER 29  
10 MACHINERY AND EQUIPMENT LOAN

11 SEC.

12 2901. SCOPE.

13 2902. DEFINITIONS.

14 2903. ESTABLISHMENT.

15 2904. MACHINERY AND EQUIPMENT LOAN FUND.

16 2905. ELIGIBILITY FOR LOANS; TERMS AND CONDITIONS.

17 2906. APPLICATION AND ADMINISTRATION.

18 2907. POWERS OF SECRETARY.

19 2908. REPORTING AND INSPECTION.

20 2909. NONDISCRIMINATION.

21 2910. CONFLICT OF INTEREST.

22 2911. REPORTS TO GENERAL ASSEMBLY.

23 2912. GUIDELINES.

24 § 2901. SCOPE.

25 THIS CHAPTER RELATES TO THE MACHINERY AND EQUIPMENT LOAN  
26 PROGRAM.

27 § 2902. DEFINITIONS.

28 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
29 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
30 CONTEXT CLEARLY INDICATES OTHERWISE:



1 "BUSINESS ENTERPRISE." A FOR-PROFIT CORPORATION, PARTNERSHIP  
2 OR PROPRIETORSHIP. THE TERM INCLUDES A MEDICAL FACILITY.

3 "FARM COMMODITY." ANY PENNSYLVANIA-GROWN AGRICULTURAL,  
4 HORTICULTURAL, AQUACULTURAL, VEGETABLE, FRUIT AND FLORICULTURAL  
5 PRODUCT OF THE SOIL, LIVESTOCK AND MEATS, WOOLS, HIDES, FURS,  
6 POULTRY, EGGS, DAIRY PRODUCTS, NUTS, MUSHROOMS, HONEY PRODUCTS  
7 AND FOREST PRODUCTS.

8 "FUND." THE MACHINERY AND EQUIPMENT LOAN FUND CREATED AND  
9 ESTABLISHED BY THIS CHAPTER.

10 "MEDICAL FACILITY." AN ENTITY LICENSED AS A HOSPITAL UNDER  
11 THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC  
12 WELFARE CODE, OR THE ACT OF JULY 19, 1979 (P.L.130, NO.48),  
13 KNOWN AS THE HEALTH CARE FACILITIES ACT.

14 "NORMAL AGRICULTURAL OPERATION." THE TERM SHALL HAVE THE  
15 SAME MEANING AS GIVEN TO IT IN SECTION 2 OF THE ACT OF JUNE 10,  
16 1982 (P.L.454, NO.133), ENTITLED "AN ACT PROTECTING AGRICULTURAL  
17 OPERATIONS FROM NUISANCE SUITS AND ORDINANCES UNDER CERTAIN  
18 CIRCUMSTANCES."

19 "PRODUCTION AGRICULTURE." THE MANAGEMENT AND USE OF A NORMAL  
20 AGRICULTURAL OPERATION FOR THE PRODUCTION OF A FARM COMMODITY.

21 § 2903. ESTABLISHMENT.

22 THERE IS ESTABLISHED WITHIN THE DEPARTMENT A PROGRAM TO BE  
23 KNOWN AS THE MACHINERY AND EQUIPMENT LOAN PROGRAM. THE PROGRAM  
24 SHALL BE ADMINISTERED BY THE DEPARTMENT AND PROVIDE LOANS TO  
25 BUSINESS ENTERPRISES FOR MACHINERY AND EQUIPMENT.

26 § 2904. MACHINERY AND EQUIPMENT LOAN FUND.

27 (A) CREATION.--THERE IS CREATED A SPECIAL ACCOUNT IN THE  
28 TREASURY DEPARTMENT, TO BE KNOWN AS THE MACHINERY AND EQUIPMENT  
29 LOAN FUND, TO WHICH SHALL BE CREDITED ALL PROGRAM APPROPRIATIONS  
30 MADE BY THE GENERAL ASSEMBLY, ALL PROCEEDS FROM LOAN REPAYMENTS

1 AND ANY AND ALL OTHER DEPOSITS, PAYMENTS OR CONTRIBUTIONS FROM  
2 ANY OTHER SOURCE MADE AVAILABLE TO THE FUND. THE FUND SHALL  
3 OPERATE AS A REVOLVING FUND WHEREBY ALL APPROPRIATIONS, PAYMENTS  
4 AND INTEREST MADE THERETO MAY BE APPLIED AND REAPPLIED TO THE  
5 PURPOSES OF THIS CHAPTER.

6 (B) CREDITS TO FUND.--ALL APPROPRIATIONS, DEPOSITS AND  
7 CONTRIBUTIONS MADE TO THE FUND SHALL BE IMMEDIATELY CREDITED IN  
8 FULL TO THE FUND, AND EARNINGS ON THE MONEYS HELD IN THE FUND  
9 SHALL ALSO BE CREDITED TO THE FUND FOR THE PURPOSES OF THIS  
10 CHAPTER.

11 § 2905. ELIGIBILITY FOR LOANS; TERMS AND CONDITIONS.

12 (A) LOANS; GENERAL RULES.--THE SECRETARY MAY MAKE ADVANCES  
13 FROM THE FUND, SUBJECT TO THE TERMS, CONDITIONS AND RESTRICTIONS  
14 PROVIDED UNDER THIS CHAPTER, FOR THE PURPOSE OF MAKING LOANS TO  
15 BUSINESS ENTERPRISES INVOLVED IN INDUSTRIAL PROCESSES, MINING,  
16 MANUFACTURING, PRODUCTION AGRICULTURE, INFORMATION TECHNOLOGY,  
17 BIOTECHNOLOGY, SERVICE AS A MEDICAL FACILITY OR OTHER INDUSTRIAL  
18 OR TECHNOLOGY SECTORS, AS DEFINED BY THE DEPARTMENT, TO ACQUIRE  
19 AND INSTALL NEW MACHINERY AND EQUIPMENT OR UPGRADE EXISTING  
20 MACHINERY AND EQUIPMENT, INCLUDING THE ACQUISITION, APPLICATION  
21 AND UTILIZATION OF COMPUTER HARDWARE AND SOFTWARE.

22 (1) ALL LOANS SHALL BE SUBJECT TO ALL OF THE FOLLOWING  
23 CONDITIONS:

24 (I) BE MADE TO ELIGIBLE BUSINESS ENTERPRISES UNDER  
25 THE PROVISIONS OF THIS CHAPTER.

26 (II) HAVE A MAXIMUM LOAN CEILING OF \$5,000,000 OR  
27 50% OF THE COST OF THE PROJECT, WHICHEVER IS LESS.

28 (III) BE LIMITED TO THE PURCHASE AND INSTALLATION OF  
29 NEW EQUIPMENT AND MACHINERY OR THE UPGRADE OF EXISTING  
30 MACHINERY AND EQUIPMENT. THIS SUBPARAGRAPH INCLUDES THE

1 ACQUISITION, APPLICATION AND UTILIZATION OF COMPUTER  
2 HARDWARE AND SOFTWARE.

3 (IV) BE LIMITED TO PROJECTS THAT DEMONSTRATE THE  
4 CREATION OR RETENTION OF ONE JOB FOR EVERY \$25,000  
5 RECEIVED FROM THE FUND. THIS SUBPARAGRAPH DOES NOT APPLY  
6 TO LOANS MADE TO BUSINESS ENTERPRISES INVOLVED IN  
7 PRODUCTION AGRICULTURE OR TO LOANS MADE TO MEDICAL  
8 FACILITIES.

9 (V) HAVE AN INTEREST RATE WHICH SHALL BE ESTABLISHED  
10 BY THE SECRETARY.

11 (VI) HAVE A TERM OF NOT IN EXCESS OF TEN YEARS.

12 (2) FOR LOANS TO MEDICAL FACILITIES, LOAN FUNDS MAY BE  
13 USED ONLY TO FINANCE THE ACQUISITION, INSTALLATION AND  
14 UTILIZATION OF MACHINERY AND EQUIPMENT, INCLUDING COMPUTER  
15 HARDWARE AND SOFTWARE COMPONENTS, TO BE USED IN THE  
16 PRESCRIBING AND DISPENSING OF MEDICATION FOR MEDICAL FACILITY  
17 PATIENTS.

