
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1026 Session of
2004

INTRODUCED BY LAVALLE, FEBRUARY 10, 2004

REFERRED TO APPROPRIATIONS, FEBRUARY 10, 2004

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes,
3 providing for economic development financing.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 64 of the Pennsylvania Consolidated
7 Statutes is amended by adding a part to read:

8 PART II

9 ECONOMIC DEVELOPMENT FINANCING

10 Chapter

11 11. Pennsylvania Industrial Development Authority

12 (Reserved)

13 13. Pennsylvania Economic Development Financing Authority

14 (Reserved)

15 15. Pennsylvania Economic Development Authority

16 CHAPTER 11

17 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

18 (RESERVED)

1 CHAPTER 13
2 PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY
3 (RESERVED)

4 CHAPTER 15
5 PENNSYLVANIA ECONOMIC DEVELOPMENT AUTHORITY

6 Subchapter

- 7 A. General Provisions
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12 SUBCHAPTER A

13 GENERAL PROVISIONS

14 Sec.

15 1501. Scope.

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17 1503. Findings and declaration of policy.

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19 § 1501. Scope.

20 This chapter relates to the Pennsylvania Economic Development
21 Authority.

22 § 1502. Construction.

23 This chapter shall be liberally construed in order to effect
24 the legislative and public purposes of section 1503 (relating to
25 findings and declaration of policy).

26 § 1503. Findings and declaration of policy.

27 The General Assembly finds and declares as follows:

28 (1) Economic insecurity due to unemployment is at any
29 time harmful to the health, safety, morals and general
30 welfare of the people of this Commonwealth. A minimum level

1 of unemployment and a maximum level of business opportunity
2 and the elimination or prevention of blight can best be
3 provided by the promotion, attraction, stimulation,
4 rehabilitation and revitalization of industrial, commercial,
5 tourism-related, production agriculture and other economic
6 activities in this Commonwealth. The promotion of these
7 activities will also enhance their competitiveness in the
8 global economy.

9 (2) Many existing industrial, commercial and other
10 economic activities throughout this Commonwealth could become
11 more competitive and could expand more rapidly if additional
12 means of financing were available for modern buildings, plant
13 facilities, modern machinery and equipment and other capital
14 needs. Additional activities could be attracted to this
15 Commonwealth if additional means of financing were available
16 to acquire, construct, rehabilitate and expand facilities.
17 Financing for cost-savings activities related to buildings,
18 plants, machinery and equipment and other facilities would
19 further the purposes of this paragraph.

20 (3) It is the policy of the Commonwealth to promote the
21 health, safety, employment, business opportunities, economic
22 activity and general welfare of the people by establishing an
23 authority to assist in financing economic development.

24 § 1504. Definitions.

25 The following words and phrases when used in this chapter
26 shall have the meaning given to them in this section unless the
27 context clearly indicates otherwise:

28 "Authority." The Pennsylvania Economic Development Authority
29 established in section 1511 (relating to authority).

30 "Board." The board of the authority continued by section

1 1512 (relating to board).

2 "Department." The Department of Community and Economic
3 Development of the Commonwealth.

4 "Project." Any industrial facility, commercial facility,
5 pollution control facility, energy conversion facility, energy-
6 producing facility, disaster relief project facility, public
7 facility and other facility or activity which promotes any of
8 the public purposes set forth in section 1503 (relating to
9 findings and declaration of policy). A project may consist
10 solely of the financing of operating expenses. The term
11 includes:

12 (1) Land, interests in land, easements, appurtenances,
13 improvements, buildings, structures, equipment and
14 furnishings.

15 (2) Other real or personal property, tangible or
16 intangible or interest in real or personal property, alone or
17 in combination.

18 (3) Working capital and other capital needs for
19 industrial, commercial and other economic or cost savings
20 activities.

21 SUBCHAPTER B

22 STRUCTURE AND POWERS

23 Sec.

24 1511. Authority.

25 1512. Board.

26 1513. Powers.

27 § 1511. Authority.

28 (a) Establishment.--The Pennsylvania Economic Development
29 Authority is established. The authority shall be an
30 instrumentality of the Commonwealth and a body corporate and

1 politic, with corporate succession.

2 (b) Governance.--The authority shall be governed and the
3 powers of the authority shall be exercised by the board.

4 (c) Revenue.--Expenses of the authority shall be paid from
5 assets or income of the authority. Except as provided in this
6 chapter or by other law, the Commonwealth shall not be
7 responsible for funding the expenses of the authority.

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

10 (e) Funds of authority.--The authority may create funds and
11 accounts necessary or desirable for its corporate purposes. No
12 other provision of this chapter shall be construed to prohibit
13 the authority from creating within any fund one or more accounts
14 which may be used or pledged by the authority for a special
15 purpose.

