
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,
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WONDERLING AND PUNT, FEBRUARY 10, 2004

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 29, 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; ~~creating the~~ <—
4 ~~Commonwealth Financing Authority; providing for the incurring~~
5 ~~of indebtedness; providing for the Business in Our Sites~~
6 ~~Program, for the First Industries Program and for funding for~~
7 ~~the Machinery and Equipment Loan Program; further providing~~
8 for money appropriated to the Department of Community and
9 Economic Development for the Base Retention and Conversion
10 Pennsylvania Action Committee; ~~and making a related repeal~~ <—
11 MAKING A RELATED REPEAL; AND MAKING AN EDITORIAL CHANGE. <—

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

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

16 PART II

17 ECONOMIC DEVELOPMENT FINANCING

18 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 1503. FINDINGS AND DECLARATION OF POLICY.

27 1504. Definitions.

28 § 1501. Scope.

29 This chapter relates to the Commonwealth Financing Authority.

30 § 1502. Construction.

1 (A) GENERAL RULE.--This chapter shall be liberally construed <—
2 in order to effect the legislative and public purposes as set
3 forth in this subchapter.

4 (B) RIGHTS OF OBLIGEES.--THE PROVISIONS OF THIS CHAPTER <—
5 PROVIDING FOR SECURITY, RIGHTS AND REMEDIES OF OBLIGEES OF THE
6 AUTHORITY SHALL BE LIBERALLY CONSTRUED TO ACHIEVE THE
7 LEGISLATIVE AND PUBLIC PURPOSES AS SET FORTH IN THIS SUBCHAPTER.

8 (C) LIMITATION.--IF ANY PROVISION OF THIS CHAPTER IS JUDGED
9 TO BE INVALID BY A COURT OF COMPETENT JURISDICTION, THE ORDER OR
10 JUDGMENT SHALL BE CONFINED IN ITS OPERATION TO THE CONTROVERSY
11 IN WHICH IT WAS RENDERED AND SHALL NOT AFFECT OR INVALIDATE ANY
12 REMAINING PROVISION OF THIS CHAPTER.

13 ~~§ 1503. (Reserved).~~ <—

14 § 1503. FINDINGS AND DECLARATION OF POLICY. <—

15 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

16 (1) ACTIVITIES WHICH LEAD TO THE CREATION AND RETENTION
17 OF JOBS WITHIN THIS COMMONWEALTH, THE ESTABLISHMENT OF
18 ECONOMICALLY VIABLE PENNSYLVANIA COMMUNITIES, THE DEVELOPMENT
19 OF A STABLE TAX BASE WITHIN PENNSYLVANIA COMMUNITIES, THE
20 REUSE OF ABANDONED INDUSTRIAL, COMMERCIAL AND OTHER
21 PREVIOUSLY UTILIZED SITES, THE PROMOTION AND
22 COMMERCIALIZATION OF PENNSYLVANIA PRODUCTS AND SERVICES AND
23 THE INVESTMENT OF PRIVATE CAPITAL IN PENNSYLVANIA ENTERPRISES
24 AND PENNSYLVANIA COMMUNITIES WILL IMPROVE THE HEALTH, SAFETY
25 AND GENERAL WELFARE OF THE PEOPLE OF THIS COMMONWEALTH BY
26 INCREASING EMPLOYMENT OF PENNSYLVANIA WORKERS; BY DEVELOPING
27 A STABLE STATE ECONOMY; BY REVITALIZING COMMUNITIES; BY
28 REDUCING, ELIMINATING AND PREVENTING BLIGHT; AND ELIMINATING
29 CERTAIN ENVIRONMENTAL HAZARDS.

30 (2) MANY EXISTING INDUSTRIAL, COMMERCIAL AND OTHER

1 ECONOMIC ACTIVITIES THROUGHOUT THIS COMMONWEALTH COULD BECOME
2 MORE COMPETITIVE AND COULD EXPAND MORE RAPIDLY IF ADDITIONAL
3 MEANS OF FINANCING WERE AVAILABLE FOR MODERN BUILDINGS, PLANT
4 FACILITIES, MODERN MACHINERY AND EQUIPMENT AND OTHER CAPITAL
5 NEEDS. ADDITIONAL ACTIVITIES COULD BE ATTRACTED TO THIS
6 COMMONWEALTH IF ADDITIONAL MEANS OF FINANCING WERE AVAILABLE
7 TO ACQUIRE, CONSTRUCT, REHABILITATE AND EXPAND FACILITIES.
8 FINANCING FOR COST-SAVING ACTIVITIES RELATED TO BUILDINGS,
9 PLANTS, MACHINERY AND EQUIPMENT AND OTHER FACILITIES WOULD
10 FURTHER THE PURPOSES OF THIS PARAGRAPH.

11 (3) A MINIMUM LEVEL OF UNEMPLOYMENT AND A MAXIMUM LEVEL
12 OF BUSINESS OPPORTUNITY CAN BEST BE PROVIDED BY THE
13 PROMOTION, ATTRACTION, STIMULATION, REHABILITATION AND
14 REVITALIZATION OF INDUSTRIAL, COMMERCIAL, TECHNOLOGICAL,
15 TOURIST, AGRICULTURAL AND OTHER ECONOMIC ACTIVITIES IN THIS
16 COMMONWEALTH. THE PROMOTION OF THESE ACTIVITIES WILL ALSO
17 ENHANCE PENNSYLVANIA'S COMPETITIVENESS IN THE GLOBAL ECONOMY.

18 (4) THE PROVISIONS OF THE CONSTITUTION OF PENNSYLVANIA
19 GUARANTEEING THE RESIDENTS OF THIS COMMONWEALTH CLEAN AIR AND
20 WATER AND THE PRESERVATION OF THE ENVIRONMENT AND THE
21 IMPLEMENTATION OF THOSE PROVISIONS THROUGH THE ESTABLISHMENT
22 OF QUALITY STANDARDS RELATING TO ABATEMENT OR ELIMINATION OF
23 POLLUTION HAVE RESULTED IN THE NEED FOR ADDITIONAL MEANS OF
24 FINANCING TO ASSIST AND ENCOURAGE COMPLIANCE WITH STANDARDS
25 ON AIR, WATER, SOLID AND LIQUID WASTE DISPOSAL, SEWAGE
26 DISPOSAL AND POLLUTION CONTROL.

