

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1026 Session of 2004

INTRODUCED BY LAVALLE, GORDNER, C. WILLIAMS, MELLOW, O'PAKE, WAGNER, MUSTO, KASUNIC, STOUT, FUMO, BOSCOLA, COSTA, FERLO, HUGHES, KITCHEN, KUKOVICH, LOGAN, SCHWARTZ, STACK, TARTAGLIONE, A. WILLIAMS, WOZNIAK, ROBBINS, PIPPY, ERICKSON AND WONDERLING, FEBRUARY 10, 2004

AS AMENDED ON THIRD CONSIDERATION, MARCH 24, 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; further <—
4 providing for the heading for Part II CREATING THE <—
5 COMMONWEALTH FINANCING AUTHORITY; PROVIDING FOR THE INCURRING
6 OF INDEBTEDNESS; PROVIDING FOR THE BUSINESS IN OUR SITES
7 PROGRAM, FOR THE FIRST INDUSTRIES PROGRAM AND FOR FUNDING FOR
8 THE MACHINERY AND EQUIPMENT LOAN PROGRAM; further providing
9 for money appropriated to the Department of Community and
10 Economic Development for the Base Retention and Conversion
11 Pennsylvania Action Committee; and making a repeal related to <—
12 money appropriated to the Department of Community and
13 Economic Development for the Base Retention and Conversion
14 Pennsylvania Action Committee RELATED REPEAL. <—

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

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

PART II

ECONOMIC DEVELOPMENT FINANCING

21 Chapter

- 1 11. Pennsylvania Industrial Development Authority
- 2 (Reserved)
- 3 13. Pennsylvania Economic Development Financing Authority
- 4 (Reserved)
- 5 15. Commonwealth Financing Authority

6 CHAPTER 11

7 PENNSYLVANIA INDUSTRIAL INVESTMENT AUTHORITY

8 (RESERVED)

9 CHAPTER 13

10 PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY

11 (RESERVED)

12 CHAPTER 15

13 COMMONWEALTH FINANCING AUTHORITY

14 Subchapter

- 15 A. General Provisions
- 16 B. Structure and Powers
- 17 C. Bonds
- 18 D. Funds, Accounts, Indebtedness and Use
- 19 E. Programs

20 SUBCHAPTER A

21 GENERAL PROVISIONS

22 Sec.

- 23 1501. Scope.
- 24 1502. Construction.
- 25 1503. (Reserved).
- 26 1504. Definitions.

27 § 1501. Scope.

28 This chapter relates to the Commonwealth Financing Authority.

29 § 1502. Construction.

30 This chapter shall be liberally construed in order to effect

1 the legislative and public purposes as set forth in this
2 subchapter.

3 § 1503. (Reserved).

4 § 1504. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meaning given to them in this section unless the
7 context clearly otherwise:

8 "Agriculture." Any of the following:

9 (1) Production agriculture.

10 (2) Agribusiness.

11 (3) The sale of farm commodities at wholesale.

12 (4) The sale of farm commodities at retail by urban and
13 rural supermarkets located or to be located in underserved
14 areas.

15 (5) Farmers' markets.

16 (6) Energy-related activities impacting production
17 agriculture or agribusiness.

18 (7) Activities which implement best practices related to
19 waste, waste products, by-products or fertilizer.

20 (8) Any other activity deemed by the Commonwealth
21 Financing Authority to involve agriculture.

22 "Applicant." A person that submits an application in
23 accordance with Subchapter E (relating to programs).

24 "Authority." The Commonwealth Financing Authority
25 established in section 1511 (relating to authority).

26 "Board." The board of the Commonwealth Financing Authority
27 established in section 1512 (relating to board).

28 "Bonds." Notes, instruments, refunding notes and bonds and
29 other evidences of indebtedness or obligations.

30 "Commercial lending activities." The making of loans and the

1 provision of deposit services to business entities.

2 "Commercial lending institutions." A federally chartered or
3 state-chartered bank, savings bank or savings and loan
4 association which has a satisfactory rating from its primary
5 regulator and which is engaged in commercial lending activities.
6 The institution must operate at least one full-service branch
7 for deposit gathering and lending located within this
8 Commonwealth.

9 "Commonwealth agency." An agency, authority or other
10 instrumentality of the Commonwealth.

11 "Comprehensive county plan" or "comprehensive municipal
12 plan." The comprehensive plan adopted by a county or a
13 municipality, respectively, under the act of July 31, 1968
14 (P.L.805, No.247), known as the Pennsylvania Municipalities
15 Planning Code.

16 "Cost of the project" or "cost." Any of the following:

17 (1) Costs and expenses of acquisition of interests in
18 land, buildings, structures, equipment, furnishings, fixtures
19 and other tangible or intangible property, which comprise the
20 project.

21 (2) Costs and expenses of construction, reconstruction,
22 erection, equipping, expansion, extension, improvement,
23 installation, rehabilitation, renovation or repair of the
24 buildings, structures and equipment, which comprise the
25 project.

26 (3) Costs and expenses of demolishing, removing or
27 relocating buildings or structures on lands acquired or to be
28 acquired and the expense of acquiring land to which the
29 buildings or structures may be moved or relocated.

30 (4) Costs and expenses of preparing land for

1 development.

2 (5) Costs and expenses of engineering services,
3 financial services, accounting services and legal services,
4 plans, specifications, studies and surveys necessary or
5 incidental to determining the feasibility or practicability
6 of constructing the project.

7 (6) Working capital or other capital needs related to
8 the project.

9 (7) Other costs and expenses deemed necessary by the
10 Commonwealth Financing Authority.

11 "Department." The Department of Community and Economic
12 Development of the Commonwealth.

13 "Executive agency." The Governor and the departments,
14 boards, commissions, authorities and other officers and agencies
15 of the Commonwealth. The term does not include any court or
16 other officer or agency of the Unified Judicial System, the
17 General Assembly and its officers and agencies, an independent
18 agency or a State-affiliated entity.

19 "Farm commodities." Agricultural, horticultural,
20 aquacultural, vegetable, fruit and floricultural products of the
21 soil; livestock and meats; wools; hides; furs; poultry, eggs,
22 dairy products, nuts, mushrooms, honey products and forest
23 products.

24 "Farmer." A person engaged in the business of production
25 agriculture.