18 (B) RESTRICTIONS.--NO LOANS SHALL BE MADE THAT DO ANY OF THE  
19 FOLLOWING:

20 (1) CAUSE, AID OR ASSIST IN, DIRECTLY OR INDIRECTLY, THE  
21 RELOCATION OF ANY BUSINESS ENTERPRISE FROM ONE PART OF THIS  
22 COMMONWEALTH TO ANOTHER UNLESS THERE IS AT LEAST A 25%  
23 INCREASE IN NET EMPLOYMENT.

24 (2) SUPPLANT FUNDING THAT IS OTHERWISE AVAILABLE  
25 EXPEDITIOUSLY FROM PRIVATE SECTOR SOURCES ON COMMERCIALY  
26 REASONABLE TERMS.

27 (3) BE FOR THE PURPOSE OF REFINANCING ANY PORTION OF THE  
28 TOTAL PROJECT COST OR OTHER EXISTING LOANS OR DEBT.

29 (4) BE FOR THE PURPOSE OF FINANCING PROJECTS LOCATED  
30 OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THIS COMMONWEALTH.

1 (5) BE FOR THE PURPOSE OF PAYING OFF A CREDITOR THAT IS  
2 INADEQUATELY SECURED AND IS IN A POSITION TO SUSTAIN A LOSS.

3 (6) BE FOR THE PURPOSE OF REPAYING A DEBT OWED TO A  
4 SMALL BUSINESS INVESTMENT COMPANY.

5 (7) PROVIDE FUNDS FOR SPECULATION IN ANY KIND OF  
6 PROPERTY, REAL OR PERSONAL, TANGIBLE OR INTANGIBLE.

7 (C) SECURITY.--ALL LOANS SHALL BE SECURED BY NO LESS THAN A  
8 SECOND LIEN POSITION ON THE EQUIPMENT PURCHASED AND OTHER  
9 SUFFICIENT COLLATERAL AS DETERMINED BY THE SECRETARY.

10 § 2906. APPLICATION AND ADMINISTRATION.

11 (A) PROCEDURES.--APPLICATION AND ADMINISTRATION PROCEDURES  
12 FOR FUND LOANS SHALL BE ESTABLISHED BY THE SECRETARY.

13 (B) RECEIPT.--THE SECRETARY SHALL RECEIVE APPLICATIONS FROM  
14 ELIGIBLE BUSINESS ENTERPRISES FOR MACHINERY AND EQUIPMENT LOANS.  
15 APPLICATIONS SHALL BE MADE TO THE SECRETARY IN THE FORM AND  
16 MANNER AS THE DEPARTMENT MAY REQUIRE.

17 (C) INVESTIGATION.--UPON RECEIPT OF THE APPLICATION, THE  
18 SECRETARY SHALL INVESTIGATE AND REVIEW THE APPLICATION AND  
19 EITHER APPROVE OR DISAPPROVE THE LOAN APPLICATION BY PROPER  
20 ACTION OF THE DEPARTMENT. THE DECISION OF THE SECRETARY SHALL BE  
21 BASED, IN WHOLE OR IN PART, UPON THE FOLLOWING CRITERIA:

22 (1) ABILITY OF THE APPLICANT TO MEET AND SATISFY ALL  
23 DEBT SERVICE AS IT BECOMES DUE AND PAYABLE.

24 (2) SUFFICIENCY OF AVAILABLE COLLATERAL, INCLUDING  
25 SATISFACTORY LIEN POSITIONS ON REAL AND PERSONAL PROPERTY.

26 (3) ELIGIBILITY OF THE APPLICANT AS A BUSINESS  
27 ENTERPRISE INVOLVED IN INDUSTRIAL PROCESSES, MANUFACTURING,  
28 MINING, PRODUCTION AGRICULTURE, INFORMATION TECHNOLOGY,  
29 BIOTECHNOLOGY, SERVICES AS A MEDICAL FACILITY OR OTHER  
30 INDUSTRIAL OR TECHNOLOGY SECTORS AS DEFINED BY THE SECRETARY.

1           (4) SUFFICIENT EVIDENCE THAT FUNDS SHALL BE USED ONLY TO  
2 ACQUIRE AND INSTALL NEW EQUIPMENT AND MACHINERY OR UPGRADE  
3 EXISTING EQUIPMENT AND MACHINERY, INCLUDING THE ACQUISITION,  
4 APPLICATION AND UTILIZATION OF COMPUTER HARDWARE AND  
5 SOFTWARE.

6           (5) CAPITAL NEEDS OF THE APPLICANT.

7           (6) CONFORMITY OF THE PROJECT TO THE PROVISIONS OF THIS  
8 CHAPTER.

9           (7) RELEVANT CRIMINAL AND CREDIT HISTORY AND RATINGS OF  
10 APPLICANT AS DETERMINED FROM OUTSIDE CREDIT REPORTING  
11 SERVICES AND OTHER SOURCES.

12           (8) NUMBER OF NET EMPLOYMENT OPPORTUNITIES CREATED AND  
13 RETAINED BY THE PROPOSED PROJECT. THIS PARAGRAPH DOES NOT  
14 APPLY TO BUSINESS ENTERPRISES INVOLVED IN PRODUCTION  
15 AGRICULTURE OR MEDICAL FACILITIES.

16           (9) SUPPORTING EVIDENCE THAT THE LOAN PROJECT WILL  
17 INCREASE THE FIRM'S COMPETITIVENESS AND VALUE ADDED WITHIN  
18 ITS RESPECTIVE INDUSTRY.

19           (10) EXPLANATION OF HOW THE LOAN WILL AID THE  
20 COMMONWEALTH IN ITS EFFORTS TO ASSIST BUSINESS ENTERPRISES TO  
21 INCREASE THEIR PRODUCTIVITY AND IMPROVE THE FUTURE  
22 COMPETITIVE POSITION OF THIS COMMONWEALTH'S INDUSTRIES.

23           (11) COMPLIANCE WITH THE LOAN AMOUNT LIMITATIONS  
24 PROVIDED FOR MACHINERY AND EQUIPMENT LOANS.

25           (12) PAYMENT TO DATE OF ALL TAX OBLIGATIONS DUE AND  
26 OWING TO THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION  
27 THEREOF.

28           (13) CONFORMITY OF ALL ASPECTS OF THE LOAN TRANSACTION  
29 WITH THE SUBSTANTIVE AND PROCEDURAL PROVISIONS OF THIS  
30 CHAPTER AND REGULATIONS PROMULGATED HEREUNDER.

1           (14) SUCH INFORMATION AND DOCUMENTATION AS THE SECRETARY  
2 SHALL REQUIRE.

3           (D) NOTIFICATION.--THE SECRETARY SHALL NOTIFY THE APPLICANT  
4 OF FINAL APPROVAL OR DISAPPROVAL OF THE LOAN APPLICATION WITHIN  
5 A REASONABLE PERIOD OF TIME FOLLOWING THE RECEIPT OF THE  
6 APPLICATION. IN THE CASE OF APPROVAL OF A LOAN APPLICATION, THE  
7 SECRETARY SHALL ARRANGE TO DRAW THE LOAN AMOUNT FROM THE FUND  
8 AND ADVANCE THE SUM TO THE RECIPIENT. THE ADVANCE SHALL BE MADE  
9 AVAILABLE IN THE FORM OF A LOAN TRANSACTION, WHICH LOAN SHALL BE  
10 EVIDENCED BY A NOTE EXECUTED BY THE RECIPIENT AND SECURED IN A  
11 MANNER AS THE SECRETARY SHALL REQUIRE IN CONFORMITY IN ALL  
12 RESPECTS TO THE LOAN AS APPROVED BY THE SECRETARY.