27 (5) INDUSTRIAL AND COMMERCIAL FACILITIES SHOULD BE
28 PROMOTED, WHETHER BY THE FINANCING OF THESE FACILITIES OR BY
29 THE ENCOURAGEMENT OF OTHER ACTIVITIES DEEMED APPROPRIATE
30 WHICH WILL ELIMINATE BLIGHT OR OTHERWISE IMPROVE AN AREA FOR

1 INDUSTRIAL, COMMERCIAL OR OTHER ECONOMIC ACTIVITY.

2 (6) TO PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF
3 THE PEOPLE OF THIS COMMONWEALTH AND TO FURTHER ENCOURAGE
4 ECONOMIC DEVELOPMENT AND EFFICIENCY WITHIN THIS COMMONWEALTH
5 BY PROVIDING BASIC SERVICES AND FACILITIES, IT IS NECESSARY
6 TO PROVIDE ADDITIONAL OR ALTERNATIVE MEANS OF FINANCING
7 INFRASTRUCTURE FACILITIES; TRANSPORTATION SYSTEMS; INDUSTRIAL
8 PARKS; ENERGY CONVERSION FACILITIES; FACILITIES FOR THE
9 FURNISHING OF ENERGY, WATER AND TELECOMMUNICATIONS;
10 FACILITIES FOR THE COLLECTION OR TREATMENT OF WASTEWATER AND
11 STORM WATER; TOURISM; PARKING FACILITIES; HEALTH CARE
12 FACILITIES; AND OTHER BASIC SERVICE AND RELATED FACILITIES
13 WHICH ARE CONDUCIVE TO ECONOMIC ACTIVITY WITHIN THIS
14 COMMONWEALTH AND WHICH ARE CONSISTENT WITH THE PURPOSES OF
15 THIS CHAPTER.

16 (7) TO PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF
17 THE PEOPLE OF THIS COMMONWEALTH IT IS DESIRABLE TO BUILD,
18 IMPROVE AND FINANCE FACILITIES OWNED BY MUNICIPALITIES,
19 MUNICIPAL AUTHORITIES AND OTHER AUTHORITIES AND
20 INSTRUMENTALITIES OF THE COMMONWEALTH, INCLUDING PUBLICLY
21 OWNED ROADS AND OTHER TRANSPORTATION SYSTEMS AND WASTE
22 TREATMENT AND DISPOSAL FACILITIES.

23 (8) INDUSTRIAL, COMMERCIAL, TECHNOLOGICAL, TOURIST,
24 AGRICULTURAL AND OTHER ECONOMIC ACTIVITY SHOULD BE PROMOTED
25 THROUGH THE DEVELOPMENT OF NEW BUSINESSES AND THE EXPANSION
26 OF EXISTING BUSINESSES, THE REVITALIZATION OF REAL ESTATE
27 ASSETS, THE ACQUISITION AND PREPARATION OF SITES FOR FUTURE
28 USE AND THE SUPPORT OF TAX INCREMENT FINANCING.

29 (9) IT IS THE POLICY OF THIS COMMONWEALTH TO PROMOTE THE
30 HEALTH, SAFETY, EMPLOYMENT, BUSINESS OPPORTUNITIES, ECONOMIC

1 ACTIVITY AND GENERAL WELFARE OF THE PEOPLE BY:

2 (I) ESTABLISHING AN AUTHORITY TO EXIST AND OPERATE
3 AS A PUBLIC INSTRUMENTALITY OF THE COMMONWEALTH; AND

4 (II) ESTABLISHING THE PROGRAMS UNDER THIS CHAPTER
5 AND AUTHORIZING FINANCIAL ASSISTANCE, REGARDLESS OF
6 WHETHER THE APPLICANT OR THE PROJECT USER IS PUBLIC OR
7 PRIVATE OR WHETHER THE PROJECT IS UNDERTAKEN WITH A
8 PROFIT OR NOT-FOR-PROFIT PURPOSE.

9 § 1504. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meaning given to them in this section unless the
12 context clearly INDICATES otherwise: ←

13 "Agriculture." Any of the following:

14 (1) Production agriculture.

15 (2) Agribusiness.

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

17 (4) The sale of farm commodities at retail by urban and
18 rural supermarkets located or to be located in underserved
19 areas.

20 (5) Farmers' markets.

21 (6) Energy-related activities impacting production
22 agriculture or agribusiness.

23 (7) Activities which implement best practices related to
24 ~~waste, waste products,~~ AGRICULTURAL WASTE, AGRICULTURAL WASTE ←
25 PRODUCTS, AGRICULTURAL by-products or fertilizer.

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

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

30 "Authority." The Commonwealth Financing Authority

1 established in section 1511 (relating to authority).

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

4 "Bonds." Notes, instruments, refunding notes and bonds and
5 other evidences of indebtedness or obligations WHICH THE <—
6 AUTHORITY IS AUTHORIZED TO ISSUE PURSUANT TO THIS CHAPTER.

7 "Commercial lending activities." The making of loans and the
8 provision of deposit services to business entities.

9 "Commercial lending institutions." A federally chartered or
10 state-chartered bank, savings bank or savings and loan
11 association which has a satisfactory rating from its primary
12 regulator and which is engaged in commercial lending activities.
13 The institution must operate at least one full-service branch
14 for deposit gathering and lending located within this
15 Commonwealth.

16 "Commonwealth agency." An agency, authority or other
17 instrumentality of the Commonwealth.

18 "Comprehensive county plan" or "comprehensive municipal
19 plan." The comprehensive plan adopted ~~by a county or a~~ <—
20 ~~municipality, respectively, under the act of July 31, 1968~~
21 ~~(P.L.805, No.247), known as the Pennsylvania Municipalities~~
22 ~~Planning Code.~~ PURSUANT TO APPLICABLE LAW BY: <—

23 (1) A COUNTY OR A MUNICIPALITY.

24 (2) A CITY OF THE FIRST CLASS.

25 (3) A CITY OF THE SECOND CLASS.

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

27 (1) Costs and expenses of acquisition of interests in
28 land, buildings, structures, equipment, furnishings, fixtures
29 and other tangible or intangible property, which comprise the
30 project.

1 (2) Costs and expenses of construction, reconstruction,
2 erection, equipping, expansion, extension, improvement,
3 installation, rehabilitation, renovation or repair of the
4 buildings, structures and equipment, which comprise the
5 project.

6 (3) Costs and expenses of demolishing, removing or
7 relocating buildings or structures on lands acquired or to be
8 acquired and the expense of acquiring land to which the
9 buildings or structures may be moved or relocated.

10 (4) Costs and expenses of preparing land for
11 development.

12 (5) Costs and expenses of engineering services,
13 financial services, accounting services and legal services,
14 plans, specifications, studies and surveys necessary or
15 incidental to determining the feasibility or practicability
16 of constructing the project.

17 (6) Working capital or other capital needs related to
18 the project.

19 (7) Other costs and expenses deemed necessary by the
20 Commonwealth Financing Authority.

21 "Department." The Department of Community and Economic
22 Development of the Commonwealth.

23 "Executive agency." The Governor and the departments,
24 boards, commissions, authorities and other officers and agencies
25 of the Commonwealth. The term does not include any court or
26 other officer or agency of the Unified Judicial System, the
27 General Assembly and its officers and agencies, an independent
28 agency or a State-affiliated entity.