26 "Federal agency." The United States of America; the
27 President of the United States of America; the Congress; and any
28 department, corporation, agency or instrumentality designated or
29 established by the United States of America.

30 "Finance." The term shall have the broadest possible

1 meaning. The term includes refinance.

2 "Financial assistance." Loans, grants, guarantees, sales,
3 leases, investments authorized in Subchapter E (relating to
4 programs), lines of credit, letters of credit and other
5 financial arrangements which the Commonwealth Financing
6 Authority is authorized to undertake under Subchapter E
7 (relating to programs).

8 "Financing." The term shall have the broadest possible
9 meaning. The term includes refinancing.

10 "Fund." The Commonwealth Fund established in section 1541
11 (relating to fund).

12 "Fund manager." An organization which has as its primary
13 purpose the managing of capital for real estate investments.

14 "Government agency." A Commonwealth agency; the Unified
15 Judicial System and its courts, officers and agencies; the
16 General Assembly and its officers and agencies; a political
17 subdivision; a municipal authority or other local authority; a
18 local, regional or metropolitan transportation authority; or a
19 board, commission or other agency or instrumentality of a
20 political subdivision, a municipal authority or other local
21 authority.

22 "Government body." The body or board authorized by law to
23 enact ordinances or adopt resolutions for a political
24 subdivision.

25 "Independent agency." A board, commission or other agency or
26 officer of the Commonwealth which is not subject to the policy,
27 supervision and control of the Governor. The term does not
28 include a State-affiliated entity; any court or other officer or
29 agency of the Unified Judicial System; the General Assembly and
30 its officers and agencies; a State-related institution; a

1 political subdivision; or a local, regional or metropolitan
2 transportation authority.

3 "Industrial development corporation." An entity which has
4 been certified as an industrial development agency by the
5 Pennsylvania Industrial Development Authority Board under the
6 act of May 17, 1956 (1955 P.L.1609, No.537), known as the
7 Pennsylvania Industrial Development Authority Act.

8 "Issuing authority." As defined in section 3 of the act of
9 July 11, 1990 (P.L.465, No.113), known as the Tax Increment
10 Financing Act.

11 "Managing partner." A general partner, a manager, a managing
12 member or another person designated as the manager of a venture
13 capital partnership.

14 "Municipal authority." A public authority created under 53
15 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the
16 former act of May 2, 1945 (P.L.382, No.164), known as the
17 Municipality Authorities Act of 1945.

18 "Obligee of the authority." Any of the following:

19 (1) A holder or owner of bonds of the Commonwealth
20 Financing Authority.

21 (2) A trustee or other fiduciary for any holder or owner
22 of bonds of the Commonwealth Financing Authority.

23 (3) A provider of a letter of credit, policy of
24 municipal bond insurance or other credit enhancement or
25 liquidity facility for bonds of the Commonwealth Financing
26 Authority.

27 (4) A lessor or installment seller demising property to
28 the Commonwealth Financing Authority in connection with a
29 project.

30 (5) A provider of an interest rate management agreement

1 or other agreement or arrangement authorized under section
2 1513(a)(28) (relating to powers).

3 "Pennsylvania-related company." An entity with operations
4 located in this Commonwealth or an entity willing to locate
5 significant business operations in this Commonwealth.

6 "Private developer." A person that is all of the following:

7 (1) Engaged in the development of real estate.

8 (2) Determined by the Commonwealth Financing Authority
9 to be financially responsible to assume all obligations
10 proposed to be undertaken.

11 "Production agriculture." The management and use of farming
12 resources for any of the following:

13 (1) The production of:

14 (i) agricultural, horticultural, aquacultural,
15 vegetable, fruit and floricultural products of the soil;

16 (ii) livestock or livestock products;

17 (iii) milk or dairy products; or

18 (iv) poultry or poultry products.

19 (2) Practices approved by the Department of Agriculture.

20 "Project." An activity which promotes economic development
21 or opportunities within this Commonwealth. The term shall not
22 include activities conducted by a for-profit entity directly or
23 indirectly related to gaming.

24 "Project user." A person, political subdivision, municipal
25 authority, Commonwealth agency or other entity that owns, leases
26 or uses all or any part of a project.

27 "Redevelopment authority." An entity created under the act
28 of May 24, 1945 (P.L.991, No.385), known as the Urban
29 Redevelopment Law.

30 "Secretary." The Secretary of Community and Economic

1 Development of the Commonwealth.

2 "Supermarket." A retail store operated on a self-service
3 basis, primarily selling groceries, fresh produce, meat, bakery
4 and dairy products. The term does not include a convenience
5 store.

6 "Taxable bonds." Bonds or other evidence of indebtedness,
7 the interest on which is includable in gross income for Federal
8 income taxation purposes.

9 "Tax-exempt bonds." Bonds or other evidence of indebtedness,
10 the interest on which is excludable from gross income for
11 Federal income taxation purposes.

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

15 "Tourism." An activity which promotes or encourages
16 individuals to travel to a location within this Commonwealth for
17 pleasure.

18 "Venture capital partnership." An entity whose purpose is to
19 make investments in companies and is formed as a limited
20 partnership, limited liability company or comparable investment
21 entity.

22 SUBCHAPTER B

23 STRUCTURE AND POWERS

24 Sec.

25 1511. Authority.

26 1512. Board.

27 1513. Powers.

28 1514. Limitation.

29 § 1511. Authority.

30 (a) Establishment.--There is established an independent

1 authority to be known as the Commonwealth Financing Authority.
2 The authority shall be an instrumentality of the Commonwealth
3 and a body corporate and politic, with corporate succession.

4 (b) Governance.--The authority shall be governed by the
5 board. The powers of the authority shall be exercised by the
6 board.

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

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

13 (e) Audit.--

14 (1) The accounts and books of the authority shall be
15 examined and audited annually by an independent certified
16 public accounting firm.

17 (2) The authority shall, by December 31 of each year,
18 file a copy of the audit required by paragraph (1) with the
19 Secretary of the Senate and the Chief Clerk of the House of
20 Representatives.

21 (f) Reports.--(Reserved).

22 (g) Publication.--The authority shall annually publish a
23 concise financial statement in the Pennsylvania Bulletin.

24 (h) Cooperation.--Executive agencies shall cooperate with
25 and provide assistance to the authority without financial
26 reimbursement.