13           (E) POLICY REQUIREMENTS AND REPORT.--ALL LOANS SHALL BE  
14 ADMINISTERED AND MONITORED BY THE DEPARTMENT IN ACCORDANCE WITH  
15 THE POLICIES AND PROCEDURES PRESCRIBED BY THE SECRETARY. ON OR  
16 BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY SHALL PREPARE A  
17 REPORT THAT INCLUDES THE FOLLOWING:

- 18           (1) EACH OUTSTANDING LOAN.
- 19           (2) THE DATE OF APPROVAL.
- 20           (3) THE ORIGINAL PRINCIPAL BALANCE.
- 21           (4) THE CURRENT PRINCIPAL BALANCE.
- 22           (5) THE INTEREST RATE.
- 23           (6) THE PURPOSE FOR WHICH THE LOAN WAS MADE.
- 24           (7) AN ENUMERATION OF ANY PROBLEMS OR ISSUES WHICH HAVE  
25 ARISEN WITH REGARD TO EACH LOAN.
- 26           (8) A STATEMENT REGARDING THE PROGRESS OF THE BUSINESS  
27 ENTERPRISE IN CREATING AND RETAINING ITS REQUISITE NUMBER OF  
28 EMPLOYMENT OPPORTUNITIES.
- 29           (9) SUCH OTHER INFORMATION AND DOCUMENTATION AS THE  
30 SECRETARY SHALL REQUIRE.

1 (F) PENALTY FOR NONCOMPLIANCE.--IN THE EVENT THAT A LOAN  
2 RECIPIENT SHALL NOT COMPLY WITH ITS APPROVED APPLICATION BY  
3 FAILING TO CREATE OR PRESERVE THE NUMBER OF EMPLOYMENT  
4 OPPORTUNITIES SPECIFIED IN ITS APPROVED APPLICATION, THE  
5 SECRETARY SHALL IMPOSE A PENALTY EQUAL TO AN INCREASE IN THE  
6 INTEREST RATE TO 2% GREATER THAN THE CURRENT PRIME INTEREST RATE  
7 FOR THE REMAINDER OF THE LOAN UNLESS THE PENALTY IS WAIVED BY  
8 THE SECRETARY BECAUSE THE FAILURE IS DUE TO CIRCUMSTANCES  
9 OUTSIDE THE CONTROL OF THE LOAN RECIPIENT. THE PENALTY SHALL BE  
10 PAYABLE IN INSTALLMENTS THAT THE SECRETARY DEEMS APPROPRIATE.

11 § 2907. POWERS OF SECRETARY.

12 THE SECRETARY SHALL HAVE AND MAY EXERCISE ALL POWERS AND  
13 AUTHORITY NECESSARY TO THE PROPER ADMINISTRATION AND  
14 IMPLEMENTATION OF THIS CHAPTER AND SHALL HAVE THE AUTHORITY TO  
15 ADOPT POLICIES, PROCEDURES AND GUIDELINES AND PROMULGATE RULES  
16 AND REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS  
17 CHAPTER.

18 § 2908. REPORTING AND INSPECTION.

19 (A) INSPECTION.--EACH BUSINESS ENTERPRISE WHICH APPLIES FOR  
20 OR RECEIVES ASSISTANCE UNDER THIS CHAPTER, UPON REASONABLE  
21 REQUEST OF THE DEPARTMENT, SHALL PERMIT DULY AUTHORIZED  
22 EMPLOYEES OF THE DEPARTMENT TO INSPECT THE PLANT, BOOKS AND  
23 RECORDS OF THE BUSINESS ENTERPRISE.

24 (B) UPDATING.--EACH BUSINESS ENTERPRISE SHALL UPDATE THE  
25 INFORMATION GIVEN TO THE DEPARTMENT IN ITS APPLICATION IF  
26 CONDITIONS CHANGE OR TO THE EXTENT THAT THE INFORMATION GIVEN  
27 ORIGINALLY BECOMES INACCURATE OR MISLEADING.

28 (C) PERIODIC REPORTS.--EACH RECIPIENT OF ASSISTANCE UNDER  
29 THIS CHAPTER SHALL PROVIDE THE DEPARTMENT WITH PERIODIC  
30 FINANCIAL REPORTS AS THE SECRETARY MAY REQUIRE UNTIL SUCH TIME

1 AS THE LOAN IS PAID OFF.

2 § 2909. NONDISCRIMINATION.

3 NO LOAN SHALL BE MADE TO A BUSINESS ENTERPRISE UNLESS THE  
4 BUSINESS ENTERPRISE CERTIFIES TO THE DEPARTMENT, IN A FORM  
5 SATISFACTORY TO THE DEPARTMENT, THAT IT SHALL NOT DISCRIMINATE  
6 AGAINST ANY EMPLOYEE OR ANY APPLICANT FOR EMPLOYMENT BECAUSE OF  
7 RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX OR AGE. THE BUSINESS  
8 ENTERPRISE SHALL ALSO CERTIFY TO THE DEPARTMENT THAT IT IS NOT  
9 CURRENTLY UNDER CITATION FOR POLLUTION VIOLATIONS AND THAT IN  
10 THE FUTURE IT WILL MEET ALL APPLICABLE ANTIPOLLUTION STANDARDS.

11 § 2910. CONFLICT OF INTEREST.

12 NO EMPLOYEE OF THE DEPARTMENT SHALL, EITHER DIRECTLY OR  
13 INDIRECTLY, BE A PARTY TO OR HAVE ANY FINANCIAL INTEREST IN ANY  
14 CONTRACT OR AGREEMENT ARISING PURSUANT TO THIS CHAPTER.

15 § 2911. REPORTS TO GENERAL ASSEMBLY.

16 (A) ANNUAL REPORTS.--ON OR BEFORE SEPTEMBER 1 OF EACH YEAR,  
17 THE SECRETARY SHALL PROVIDE A REPORT TO THE SECRETARY OF THE  
18 SENATE AND TO THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES.  
19 THE REPORT SHALL DESCRIBE ALL RELEVANT ACTIVITIES OF THE  
20 DEPARTMENT PURSUANT TO THIS CHAPTER AND SHALL INCLUDE THE  
21 FOLLOWING:

22 (1) LIST OF BUSINESS ENTERPRISES RECEIVING LOANS FROM  
23 THE FUND AND THE AMOUNTS AND TERMS OF THIS ASSISTANCE.

24 (2) LOAN AMOUNTS REPAYED. INFORMATION UNDER THIS  
25 PARAGRAPH MAY BE REPORTED IN THE AGGREGATE.

26 (3) LOANS OUTSTANDING, BALANCES DUE AND ANY PENALTIES  
27 IMPOSED. INFORMATION UNDER THIS PARAGRAPH MAY BE REPORTED IN  
28 THE AGGREGATE.

29 (4) JOBS CREATED BY BUSINESSES RECEIVING FUNDS IN  
30 PREVIOUS YEARS. INFORMATION UNDER THIS PARAGRAPH MAY BE



1 REPORTED IN THE AGGREGATE.

2 (5) OTHER RELEVANT INFORMATION AS DETERMINED BY THE  
3 SECRETARY.

4 (B) AVAILABILITY OF DEPARTMENTAL REPORTS.--REPORTS PREPARED  
5 BY THE SECRETARY UNDER SECTION 2906(E) (RELATING TO APPLICATION  
6 AND ADMINISTRATION) SHALL BE MADE AVAILABLE UPON REQUEST TO  
7 MEMBERS OF THE GENERAL ASSEMBLY.

8 § 2912. GUIDELINES.

9 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE  
10 IMPLEMENTATION OF THIS CHAPTER.

11 CHAPTER 31

12 FAMILY SAVINGS ACCOUNT

13 (RESERVED)

14 CHAPTER 33

15 ECONOMIC ENHANCEMENT

16 (RESERVED)

17 CHAPTER 35

18 KEYSTONE OPPORTUNITY ZONES

19 (RESERVED)

20 CHAPTER 37

21 KEYSTONE INNOVATION ZONES

22 SEC.

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1 § 3701. SCOPE.

2 THIS CHAPTER RELATES TO THE KEYSTONE INNOVATION ZONES  
3 PROGRAM.

4 § 3702. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "INSTITUTION OF HIGHER EDUCATION." A PUBLIC OR PRIVATE  
9 INSTITUTION WITHIN THIS COMMONWEALTH AUTHORIZED BY THE  
10 DEPARTMENT OF EDUCATION TO GRANT AN ASSOCIATE DEGREE OR HIGHER  
11 DEGREE. THE TERM INCLUDES BRANCH OR SATELLITE CAMPUS OF THE  
12 INSTITUTION.

13 "KEYSTONE INNOVATION ZONE." A CLEARLY DEFINED CONTIGUOUS  
14 GEOGRAPHIC AREA COMPRISED OF PORTIONS OF ONE OR MORE POLITICAL  
15 SUBDIVISIONS.