29 "Farm commodities." Agricultural, horticultural,
30 aquacultural, vegetable, fruit and floricultural products of the

1 soil; livestock and meats; wools; hides; furs; poultry, eggs,
2 dairy products, nuts, mushrooms, honey products and forest
3 products.

4 "Farmer." A person engaged in the business of production
5 agriculture.

6 "Federal agency." The United States of America; the
7 President of the United States of America; the Congress; and any
8 department, corporation, agency or instrumentality designated or
9 established by the United States of America.

10 "Finance." The term shall have the broadest possible
11 meaning. The term includes refinance.

12 "Financial assistance." Loans, grants, guarantees, sales,
13 leases, investments authorized in Subchapter E (relating to
14 programs), lines of credit, letters of credit and other
15 financial arrangements which the Commonwealth Financing
16 Authority is authorized to undertake under Subchapter E
17 (relating to programs).

18 "Financing." The term shall have the broadest possible
19 meaning. The term includes refinancing.

20 ~~"Fund." The Commonwealth Fund established in section 1541~~ <—
21 ~~(relating to fund).~~

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

24 "Government agency." A Commonwealth agency; the Unified
25 Judicial System and its courts, officers and agencies; the
26 General Assembly and its officers and agencies; a political
27 subdivision; a municipal authority or other local authority; a
28 local, regional or metropolitan transportation authority; or a
29 board, commission or other agency or instrumentality of a
30 political subdivision, a municipal authority or other local

1 authority.

2 "~~Government~~ GOVERNING body." The body or board authorized by ←
3 law to enact ordinances or adopt resolutions for a political
4 subdivision.

5 "Independent agency." A board, commission or other agency or
6 officer of the Commonwealth which is not subject to the policy,
7 supervision and control of the Governor. The term does not
8 include a State-affiliated entity; any court or other officer or
9 agency of the Unified Judicial System; the General Assembly and
10 its officers and agencies; a State-related institution; a
11 political subdivision; or a local, regional or metropolitan
12 transportation authority.

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

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

21 "Managing partner." A general partner, a manager, a managing
22 member or another person designated as the manager of a venture
23 capital partnership.

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

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

29 (1) A holder or owner of bonds of the Commonwealth
30 Financing Authority.

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

3 (3) A provider of a letter of credit, policy of
4 municipal bond insurance or other credit enhancement or
5 liquidity facility for bonds of the Commonwealth Financing
6 Authority.

7 (4) A lessor or installment seller demising property to
8 the Commonwealth Financing Authority in connection with a
9 project.

10 (5) A provider of an interest rate management agreement
11 or other agreement or arrangement authorized under section
12 1513(a)(28) (relating to powers).

13 "Pennsylvania-related company." An entity with operations
14 located in this Commonwealth or an entity willing to locate
15 significant business operations in this Commonwealth.

16 "PHILADELPHIA METROPOLITAN STATISTICAL AREA." THE ←
17 PHILADELPHIA, PENNSYLVANIA METROPOLITAN DIVISION OF THE
18 PHILADELPHIA-CAMDEN-WILMINGTON, PENNSYLVANIA-NEW JERSEY,
19 DELAWARE-MARYLAND METROPOLITAN STATISTICAL AREA AS ANNOUNCED ON
20 JUNE 6, 2003, BY THE UNITED STATES OFFICE OF MANAGEMENT AND
21 BUDGET PURSUANT TO STANDARDS FOR DEFINING METROPOLITAN AND
22 MICROPOLITAN STATISTICAL AREAS BY THE OFFICE OF MANAGEMENT AND
23 BUDGET FOR THE 2000 DECENNIAL CENSUS OF THE UNITED STATES BUREAU
24 OF THE CENSUS, AS PUBLISHED IN THE FEDERAL REGISTER, VOL. 65,
25 NO. 249, ON DECEMBER 27, 2000, COMPRISING THE PENNSYLVANIA
26 COUNTIES OF PHILADELPHIA, DELAWARE, BUCKS, MONTGOMERY AND
27 CHESTER.

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

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

30 (2) Determined by the Commonwealth Financing Authority

1 to be financially responsible to assume all obligations
2 proposed to be undertaken.

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

5 (1) The production of:

6 (i) agricultural, horticultural, aquacultural,
7 vegetable, fruit ~~and~~ OR floricultural products of the ←
8 soil;

9 (ii) livestock or livestock products;

10 (iii) milk or dairy products; or

11 (iv) poultry or poultry products.

12 (2) ~~Practices~~ ANY OTHER PRACTICES approved by the ←
13 Department of Agriculture.

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

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

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

24 "Secretary." The Secretary of Community and Economic
25 Development of the Commonwealth.

26 "Supermarket." A retail store operated on a self-service
27 basis, primarily selling groceries, fresh produce, meat, bakery
28 and dairy products. The term does not include a convenience
29 store.

30 "Taxable bonds." Bonds or other evidence of indebtedness,

1 the interest on which is includable in gross income for Federal
2 income taxation purposes.

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

6 "Tax increment district." As defined in the act of July 11,
7 1990 (P.L.465, No.113), known as the Tax Increment Financing
8 Act.

9 "Tourism." An activity which promotes or encourages
10 individuals to travel to a location within this Commonwealth for
11 pleasure.

12 "Venture capital partnership." An entity whose purpose is to
13 make investments in companies and is formed as a limited
14 partnership, limited liability company or comparable investment
15 entity.

16 SUBCHAPTER B

17 STRUCTURE AND POWERS

18 Sec.

19 1511. Authority.

20 1512. Board.

21 1513. Powers.

22 1514. Limitation.

23 § 1511. Authority.

24 (a) Establishment.--There is established an independent
25 authority to be known as the Commonwealth Financing Authority.
26 The authority shall be an instrumentality of the Commonwealth
27 and a body corporate and politic, with corporate succession.

28 (b) Governance.--The authority shall be governed by the
29 board. The powers of the authority shall be exercised by the
30 board.

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

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

7 (e) Audit.--

8 (1) The accounts and books of the authority shall be
9 examined and audited annually by an independent certified
10 public accounting firm.

11 (2) The authority shall, by December 31 of each year,
12 file a copy of the audit required by paragraph (1) with the
13 Secretary of the Senate and the Chief Clerk of the House of
14 Representatives.

15 (f) Reports.--(Reserved).

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

18 (h) Cooperation.--Executive agencies shall cooperate with
19 and provide assistance to the authority without financial
20 reimbursement.

21 (i) Existence and dissolution.--

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

23 (2) The authority may be dissolved by law if all
24 outstanding liabilities of the authority, including bonds and
25 other contractual obligations, have been fully paid, retired,
26 satisfied or discharged, or provision has been made for
27 payment of all outstanding liabilities of the authority,
28 including bonds and other contractual obligations. Upon the
29 dissolution of the authority, all funds, assets and other
30 property of the authority shall vest in the Commonwealth.