27 (i) Existence and dissolution.--

28 (1) The authority shall exist until terminated by law.

29 (2) The authority may be dissolved by law if all
30 outstanding liabilities of the authority, including bonds and

1 other contractual obligations, have been fully paid, retired,
2 satisfied or discharged, or provision has been made for
3 payment of all outstanding liabilities of the authority,
4 including bonds and other contractual obligations. Upon the
5 dissolution of the authority, all funds, assets and other
6 property of the authority shall vest in the Commonwealth.

7 (j) Applicability.--The following acts shall apply to the
8 authority and the board:

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

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

13 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
14 open meetings) and 11 (relating to ethics standards and
15 financial disclosure).

16 § 1512. Board.

17 (a) Composition.--The board shall be composed of the
18 following members:

19 (1) The Secretary of Community and Economic Development
20 or a designee.

21 (2) The Secretary of the Budget or a designee.

22 (3) The Secretary of Banking or a designee.

23 (4) Four legislative appointees.

24 (i) Appointments are as follows:

25 (A) One individual appointed by the President
26 pro tempore of the Senate.

27 (B) One individual appointed by the Minority
28 Leader of the Senate.

29 (C) One individual appointed by the Speaker of
30 the House of Representatives.

1 (D) One individual appointed by the Minority
2 Leader of the House of Representatives.

3 (ii) Legislative appointees shall serve at the
4 pleasure of the appointing authority.

5 (iii) If the individual appointed to the board
6 pursuant to subparagraph (i) is a member of the General
7 Assembly, the individual may name a designee.

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

11 (c) Meetings.--The board shall meet at the call of the
12 chairperson.

13 (d) Quorum.--~~Six~~ FIVE members of the board shall constitute ←
14 a quorum. The consent of at least ~~six~~ FIVE members of the board, ←
15 WITH AT LEAST FOUR OF THE CONSENTING MEMBERS BEING APPOINTED
16 UNDER SUBSECTION (A)(4), shall be necessary to take any action
17 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 of the
20 board but shall be entitled to reimbursement for all necessary
21 and reasonable expenses incurred in connection with the
22 performance of their duties as members of the board.

23 (f) Fiduciary relationship.--The members of the board and
24 the professional personnel of the board shall stand in a
25 fiduciary relationship with the Commonwealth and the authority
26 as to the moneys in the fund, moneys in the accounts of the
27 authority and investments of the authority.

28 (g) Standard of care.--The members of the board in
29 performance of their duties under this chapter shall exercise
30 the standard of care required by 20 Pa.C.S. Ch. 73 (relating to

1 municipalities investments).

2 (h) Liability.--Members of the board shall not be liable
3 personally on any obligations of the authority, including bonds
4 of the authority.

5 § 1513. Powers.

6 (a) Powers.--The authority may do all of the following:

7 (1) Adopt bylaws and guidelines as necessary.

8 (2) Sue and be sued, implead and be impleaded,
9 interplead, complain and defend in any court.

10 (3) Adopt, use and alter a corporate seal.

11 (4) Establish accounts necessary or desirable for its
12 corporate purposes.

13 (5) Employ an executive director and other persons as
14 are necessary or convenient for carrying on the business of
15 the authority.

16 (6) Retain attorneys, accountants, auditors and
17 financial experts, to render services and engage the services
18 of other advisors, consultants and agents as necessary. For
19 the purposes of this paragraph, the authority shall be
20 considered an independent agency for purposes of the act of
21 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
22 Attorneys Act.

23 (7) Pay or satisfy obligations of the authority.

24 (8) Contract and execute instruments, including
25 financing agreements, letters of credit, guarantees,
26 sureties, mortgages, loans, standby loan commitments and
27 contracts of insurance, which are necessary or appropriate
28 for carrying on the business of the authority. This power
29 includes the ability to make and execute contracts for the
30 servicing of loans and mortgages acquired by the authority.

1 (9) Borrow money, issue bonds, obtain lines and letters
2 of credit and incur debt.

3 (10) Pledge the credit of the authority and provide
4 security and liquidity to obligees of the authority as the
5 authority deems necessary or appropriate.

6 (11) Use or pledge an account for a special purpose,
7 including debt service reserves and other reserves, as may be
8 necessary or desirable to carry out its powers and duties.

9 (12) Negotiate modifications or alterations in mortgages
10 or security interests.

11 (13) Foreclose on a mortgage or security interest in
12 default.

13 (14) Commence any action necessary to protect or enforce
14 any right conferred upon the authority by law, mortgage,
15 security agreement, contract or other agreement.

16 (15) Bid for or purchase property which was the subject
17 of a mortgage or security interest at a foreclosure or other
18 sale and acquire and take possession of that property.

19 (16) Impose and collect fees and charges in connection
20 with loan commitments and servicing, including reimbursement
21 of costs of financing.

22 (17) Acquire, accept, purchase, receive, collect, hold,
23 convey and invest funds, fees and property, whether tangible
24 or intangible, from all sources, directly or by assignment,
25 pledge or otherwise.

26 (18) Sell, transfer, convey and dispose of any property,
27 whether tangible or intangible.

28 (19) Acquire and sell loans, mortgages and security
29 interests at public or private sale.

30 (20) Provide financial assistance to applicants and

1 project users.

2 (21) Agree to and comply with conditions attached to
3 Federal or Commonwealth assistance not inconsistent with the
4 provisions of this chapter.

5 (22) Make rules regarding the operation of properties
6 and facilities of the authority subject to agreements with
7 obligees of the authority.

8 (23) Develop, adopt and implement binding policies or
9 guidelines assuring all of the following:

10 (i) All persons are accorded equal opportunity in
11 employment and contracting associated with the programs
12 established under Subchapter E (relating to programs).
13 This paragraph includes the authority's contractors,
14 subcontractors, assignees, lessees, agents, vendors and
15 suppliers.

16 (ii) Contracting parties demonstrate diversity in
17 ownership of equity interests.

18 (24) Exercise rights provided by law for the benefit or
19 protection of the authority or obligees of the authority.

20 (25) Invest money of the authority not required for
21 immediate use, including proceeds from the sale of bonds, as
22 the board determines, subject to any agreement with
23 bondholders stated in the authorizing resolution providing
24 for the issuance of bonds.