16 (f) Audit.--The accounts and books of the authority shall be
17 examined and audited annually by a recognized independent
18 certified public accounting firm.

19 (g) General Assembly review.--

20 (1) The Appropriations Committee of the Senate and the
21 Appropriations Committee of the House of Representatives have
22 the right to examine the books, accounts and records of the
23 authority.

24 (2) The authority shall annually file a copy of the
25 audit required by subsection (f) with the Appropriations
26 Committee of the Senate and the Appropriations Committee of
27 the House of Representatives.

28 (h) Publication.--The authority shall annually publish a
29 concise financial statement in the Pennsylvania Bulletin.

30 (i) Cooperation.--Executive agencies shall cooperate with

1 and provide assistance to the authority without financial
2 reimbursement.

3 (j) Dissolution.--The authority may be dissolved by law if
4 all outstanding liabilities of the authority, including bonds
5 and other contractual obligations, have been fully paid,
6 retired, satisfied or discharged, or provision has been made for
7 payment of all outstanding liabilities of the authority,
8 including bonds and other contractual obligations. Upon the
9 dissolution of the authority, all funds, assets and other
10 property of the authority shall vest in the Commonwealth.

11 (k) Applicability.--The following acts shall apply to the
12 board:

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

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

17 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
18 open meetings) and 11 (relating to ethics standards and
19 financial disclosure).

20 § 1512. Board.

21 (a) Composition.--The board of the authority shall be
22 composed of the following members:

23 (1) The Secretary of Community and Economic Development.

24 (2) The Secretary of the Budget.

25 (3) The Secretary of Banking.

26 (4) Four legislative appointees.

27 (i) Appointments are as follows:

28 (A) One individual appointed by the President
29 pro tempore of the Senate.

30 (B) One individual appointed by the Minority

1 Leader of the Senate.

2 (C) One individual appointed by the Speaker of
3 the House of Representatives.

4 (D) One individual appointed by the Minority
5 Leader of the House of Representatives.

6 (ii) A legislative appointee under this paragraph
7 may appoint a designee.

8 (iii) Legislative appointees shall serve at the
9 pleasure of the appointing authority.

10 (b) Organization.--The Governor shall select a member of the
11 board to serve as chairperson. The members shall select from
12 among themselves such officers as they shall determine.

13 (c) Meetings.--The board shall meet at the call of the
14 chairperson but shall meet at least once each month.

15 (d) Quorum.--A majority of the board shall constitute a
16 quorum. The consent of at least five members of the board shall
17 be necessary to take any action on behalf of the authority.

18 (e) Compensation.--The members of the board shall be
19 entitled to no compensation for their services as members but
20 shall be entitled to reimbursement for all necessary expenses
21 incurred in connection with the performance of their duties as
22 members.

23 (f) Liability.--Members of the board shall not be liable
24 personally on any obligations of the authority, including bonds
25 of the authority.

26 § 1513. Powers.

27 (a) Powers.--The authority, as a public corporation and
28 governmental instrumentality exercising public powers of the
29 Commonwealth, has the following powers:

30 (1) To have existence until its existence is terminated

1 by law.

2 (2) To adopt bylaws and guidelines as necessary.

3 (3) To sue and be sued, implead and be impleaded,
4 interplead, complain and defend in any court.

5 (4) To adopt, use and alter a corporate seal.

6 (5) To employ an executive director and other persons as
7 are necessary or convenient for carrying on the business of
8 the authority.

9 (6) To retain attorneys, accountants, auditors and
10 financial experts, to render services and engage the services
11 of other advisors, consultants and agents as necessary. The
12 chairman shall ensure that minority-owned or minority-
13 controlled firms have an opportunity to participate to a
14 significant degree in the provision of contractual services
15 purchased by the authority.

16 (7) To pay or satisfy obligations of the authority.

17 (8) To contract and execute instruments, including
18 financing agreements, letters of credit, guarantees,
19 sureties, mortgages, loans, standby loan commitments and
20 contracts of insurance, which are necessary or appropriate
21 for carrying on the business of the authority. This power
22 includes the ability to make and execute contracts for the
23 servicing of loans and mortgages acquired by the authority.

24 (9) To borrow money, issue bonds, obtain lines and
25 letters of credit and incur debt.

26 (10) To pledge the credit of the authority and provide
27 security and liquidity to obligees of the authority as the
28 authority deems necessary or appropriate.

29 (11) To negotiate modifications or alterations in
30 mortgages or security interests.

1 (12) To foreclose on a mortgage or security interest in
2 default.

3 (13) To commence any action necessary to protect or
4 enforce any right conferred upon the authority by any law,
5 mortgage, security agreement, contract or other agreement.

6 (14) To bid for or purchase property which was the
7 subject of a mortgage or security interest at a foreclosure
8 or other sale and to acquire and take possession of that
9 property.

10 (15) To charge and collect fees and charges in
11 connection with loan commitments and servicing, including
12 reimbursement of costs of financing.