1 (J) PROCUREMENT.--THE AUTHORITY SHALL BE CONSIDERED AS AN <—
2 INDEPENDENT AGENCY FOR THE PURPOSES OF 62 PA.C.S. PT. I
3 (RELATING TO COMMONWEALTH PROCUREMENT CODE).

4 ~~(j)~~ (K) Applicability.--The following acts shall apply to <—
5 the authority and the board:

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

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

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

13 § 1512. Board.

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

16 (1) The Secretary of Community and Economic Development
17 or a designee.

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

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

20 (4) Four legislative appointees.

21 (i) Appointments are as follows:

22 (A) One individual appointed by the President
23 pro tempore of the Senate.

24 (B) One individual appointed by the Minority
25 Leader of the Senate.

26 (C) One individual appointed by the Speaker of
27 the House of Representatives.

28 (D) One individual appointed by the Minority
29 Leader of the House of Representatives.

30 (ii) Legislative appointees shall serve at the

1 pleasure of the appointing authority.

2 (iii) If the individual appointed to the board
3 pursuant to subparagraph (i) is a member of the General
4 Assembly, the individual may name a designee.

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

8 (c) Meetings.--The board shall meet at the call of the
9 chairperson.

10 (d) Quorum.--Five members of the board shall constitute a
11 quorum. The consent of at least five members of the board, with
12 at least four of the consenting members being appointed under
13 subsection (a)(4), shall be necessary to take any action on
14 behalf of the authority.

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

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

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

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

1 of the authority.

2 § 1513. Powers.

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

4 (1) Adopt bylaws and guidelines as necessary.

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

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

8 (4) Establish accounts necessary or desirable for its
9 corporate purposes.

10 (5) Employ an executive director and other persons as
11 are necessary or convenient for carrying on the business of
12 the authority.

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

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

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

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

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

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

7 (12) Negotiate modifications or alterations ~~in~~ TO
8 FINANCING AGREEMENTS, mortgages or security interests. ←

9 (13) Foreclose on a mortgage or security interest in
10 default.

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

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

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

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

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

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

28 (20) Provide financial assistance to applicants and
29 project users.

30 (21) Agree to and comply with conditions attached to

1 Federal or Commonwealth assistance not inconsistent with the
2 provisions of this chapter.

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

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

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

14 (ii) Contracting parties demonstrate diversity in
15 ownership of equity interests.

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

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

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

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

29 (28) Negotiate and enter into interest rate exchange
30 agreements, interest rate cap agreements, collar agreements,

1 corridor agreements, ceiling agreements, floor agreements,
2 forward agreements, float agreements and other similar
3 arrangements, which, in the judgment of the authority, will
4 assist the authority in managing the interest costs of the
5 authority.

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

9 (i) Financial assistance.

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

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

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

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

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

27 (i) carry out and effectuate the purposes of this
28 chapter; or

29 (ii) exercise the powers set forth in this
30 subsection, including any act reasonably implied from

1 revenue financing. Bonds issued and financing incurred pursuant
2 to this subchapter shall be subject to the limits set forth in
3 section 1543 (relating to indebtedness) and shall be in the name
4 ~~of the authority. The authority may issue both tax exempt bonds~~ ←
5 OF THE AUTHORITY. ←

6 (B) TAXABILITY.--THE AUTHORITY MAY ISSUE BOTH TAX-EXEMPT
7 BONDS and taxable bonds to fund the programs established in
8 Subchapter E (relating to programs).

9 ~~(b) (Reserved).~~ ←

10 (c) Authorization requirements.--

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

13 (2) The resolution of the board authorizing an issuance
14 of bonds OR THE DOCUMENTS APPROVED BY THE RESOLUTION shall ←
15 provide that the bonds:

16 (i) be of a series;

17 (ii) bear a date or dates;

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

20 (iv) be in denominations;

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

24 (vi) carry registration, exchangeability and
25 interchangeability privileges;

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

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

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

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

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

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

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

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

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

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

21 (i) The proceeds of bonds.

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

24 ~~(iii) In the case of a public project, the pledge of~~ <—
25 ~~fees, taxes and other revenues by a political subdivision~~
26 ~~or other instrumentality of the Commonwealth.~~

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

29 (i) the authority is obligated to pay the principal
30 of or the interest on the bonds only from its revenues,

1 receipts or funds pledged or available for their payment
2 as authorized in this chapter;

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

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

10 (e) Sale.--

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

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

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

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

24 (h) Use.--The authority may, as it deems necessary and
25 desirable, use the proceeds of bonds ~~issued~~ for any of the <—
26 following:

27 (1) Making loans, grants or guarantees ~~for costs of~~ <—
28 ~~projects~~.

29 (2) Purchasing loans, mortgages, security interests or
30 loan participations.

1 (3) Paying incidental expenses in connection with
2 activity under paragraphs (1) and (2), including
3 administrative costs of the authority and the department.

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

6 (5) Paying principal, REDEMPTION OR PURCHASE PRICE AND
7 interest on bonds. ←

8 (6) Funding reserves.

9 (i) Refunding.--Subject to provisions of this chapter and
10 the terms of bonds or other contractual obligations issued in
11 accordance with this chapter, the authority may refund any
12 outstanding debt of the authority, whether the debt represents
13 principal or interest, in whole or in part, at any time. For the
14 purposes of this subsection, the term "refund" and its
15 variations means the issuance and sale of obligations the
16 proceeds of which are used or are to be used for the payment or
17 redemption of outstanding obligations upon or prior to maturity.
18 § 1522. Commonwealth taxation.

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

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

29 (c) Bonds.--Bonds issued by the authority, the transfer and
30 the income from the bonds, including profit made on their sale,

1 are free from State and local taxation within this Commonwealth.
2 The exclusion under this subsection shall not extend to gift,
3 estate, succession or inheritance taxes or any other taxes not
4 levied directly on the bonds, their transfer, the income from
5 the bonds or the realization of profits on their sale.

6 § 1523. Federal taxation.

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

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

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

21 (2) A description of the project or projects to be
22 financed.

23 (3) A description of the method of financing the project
24 or projects.

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

27 § 1524. Validity of bonds; limitation on actions.

28 (a) Presumption.--Bonds reciting in substance that they have
29 been issued by the authority to accomplish the public purposes
30 of this chapter shall be conclusively deemed in any suit, action

1 or proceeding involving the validity or enforceability of the
2 bonds or their security to have been issued for the public
3 purposes of this chapter.

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

9 § 1525. Provisions of bonds; trust agreements.

10 A resolution authorizing the issuance of bonds or any trust
11 agreement approved in OR BY a resolution authorizing the
12 issuance of bonds may contain provisions which do any of the
13 following:

14 (1) Secure the bonds.