25 (26) Procure insurance against any loss in connection
26 with its programs, property and other assets.

27 (27) Promulgate regulations and adopt guidelines and
28 statements of policy containing restrictions as it may deem
29 necessary and appropriate to effectuate the public purposes
30 of this chapter.

1 (28) Negotiate and enter into interest rate exchange
2 agreements, interest rate cap agreements, collar agreements,
3 corridor agreements, ceiling agreements, floor agreements,
4 forward agreements, float agreements and other similar
5 arrangements, which, in the judgment of the authority, will
6 assist the authority in managing the interest costs of the
7 authority.

8 (29) Enter into agreements with applicants and project
9 users providing, among other things, for any of the
10 following:

11 (i) Financial assistance.

12 (ii) Loan, rental or purchase price payments or
13 other payments, sufficient to amortize the principal,
14 interest and premium, if any, of bonds and contractual
15 obligations of the authority incurred to provide funds to
16 pay the costs of the projects being financed.

17 (iii) The applicants or project users to pay or
18 cause to be paid all other costs of acquiring,
19 constructing, maintaining and operating the projects
20 being financed.

21 (iv) Conveyance with or without consideration of any
22 part or all of a project being financed to the project
23 user or applicant on or before payment of all bonds and
24 contractual obligations of the authority incurred with
25 respect to the project.

26 (v) Other matters as are customary or as are deemed
27 necessary and appropriate by the authority.

28 (30) Do any appropriate act necessary or convenient to:

29 (i) carry out and effectuate the purposes of this
30 chapter; or

1 (ii) exercise the powers set forth in this
2 subsection, including any act reasonably implied from
3 those powers.

4 (b) Duties.--The authority shall do all of the following:

5 (1) Administer the programs established in Subchapter E
6 in accordance with this chapter.

7 (2) Fund the programs established in Subchapter E and 12
8 Pa.C.S. Ch. 29 (relating to machinery and equipment loans)
9 subject to Subchapter D (relating to funds, accounts,
10 indebtedness and use).

11 § 1514. Limitation.

12 Except upon foreclosure or default under a loan made under
13 this chapter, the board may not approve an application or
14 finance a project if the board or authority would be required to
15 operate, service or maintain the project under a lease or other
16 agreement.

17 SUBCHAPTER C

18 BONDS

19 Sec.

20 1521. Bonds issuance.

21 1522. Commonwealth taxation.

22 1523. Federal taxation.

23 1524. Validity of bonds; limitation on actions.

24 1525. Provisions of bonds; trust agreements.

25 1526. Validity of pledge.

26 1527. Commonwealth pledges.

27 1528. Bonds to be legal investments.

28 1529. Bondholder rights.

29 § 1521. Bonds issuance.

30 (a) Authorization.--The authority may issue limited

1 obligation revenue bonds and other types of limited obligation
2 revenue financing. Bonds issued and financing incurred pursuant
3 to this subchapter shall be subject to the limits set forth in
4 section 1543 (relating to indebtedness) and shall be in the name
5 of the authority. The authority may issue both tax-exempt bonds
6 and taxable bonds to fund the programs established in Subchapter
7 E (relating to programs).

8 (b) (Reserved).

9 (c) Authorization requirements.--

10 (1) Bonds of the authority shall be authorized by a
11 resolution of the board.

12 (2) The resolution of the board authorizing an issuance
13 of bonds shall provide that the bonds:

14 (i) be of a series;

15 (ii) bear a date or dates;

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

18 (iv) be in denominations;

19 (v) be in any form, either coupon or fully
20 registered without coupons or in certificated or book-
21 entry-only form;

22 (vi) carry registration, exchangeability and
23 interchangeability privileges;

24 (vii) be payable in any medium of payment and at any
25 place or places;

26 (viii) mature on a date or dates not to exceed 30
27 years from the bonds' original issue date; and

28 (ix) be subject to terms of redemption, if any.

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

1 (4) Interest coupons shall be attached to coupon bonds
2 and shall bear the facsimile signature of the officer
3 designated by the board.

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

6 (6) Bonds may be issued and delivered notwithstanding
7 that the officer signing the bonds or whose facsimile
8 signature is on a coupon has ceased to be the officer at the
9 time when bonds are actually delivered.

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

11 (1) Bonds issued under this chapter shall not be a debt
12 or liability of the Commonwealth and shall not create or
13 constitute any indebtedness, liability or obligation of the
14 Commonwealth.

15 (2) Bonds shall be payable solely from revenues of the
16 authority or accounts pledged or available for their
17 repayment as authorized in this chapter which may include any
18 of the following:

19 (i) The proceeds of bonds.

20 (ii) Funds appropriated to the authority for
21 repayment as authorized in this chapter.

22 (iii) In the case of a public project, the pledge of
23 fees, taxes and other revenues by a political subdivision
24 or other instrumentality of the Commonwealth.

25 (3) All bonds shall contain on their faces statements to
26 the effect that:

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

1 (ii) neither the Commonwealth nor any political
2 subdivision is obligated to pay the principal or
3 interest; and

4 (iii) neither the faith and credit nor the taxing
5 power of the Commonwealth or any political subdivision is
6 pledged to the payment of the principal of or the
7 interest on the bonds.

8 (e) Sale.--

9 (1) Bonds may be sold at public sale, invited sale or
10 private sale for the price or prices the authority
11 determines.

12 (2) The authority shall ensure that minority-owned or
13 minority-controlled firms have an opportunity to participate
14 in a significant way in bonds sale activities.

15 (f) Interim receipts.--Pending the preparation of the
16 definitive bonds, interim receipts may be issued to the
17 purchaser or purchasers of the bonds and shall contain the terms
18 and conditions established by the authority.

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

22 (h) Use.--The authority may, as it deems necessary and
23 desirable, use the proceeds of bonds issued for any of the
24 following:

25 (1) Making loans, grants or guarantees for costs of
26 projects.

27 (2) Purchasing loans, mortgages, security interests or
28 loan participations.

29 (3) Paying incidental expenses in connection with
30 activity under paragraphs (1) and (2), including

1 administrative costs of the authority and the department.

2 (4) Paying expenses of authorizing and issuing the
3 bonds.

4 (5) Paying principal interest on bonds.

5 (6) Funding reserves.