16 "KEYSTONE INNOVATION ZONE COMPANY." A FOR-PROFIT BUSINESS  
17 ENTITY WHICH IS ALL OF THE FOLLOWING:

- 18 (1) LOCATED WITHIN A KEYSTONE INNOVATION ZONE.  
19 (2) HAS BEEN IN OPERATION FOR LESS THAN EIGHT YEARS.  
20 (3) FALLS WITHIN ONE OF THE TARGETED INDUSTRY SEGMENTS  
21 ADOPTED BY THE KEYSTONE INNOVATION ZONE PARTNERSHIP IN ITS  
22 STRATEGIC PLAN.

23 "KEYSTONE INNOVATION ZONE COORDINATOR." A NONPROFIT  
24 ORGANIZATION WHICH IS ALL OF THE FOLLOWING:

- 25 (1) NOT AN INSTITUTION OF HIGHER EDUCATION.  
26 (2) CHOSEN BY A KEYSTONE INNOVATION ZONE PARTNERSHIP AND  
27 AGREED TO BY THE DEPARTMENT TO ADMINISTER THE ACTIVITIES OF A  
28 KEYSTONE INNOVATION ZONE.

29 "KEYSTONE INNOVATION ZONE PARTNERSHIP." ANY ASSOCIATION OR  
30 GROUP WHICH IS ALL OF THE FOLLOWING:

1 (1) COMPRISED OF AT LEAST ONE INSTITUTION OF HIGHER  
2 EDUCATION AND A COMBINATION OF PRIVATE BUSINESSES, BUSINESS  
3 SUPPORT ORGANIZATIONS, COMMERCIAL LENDING INSTITUTIONS,  
4 VENTURE CAPITAL COMPANIES, ANGEL INVESTOR NETWORKS OR  
5 FOUNDATIONS.

6 (2) FORMED FOR THE CREATION AND ADMINISTRATION OF A  
7 KEYSTONE INNOVATION ZONE.

8 "KIZ." A KEYSTONE INNOVATION ZONE.

9 "KIZ COMPANY." A KEYSTONE INNOVATION ZONE COMPANY.

10 "KIZ COORDINATOR." A KEYSTONE INNOVATION ZONE COORDINATOR.

11 "KIZ PARTNERSHIP." A KEYSTONE INNOVATION ZONE PARTNERSHIP.

12 § 3703. PROGRAM.

13 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM IN THE  
14 DEPARTMENT TO BE KNOWN AS THE KEYSTONE INNOVATION ZONE PROGRAM.  
15 THE PROGRAM SHALL PROVIDE ECONOMIC ASSISTANCE TO KIZ COMPANIES  
16 FOR THE PURPOSE OF IMPROVING AND ENCOURAGING RESEARCH AND  
17 DEVELOPMENT EFFORTS AND TECHNOLOGY COMMERCIALIZATION EFFORTS  
18 RESULTING IN EMPLOYMENT GROWTH AND REVITALIZATION OF  
19 COMMUNITIES.

20 (B) APPLICATION.--A KEYSTONE INNOVATION ZONE PARTNERSHIP MAY  
21 APPLY TO THE DEPARTMENT TO ESTABLISH A KEYSTONE INNOVATION ZONE.  
22 ALL APPLICATIONS MUST BE RECEIVED BY JULY 1, 2007, BE ON THE  
23 FORM REQUIRED BY THE DEPARTMENT AND INCLUDE AND DEMONSTRATE ALL  
24 OF THE FOLLOWING:

25 (1) THE KIZ COORDINATOR'S NAME AND ADDRESS.

26 (2) A STATEMENT THAT THE APPLICANT IS A KIZ PARTNERSHIP  
27 AND THE IDENTITY OF ITS MEMBERS.

28 (3) THE GEOGRAPHIC BOUNDARIES OF THE PROPOSED KEYSTONE  
29 INNOVATION ZONE.

30 (4) A COPY OF A WRITTEN STRATEGIC PLAN ADOPTED BY THE

1 KIZ PARTNERSHIP DESCRIBING THE TARGETED INDUSTRY SEGMENTS  
2 WHICH THE KIZ WILL FOSTER.

3 (5) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

4 (C) REVIEW AND DESIGNATION.--THE DEPARTMENT SHALL REVIEW THE  
5 APPLICATION. UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE  
6 BEEN MET, THE DEPARTMENT MAY APPROVE THE APPLICATION. IF THE  
7 DEPARTMENT APPROVES THE APPLICATION, THE DEPARTMENT SHALL  
8 DESIGNATE THE IDENTIFIED AREA AS A KEYSTONE INNOVATION ZONE AND  
9 ACCEPT THE ORGANIZATION DESIGNATED AS THE KIZ COORDINATOR FOR  
10 THE ZONE.

11 § 3704. ASSISTANCE.

12 (A) EXISTING PROGRAMS.--A KIZ COMPANY SHALL BE ELIGIBLE AND  
13 MAY BE GIVEN PRIORITY CONSIDERATION IN APPLYING FOR ASSISTANCE  
14 UNDER ANY OF THE FOLLOWING:

15 (1) THIS TITLE.

16 (2) THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537),  
17 KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY  
18 ACT.

19 (3) THE ACT OF AUGUST 23, 1967 (P.L.251, NO.102), KNOWN  
20 AS THE ECONOMIC DEVELOPMENT FINANCING LAW.

21 (4) THE ACT OF JUNE 22, 2001 (P.L.569, NO.38), KNOWN AS  
22 THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY ACT.

23 (5) THE ACT OF JUNE 29, 1996 (P.L.434, NO.67), KNOWN AS  
24 THE JOB ENHANCEMENT ACT.

25 (6) THE ACT OF JUNE 26, 2001 (P.L.755, NO.77), KNOWN AS  
26 THE TOBACCO SETTLEMENT ACT.

27 (7) ANY OTHER ACT ENACTED AFTER THE EFFECTIVE DATE OF  
28 THIS SUBSECTION WHICH HAS ECONOMIC DEVELOPMENT ASSISTANCE AS  
29 ITS PRIMARY OBJECTIVE.

30 (B) LOANS OF THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT

1 AUTHORITY.--THE BOARD OF THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT  
2 AUTHORITY MAY PROVIDE LOANS TO ENTITIES FOR LAND AND STRUCTURES,  
3 INCLUDING STRUCTURES PROVIDING SPACE FOR RESEARCH AND  
4 DEVELOPMENT ACTIVITIES, IN WHICH, WHEN COMPLETED, AT LEAST ONE  
5 KIZ COMPANY WILL BE LOCATED. IF THE STRUCTURE IS INTENDED TO  
6 ACCOMMODATE MORE THAN ONE KIZ COMPANY, AT LEAST 80% OF THE SPACE  
7 IN THE STRUCTURE MUST BE LEASED TO KIZ COMPANIES. THE BOARD MAY  
8 ESTABLISH THE ELIGIBILITY CRITERIA, THE INTEREST RATE, THE LOAN  
9 TERM AND THE PARTICIPATION RATE TO BE APPLIED TO THESE PROJECTS.

10 (C) KIZ OPERATION GRANTS.--

11 (1) THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY  
12 MAY PROVIDE AN ANNUAL KIZ OPERATION GRANT OF UP TO \$250,000  
13 TO A KEYSTONE INNOVATION ZONE COORDINATOR FOR ADMINISTRATIVE  
14 COSTS INCURRED IN ESTABLISHING AND IMPLEMENTING THE KEYSTONE  
15 INNOVATION ZONE.

16 (2) IN SUBSEQUENT YEARS, A GRANT SHALL BE REDUCED IN  
17 ACCORDANCE WITH ALL OF THE FOLLOWING:

18 (I) BY 25% OF THE INITIAL AMOUNT IN THE SECOND YEAR.

19 (II) BY 50% OF THE INITIAL AMOUNT OF THE GRANT IN  
20 THE THIRD YEAR.

21 (III) BY 75% OF THE INITIAL AMOUNT OF THE GRANT IN  
22 THE FOURTH YEAR.

23 (3) THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY  
24 SHALL DEVELOP GUIDELINES FOR THE APPLICATION, RECEIPT AND USE  
25 OF OPERATION GRANT FUNDS.

26 § 3705. KEYSTONE INNOVATION GRANTS.