15 (2) Covenant against any of the following:

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

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

22 (iii) Extending the time for the payment of bonds or
23 interest.

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

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

28 (i) Additional bonds to be issued.

29 (ii) Limitations on additional bonds.

30 (iii) Terms and conditions of additional bonds.

1 (iv) Custody, application, investment and
2 disposition of proceeds of bonds.

3 (v) Incurring of other debts or obligations by the
4 authority.

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

6 (vii) Sources and methods of payment.

7 (viii) Rank or priority of bonds with respect to
8 liens or security interests.

9 (ix) Redemption, purchase and tender of bonds by the
10 authority or the bondholders and the privilege of
11 exchange of the bonds for other bonds.

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

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

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

18 (5) Provide for any of the following:

19 (i) Replacement of lost, stolen, destroyed or
20 mutilated bonds.

21 (ii) Maintenance of the authority's real and
22 personal property.

23 (iii) Replacement of the authority's real and
24 personal property.

25 (iv) Insurance to be carried on the authority's real
26 and personal property and the use and disposition of the
27 insurance proceeds.

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

30 (6) Create or authorize the creation of special funds or

1 accounts to be held in trust or otherwise for the benefit of
2 bondholders or of reserves for debt service or other
3 purposes.

4 (7) Obtain letters of credit, bond insurance and other
5 facilities for credit enhancement and liquidity.

6 (8) Prescribe any of the following:

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

9 (ii) Percentage of the principal amount of bonds the
10 holders of which must consent to the amendment or
11 abrogation of any contract.

12 (iii) Manner in which the consent under subparagraph

13 (ii) may be given.

14 (9) Prescribe any of the following:

15 (i) Events of default.

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

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

21 (10) Pay the costs or expenses incident to any of the
22 following:

23 (i) The enforcement of the bonds.

24 (ii) The provisions of the resolution authorizing
25 the issuance of the bonds.

26 (iii) The trust agreement securing the bonds.

27 (iv) Any covenant or agreement of the authority with
28 the holders of the bonds or other obligees of the
29 authority.

30 (11) Vest in a trustee, within or without this

1 Commonwealth, any property, rights, powers and duties in
2 trust, including rights with respect to the sale or other
3 disposition of notes and bonds of governmental units and
4 other instruments and security pledged under a resolution or
5 trust agreement for the benefit of bondholders and rights, by
6 suit or action, to foreclose a mortgage pledged under a
7 resolution or trust indenture for the benefit of bondholders.

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

10 (13) Establish the terms and conditions upon which a
11 trustee or the bondholders may enforce a covenant or rights
12 securing or relating to the bonds.

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

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

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

25 § 1526. Validity of pledge.

26 A pledge of or grant of a security interest in revenues or
27 instruments made by the authority shall be valid and binding
28 from the time when the pledge is made. The revenues, receipts,
29 money, funds or other property or instruments pledged and later
30 received by the authority shall immediately be subject to the

1 lien of the pledge or security interest without any physical
2 delivery of the property pledged or further act. The lien of the
3 pledge or security interest shall be valid and binding as
4 against all parties having claims of any kind in tort, contract
5 or otherwise against the authority irrespective of whether the
6 parties have notice of the lien, pledge or security interest. No
7 instrument by which a pledge or security interest is created,
8 evidenced or noticed need be recorded or filed to perfect the
9 pledge or security interest, except in the records of the
10 authority.

11 § 1527. Commonwealth pledges.

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

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

26 § 1528. Bonds to be legal investments.

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

- 1 (1) Government agencies.
- 2 (2) Insurance companies.
- 3 (3) Trust companies.
- 4 (4) Banking associations, banking corporations and
- 5 savings banks.
- 6 (5) Investment companies.
- 7 (6) Executors, trustees and other fiduciaries.
- 8 (7) Trustees of any retirement, pension or annuity fund
- 9 or system of the Commonwealth.

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

15 ~~§ 1529. Bondholder rights.~~ <—

16 § 1529. RIGHTS AND REMEDIES OF OBLIGEES. <—

17 The rights and remedies conferred upon or granted to
18 ~~bondholders~~ OBLIGEES OF THE AUTHORITY pursuant to this chapter <—
19 shall be in addition to and not in limitation of rights and
20 remedies lawfully granted to ~~bondholders~~ OBLIGEES OF THE <—
21 AUTHORITY by the resolution providing for the issuance of bonds
22 or by any trust agreement or other agreement under which the
23 bonds may be issued or secured.

24 SUBCHAPTER D

25 ~~FUNDS,~~ ACCOUNTS, INDEBTEDNESS AND USE <—

26 Sec.

27 ~~1541. Fund.~~ <—

28 ~~1542. Accounts.~~

29 1541. TRUST ACCOUNTS. <—

30 1542. REVOLVING LOAN PROGRAM ACCOUNTS.

1 1543. Indebtedness.

2 1544. Use.

3 ~~§ 1541. Fund.~~ <—

4 ~~There is established a special fund to be known as the~~
5 ~~Commonwealth Financing Fund. The State Treasurer shall be the~~
6 ~~custodian of the fund, which shall be subject to the provisions~~
7 ~~of law applicable to funds listed in section 302 of the act of~~
8 ~~April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Any~~
9 ~~money appropriated to the authority shall be credited to the~~
10 ~~fund. Unless otherwise specified, all money appropriated to the~~
11 ~~authority shall be used by the authority to pay indebtedness~~
12 ~~incurred under section 1543(a) (relating to indebtedness). All~~
13 ~~money and investments on deposit in or credited to the fund~~
14 ~~shall be at all times property of the authority. The State~~
15 ~~Treasurer shall disburse money in the fund to the authority upon~~
16 ~~order of the board for use in accordance with this chapter.~~

17 ~~§ 1542. Accounts.~~

18 ~~(a) Establishment. The authority shall establish a~~
19 ~~revolving account for each of the following programs:~~

20 ~~(1) The Business in Our Sites Program established in~~
21 ~~section 1551 (relating to Business in Our Sites Program).~~

22 ~~(2) The First Industries Program established in section~~
23 ~~1552 (relating to First Industries Program).~~

24 ~~(b) Deposits. Any funds received by the authority under the~~
25 ~~Business in Our Sites Program shall be deposited in the account~~
26 ~~established in accordance with subsection (a)(1). Any funds~~
27 ~~received by the authority under the First Industries Program~~
28 ~~shall be deposited in the account established in accordance with~~
29 ~~subsection (a)(2).~~

30 § 1541. TRUST ACCOUNTS. <—

1 THE AUTHORITY SHALL ESTABLISH ONE OR MORE TRUST ACCOUNTS INTO
2 WHICH IT SHALL DEPOSIT THE PROCEEDS OF BONDS AUTHORIZED TO BE
3 ISSUED PURSUANT TO SECTION 1521 (RELATING TO BONDS ISSUANCE) TO
4 FUND THE PROGRAMS ESTABLISHED IN SUBCHAPTER E (RELATING TO
5 PROGRAMS) AND ANY OTHER MONEYS LEGALLY AVAILABLE FOR THE
6 PURPOSE. MONEYS HELD IN AN ACCOUNT ESTABLISHED UNDER THIS
7 SECTION MAY BE PLEDGED BY THE AUTHORITY TO SECURE PAYMENT OF THE
8 BONDS.