13 (16) To acquire, accept, purchase, receive, collect,
14 hold, convey and invest funds, fees and property, whether
15 tangible or intangible, from all sources, directly or by
16 assignment, pledge or otherwise.

17 (17) To sell, transfer, convey and dispose of any
18 property, whether tangible or intangible.

19 (18) To acquire and sell loans, mortgages and security
20 interests at public or private sale.

21 (19) To provide financial assistance to applicants and
22 project users.

23 (20) To agree to and comply with any conditions attached
24 to Federal or Commonwealth financial assistance not
25 inconsistent with the provisions of this chapter.

26 (21) To make rules regarding the operation of properties
27 and facilities of the authority subject to agreements with
28 obligees of the authority.

29 (22) To develop contractually binding policies to assure
30 that:

1 (i) all persons, including the authority's
2 contractors, subcontractors, assignees, lessees, agents,
3 vendors and suppliers, are accorded equality of
4 opportunity in employment and contracting associated with
5 projects and programs authorized under this chapter; and

6 (ii) contracting parties demonstrate diversity in
7 ownership of equity interests.

8 (23) To exercise rights provided by law for the benefit
9 or protection of the authority or obligees of the authority.

10 (24) To invest money of the authority not required for
11 immediate use, including proceeds from the sale of any bonds,
12 as the board determines, subject to any agreement with
13 bondholders stated in the authorizing resolution providing
14 for the issuance of bonds.

15 (25) To procure insurance against any loss in connection
16 with its programs, property and other assets.

17 (26) To enter into agreements providing for the
18 acquisition of projects comprising or including public
19 facilities for financing purposes only.

20 (27) To promulgate regulations containing restrictions
21 as it may deem necessary or appropriate to effectuate the
22 public purposes of this chapter.

23 (28) To finance all or part of an interagency project
24 which meets the requirements of section 1521(a)(2) (relating
25 to bond issuance).

26 (29) To negotiate and enter into interest rate exchange
27 agreements, interest rate cap agreements, collar agreements,
28 corridor agreements, ceiling agreements, floor agreements,
29 forward agreements, float agreements and other similar
30 arrangements, which, in the judgment of the authority, will

1 assist the authority in managing the interest costs of the
2 authority.

3 (30) To enter into financing agreements with applicants
4 and project users providing, among other things:

5 (i) for loan, lease or sale financing or other
6 financing of projects for applicants or project users;

7 (ii) for loan, rental or purchase price payments or
8 other payments, sufficient to amortize the principal,
9 interest and premium, if any, of all bonds and
10 contractual obligations of the authority incurred to
11 provide funds to pay the costs of the projects to be
12 financed;

13 (iii) for the applicants or project users to pay or
14 cause to be paid all other costs of acquiring,
15 constructing, maintaining and operating the projects;

16 (iv) for conveyance with or without consideration of
17 any part or all of a project to the project user or
18 applicant on or before payment of all bonds and
19 contractual obligations of the authority incurred with
20 respect to the project; and

21 (v) for other matters as are customary in those
22 agreements or as may be deemed necessary or appropriate
23 by the authority.

24 (31) To make contracts and to execute instruments
25 necessary or convenient for the carrying on of its business.

26 (32) To do any act necessary or appropriate to carry out
27 and effectuate the purposes of this chapter.

28 (33) To do any act necessary or convenient to the
29 exercise of the powers set forth in this subsection
30 reasonably implied from those powers.

1 (b) Duties.--The authority shall administer the programs
2 established in Subchapter E (relating to programs) in accordance
3 with this chapter.

4 SUBCHAPTER C

5 BONDS

6 Sec.

7 1521. Bond issuance.

8 1522. Commonwealth taxation.

9 1523. Federal taxation.

10 1524. Validity of bonds; limitation on actions.

11 1525. Provisions of bonds; trust agreements.

12 1526. Validity of pledge.

13 1527. Commonwealth pledges.

14 1528. Bonds to be legal investments.

15 1529. Bondholder rights.

16 § 1521. Bond issuance.

17 (a) Authorization.--

18 (1) The authority has the power to issue its limited
19 obligation revenue bonds and other types of limited
20 obligation revenue financing as in the judgment of the
21 authority is necessary to provide sufficient funds for any
22 project or group of projects, provided as follows:

23 (i) That the issuance by the authority of taxable or
24 tax-exempt bonds on behalf of projects comprising
25 industrial facilities, commercial facilities, pollution
26 control facilities, energy conversion facilities, energy-
27 producing facilities and disaster relief project
28 facilities, other than Pennsylvania Opportunity Fund
29 projects, has been authorized by a local economic
30 development financing authority or a group of local

1 economic development financing authorities or by a local
2 economic development agency or a group of local economic
3 development agencies.