27 (A) GRANTS.--THE DEPARTMENT MAY PROVIDE KEYSTONE INNOVATION  
28 GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO FACILITATE  
29 TECHNOLOGY TRANSFER, INCLUDING PATENT FILINGS, TECHNOLOGY  
30 LICENSING, INTELLECTUAL PROPERTY AND ROYALTY AGREEMENTS AND

1 OTHER DESIGNATED RESOURCE NEEDS. THE APPLICATION MUST BE ON THE  
2 FORM REQUIRED BY THE DEPARTMENT AND MUST INCLUDE OR DEMONSTRATE  
3 ALL OF THE FOLLOWING:

4 (1) THE APPLICANT'S NAME AND ADDRESS.

5 (2) THE KIZ PARTNERSHIP OF WHICH THE APPLICANT IS A  
6 MEMBER.

7 (3) A WRITTEN PROPOSAL. THE PROPOSAL MUST STATE ALL OF  
8 THE FOLLOWING:

9 (I) THE TECHNOLOGY TRANSFER ACTIVITIES TO BE  
10 UNDERTAKEN. THE ACTIVITIES MAY INCLUDE THE ADDITION OF  
11 PERSONNEL WHO ARE DIRECTLY RELATED IN TRANSFERRING  
12 TECHNOLOGY TO THE LOCAL BUSINESSES.

13 (II) THE QUANTIFIABLE GOALS AND OBJECTIVES TO BE  
14 ACHIEVED.

15 (III) HOW THE ACTIVITIES, GOALS AND OBJECTIVES WILL  
16 INTEGRATE WITH THE STRATEGIC PLAN ADOPTED FOR THE KIZ.

17 (IV) THE ROLE OF THE APPLICANT AND OTHER MEMBERS OF  
18 THE KIZ PARTNERSHIP.

19 (4) IDENTIFICATION OF A DOLLAR-TO-DOLLAR MATCH, WHICH  
20 MAY BE IN KIND IF THE DEPARTMENT DETERMINES THAT THE PROPOSED  
21 MATCH CAN BE READILY IDENTIFIED AND TRACKED, AND WHICH IS  
22 DIRECTLY RELATED TO THE STATED GOALS AND OBJECTIVES.

23 (5) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

24 (B) APPROVAL.--THE DEPARTMENT SHALL REVIEW THE APPLICATION  
25 AND, UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET,  
26 THE DEPARTMENT MAY APPROVE THE APPLICATION. PRIOR TO RELEASING  
27 GRANT FUNDS, THE DEPARTMENT SHALL ENTER INTO A CONTRACT WITH THE  
28 APPLICANT THAT CONTAINS ALL OF THE FOLLOWING:

29 (1) THE GRANT MAY NOT EXCEED \$250,000 PER YEAR.

30 (2) GRANTS UNDER THIS PROGRAM SHALL NOT EXCEED \$750,000

1 IN THE AGGREGATE PER APPLICANT UNDER THIS PROGRAM.

2 (3) THE AGGREGATE AMOUNT OF GRANTS AWARDED TO ALL  
3 APPLICANTS UNDER THIS SUBSECTION SHALL NOT EXCEED \$10,000,000  
4 UNDER THIS PROGRAM.

5 (C) PENALTY.--

6 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT  
7 SHALL IMPOSE A PENALTY UPON A RECIPIENT OF A GRANT FOR ANY OF  
8 THE FOLLOWING:

9 (I) IF THE RECIPIENT FAILS TO USE THE GRANT FOR THE  
10 TECHNOLOGY TRANSFER ACTIVITIES SPECIFIED IN THE  
11 APPLICATION.

12 (II) IF THE RECIPIENT'S MEMBERSHIP IN THE KIZ  
13 PARTNERSHIP IS TERMINATED VOLUNTARILY OR INVOLUNTARILY.

14 (2) THE DEPARTMENT MAY WAIVE THE PENALTY REQUIRED BY  
15 PARAGRAPH (1) IF THE DEPARTMENT DETERMINES THAT THE FAILURE  
16 WAS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE GRANT  
17 RECIPIENT.

18 (3) A PENALTY IMPOSED UNDER PARAGRAPH (1) SHALL BE EQUAL  
19 TO THE FULL AMOUNT OF THE GRANT RECEIVED PLUS AN ADDITIONAL  
20 AMOUNT OF UP TO 10% OF THE AMOUNT OF THE GRANT RECEIVED. THE  
21 PENALTY SHALL BE PAYABLE IN ONE LUMP SUM OR IN INSTALLMENTS,  
22 WITH OR WITHOUT INTEREST, AS THE DEPARTMENT DEEMS  
23 APPROPRIATE.

24 § 3706. KEYSTONE INNOVATION ZONE TAX CREDITS.

25 (A) TAX CREDIT.--A KIZ COMPANY MAY CLAIM A TAX CREDIT EQUAL  
26 TO 50% OF THE INCREASE IN THE KIZ COMPANY'S GROSS REVENUES IN  
27 THE IMMEDIATELY PRECEDING TAXABLE YEAR ATTRIBUTABLE TO  
28 ACTIVITIES IN THE KIZ OVER THE KIZ COMPANY'S GROSS REVENUES IN  
29 THE SECOND PRECEDING TAXABLE YEAR ATTRIBUTABLE TO ITS ACTIVITIES  
30 IN THE KIZ. A TAX CREDIT FOR A KIZ COMPANY SHALL NOT EXCEED

1 \$100,000 ANNUALLY. FOR THE PURPOSES OF THE KEYSTONE INNOVATION  
2 ZONE TAX CREDIT, THE TERM "GROSS REVENUES" MAY INCLUDE GRANTS  
3 RECEIVED BY THE KIZ COMPANY FROM ANY SOURCE WHATSOEVER.

4 (B) APPLICATION FOR TAX CREDIT.--A KIZ COMPANY MAY FILE AN  
5 APPLICATION FOR A TAX CREDIT WITH THE DEPARTMENT. AN APPLICATION  
6 UNDER THIS SUBSECTION MUST BE FILED BY SEPTEMBER 15 OF EACH YEAR  
7 FOR THE PRIOR TAXABLE YEAR, BEGINNING SEPTEMBER 15, 2006. THE  
8 APPLICATION MUST BE SUBMITTED ON A FORM REQUIRED BY THE  
9 DEPARTMENT AND MUST BE ACCOMPANIED BY A CERTIFICATION FROM THE  
10 KIZ COORDINATOR THAT THE KIZ COMPANY FALLS WITHIN A TARGETED  
11 INDUSTRY SEGMENT IDENTIFIED IN THE STRATEGIC PLAN ADOPTED BY THE  
12 KIZ PARTNERSHIP. THE DEPARTMENT SHALL REVIEW THE APPLICATION  
13 AND, UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET,  
14 THE DEPARTMENT SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE KIZ  
15 COMPANY. ALL CERTIFICATES SHALL BE AWARDED BY DECEMBER 15 OF  
16 EACH YEAR.

17 (C) LIMITATION ON TAX CREDITS.--

18 (1) THE TOTAL AMOUNT OF TAX CREDITS APPROVED BY THE  
19 DEPARTMENT SHALL NOT EXCEED \$25,000,000 FOR ANY ONE TAXABLE  
20 YEAR.

21 (2) IF \$25,000,000 OF THE TAX CREDITS ARE NOT APPROVED  
22 FOR ANY ONE TAXABLE YEAR, THE UNUSED PORTION SHALL NOT BE  
23 AVAILABLE FOR USE IN FUTURE TAXABLE YEARS.

24 (3) IF THE TOTAL AMOUNT OF TAX CREDITS APPLIED FOR BY  
25 ALL TAXPAYERS FOR ANY ONE TAXABLE YEAR EXCEEDS \$25,000,000,  
26 THEN THE TAX CREDIT TO BE RECEIVED BY EACH APPLICANT SHALL BE  
27 DETERMINED AS FOLLOWS:

28 (I) DIVIDE:

29 (A) THE ELIGIBLE TAX CREDIT APPLIED FOR BY THE  
30 APPLICANT; BY



1 (B) THE TOTAL OF ALL ELIGIBLE TAX CREDITS  
2 APPLIED FOR BY ALL APPLICANTS.