9 § 1542. REVOLVING LOAN PROGRAM ACCOUNTS.

10 (A) THE BUSINESS IN OUR SITES PROGRAM ACCOUNT.--THE
11 AUTHORITY SHALL ESTABLISH AN ACCOUNT FOR THE PROGRAM ESTABLISHED
12 IN SECTION 1551 (RELATING TO BUSINESS IN OUR SITES PROGRAM).
13 PROCEEDS OF BONDS ISSUED TO FUND THE BUSINESS IN OUR SITES
14 PROGRAM AND ANY MONEYS RECEIVED AS LOAN REPAYMENTS UNDER THE
15 BUSINESS IN OUR SITES PROGRAM, OR MONEYS OTHERWISE MADE
16 AVAILABLE TO THE PROGRAM, SHALL BE DEPOSITED IN THE ACCOUNT AND
17 MADE AVAILABLE FOR ADDITIONAL PLANNING GRANTS OR LOANS FOR THE
18 PURPOSES OF THE PROGRAM IN SECTION 1551, SUBJECT TO THE
19 PROVISIONS OF ANY PLEDGE TO OR AGREEMENT MADE BY THE AUTHORITY
20 WITH OBLIGEEES OF THE AUTHORITY.

21 (B) THE FIRST INDUSTRIES PROGRAM ACCOUNT.--THE AUTHORITY
22 SHALL ESTABLISH AN ACCOUNT FOR THE PROGRAM ESTABLISHED IN
23 SECTION 1552 (RELATING TO FIRST INDUSTRIES PROGRAM). PROCEEDS OF
24 BONDS ISSUED TO FUND THE FIRST INDUSTRIES PROGRAM, ANY MONEYS
25 RECEIVED AS LOAN REPAYMENTS OR IN REPAYMENT OR RECOVERY OF LOAN
26 GUARANTEES UNDER THE PROGRAM, OR MONEYS OTHERWISE MADE AVAILABLE
27 TO THE PROGRAM, SHALL BE DEPOSITED IN THE ACCOUNT AND MADE
28 AVAILABLE FOR ADDITIONAL PLANNING GRANTS OR LOANS OR USED FOR
29 ADDITIONAL LOAN GUARANTEES, AS PROVIDED IN SECTION 1552, SUBJECT
30 TO THE PROVISIONS OF ANY PLEDGE TO OR AGREEMENT MADE BY THE

1 AUTHORITY WITH OBLIGEEES OF THE AUTHORITY.

2 § 1543. Indebtedness.

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

9 (b) Program limitations.--Indebtedness incurred by the
10 authority under subsection (a) shall not, in aggregate, exceed
11 any of the following:

12 (1) \$300,000,000 for the program established in section
13 1551 (relating to Business in Our Sites Program).

14 (2) \$150,000,000 for the program established in section
15 1552 (relating to First Industries Program).

16 (3) \$60,000,000 FOR THE PROGRAM ESTABLISHED IN SECTION ←
17 1557 (RELATING TO NEW PENNSYLVANIA VENTURE CAPITAL INVESTMENT
18 PROGRAM).

19 (4) \$150,000,000 FOR THE PROGRAM ESTABLISHED IN SECTION
20 1555 (RELATING TO BUILDING PENNSYLVANIA PROGRAM).

21 (5) \$75,000,000 FOR THE PROGRAM ESTABLISHED IN 12
22 PA.C.S. CH. 29.

23 (6) \$250,000,000 FOR THE PROGRAM ESTABLISHED IN SECTION
24 1554 (RELATING TO NEW PENNSYLVANIA VENTURE GUARANTEE
25 PROGRAM).

26 (7) \$100,000,000 FOR THE PROGRAM ESTABLISHED IN SECTION
27 1556 (RELATING TO TAX INCREMENT FINANCING GUARANTEE PROGRAM).

28 (8) \$50,000,000 FOR THE PROGRAM ESTABLISHED IN SECTION
29 1553 (RELATING TO SECOND STAGE LOAN PROGRAM).

30 § 1544. Use.

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

5 (b) Transfer.--By ~~June 30, 2006~~ DECEMBER 31, 2006, the <—
6 authority shall transfer in the aggregate \$75,000,000 to the
7 department for deposit in the account created by 12 Pa.C.S §
8 2904 (relating to Machinery and Equipment Loan Fund).

9 (c) Administrative expenses.--The authority may use moneys,
10 including the proceeds of bonds, to pay the administrative
11 expenses of the authority and of the department incurred under
12 this chapter.

13 SUBCHAPTER E

14 PROGRAMS

15 Sec.

16 1551. Business in Our Sites Program.

17 1552. First Industries Program.

18 1553. SECOND STAGE LOAN PROGRAM. <—

19 1554. NEW PENNSYLVANIA VENTURE GUARANTEE PROGRAM.

20 1555. BUILDING PENNSYLVANIA PROGRAM.

21 1556. TAX INCREMENT FINANCING GUARANTEE PROGRAM.

22 1557. NEW PENNSYLVANIA VENTURE CAPITAL INVESTMENT PROGRAM.

23 § 1551. Business in Our Sites Program.

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

28 (b) Applications for planning grants.--A municipality,
29 municipal authority, redevelopment authority or industrial
30 development agency may submit an application to the authority

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

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

6 (2) The location of the project.

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

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

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

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

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

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

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

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

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

29 (2) Copies of all reports and studies prepared with
30 planning grant funds shall be ~~provided to the board~~ FILED <—

1 WITH THE AUTHORITY and shall be made available to any person
2 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~~ SUBSTANTIAL LIKELIHOOD THE LAND OR BUILDINGS WILL <—
23 BE USED upon project completion.

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

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

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

1 (f) Approval of project financing applications.--Upon being
2 satisfied that all requirements have been met, the board may
3 approve the application and, IF APPROVED, the authority shall <—
4 award a loan or a combination of a loan and project grant ~~for~~ TO <—
5 BE USED FOR COSTS OF the project. A combined loan and project
6 grant may be awarded only if the board finds that the value of
7 the proposed collateral and the financial resources offered by
8 the applicant are not sufficient to repay a loan in the amount
9 of the total project cost.

10 (g) Limitations.--

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

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

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

25 (4) The anticipated ~~new~~ use of the land or buildings may <—
26 not be ~~exclusively~~ PRIMARILY residential or primarily <—
27 recreational.