4 (ii) That the authority may issue taxable or tax-
5 exempt bonds on behalf of interagency projects, only if:

6 (A) the applicant has first applied to PENNVEST
7 for financing under the provisions of the act of
8 March 1, 1988 (P.L.82, No.16), known as the
9 Pennsylvania Infrastructure Investment Authority Act;
10 and

11 (B) PENNVEST, in writing, refers the applicant
12 to the authority to finance all or part of the
13 interagency project in accordance with this chapter.

14 (iii) That the issuance by the authority of taxable
15 or tax-exempt bonds for a public facility, for
16 interagency projects and for projects for roads and
17 transportation facilities and transportation systems has
18 been authorized by a municipality, municipal authority or
19 Commonwealth agency and that both the applicant and the
20 authority have determined that the cost of obtaining the
21 financing for the public facility will be reduced through
22 the issuance of bonds through the authority. For purposes
23 of the determination required in this subparagraph, any
24 financing for a public facility that the authority
25 reasonably believes could have received a rating of "A"
26 or better from a nationally recognized rating agency
27 shall be presumed not to be eligible for financing by the
28 authority under this paragraph.

29 (2) The authority may, as it deems necessary and
30 desirable, use the proceeds of bonds issued for all of the

1 following:

2 (i) Making loans.

3 (ii) Purchasing loans, mortgages, security interests
4 or loan participations.

5 (iii) Paying incidental expenses in connection with
6 activity under subparagraphs (i) and (ii).

7 (iv) Paying expenses of authorizing and issuing the
8 bonds.

9 (v) Paying interest on the bonds until revenues of
10 the project are available in sufficient amounts to pay
11 interest.

12 (vi) Funding reserves.

13 (b) Method of financing.--The financing of projects may be
14 with tax-exempt bonds or taxable bonds issued pursuant to this
15 chapter and may be direct through application of bond proceeds
16 or other funds to pay project costs or indirect through stock
17 purchases or other means as the authority approves.

18 (c) Authorization requirements.--

19 (1) Bonds of the authority shall be authorized by a
20 resolution of the board.

21 (2) The bonds shall, as provided in the resolution of
22 the board:

23 (i) be of a series;

24 (ii) bear a date or dates;

25 (iii) bear or accrue interest at any rate or rates,
26 whether fixed or variable;

27 (iv) be in denominations;

28 (v) be in any form, either coupon or fully
29 registered without coupons or in certificated or book-
30 entry-only form;

- 1 (vi) carry registration, exchangeability and
2 interchangeability privileges;
- 3 (vii) be payable in any medium of payment and at any
4 place or places;
- 5 (viii) mature on a date or dates not to exceed 40
6 years from the bonds' original issue date; and
- 7 (ix) be subject to terms of redemption, if any.

8 (3) Bonds shall be signed by or shall bear the facsimile
9 signature of the officer designated by the board.

10 (4) Interest coupons shall be attached to coupon bonds
11 and shall bear the facsimile signature of the officer
12 designated by the board.

13 (5) Bonds may be authenticated by an authenticating
14 agent, fiscal agent or trustee.

15 (6) Bonds may be issued and delivered notwithstanding
16 that the officer signing the bonds or whose facsimile
17 signature is on a coupon has ceased to be the officer at the
18 time when the bond is actually delivered.

19 (d) No debt or liability of the Commonwealth.--

20 (1) Bonds issued under this chapter shall not be a debt
21 or liability of the Commonwealth and shall not create or
22 constitute any indebtedness, liability or obligation of the
23 Commonwealth.

24 (2) Bonds shall be payable solely from revenues or funds
25 pledged or available for their repayment as authorized in
26 this chapter, including the proceeds of any issue of bonds
27 and, in the case of a public project, the pledge of fees,
28 taxes and other revenues by a political subdivision or other
29 instrumentality of the Commonwealth.

30 (3) All bonds shall contain on their faces statements to

1 the effect that:

2 (i) the authority is obligated to pay the principal
3 of or the interest on the bonds only from its revenues,
4 receipts or funds pledged or available for their payment
5 as authorized in this chapter;

6 (ii) neither the Commonwealth nor any political
7 subdivision is obligated to pay the principal or
8 interest; and

9 (iii) neither the faith and credit nor the taxing
10 power of the Commonwealth or any political subdivision is
11 pledged to the payment of the principal of or the
12 interest on the bonds.

13 (e) Sale.--

14 (1) Bonds may be sold at public sale, invited sale or
15 private sale for the price or prices the authority
16 determines.

17 (2) The authority shall ensure that minority-owned or
18 minority-controlled firms have an opportunity to participate
19 in a significant way in bond sale activities.

20 (f) Interim receipts.--Pending the preparation of the
21 definitive bonds, interim receipts may be issued to the
22 purchaser or purchasers of the bonds and shall contain the terms
23 and conditions established by the authority.