3 (II) MULTIPLY:

4 (A) THE QUOTIENT UNDER SUBPARAGRAPH (I); BY

5 (B) \$25,000,000.

6 (D) APPLICATION OF TAX CREDIT AND ELECTION.--A TAX CREDIT  
7 APPROVED UNDER THIS SECTION MUST BE FIRST APPLIED AGAINST THE  
8 KIZ COMPANY'S TAX LIABILITY UNDER ARTICLE III, IV OR VI OF THE  
9 ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE  
10 OF 1971, FOR THE TAXABLE YEAR DURING WHICH THE TAX CREDIT IS  
11 APPROVED. IF THE AMOUNT OF TAX LIABILITY OWED BY THE KIZ COMPANY  
12 IS LESS THAN THE AMOUNT OF THE TAX CREDIT, THE KIZ COMPANY MAY  
13 ELECT TO CARRY FORWARD THE AMOUNT OF THE REMAINING TAX CREDIT  
14 FOR A PERIOD NOT TO EXCEED FOUR ADDITIONAL TAXABLE YEARS AND TO  
15 APPLY THE CREDIT AGAINST TAX LIABILITY INCURRED DURING THOSE TAX  
16 YEARS; OR THE KIZ COMPANY MAY ELECT TO SELL OR ASSIGN A PORTION  
17 OF THE TAX CREDIT IN ACCORDANCE WITH THE PROVISIONS OF  
18 SUBSECTION (F). A KIZ COMPANY MAY NOT CARRY BACK OR OBTAIN A  
19 REFUND OF AN UNUSED KEYSTONE INNOVATION ZONE TAX CREDIT.

20 (E) PENNSYLVANIA S CORPORATION SHAREHOLDER PASS-THROUGH.--

21 (1) IF A PENNSYLVANIA S CORPORATION DOES NOT HAVE AN  
22 ELIGIBLE TAX LIABILITY AGAINST WHICH THE TAX CREDIT MAY BE  
23 APPLIED, A SHAREHOLDER OF THE PENNSYLVANIA S CORPORATION IS  
24 ENTITLED TO A TAX CREDIT EQUAL TO THE PRODUCT OF

25 (I) THE TAX CREDIT DETERMINED FOR THE PENNSYLVANIA S  
26 CORPORATION FOR THE TAXABLE YEAR; AND

27 (II) THE PERCENTAGE OF THE PENNSYLVANIA S  
28 CORPORATION'S DISTRIBUTIVE INCOME TO WHICH THE  
29 SHAREHOLDER IS ENTITLED.

30 (2) THE CREDIT PROVIDED UNDER PARAGRAPH (1) IS IN

1 ADDITION TO ANY TAX CREDIT TO WHICH A SHAREHOLDER OF THE  
2 PENNSYLVANIA S CORPORATION IS OTHERWISE ENTITLED. HOWEVER, A  
3 PENNSYLVANIA S CORPORATION AND A SHAREHOLDER OF THE  
4 PENNSYLVANIA S CORPORATION MAY NOT CLAIM A TAX CREDIT UNDER  
5 THIS SECTION FOR THE SAME ACTIVITY.

6 (F) SALE OR ASSIGNMENT OF TAX CREDIT.--

7 (1) UPON APPLICATION TO AND APPROVAL BY THE DEPARTMENT,  
8 A KIZ COMPANY WHICH HAS BEEN AWARDED A TAX CREDIT MAY SELL OR  
9 ASSIGN, IN WHOLE OR IN PART, THE TAX CREDIT GRANTED TO THE  
10 KIZ COMPANY. THE APPLICATION MUST BE ON THE FORM REQUIRED BY  
11 THE DEPARTMENT AND MUST INCLUDE OR DEMONSTRATE ALL OF THE  
12 FOLLOWING:

13 (I) THE APPLICANT'S NAME AND ADDRESS.

14 (II) A COPY OF THE TAX CREDIT CERTIFICATE PREVIOUSLY  
15 ISSUED BY THE DEPARTMENT.

16 (III) A STATEMENT AS TO WHETHER ANY PART OF THE TAX  
17 CREDIT HAS BEEN APPLIED TO TAX LIABILITY OF THE APPLICANT  
18 AND THE AMOUNT SO APPLIED.

19 (IV) ANY OTHER INFORMATION REQUIRED BY THE  
20 DEPARTMENT.

21 (2) THE DEPARTMENT SHALL REVIEW THE APPLICATION AND,  
22 UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE  
23 DEPARTMENT MAY APPROVE THE APPLICATION AND SHALL NOTIFY THE  
24 DEPARTMENT OF REVENUE.

25 (G) USE OF SOLD OR ASSIGNED TAX CREDIT.--THE PURCHASER OR  
26 ASSIGNEE OF ALL OR A PORTION OF A KEYSTONE INNOVATION ZONE TAX  
27 CREDIT UNDER THIS SECTION SHALL CLAIM THE CREDIT IN THE TAXABLE  
28 YEAR IN WHICH THE PURCHASE OR ASSIGNMENT IS MADE. THE PURCHASER  
29 OR ASSIGNEE OF A TAX CREDIT MAY USE THE TAX CREDIT AGAINST ANY  
30 TAX LIABILITY OF THE PURCHASER OR ASSIGNEE UNDER ARTICLE III,

1 IV, VI, VII, VIII, IX OR XV OF THE TAX REFORM CODE OF 1971. THE  
2 AMOUNT OF THE TAX CREDIT USED MAY NOT EXCEED 75% OF THE  
3 PURCHASER'S OR ASSIGNEE'S TAX LIABILITY FOR THE TAXABLE YEAR.  
4 THE PURCHASER OR ASSIGNEE MAY NOT CARRY OVER, CARRY BACK, OBTAIN  
5 A REFUND OF OR ASSIGN THE KEYSTONE INNOVATION ZONE TAX CREDIT.  
6 THE PURCHASER OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT AND THE  
7 DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE KEYSTONE  
8 INNOVATION ZONE TAX CREDIT IN COMPLIANCE WITH PROCEDURES  
9 SPECIFIED BY THE DEPARTMENT.

10 § 3707. GUIDELINES.

11 BEFORE ANY KEYSTONE INNOVATION ZONE IS APPROVED BY THE  
12 DEPARTMENT, THE DEPARTMENT SHALL APPROVE WRITTEN GUIDELINES FOR  
13 THE PROGRAM AND SHALL PROVIDE A COPY OF THE GUIDELINES TO THE  
14 MAJORITY LEADER AND MINORITY LEADER OF THE SENATE, THE MAJORITY  
15 LEADER AND MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, THE  
16 CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE  
17 OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
18 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

19 § 3708. ANNUAL REPORT.

20 THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE SECRETARY  
21 OF THE SENATE AND THE CHIEF CLERK OF THE HOUSE OF  
22 REPRESENTATIVES INDICATING THE EFFECTIVENESS OF THE KEYSTONE  
23 INNOVATION ZONE TAX CREDIT PROVIDED BY THIS CHAPTER BY DECEMBER  
24 31 OF EACH YEAR, BEGINNING DECEMBER 31, 2007. NOTWITHSTANDING  
25 ANY LAW PROVIDING FOR THE CONFIDENTIALITY OF TAX RECORDS, THE  
26 REPORT SHALL INCLUDE THE NAMES OF ALL TAXPAYERS AWARDED THE  
27 CREDITS, ALL TAXPAYERS UTILIZING THE CREDITS, THE AMOUNT OF  
28 CREDITS APPROVED AND UTILIZED BY EACH TAXPAYER AND THE LOCATIONS  
29 OF THE KIZ COMPANIES AWARDED THE CREDITS. THE REPORT SHALL BE A  
30 PUBLIC DOCUMENT.

1 SECTION 3. REPEALS ARE AS FOLLOWS:

2 (1) THE FOLLOWING PROVISIONS OF THE ACT OF JUNE 29, 1996  
3 (P.L.434, NO.67), KNOWN AS THE JOB ENHANCEMENT ACT, ARE  
4 REPEALED:

5 (I) CHAPTER 3.

6 (II) CHAPTER 7.

7 (III) CHAPTER 13.

8 (IV) CHAPTER 17.

9 (V) CHAPTER 30.

10 (2) ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS  
11 THEY ARE INCONSISTENT WITH THIS ACT.