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

30 (i) Environmental assessment and remediation.

1 (ii) Site preparation, including earth moving
2 activities.

3 (iii) Demolition of structures.

4 (iv) Installation or rehabilitation of
5 infrastructure.

6 (v) Reimbursement of engineering and administrative
7 expenses associated with any of the activities listed in
8 subparagraphs (i) through (iv).

9 § 1552. First Industries Program.

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

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

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

24 (2) The location of the project.

25 (3) A description of the project.

26 (4) An estimate of the cost of the predevelopment
27 activities and feasibility studies and the goal to be
28 achieved by carrying out the proposed activities or studies.

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

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

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

3 (1) The board shall review the application to determine
4 that the project demonstrates one or more of the following:

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

8 (ii) The project will promote research and
9 development efforts leading to increased
10 commercialization or utilization of farm commodities.

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

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

19 (v) The project will result in a substantial
20 increase in revenues for the Commonwealth or the host
21 municipality.

22 (vi) The project proposes to utilize Commonwealth-
23 owned natural resources for public/private development of
24 tourism.

25 (2) Upon being satisfied that the requirements of
26 paragraph (1) have been met, the board may approve the
27 application and, IF APPROVED, the authority shall award a <—
28 planning grant.

29 (3) Copies of all reports and studies prepared with
30 planning grant funds shall be ~~provided to the board~~ FILED <—

1 WITH THE AUTHORITY and shall be made available to any person
2 upon request.

3 (d) Loans to applicants.--If the department approves an
4 application for a loan under the programs established in 12
5 Pa.C.S. Ch. 23 (relating to small business first) or 29
6 (relating to machinery and equipment loans), the department may
7 request that the authority finance the loan. Upon being
8 satisfied that the project is related to agriculture or tourism,
9 the board may approve the request and, IF APPROVED, the <—
10 authority shall award a loan. ~~Prior to providing loan funds to <—~~
11 ~~the applicant, the authority shall enter into a loan agreement~~
12 ~~consistent with the requirements for loans made under the~~
13 ~~program established in 12 Pa.C.S. Ch. 23 or 29, whichever is~~
14 ~~appropriate.~~ Loans made under this subsection shall be
15 administered by the department. Payments received shall be
16 forwarded to the authority and credited to the account
17 established in accordance with section ~~1542(a)(2) (relating to <—~~
18 ~~accounts)~~ 1542(B) (RELATING TO REVOLVING LOAN PROGRAM ACCOUNTS). <—

19 (e) Loan guarantees.--

20 (1) An applicant may request a guarantee for a loan to
21 be made by a commercial lending institution to assist with
22 the financing of a project related to tourism or agriculture.
23 The applicant may be the commercial lending institution
24 applying on behalf of a borrower. The application must be on
25 the form required by the board and must include or
26 demonstrate all of the following:

27 (i) The applicant's name and address. If the
28 applicant is a commercial lending institution, the
29 borrower's name and address.

30 (ii) A description of the project.

1 (iii) A statement describing the anticipated
2 economic impact to the Commonwealth and the host
3 municipality as a result of the project.

4 (iv) A description of the proposed project
5 financing, including terms, conditions and the collateral
6 or security required for the loan for which the guarantee
7 is being requested.

8 (v) A copy of the applicant's last two years of
9 financial statements prepared OR REPORTED ON by an ←
10 independent certified public accountant. If the applicant
11 is a commercial lending institution, a copy of the
12 borrower's last two years of financial statements
13 prepared OR REPORTED ON by an independent certified ←
14 public accountant.

15 (vi) The amount of the loan guarantee that is being
16 requested.

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

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

20 (2) The board shall review the application to determine
21 all of the following:

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

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

27 (iii) That the applicant complied with all other
28 criteria established by the board.

29 (3) Upon being satisfied that all requirements have been
30 met, the board may approve the guarantee and, IF APPROVED, ←

1 the authority shall execute a guarantee agreement in favor of
2 the commercial lending institution stating the terms and
3 amounts of the guarantee. The guarantee may not exceed 50% of
4 the outstanding principal amount of the loan or \$2,500,000 at
5 any point in time, whichever is less. In addition to any
6 other terms and conditions required by the board, the
7 guarantee agreement shall provide for all of the following:

8 (i) The procedure for the submission by the
9 commercial lending institution of a claim for payment.

10 This procedure shall require that the commercial lending
11 institution demonstrate that it has exhausted all
12 available remedies against the borrower, OTHER guarantors ←
13 and collateral before seeking payment under the
14 agreement.

15 (ii) A requirement that a percentage of any moneys
16 recovered subsequent to the payment of a claim by the
17 authority be remitted to the authority.

18 (iii) Periodic reporting requirements by the
19 commercial lending institution regarding itself and
20 regarding the loans which have been awarded guarantees
21 under this section.

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

26 (f) Limitations.--

27 (1) No more than \$10,000,000 of the funds available for
28 the program authorized by this section may be used for
29 PLANNING grants awarded under subsection (c). ←

30 (2) At least two-thirds of the funds available for the

1 program authorized by this section shall be used for
2 financing of projects related to agriculture.

3 § 1553. SECOND STAGE LOAN PROGRAM. ←

4 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM TO BE
5 KNOWN AS THE SECOND STAGE LOAN PROGRAM. THE PROGRAM SHALL
6 PROVIDE LOAN GUARANTEES TO COMMERCIAL LENDING INSTITUTIONS THAT
7 MAKE LOANS TO LIFE SCIENCES, ADVANCED TECHNOLOGY OR
8 MANUFACTURING BUSINESSES.

9 (B) APPLICATION FOR ENROLLMENT.--A COMMERCIAL LENDING
10 INSTITUTION MAY APPLY FOR ENROLLMENT IN THE PROGRAM AUTHORIZED
11 BY THIS SECTION. THE APPLICATION SHALL BE ON THE FORM PRESCRIBED
12 BY THE BOARD AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE
13 FOLLOWING:

14 (1) THE NAME AND ADDRESS OF THE COMMERCIAL LENDING
15 INSTITUTION AND THE NAME AND TITLE OF THE INDIVIDUAL WHO WILL
16 SERVE AS THE POINT OF CONTACT FOR THE COMMERCIAL LENDING
17 INSTITUTION.

18 (2) A STATEMENT DEFINING THE SERVICE AREA OF THE
19 COMMERCIAL LENDING INSTITUTION.

20 (3) A STATEMENT DESCRIBING THE COMMERCIAL LENDING
21 ACTIVITIES ENGAGED IN BY THE COMMERCIAL LENDING INSTITUTION
22 AND HOW THE INSTITUTION INTENDS TO EXPAND THOSE ACTIVITIES AS
23 A RESULT OF ITS PARTICIPATION IN THE PROGRAM AUTHORIZED BY
24 THIS SECTION.