24 (g) Negotiable instruments.--Bonds of the authority shall
25 have the qualities of negotiable instruments under 13 Pa.C.S.
26 (relating to commercial code).

27 (h) Refunding.--Subject to provisions of this chapter and
28 the terms of bonds or other contractual obligations issued in
29 accordance with this chapter, the authority may refund any
30 outstanding debt of the authority, whether the debt represents

1 principal or interest, in whole or in part, at any time. For the
2 purposes of this subsection, the term "refund" and its
3 variations means the issuance and sale of obligations the
4 proceeds of which are used or are to be used for the payment or
5 redemption of outstanding obligations upon or prior to maturity.
6 § 1522. Commonwealth taxation.

7 (a) General.--The effectuation of the purposes of the
8 authority is in all respects for the benefit of the people of
9 this Commonwealth; for the increase of their commerce and
10 prosperity; and for the improvement of their health, safety,
11 welfare and living conditions.

12 (b) Authority.--Since the authority, as a public
13 instrumentality of the Commonwealth, will be performing
14 essential governmental functions in effectuating these purposes,
15 the authority is not required to pay any taxes or assessments
16 upon any property acquired or used or permitted to be used by
17 the authority for its purposes.

18 (c) Bonds.--Bonds issued by the authority, the transfer and
19 the income from the bonds, including profit made on their sale,
20 are free from State and local taxation within this Commonwealth.
21 The exclusion under this subsection shall not extend to gift,
22 estate, succession or inheritance taxes or any other taxes not
23 levied directly on the bonds, their transfer, the income from
24 the bonds or the realization of profits on their sale.

25 § 1523. Federal taxation.

26 (a) Allocation.--If the bonds issued by the authority for a
27 project are tax-exempt bonds for which Federal law requires an
28 allocation, the department shall issue an allocation charging a
29 small issue project's pro rata share of the issue to the county
30 in which the project will be located if the project requires a

1 type of allocation distributed by the department to counties.

2 (b) Approval.--If gubernatorial approval is required by
3 Federal or Commonwealth law, the Governor may approve the
4 issuance of bonds by the authority upon receipt of written
5 request for approval from the board. The written request must
6 state all of the following:

7 (1) The authority has conducted a public hearing, with
8 appropriate public notice, concerning the purposes for which
9 the bonds are to be issued.

10 (2) A description of the project or projects to be
11 financed.

12 (3) A description of the method of financing the project
13 or projects.

14 (4) A summary of the comments made and questions posed
15 at the public hearing.

16 § 1524. Validity of bonds; limitation on actions.

17 (a) Presumption.--A bond reciting in substance that it has
18 been issued by the authority to accomplish the public purposes
19 of this chapter shall be conclusively deemed in any suit, action
20 or proceeding involving the validity or enforceability of the
21 bonds or their security to have been issued for the public
22 purposes of this chapter.

23 (b) Estoppel.--After issuance, bonds shall be conclusively
24 presumed to be fully authorized and issued by all the laws of
25 this Commonwealth; and any person shall be estopped from
26 questioning their validity, sale, execution or delivery by the
27 authority.

28 § 1525. Provisions of bonds; trust agreements.

29 A resolution authorizing bonds or any trust agreement
30 approved by the authority in a resolution authorizing the bonds

1 may contain provisions to:

2 (1) Secure the bonds.

3 (2) Covenant against:

4 (i) pledging or granting a security interest in all
5 or any part of the authority's revenues or all or any
6 part of its property to which its right or title exists
7 or which may later come into existence; or

8 (ii) permitting or suffering any lien on all or any
9 part of its revenues or property.

10 (3) Covenant with respect to limiting the authority's
11 right to sell, pledge or otherwise dispose of bonds or notes
12 of governmental units, loan agreements or other property.

13 (4) Covenant as to additional bonds to be issued, as to
14 limitations on additional bonds, as to terms and conditions
15 of additional bonds and as to the custody, application,
16 investment and disposition of proceeds of bonds.

17 (5) Covenant as to the incurring of other debts or
18 obligations by the authority.

19 (6) Covenant as to the:

20 (i) payment of principal of or interest on bonds;

21 (ii) sources and methods of payment; and

22 (iii) rank or priority of bonds with respect to
23 liens or security interests.

24 (7) Provide for the replacement of lost, stolen,
25 destroyed or mutilated bonds.

26 (8) Covenant against extending the time for the payment
27 of bonds or interest.

28 (9) Covenant as to the redemption, purchase, tender of
29 bonds by the authority or the bondholders and the privilege
30 of exchange of bonds for other bonds.

1 (10) Create or authorize the creation of special funds
2 or accounts to be held in trust or otherwise for the benefit
3 of bondholders or of reserves for debt service or other
4 purposes.

5 (11) Covenant as to the use, investment and disposition
6 of the money held in special funds, accounts or reserves.