12 SECTION 4. CHAPTERS 3, 7, 13, 17 AND 30 OF THE ACT OF JUNE  
13 29, 1996 (P.L.434, NO.67), KNOWN AS THE JOB ENHANCEMENT ACT, ARE  
14 CONTINUED BY THIS CODIFICATION AS FOLLOWS:

15 (1) THE ADDITION OF 12 PA.C.S. CH. 3 IS A CONTINUATION  
16 OF CHAPTER 3 OF THE JOB ENHANCEMENT ACT. THE FOLLOWING APPLY:

17 (I) EXCEPT AS OTHERWISE PROVIDED IN 12 PA.C.S. CH.  
18 3, ALL ACTIVITIES INITIATED UNDER CHAPTER 3 OF THE JOB  
19 ENHANCEMENT ACT SHALL CONTINUE AND REMAIN IN FULL FORCE  
20 AND EFFECT AND MAY BE COMPLETED UNDER 12 PA.C.S. CH. 3.  
21 ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE MADE  
22 UNDER CHAPTER 3 OF THE JOB ENHANCEMENT ACT AND WHICH ARE  
23 IN EFFECT ON THE EFFECTIVE DATE OF SECTION 2(1)(I) OF  
24 THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL  
25 REVOKED, VACATED OR MODIFIED UNDER 12 PA.C.S. CH. 3.  
26 CONTRACTS, OBLIGATIONS AND COLLECTIVE BARGAINING  
27 AGREEMENTS ENTERED INTO UNDER CHAPTER 3 OF THE JOB  
28 ENHANCEMENT ACT ARE NOT AFFECTED NOR IMPAIRED BY THE  
29 REPEAL OF CHAPTER 3 OF THE JOB ENHANCEMENT ACT.

30 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), ANY

1 DIFFERENCE IN LANGUAGE BETWEEN 12 PA.C.S. CH. 3 AND  
2 CHAPTER 3 OF THE JOB ENHANCEMENT ACT IS INTENDED ONLY TO  
3 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED  
4 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE  
5 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR  
6 ADMINISTRATION AND IMPLEMENTATION OF CHAPTER 3 OF THE JOB  
7 ENHANCEMENT ACT.

8 (III) SUBPARAGRAPH (II) DOES NOT APPLY TO THE  
9 ADDITION OF 12 PA.C.S. § 303.

10 (2) THE ADDITION OF 12 PA.C.S. CH. 5 IS A CONTINUATION  
11 OF CHAPTER 17 OF THE JOB ENHANCEMENT ACT. THE FOLLOWING  
12 APPLY:

13 (I) ALL ACTIVITIES INITIATED UNDER CHAPTER 17 OF THE  
14 JOB ENHANCEMENT ACT SHALL CONTINUE AND REMAIN IN FULL  
15 FORCE AND EFFECT AND MAY BE COMPLETED UNDER 12 PA.C.S.  
16 CH. 5. ORDERS, REGULATIONS, RULES AND DECISIONS WHICH  
17 WERE MADE UNDER CHAPTER 17 OF THE JOB ENHANCEMENT ACT AND  
18 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF SECTION  
19 2(1)(IV) OF THIS ACT SHALL REMAIN IN FULL FORCE AND  
20 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER 12  
21 PA.C.S. CH. 5. CONTRACTS, OBLIGATIONS AND COLLECTIVE  
22 BARGAINING AGREEMENTS ENTERED INTO UNDER CHAPTER 17 OF  
23 THE JOB ENHANCEMENT ACT ARE NOT AFFECTED NOR IMPAIRED BY  
24 THE REPEAL OF CHAPTER 17 OF THE JOB ENHANCEMENT ACT.

25 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), ANY  
26 DIFFERENCE IN LANGUAGE BETWEEN 12 PA.C.S. CH. 5 AND  
27 CHAPTER 17 OF THE JOB ENHANCEMENT ACT IS INTENDED ONLY TO  
28 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED  
29 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE  
30 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR

1 ADMINISTRATION AND IMPLEMENTATION OF CHAPTER 17 OF THE  
2 JOB ENHANCEMENT ACT.

3 (III) SUBPARAGRAPH (II) DOES NOT APPLY TO THE  
4 FOLLOWING:

5 (A) THE ADDITION OF 12 PA.C.S. § 502.

6 (B) THE ADDITION OF 12 PA.C.S. § 503.

7 (IV) THE MEMBERS OF SMALL BUSINESS COUNCIL IN OFFICE  
8 ON THE EFFECTIVE DATE OF SECTION 3(2)(IV) OF THIS ACT  
9 SHALL CONTINUE IN OFFICE UNDER THE ADDITION OF 12 PA.C.S.  
10 CH. 5.

11 (3) THE ADDITION OF 12 PA.C.S. CH. 21 IS A CONTINUATION  
12 OF CHAPTER 7 OF THE JOB ENHANCEMENT ACT. THE FOLLOWING APPLY:

13 (I) EXCEPT AS OTHERWISE PROVIDED IN 12 PA.C.S. CH.  
14 21, ALL ACTIVITIES INITIATED UNDER THE CHAPTER 7 OF THE  
15 JOB ENHANCEMENT ACT SHALL CONTINUE AND REMAIN IN FULL  
16 FORCE AND EFFECT AND MAY BE COMPLETED UNDER 12 PA.C.S.  
17 CH. 21. ORDERS, REGULATIONS, RULES AND DECISIONS WHICH  
18 WERE MADE UNDER CHAPTER 7 OF THE JOB ENHANCEMENT ACT AND  
19 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF SECTION  
20 2(1)(II) OF THIS ACT SHALL REMAIN IN FULL FORCE AND  
21 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER 12  
22 PA.C.S. CH. 21. CONTRACTS, OBLIGATIONS AND COLLECTIVE  
23 BARGAINING AGREEMENTS ENTERED INTO UNDER CHAPTER 7 OF THE  
24 JOB ENHANCEMENT ACT ARE NOT AFFECTED NOR IMPAIRED BY THE  
25 REPEAL OF CHAPTER 7 OF THE JOB ENHANCEMENT ACT.

26 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), ANY  
27 DIFFERENCE IN LANGUAGE BETWEEN 12 PA.C.S. CH. 21 AND  
28 CHAPTER 7 OF THE JOB ENHANCEMENT ACT IS INTENDED ONLY TO  
29 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED  
30 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE

1 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR  
2 ADMINISTRATION AND IMPLEMENTATION OF CHAPTER 7 OF THE JOB  
3 ENHANCEMENT ACT.

4 (III) SUBPARAGRAPH (II) DOES NOT APPLY TO ANY OF THE  
5 FOLLOWING PROVISIONS:

6 (A) THE ADDITION OF 12 PA.C.S. § 2106(2).

7 (B) THE ADDITION OF 12 PA.C.S. § 2109.

8 (4) THE ADDITION OF 12 PA.C.S. CH. 23 IS A CONTINUATION  
9 OF CHAPTER 13 OF THE JOB ENHANCEMENT ACT. THE FOLLOWING  
10 APPLY:

11 (I) EXCEPT AS OTHERWISE PROVIDED IN 12 PA.C.S. CH.  
12 23, ALL ACTIVITIES INITIATED UNDER THE CHAPTER 13 OF THE  
13 JOB ENHANCEMENT ACT SHALL CONTINUE AND REMAIN IN FULL  
14 FORCE AND EFFECT AND MAY BE COMPLETED UNDER 12 PA.C.S.  
15 CH. 23. ORDERS, REGULATIONS, RULES AND DECISIONS WHICH  
16 WERE MADE UNDER CHAPTER 13 OF THE JOB ENHANCEMENT ACT AND  
17 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF SECTION  
18 2(1)(III) OF THIS ACT SHALL REMAIN IN FULL FORCE AND  
19 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER 12  
20 PA.C.S. CH. 23. CONTRACTS, OBLIGATIONS AND COLLECTIVE  
21 BARGAINING AGREEMENTS ENTERED INTO UNDER CHAPTER 13 OF  
22 THE JOB ENHANCEMENT ACT ARE NOT AFFECTED NOR IMPAIRED BY  
23 THE REPEAL OF CHAPTER 13 OF THE JOB ENHANCEMENT ACT.