6 (i) Refunding.--Subject to provisions of this chapter and
7 the terms of bonds or other contractual obligations issued in
8 accordance with this chapter, the authority may refund any
9 outstanding debt of the authority, whether the debt represents
10 principal or interest, in whole or in part, at any time. For the
11 purposes of this subsection, the term "refund" and its
12 variations means the issuance and sale of obligations the
13 proceeds of which are used or are to be used for the payment or
14 redemption of outstanding obligations upon or prior to maturity.
15 § 1522. Commonwealth taxation.

16 (a) General.--The effectuation of the purposes of the
17 authority is for the benefit of the people of this Commonwealth;
18 for the increase of commerce and prosperity; and for the
19 improvement of health, safety, welfare and living conditions.

20 (b) Authority.--Since the authority, as a public
21 instrumentality of the Commonwealth, will be performing
22 essential governmental functions in effectuating these purposes,
23 the authority is not required to pay any taxes or assessments
24 upon any property acquired or used or permitted to be used by
25 the authority for its purposes.

26 (c) Bonds.--Bonds issued by the authority, the transfer and
27 the income from the bonds, including profit made on their sale,
28 are free from State and local taxation within this Commonwealth.
29 The exclusion under this subsection shall not extend to gift,
30 estate, succession or inheritance taxes or any other taxes not

1 levied directly on the bonds, their transfer, the income from
2 the bonds or the realization of profits on their sale.

3 § 1523. Federal taxation.

4 (a) Allocation.--If the bonds issued by the authority for a
5 project are tax-exempt bonds for which Federal law requires an
6 allocation, the department may issue an allocation upon receipt
7 of a written request by the board. An allocation must be issued
8 by the department prior to the approval of the resolution
9 authorizing the issuance of the bonds by the board.

10 (b) Approval.--If gubernatorial approval is required by
11 Federal or Commonwealth law, the Governor may approve the
12 issuance of bonds by the authority upon receipt of written
13 request for approval from the board. The written request must
14 state all of the following:

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

18 (2) A description of the project or projects to be
19 financed.

20 (3) A description of the method of financing the project
21 or projects.

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

24 § 1524. Validity of bonds; limitation on actions.

25 (a) Presumption.--Bonds reciting in substance that they have
26 been issued by the authority to accomplish the public purposes
27 of this chapter shall be conclusively deemed in any suit, action
28 or proceeding involving the validity or enforceability of the
29 bonds or their security to have been issued for the public
30 purposes of this chapter.

1 (b) Estoppel.--After issuance, bonds shall be conclusively
2 presumed to be fully authorized and issued under the laws of
3 this Commonwealth; and any person shall be estopped from
4 questioning their validity, sale, execution or delivery by the
5 authority.

6 § 1525. Provisions of bonds; trust agreements.

7 A resolution authorizing the issuance of bonds or any trust
8 agreement approved in a resolution authorizing the issuance of
9 bonds may contain provisions which do any of the following:

10 (1) Secure the bonds.

11 (2) Covenant against any of the following:

12 (i) Pledging or granting a security interest in all
13 or any part of the authority's revenues or all or any
14 part of its property to which its right or title exists
15 or which may later come into existence.

16 (ii) Permitting or suffering any lien on all or any
17 part of its revenues or property.

18 (iii) Extending the time for the payment of bonds or
19 interest.

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

23 (4) Covenant as to any of the following:

24 (i) Additional bonds to be issued.

25 (ii) Limitations on additional bonds.

26 (iii) Terms and conditions of additional bonds.

27 (iv) Custody, application, investment and
28 disposition of proceeds of bonds.

29 (v) Incurring of other debts or obligations by the
30 authority.

1 (vi) Payment of principal of or interest on bonds.

2 (vii) Sources and methods of payment.

3 (viii) Rank or priority of bonds with respect to
4 liens or security interests.

5 (ix) Redemption, purchase and tender of bonds by the
6 authority or the bondholders and the privilege of
7 exchange of the bonds for other bonds.

8 (x) Use, investment and disposition of the money
9 held in special funds, accounts or reserves.

10 (xi) Use of any or all of the authority's real or
11 personal property.

12 (xii) Warrant of title to the authority's real or
13 personal property.

14 (5) Provide for any of the following:

15 (i) Replacement of lost, stolen, destroyed or
16 mutilated bonds.

17 (ii) Maintenance of the authority's real and
18 personal property.

19 (iii) Replacement of the authority's real and
20 personal property.

21 (iv) Insurance to be carried on the authority's real
22 and personal property and the use and disposition of the
23 insurance proceeds.

24 (v) Rights, liabilities, powers and duties arising
25 upon the breach of any covenant, condition or obligation.

26 (6) Create or authorize the creation of special funds or
27 accounts to be held in trust or otherwise for the benefit of
28 bondholders or of reserves for debt service or other
29 purposes.

30 (7) Obtain letters of credit, bond insurance and other

1 facilities for credit enhancement and liquidity.

2 (8) Prescribe any of the following:

3 (i) Procedure, if any, by which the terms of any
4 contract with bondholders may be amended or abrogated.

5 (ii) Percentage of the principal amount of bonds the
6 holders of which must consent to the amendment or
7 abrogation of any contract.

8 (iii) Manner in which the consent under subparagraph
9 (ii) may be given.

10 (9) Prescribe any of the following:

11 (i) Events of default.

12 (ii) Terms and conditions upon which any or all of
13 the bonds become or may be declared due and payable
14 before stated maturity following an event of default.

15 (iii) Terms and conditions upon which the
16 declaration of default and its consequence may be waived.

17 (10) Pay the costs or expenses incident to any of the
18 following:

19 (i) The enforcement of the bonds.

20 (ii) The provisions of the resolution authorizing
21 the issuance of the bonds.

22 (iii) The trust agreement securing the bonds.

23 (iv) Any covenant or agreement of the authority with
24 the holders of the bonds or other obligees of the
25 authority.

26 (11) Vest in a trustee, within or without this
27 Commonwealth, any property, rights, powers and duties in
28 trust, including rights with respect to the sale or other
29 disposition of notes and bonds of governmental units and
30 other instruments and security pledged under a resolution or

1 trust agreement for the benefit of bondholders and rights, by
2 suit or action, to foreclose a mortgage pledged under a
3 resolution or trust indenture for the benefit of bondholders.