7 (12) Prescribe:

8 (i) the procedure, if any, by which the terms of any
9 contract with bondholders may be amended or abrogated;

10 (ii) the percentage of the principal amount of bonds
11 the holders of which must consent to the amendment or
12 abrogation; and

13 (iii) the manner in which the consent may be given.

14 (13) Covenant as to the use of any or all of the
15 authority's real or personal property or warrant its title.

16 (14) Provide for the maintenance of the authority's real
17 and personal property, the replacement of its real and
18 personal property, the insurance to be carried on its real
19 and personal property and the use and disposition of
20 insurance proceeds.

21 (15) Provide for rights, liabilities, powers and duties
22 arising upon the breach of any covenant, condition or
23 obligation.

24 (16) Prescribe:

25 (i) events of default;

26 (ii) terms and conditions upon which any or all of
27 the bonds become or may be declared due and payable
28 before stated maturity following an event of default; and

29 (iii) terms and conditions upon which the
30 declaration and its consequence may be waived.

1 (17) Pay the costs or expenses incident to:
2 (i) the enforcement of the bonds;
3 (ii) the provisions of the resolution authorizing
4 the issuance of the bonds;
5 (iii) the trust agreement securing the bonds; and
6 (iv) any covenant or agreement of the authority with
7 the holders of the bonds or other obligees of the
8 authority.

9 (18) Vest in a trustee, within or without this
10 Commonwealth, any property, rights, powers and duties in
11 trust, including rights with respect to the sale or other
12 disposition of notes and bonds of governmental units and
13 other instruments and security pledged under a resolution or
14 trust agreement for the benefit of bondholders and rights, by
15 suit or action, to foreclose a mortgage pledged under a
16 resolution or trust indenture for the benefit of bondholders.

17 (19) Limit the rights, powers and duties of a trustee
18 and the right of bondholders to appoint a trustee.

19 (20) Establish the terms and conditions upon which a
20 trustee or the bondholders may enforce a covenant or rights
21 securing or relating to the bonds.

22 (21) Obtain letters of credit, bond insurance and other
23 facilities for credit enhancement and liquidity.

24 (22) Exercise all or any part or combination of the
25 powers granted in this chapter.

26 (23) Make covenants other than and in addition to the
27 covenants expressly authorized by this chapter.

28 (24) Make any other covenant and do or refrain from
29 doing any other act and thing necessary, convenient or
30 desirable in order to better secure the bonds of the

1 authority or, in the absolute discretion of the authority, as
2 will tend to make bonds of the authority more marketable,
3 notwithstanding that the covenant, act or thing may not be
4 specifically enumerated in this chapter.

5 § 1526. Validity of pledge.

6 Any pledge of or grant of a security interest in revenues or
7 instruments made by the authority shall be valid and binding
8 from the time when the pledge is made. The revenues, receipts,
9 money, funds or other property or instruments pledged and later
10 received by the authority shall immediately be subject to the
11 lien of the pledge or security interest without any physical
12 delivery of the property pledged or further act. The lien of the
13 pledge or security interest shall be valid and binding as
14 against all parties having claims of any kind in tort, contract
15 or otherwise against the authority irrespective of whether the
16 parties have notice of the lien, pledge or security interest. No
17 instrument by which a pledge or security interest is created,
18 evidenced or noticed need be recorded or filed to perfect the
19 pledge or security interest, except in the records of the
20 authority.

21 § 1527. Commonwealth pledges.

22 (a) Bondholders.--The Commonwealth pledges to and agrees
23 with each obligee of the authority that the Commonwealth will
24 not limit or alter the rights and powers vested in the authority
25 or otherwise created by this chapter in any manner inconsistent
26 with the obligations of the authority to its obligees until all
27 bonds at any time issued, together with the interest on the
28 bonds, are fully paid and discharged.

29 (b) Lessees.--The Commonwealth pledges and agrees with any
30 person that, as owner of property which is leased or subleased

1 to or from the authority, it will not limit or alter the rights
2 and powers vested in the authority or otherwise created by this
3 chapter in any manner which impairs the obligations of the
4 authority until all the obligations of the authority under the
5 lease or sublease are fully met and discharged.

6 § 1528. Bonds to be legal investments.

7 (a) Investments.--Bonds issued pursuant to this chapter are
8 made securities in which all of the following may properly and
9 legally invest funds, including capital, deposits or other funds
10 in their control or belonging to them:

11 (1) Government agencies.

12 (2) Insurance companies.

13 (3) Trust companies.

14 (4) Banking associations, banking corporations and
15 savings banks.

16 (5) Investment companies.

17 (6) Executors, trustees and other fiduciaries.

18 (7) Trustees of any retirement, pension or annuity fund
19 or system of the Commonwealth.

20 (b) Deposits.--Bonds issued by the authority are made
21 securities which may properly and legally be deposited with and
22 received by any government agency for any purpose for which the
23 deposit of bonds or other obligations of the Commonwealth are
24 authorized by law.