24 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), ANY  
25 DIFFERENCE IN LANGUAGE BETWEEN 12 PA.C.S. CH. 23 AND  
26 CHAPTER 13 OF THE JOB ENHANCEMENT ACT IS INTENDED ONLY TO  
27 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED  
28 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE  
29 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR  
30 ADMINISTRATION AND IMPLEMENTATION OF CHAPTER 13 OF THE

1 JOB ENHANCEMENT ACT.

2 (III) SUBPARAGRAPH (II) DOES NOT APPLY TO ANY OF THE  
3 FOLLOWING PROVISIONS:

4 (A) THE ADDITION OF 12 PA.C.S. § 2305(A).

5 (B) THE ADDITION OF 12 PA.C.S. § 2306(A), (B),  
6 (C) AND (E).

7 (C) THE ADDITION OF 12 PA.C.S. § 2308(A), (B)  
8 AND (C).

9 (D) THE ADDITION OF 12 PA.C.S. § 2309(B).

10 (E) THE ADDITION OF 12 PA.C.S. § 2310(B).

11 (IV) IN CONTINUATION OF SECTION 1302 OF THE JOB  
12 ENHANCEMENT ACT, ALL FUNDS, ACCOUNTS, ASSETS,  
13 ENCUMBRANCES AND LIABILITIES LOCATED IN OR ASSOCIATED  
14 WITH THE AIR QUALITY IMPROVEMENT FUND, THE STORAGE TANK  
15 LOAN FUND AND THE RECYCLING INCENTIVE DEVELOPMENT ACCOUNT  
16 SHALL BE TRANSFERRED TO THE POLLUTION PREVENTION  
17 ASSISTANCE ACCOUNT AND SHALL BE ADMINISTERED IN  
18 ACCORDANCE WITH 12 PA.C.S. §§ 2304 AND 2309. THE  
19 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL  
20 REPORT ANNUALLY TO THE DEPARTMENT OF ENVIRONMENTAL  
21 PROTECTION ON THE STATUS OF THE POLLUTION PREVENTION  
22 ASSISTANCE ACCOUNT AND THE LOANS MADE UNDER 12 PA.C.S. §  
23 2309.

24 (V) IN CONTINUATION OF SECTION 1309(A) OF THE JOB  
25 ENHANCEMENT ACT, AS OF JULY 1, 1997, ALL FUNDS, ACCOUNTS,  
26 ASSETS, ENCUMBRANCES AND LIABILITIES LOCATED IN OR  
27 ASSOCIATED WITH THE CAPITAL LOAN FUND SHALL BE  
28 TRANSFERRED TO THE SMALL BUSINESS FIRST FUND AND SHALL  
29 THEREAFTER BE ADMINISTERED IN ACCORDANCE WITH 12 PA.C.S.  
30 CH. 23.



1 (VI) IN CONTINUATION OF SECTION 1309(B) OF THE JOB  
2 ENHANCEMENT ACT, ANNUALLY ON JULY 1, THE STATE TREASURER  
3 MAY TRANSFER, UPON APPROVAL BY THE GOVERNOR, UP TO  
4 \$2,000,000 FROM THE HAZARDOUS SITES CLEANUP FUND INTO THE  
5 POLLUTION PREVENTION ASSISTANCE ACCOUNT. THIS TRANSFER  
6 SHALL BE IN ADDITION TO OTHER APPROPRIATIONS, FEDERAL  
7 FUNDING AND PRIVATE CONTRIBUTIONS RECEIVED BY THE  
8 ACCOUNT.

9 (5) THE ADDITION OF 12 PA.C.S. CH. 29 IS A CONTINUATION  
10 OF CHAPTER 30 OF THE JOB ENHANCEMENT ACT. THE FOLLOWING  
11 APPLY:

12 (I) EXCEPT AS OTHERWISE PROVIDED IN 12 PA.C.S. CH.  
13 29, ALL ACTIVITIES INITIATED UNDER CHAPTER 30 OF THE JOB  
14 ENHANCEMENT ACT SHALL CONTINUE AND REMAIN IN FULL FORCE  
15 AND EFFECT AND MAY BE COMPLETED UNDER 12 PA.C.S. CH. 29.  
16 ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE MADE  
17 UNDER CHAPTER 30 OF THE JOB ENHANCEMENT ACT AND WHICH ARE  
18 IN EFFECT ON THE EFFECTIVE DATE OF SECTION 2(1)(V) OF  
19 THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL  
20 REVOKED, VACATED OR MODIFIED UNDER 12 PA.C.S. CH. 29.  
21 CONTRACTS, OBLIGATIONS AND COLLECTIVE BARGAINING  
22 AGREEMENTS ENTERED INTO UNDER CHAPTER 30 OF THE JOB  
23 ENHANCEMENT ACT ARE NOT AFFECTED NOR IMPAIRED BY THE  
24 REPEAL OF CHAPTER 30 OF THE JOB ENHANCEMENT ACT.

25 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), ANY  
26 DIFFERENCE IN LANGUAGE BETWEEN 12 PA.C.S. CH. 29 AND  
27 CHAPTER 30 OF THE JOB ENHANCEMENT ACT IS INTENDED ONLY TO  
28 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED  
29 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE  
30 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR

1 ADMINISTRATION AND IMPLEMENTATION OF CHAPTER 30 OF THE  
2 JOB ENHANCEMENT ACT.

3 (III) SUBPARAGRAPH (II) DOES NOT APPLY TO ANY OF THE  
4 FOLLOWING:

5 (A) THE ADDITION OF THE DEFINITIONS OF "BUSINESS  
6 ENTERPRISE" AND "MEDICAL FACILITY" IN 12 PA.C.S. §  
7 2902.

8 (B) THE ADDITION OF 12 PA.C.S. § 2905(A) AND  
9 (C).

10 (C) THE FOLLOWING PROVISIONS IN THE ADDITION OF  
11 12 PA.C.S. § 2906:

12 (I) SUBSECTION (C)(3), (4) AND (8).

13 (II) THE INTRODUCTORY PARAGRAPH OF  
14 SUBSECTION (E).

15 (D) THE FOLLOWING PROVISIONS IN THE ADDITION OF  
16 12 PA.C.S. § 2911:

17 (I) THE INTRODUCTORY PARAGRAPH OF SUBSECTION  
18 (A).

19 (II) PARAGRAPHS (2), (3), (4) AND (5) OF  
20 SUBSECTION (A).

21 (E) THE ADDITION OF 12 PA.C.S. § 2912.

22 SECTION 5. MONEY APPROPRIATED TO THE DEPARTMENT OF COMMUNITY  
23 AND ECONOMIC DEVELOPMENT FOR THE BASE RETENTION AND CONVERSION  
24 PENNSYLVANIA ACTION COMMITTEE SHALL BE USED FOR ALL OF THE  
25 FOLLOWING:

26 (1) THE DEVELOPMENT OF A STATEWIDE STRATEGY.

27 (2) MATCHING GRANTS FOR ECONOMIC IMPACT STUDIES,  
28 ENVIRONMENTAL IMPACT STUDIES, ENCROACHMENT STUDIES, COMMUNITY  
29 AND REGIONAL INTERACTION WITH MILITARY BASES, INFRASTRUCTURE  
30 NEEDS AT MILITARY BASES AND JOB TRAINING NEEDS AT OR NEAR

1 MILITARY BASES. GRANTS UNDER THIS SUBPARAGRAPH:

2 (I) SHALL BE AWARDED BY THE BASE RETENTION AND  
3 CONVERSION PENNSYLVANIA ACTION COMMITTEE;

4 (II) REQUIRE A 25% LOCAL MATCH; AND

5 (III) ARE LIMITED TO \$75,000 OR LESS PER MILITARY  
6 BASE.

7 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

8 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT UPON  
9 PUBLICATION OF THE GUIDELINES REQUIRED BY THE ADDITION OF 12  
10 PA.C.S. § 2912:

11 (I) THE ADDITION OF 12 PA.C.S. §§ 2901 THROUGH 2911.

12 (II) SECTION 3(1)(V) OF THIS ACT.

13 (III) SECTION 4(5) OF THIS ACT.

14 (2) THE ADDITION OF 12 PA.C.S. §§ 3705 AND 3706 SHALL  
15 TAKE EFFECT JULY 1, 2004.

16 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
17 IMMEDIATELY.