4 (12) Limit the rights, powers and duties of a trustee
5 and the right of bondholders to appoint a trustee.

6 (13) Establish the terms and conditions upon which a
7 trustee or the bondholders may enforce a covenant or rights
8 securing or relating to the bonds.

9 (14) Exercise all or any part or combination of the
10 powers granted in this chapter.

11 (15) Make covenants other than and in addition to the
12 covenants expressly authorized by this chapter.

13 (16) Do or refrain from doing any other act and thing
14 necessary, convenient or desirable in order to better secure
15 the bonds of the authority or, in the absolute discretion of
16 the authority, as will tend to make bonds of the authority
17 more marketable. This paragraph applies notwithstanding that
18 the act or thing may not be specifically enumerated in this
19 chapter as long as the act or thing is in accordance with the
20 intent of this chapter.

21 § 1526. Validity of pledge.

22 A pledge of or grant of a security interest in revenues or
23 instruments made by the authority shall be valid and binding
24 from the time when the pledge is made. The revenues, receipts,
25 money, funds or other property or instruments pledged and later
26 received by the authority shall immediately be subject to the
27 lien of the pledge or security interest without any physical
28 delivery of the property pledged or further act. The lien of the
29 pledge or security interest shall be valid and binding as
30 against all parties having claims of any kind in tort, contract

1 or otherwise against the authority irrespective of whether the
2 parties have notice of the lien, pledge or security interest. No
3 instrument by which a pledge or security interest is created,
4 evidenced or noticed need be recorded or filed to perfect the
5 pledge or security interest, except in the records of the
6 authority.

7 § 1527. Commonwealth pledges.

8 (a) Bondholders.--The Commonwealth pledges to and agrees
9 with each obligee of the authority that the Commonwealth will
10 not limit or alter the rights and powers vested in the authority
11 or otherwise created by this chapter in any manner inconsistent
12 with the obligations of the authority to its obligees until all
13 bonds at any time issued, together with the interest on the
14 bonds, are fully paid and discharged.

15 (b) Lessees.--The Commonwealth pledges and agrees with any
16 person that, as owner of property which is leased or subleased
17 to or from the authority, it will not limit or alter the rights
18 and powers vested in the authority or otherwise created by this
19 chapter in any manner which impairs the obligations of the
20 authority until all the obligations of the authority under the
21 lease or sublease are fully met and discharged.

22 § 1528. Bonds to be legal investments.

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

- 27 (1) Government agencies.
- 28 (2) Insurance companies.
- 29 (3) Trust companies.
- 30 (4) Banking associations, banking corporations and

1 savings banks.

2 (5) Investment companies.

3 (6) Executors, trustees and other fiduciaries.

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

6 (b) Deposits.--Bonds issued by the authority are made
7 securities which may properly and legally be deposited with and
8 received by a government agency for any purpose for which the
9 deposit of bonds or other obligations of the Commonwealth are
10 authorized by law.

11 § 1529. Bondholder rights.

12 The rights and remedies conferred upon or granted to
13 bondholders pursuant to this chapter shall be in addition to and
14 not in limitation of rights and remedies lawfully granted to
15 bondholders by the resolution providing for the issuance of
16 bonds or by any trust agreement or other agreement under which
17 the bonds may be issued or secured.

18 SUBCHAPTER D

19 FUNDS, ACCOUNTS, INDEBTEDNESS AND USE

20 Sec.

21 1541. Fund.

22 1542. Accounts.

23 1543. Indebtedness.

24 1544. Use.

25 § 1541. Fund.

26 There is established a special fund to be known as the
27 Commonwealth Financing Fund. The State Treasurer shall be the
28 custodian of the fund, which shall be subject to the provisions
29 of law applicable to funds listed in section 302 of the act of
30 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Any

1 money appropriated to the authority shall be credited to the
2 fund. Unless otherwise specified, all money appropriated to the
3 authority shall be used by the authority to pay indebtedness
4 incurred under section 1543(a) (relating to indebtedness). All
5 money and investments on deposit in or credited to the fund
6 shall be at all times property of the authority. The State
7 Treasurer shall disburse money in the fund to the authority upon
8 order of the board for use in accordance with this chapter.

9 § 1542. Accounts.

10 (a) Establishment.--The authority shall establish a
11 revolving account for each of the following programs:

12 (1) The Business in Our Sites Program established in
13 section 1551 (relating to Business in Our Sites Program).

14 (2) The First Industries Program established in section
15 1552 (relating to First Industries Program).

16 (b) Deposits.--Any funds received by the authority under the
17 Business in Our Sites Program shall be deposited in the account
18 established in accordance with subsection (a)(1). Any funds
19 received by the authority under the First Industries Program
20 shall be deposited in the account established in accordance with
21 subsection (a)(2).

22 § 1543. Indebtedness.

23 (a) General rule.--Subject to the limitations of subsection
24 (b), the authority may, in its own name, incur indebtedness,
25 including through the issuance of bonds, in an amount necessary
26 to fund the program as established in Subchapter E (relating to
27 programs) and in 12 Pa.C.S. Ch. 29 (relating to machinery and
28 equipment loans).

29 (b) Program limitations.--Indebtedness incurred by the
30 authority under subsection (a) shall not, in aggregate, exceed

1 any of the following:

2 (1) \$300,000,000 for the program established in section
3 1551 (relating to Business in Our Sites Program).

4 (2) \$150,000,000 for the program established in section
5 1552 (relating to First Industries Program).

6 § 1544. Use.

7 (a) General rule.--Money of the authority shall be used by
8 the board to fund the programs established in Subchapter E
9 (relating to programs) and in 12 Pa.C.S. Ch. 29 (relating to
10 machinery and equipment loans).

11 (b) Transfer.--By June 30, 2006, the authority shall
12 transfer in the aggregate \$75,000,000 to the department for
13 deposit in the account created by 12 Pa.C.S § 2904 (relating to
14 Machinery and Equipment Loan Fund).

15 (c) Administrative expenses.--The authority may use moneys,
16 including the proceeds of bonds, to pay the administrative
17 expenses of the authority and of the department incurred under
18 this chapter.

19 SUBCHAPTER E

20 PROGRAMS

21 Sec.

22 1551. Business in Our Sites Program.

23 1552. First Industries Program.

24 § 1551. Business in Our Sites Program.