25 § 1529. Bondholder rights.

26 The rights and remedies conferred upon or granted to
27 bondholders pursuant to this chapter shall be in addition to and
28 not in limitation of rights and remedies lawfully granted to
29 bondholders by the resolution providing for the issuance of
30 bonds or by any trust agreement or other agreement under which

1 the bonds may be issued or secured.

2 SUBCHAPTER D

3 AUTHORITY LOANS

4 Sec.

5 1541. Restrictions on use of funds.

6 1542. Funding.

7 § 1541. Restrictions on use of funds.

8 In addition to other provisions of this chapter limiting the
9 power of the authority to make loans or provide other financial
10 assistance to a particular project, no funds of the authority
11 shall be used with respect to a project if the authority would
12 be required, except upon foreclosure or except upon the
13 occurrence of a default in the payment or terms of any loan
14 made, to operate, service or maintain the project pursuant to
15 any lease or other agreement. Nothing shall prevent the
16 authority from transferring the property to the applicant,
17 project user or either of their designees at the end of the term
18 of the financing.

19 § 1542. Funding.

20 The following shall apply:

21 (1) The authority is authorized to incur debt, including
22 through the issuance of bonds, in an amount not to exceed
23 \$150,000,000 which shall be deposited into an account to fund
24 all of the following:

25 (i) Programs established by Subchapter F (relating
26 to programs).

27 (ii) The costs of the authority, the board and the
28 department which are incurred in connection with the
29 administration of the program.

30 (iii) For use by the board for the making of new

1 grants and the making of new and additional loans and
2 loan guarantees under section 1551 (relating to First
3 Industries).

4 (2) Deposits of funds made into the First Industries
5 Program Account, including funds paid as a result of the
6 payment of interest and principal on loans made under this
7 program and interest earned on the funds in the account,
8 shall be a revolving loan fund, for payment of interest on or
9 repayment of the debt incurred by the authority as authorized
10 in this chapter and for costs associated with the
11 administration of the program, as the board shall determine.

12 SUBCHAPTER E

13 PROGRAMS

14 Sec.

15 1551. First Industries.

16 § 1551. First Industries.

17 (a) Establishment.--There is established a program to be
18 known as the First Industries Program. The program shall provide
19 financial assistance in the form of loans, grants and guarantees
20 for tourism, agricultural and related projects located within
21 this Commonwealth.

22 (b) Applications for planning grants.--A project applicant
23 may submit an application to the board requesting a planning
24 grant in an amount not to exceed \$250,000 for the reimbursement
25 of costs of predevelopment and feasibility studies for a tourism
26 or agricultural project. The application shall be on the form
27 required by the board and shall include or demonstrate all of
28 the following:

29 (1) The applicant's name and address.

30 (2) The location of the project.

1 (3) A description of the project.

2 (4) An estimate of the cost of the predevelopment and
3 feasibility studies and the goal to be achieved by carrying
4 out the proposed studies.

5 (5) A statement of the amount of the planning grant
6 sought.

7 (6) Any other information required by the board.

8 (c) Review and approval of planning grant applications.--The
9 following shall apply:

10 (1) The board shall review the application and upon
11 being satisfied that all requirements have been met, the
12 board may approve the application and award a planning grant.
13 To be eligible for funding, a project must demonstrate one or
14 more of the following:

15 (i) The project involves a joint venture among two
16 or more tourism, agricultural or related entities that
17 will have a demonstrable impact on the economy of the
18 community or region where the venture will be located or
19 operational.

20 (ii) The project will promote research and
21 development efforts leading to increased
22 commercialization or utilization of farm commodities.

23 (iii) The project will result in environmentally
24 friendly or energy efficient agricultural operations.

25 (iv) The project will result in more cost-effective
26 and efficient marketing of regional tourism or
27 agricultural assets.

28 (v) The project will result in a substantial
29 increase in revenues for the Commonwealth or the host
30 municipality.

1 (vi) The project proposes to utilize Commonwealth-
2 owned natural resources for public/private development of
3 a tourism product.

4 (2) Copies of all reports and studies prepared with
5 planning grant funds shall be provided to the board and shall
6 be made available to any person upon request.

7 (d) Project financing.--The board may make funds available
8 to project applicants to finance the cost of a project. The
9 funds may be provided in the form of direct loans to project
10 applicants, loans to capitalize revolving loan funds operated by
11 nonprofit entities or guarantees of loans made by commercial
12 lending institutions. The board shall determine the amount of
13 funds provided under section 1542 (relating to funding) to be
14 allocated among the different methods of financing authorized in
15 subsections (e), (f) and (g), subject to the provisions of
16 subsection (h).