25 (a) Establishment.--There is established a program to be
26 known as the Business in Our Sites Program. The program shall
27 provide financial assistance for the preparation of sites
28 located within this Commonwealth for future development.

29 (b) Applications for planning grants.--A municipality,
30 municipal authority, redevelopment authority or industrial

1 development agency may submit an application to the authority
2 requesting a planning grant for costs associated with
3 predevelopment activities and feasibility studies for a project.
4 The application shall be on the form required by the board and
5 shall include or demonstrate all of the following:

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

7 (2) The location of the project.

8 (3) A statement that the project is consistent with any
9 existing comprehensive county plan where the project is
10 located.

11 (4) A description of the project, which includes a
12 statement that:

13 (i) the project is for the redevelopment, reuse or
14 revitalization of previously developed land, including
15 previously mined areas; or

16 (ii) the project is for the development of
17 undeveloped land which may be the subject of future
18 development pursuant to any existing comprehensive
19 municipal plan.

20 (5) An estimate of the cost of the predevelopment
21 activities and feasibility studies.

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

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

25 (c) Review and approval of planning grant applications.--

26 (1) The board shall review the application. Upon being
27 satisfied that all requirements have been met, the board may
28 approve the application and the authority shall award a
29 planning grant.

30 (2) Copies of all reports and studies prepared with

1 planning grant funds shall be provided to the board and shall
2 be made available to any person upon request.

3 (d) Applications for project financing.--A municipality,
4 municipal authority, redevelopment authority or industrial
5 development agency may submit an application to the authority
6 requesting a loan or a combination of a loan and project grant
7 for a project. A private developer may submit an application to
8 the board requesting a loan for a project. The application shall
9 be on the form required by the board and shall include or
10 demonstrate all of the following:

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

12 (2) The location of the project.

13 (3) A statement that the project is consistent with any
14 existing comprehensive county plan where the project is
15 located.

16 (4) A description of the project, which includes a
17 statement that:

18 (i) the project is for the redevelopment, reuse or
19 revitalization of previously developed land, including
20 previously mined areas; or

21 (ii) the project is for the development of
22 undeveloped land which may be the subject of future
23 development pursuant to any existing comprehensive
24 municipal plan and is zoned for such development at the
25 time of application.

26 (5) An estimate of the cost of the project, prepared by
27 an engineer or other qualified professional.

28 (6) A statement of the amount of the loan or combined
29 loan and project grant sought. If the applicant is requesting
30 a project grant, a statement as to the financial necessity

1 for the project grant must be included.

2 (7) Proof that notification of the project has been sent
3 to the governing bodies of the county or counties and of the
4 municipality or municipalities in which the project is
5 located.

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

7 (e) Review of project financing applications.--The board
8 shall review the application to determine all of the following:

9 (1) That the project is consistent with any existing
10 comprehensive county plan where the project is located.

11 (2) That the project is the redevelopment, reuse or
12 revitalization of previously developed land, including
13 previously mined areas, or that the project is the
14 development of undeveloped land which may be the subject of
15 future development pursuant to any existing comprehensive
16 municipal plan and is zoned for such development at the time
17 of application.

18 (3) That the value of the proposed collateral and the
19 financial resources offered by the applicant are sufficient
20 to repay the loan.

21 (4) That there is a likelihood of new use of the land or
22 buildings upon project completion.

23 (5) That the project will enable future employment
24 opportunities in, or have a net positive economic impact on,
25 the surrounding community.

26 (6) That the statement of the estimated cost of the
27 project is reasonable.

28 (7) That the applicant complied with all other criteria
29 established by the board.

30 (f) Approval of project financing applications.--Upon being

1 satisfied that all requirements have been met, the board may
2 approve the application and the authority shall award a loan or
3 a combination of a loan and project grant for the project. A
4 combined loan and project grant may be awarded only if the board
5 finds that the value of the proposed collateral and the
6 financial resources offered by the applicant are not sufficient
7 to repay a loan in the amount of the total project cost.

8 (g) Limitations.--

9 (1) A planning grant awarded for a project under section
10 (c) shall not exceed \$250,000. No more than \$10,000,000 of
11 the funds made available for the program authorized by this
12 section may be used for planning grants.

13 (2) A project grant awarded under subsection (f) shall
14 not exceed 50% of the total amount of financing awarded by
15 the board for the project or \$5,000,000, whichever is less.
16 No more than one-third of the funds made available for the
17 program authorized by this section may be used for all
18 project grants.

19 (3) No more than 15% of the funds made available for the
20 program authorized by this section may be awarded for
21 projects located within any one city, town, borough or
22 township of this Commonwealth.

23 (4) The anticipated new use of the land or buildings may
24 not be exclusively residential or primarily recreational.

25 (5) A project grant may be used only for one or more of
26 the following purposes:

27 (i) Environmental assessment and remediation.

28 (ii) Site preparation, including earth moving
29 activities.

30 (iii) Demolition of structures.

1 (iv) Installation or rehabilitation of
2 infrastructure.

3 (v) Reimbursement of engineering and administrative
4 expenses associated with any of the activities listed in
5 subparagraphs (i) through (iv).

6 § 1552. First Industries Program.

7 (a) Establishment.--There is established a program to be
8 known as the First Industries Program. The program shall provide
9 financial assistance for projects related to tourism and
10 agriculture located within this Commonwealth. The board shall
11 allocate funds made available to the program among the different
12 methods of financing authorized in this section.

13 (b) Applications for planning grants.--An applicant may
14 submit an application to the authority requesting a planning
15 grant in an amount not to exceed \$250,000 for the costs of
16 predevelopment activities and feasibility studies for a project
17 related to tourism or agriculture. The application shall be on
18 the form required by the board and shall include or demonstrate
19 all of the following:

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

21 (2) The location of the project.

22 (3) A description of the project.

23 (4) An estimate of the cost of the predevelopment
24 activities and feasibility studies and the goal to be
25 achieved by carrying out the proposed activities or studies.

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

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

29 (c) Review and approval of planning grant applications.--

30 (1) The board shall review the application to determine

1 that the project demonstrates one or more of the following:

2 (i) The project will have a demonstrable impact on
3 the economy or well-being of the neighborhood, community
4 or region where the project will be located.

5 (ii) The project will promote research and
6 development efforts leading to increased
7 commercialization or utilization of farm commodities.

8 (iii) The project will result in environmentally
9 friendly or energy efficient operations related to
10 agriculture, including projects authorized by the act of
11 December 12, 1994 (P.L.888, No.128), known as the
12 Agricultural By-Product Management Technology Act.

13 (iv) The project will result in more cost-effective
14 and efficient marketing of regional assets related to
15 tourism or agriculture.

16 (v) The project will result in a substantial
17 increase in revenues for the Commonwealth or the host
18 municipality.

19 (vi) The project proposes to utilize Commonwealth-
20 owned natural resources for public/private development of
21 tourism.

22 (2) Upon being satisfied that the requirements of
23 paragraph (1) have been met, the board may approve the
24 application and the authority shall award a planning grant.

25 (3) Copies of all reports and studies prepared with
26 planning grant funds shall be provided to the board and shall
27 be made available to any person upon request.

28 (d) Loans to applicants.--If the department approves an
29 application for a loan under the programs established in 12
30 Pa.C.S. Ch. 23 (relating to small business first) or 29

1 (relating to machinery and equipment loans), the department may
2 request that the authority finance the loan. Upon being
3 satisfied that the project is related to agriculture or tourism,
4 the board may approve the request and the authority shall award
5 a loan. Prior to providing loan funds to the applicant, the
6 authority shall enter into a loan agreement consistent with the
7 requirements for loans made under the program established in 12
8 Pa.C.S. Ch. 23 or 29, whichever is appropriate. Loans made under
9 this subsection shall be administered by the department.
10 Payments received shall be forwarded to the authority and
11 credited to the account established in accordance with section
12 1542(a)(2) (relating to accounts).

13 (e) Loan guarantees.--

14 (1) An applicant may request a guarantee for a loan to
15 be made by a commercial lending institution to assist with
16 the financing of a project related to tourism or agriculture.
17 The applicant may be the commercial lending institution
18 applying on behalf of a borrower. The application must be on
19 the form required by the board and must include or
20 demonstrate all of the following:

21 (i) The applicant's name and address. If the
22 applicant is a commercial lending institution, the
23 borrower's name and address.

24 (ii) A description of the project.

25 (iii) A statement describing the anticipated
26 economic impact to the Commonwealth and the host
27 municipality as a result of the project.

28 (iv) A description of the proposed project
29 financing, including terms, conditions and the collateral
30 or security required for the loan for which the guarantee

1 is being requested.

2 (v) A copy of the applicant's last two years of
3 financial statements prepared by an independent certified
4 public accountant. If the applicant is a commercial
5 lending institution, a copy of the borrower's last two
6 years of financial statements prepared by an independent
7 certified public accountant.

8 (vi) The amount of the loan guarantee that is being
9 requested.

10 (vii) The total project cost and the identification
11 of all sources of capital for the project.

12 (viii) Any other information required by the board.

13 (2) The board shall review the application to determine
14 all of the following:

15 (i) That the project has been awarded a planning
16 grant under this section or that at least \$1,000,000 of
17 private funds are being invested in the project.

18 (ii) That the value of the proposed collateral is
19 sufficient to cover the full amount of the loan.

20 (iii) That the applicant complied with all other
21 criteria established by the board.

22 (3) Upon being satisfied that all requirements have been
23 met, the board may approve the guarantee and the authority
24 shall execute a guarantee agreement in favor of the
25 commercial lending institution stating the terms and amounts
26 of the guarantee. The guarantee may not exceed 50% of the
27 outstanding principal amount of the loan or \$2,500,000 at any
28 point in time, whichever is less. In addition to any other
29 terms and conditions required by the board, the guarantee
30 agreement shall provide for all of the following:

1 (i) The procedure for the submission by the
2 commercial lending institution of a claim for payment.
3 This procedure shall require that the commercial lending
4 institution demonstrate that it has exhausted all
5 available remedies against the borrower, guarantors and
6 collateral before seeking payment under the agreement.

7 (ii) A requirement that a percentage of any moneys
8 recovered subsequent to the payment of a claim by the
9 authority be remitted to the authority.

10 (iii) Periodic reporting requirements by the
11 commercial lending institution regarding itself and
12 regarding the loans which have been awarded guarantees
13 under this section.

14 (4) The board may establish a subcommittee composed of
15 one or more board members and department staff to supervise
16 the progress of projects for which loan guarantees have been
17 awarded under this section.

18 (f) Limitations.--

19 (1) No more than \$10,000,000 of the funds available for
20 the program authorized by this section may be used for grants
21 awarded under subsection (c).

22 (2) At least two-thirds of the funds available for the
23 program authorized by this section shall be used for
24 financing of projects related to agriculture.

25 Section 1.1. The heading of Part II of Title 64 is amended
26 to read:

27 PART [II] III

28 PUBLIC AUTHORITIES

29 Section 1.2. The General Assembly finds and declares that
30 authorized investments, loans and guarantees of the fund or the

1 accounts made under this act, whereby the fund or the account
2 becomes a joint owner, member, limited partner or stockholder
3 in, lender to or guarantor of obligations of a company,
4 corporation, limited partnership, company, association or other
5 lawful business organization, are outside the scope of the
6 original intent of and do not violate the prohibition set forth
7 in section 8 of Article VIII of the Constitution of
8 Pennsylvania.

9 Section 2. Money appropriated to the Department of Community
10 and Economic Development for the Base Retention and Conversion
11 Pennsylvania Action Committee shall be used for all of the
12 following:

13 (1) The development of a Statewide strategy.

14 (2) Grants for economic impact studies, environmental
15 impact studies, encroachment studies, community and regional
16 interaction with military bases, infrastructure needs at
17 military bases and job training needs at or near military
18 bases. Grants shall be awarded by the Base Retention and
19 Conversion Pennsylvania Action Committee.

20 Section 3. Section 5 of the act of February 12, 2004
21 (P.L.99, No.12), entitled "An act amending Title 12 (Commerce
22 and Trade) of the Pennsylvania Consolidated Statutes, codifying
23 portions of the Job Enhancement Act; further providing for
24 contract requirements, for guidelines, for administration and
25 for application and review requirements; providing for Keystone
26 Innovation Zones; and making repeals relating to the Job
27 Enhancement Act," is repealed.

28 Section 4. This act shall take effect immediately.