17 (e) Direct loans to project applicants.--The board may make
18 funds available to the department for loans for production
19 agriculture and tourism activities under the Small Business
20 First program or the Machinery and Equipment Loan Fund program
21 or any successor programs, as authorized under the act of June
22 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.
23 Loans shall be made in accordance with the terms and conditions
24 of those programs and may be made to any type of tourism,
25 production agriculture or related project that would be eligible
26 for financing under this chapter. After the department has
27 completed its review of the application and has determined that
28 the application should be recommended for approval, it shall
29 submit the application and its recommendation to the board for
30 approval and funding. Loans shall be administered by the

1 department, but all payments of loan principal and interest
2 shall be paid into an account.

3 (f) Applications for loans to local revolving loan funds.--
4 The following shall apply:

5 (1) A nonprofit entity that operates a revolving loan
6 fund may submit an application to the board requesting a loan
7 to capitalize a revolving loan fund administered by the
8 nonprofit entity. The application shall be on the form
9 required by the board and shall include or demonstrate all of
10 the following:

11 (i) The applicant's name and address.

12 (ii) The names of the applicant's executive
13 director, board of directors and all staff involved with
14 the operation and administration of the revolving loan
15 fund.

16 (iii) A copy of the applicant's last two years of
17 certified public accountant-prepared financial
18 statements.

19 (iv) A statement that the applicant will utilize the
20 funds received only for tourism and production
21 agriculture projects and a description of how the
22 revolving loan fund will accept, review, approve and
23 administer applications for funding.

24 (v) The collateral or security to be provided for
25 the loan.

26 (vi) Identification of any matching funds for the
27 project.

28 (vii) Any other information required by the board.

29 (2) The board shall review applications submitted under
30 paragraph (1) to determine all of the following:

1 (i) If the local revolving loan fund is financially
2 sound. If the applicant is an accredited community
3 development financial institution as determined by the
4 Pennsylvania Community Development Bank Operational
5 Committee, as authorized under the Job Enhancement Act,
6 the board may accept that determination in lieu of
7 conducting its own review of the financial soundness of
8 the fund.

9 (ii) If the proposed collateral or security is
10 sufficient to repay the loan or is offered in accordance
11 with the same terms and conditions provided to all other
12 lenders of capital for the revolving loan fund.

13 (iii) If the funds will be used to make loans to
14 tourism or production agriculture projects.

15 (iv) If the applicant complied with all other
16 criteria established by the board.

17 (3) Upon being satisfied that all requirements have been
18 met, the board may approve the application and award a loan
19 to the project for a term and at an interest rate to be
20 established by the board.

21 (g) Applications for loan guarantees.--The following shall
22 apply:

23 (1) A project applicant, which may include a commercial
24 lending institution on behalf of a borrower, may request a
25 loan guarantee for a loan received from a commercial lending
26 institution to assist with the financing of a tourism or
27 production agricultural project which has been the recipient
28 of a planning grant under subsection (b) or a project which
29 demonstrates significant private investment. The application
30 must be on the form required by the board and must include or

1 demonstrate all of the following:

2 (i) The applicant's name and address.

3 (ii) A description of the project.

4 (iii) A statement describing the likely economic
5 impact to this Commonwealth and the host municipality as
6 a result of the project.

7 (iv) A description of the project financing,
8 including terms, conditions and the collateral or
9 security required.

10 (v) The amount of the loan guarantee that is being
11 requested.

12 (vi) The total project cost and the identification
13 of all sources of capital for the project.

14 (vii) Any other information required by the board.

15 (2) The board shall review the application to determine
16 all of the following:

17 (i) If the proposed project is feasible and
18 demonstrates soundness in concept.

19 (ii) If the proposed collateral or security is
20 sufficient to cover the guarantee in the event of a call.

21 (iii) If the applicant complied with all other
22 criteria established by the board.

23 (3) Upon being satisfied that all requirements have been
24 met, the board may approve the application and award a loan
25 guarantee to the project. Loan guarantees shall be for no
26 more than 50% of the total project cost, or \$2,500,000,
27 whichever is less. The terms of the loan guarantee must be
28 agreed to by the commercial lending institution which is the
29 lender of the funds subject to the guarantee. The board may
30 establish a subcommittee composed of board members and staff

1 of the department to supervise the progress of projects which
2 receive loan guarantees under this section.

3 (h) Limitations.--

4 (1) Except upon foreclosure or default or violation of a
5 loan or loan guarantee made, the board may not approve an
6 application or finance a project if the board or authority
7 would be required to operate, service or maintain the project
8 under a lease or other agreement.

9 (2) No more than \$10,000,000 of the funds in the account
10 under section 1542 (relating to funding) may be used for
11 grants awarded under subsection (c).

12 (3) At least two-thirds of the funds made available
13 through debt incurred under section 1542 shall be used for
14 financing of production agriculture or related projects.

15 Section 2. This act shall take effect in 60 days.