25 (4) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

26 (C) ENROLLMENT APPROVAL.--UPON BEING SATISFIED THAT ALL
27 REQUIREMENTS HAVE BEEN MET, THE BOARD MAY ENROLL THE COMMERCIAL
28 LENDING INSTITUTION IN THE PROGRAM AUTHORIZED BY THIS SECTION
29 AND, IF ENROLLED, THE AUTHORITY SHALL EXECUTE A MASTER GUARANTEE
30 AGREEMENT IN FAVOR OF THE COMMERCIAL LENDING INSTITUTION. IN

1 ADDITION TO ANY OTHER TERMS AND CONDITIONS REQUIRED BY THE
2 BOARD, THE MASTER GUARANTEE AGREEMENT SHALL PROVIDE FOR THE
3 FOLLOWING:

4 (1) THE PROCEDURE FOR THE SUBMISSION OF A CLAIM FOR
5 PAYMENT BY THE COMMERCIAL LENDING INSTITUTION. THIS PROCEDURE
6 SHALL REQUIRE THAT THE COMMERCIAL LENDING INSTITUTION
7 DEMONSTRATE THAT IT HAS EXHAUSTED ALL AVAILABLE REMEDIES
8 AGAINST THE BORROWER, OTHER GUARANTORS AND COLLATERAL FOR THE
9 LOAN BEFORE SEEKING PAYMENT UNDER THE AGREEMENT.

10 (2) A REQUIREMENT THAT A PERCENTAGE OF ANY MONEYS
11 RECOVERED BY THE COMMERCIAL LENDING INSTITUTION SUBSEQUENT TO
12 ANY PAYMENT MADE UNDER THE MASTER GUARANTEE AGREEMENT BY THE
13 AUTHORITY BE REMITTED TO THE AUTHORITY.

14 (3) PERIODIC REPORTING REQUIREMENTS BY THE COMMERCIAL
15 LENDING INSTITUTION REGARDING ITSELF AND REGARDING THE LOANS
16 FOR WHICH GUARANTEE CERTIFICATES HAVE BEEN ISSUED UNDER THIS
17 SECTION.

18 (D) APPLICATION FOR GUARANTEE.--A COMMERCIAL LENDING
19 INSTITUTION ENROLLED IN THE PROGRAM AUTHORIZED BY THIS SECTION
20 MAY SUBMIT AN APPLICATION TO THE AUTHORITY FOR THE GUARANTEE OF
21 A PROPOSED LOAN. THE APPLICATION SHALL BE ON THE FORM PRESCRIBED
22 BY THE BOARD AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE
23 FOLLOWING:

24 (1) THE NAME AND ADDRESS OF THE BORROWER, THE TYPE OF
25 BUSINESS THE BORROWER CONDUCTS, THE LOCATION AND AGE OF THE
26 BUSINESS AND THE NAMES AND ADDRESSES OF THE PRINCIPALS OF THE
27 BORROWER.

28 (2) THE NUMBER OF PROJECTED NEW OR RETAINED EMPLOYEES OF
29 THE BORROWER AS A RESULT OF THE LOAN.

30 (3) A COPY OF THE BORROWER'S LAST TWO YEARS OF FINANCIAL

1 STATEMENTS PREPARED OR REPORTED ON BY AN INDEPENDENT
2 CERTIFIED PUBLIC ACCOUNTANT.

3 (4) A STATEMENT DESCRIBING THE PURPOSE OF THE LOAN, THE
4 REQUESTED AMOUNT OF THE LOAN, A COPY OF THE COMMERCIAL
5 LENDING INSTITUTION'S COMMITMENT LETTER AND APPLICABLE CREDIT
6 UNDERWRITING THAT SUPPORTS THE REPAYMENT OF THE LOAN, AS WELL
7 AS THE COLLATERAL AND OTHER GUARANTEES OFFERED BY THE
8 BORROWER TO SUPPORT THE LOAN.

9 (5) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

10 (E) APPLICATION REVIEW.--

11 (1) THE BOARD SHALL REVIEW THE APPLICATION TO DETERMINE
12 ALL OF THE FOLLOWING:

13 (I) THAT THE BORROWER OWNS AND OPERATES A LIFE
14 SCIENCES, ADVANCED TECHNOLOGY OR MANUFACTURING BUSINESS.

15 (II) THAT THE BORROWER'S BUSINESS HAS BEEN IN
16 EXISTENCE FOR AT LEAST TWO YEARS BUT NO MORE THAN SEVEN
17 YEARS AT THE TIME OF APPLICATION.

18 (III) THAT THE BORROWER IS FINANCIALLY RESPONSIBLE
19 AND HAS THE ABILITY TO REPAY THE LOAN.

20 (IV) THAT THE USE OF LOAN PROCEEDS BY THE BORROWER
21 WILL RESULT IN JOBS BEING CREATED OR RETAINED WITHIN THIS
22 COMMONWEALTH.

23 (V) THAT THE BORROWER'S BUSINESS IS LOCATED WITHIN
24 THE COMMERCIAL LENDING INSTITUTION'S SERVICE AREA AND
25 WITHIN THIS COMMONWEALTH.

26 (VI) THAT THE BORROWER AND THE COMMERCIAL LENDING
27 INSTITUTION HAVE MET ALL OTHER REQUIREMENTS ESTABLISHED
28 BY THE BOARD.

29 (2) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
30 MET, THE BOARD MAY APPROVE THE GUARANTEE AND, IF APPROVED,

1 THE AUTHORITY SHALL ISSUE A GUARANTEE CERTIFICATE FOR THE
2 LOAN TO THE COMMERCIAL LENDING INSTITUTION STATING THE TERMS
3 AND AMOUNT OF THE GUARANTEE.

4 (3) THE BOARD MAY ESTABLISH A SUBCOMMITTEE COMPOSED OF
5 ONE OR MORE MEMBERS OF THE BOARD AND STAFF OF THE DEPARTMENT
6 TO REVIEW AND APPROVE APPLICATIONS FOR GUARANTEES UNDER THIS
7 SECTION.

8 (F) LIMITATIONS.--

9 (1) DURING THE FIRST TWO YEARS OF THE TERM OF A LOAN FOR
10 WHICH A GUARANTEE CERTIFICATE HAS BEEN ISSUED, THE GUARANTEE
11 MAY NOT EXCEED 50% OF THE OUTSTANDING PRINCIPAL AMOUNT OF THE
12 LOAN. FROM THE END OF YEAR TWO THROUGH EITHER THE END OF YEAR
13 SEVEN OR THE END OF THE TERM OF THE LOAN, WHICHEVER OCCURS
14 FIRST, THE GUARANTEE MAY NOT EXCEED 25% OF THE OUTSTANDING
15 PRINCIPAL AMOUNT OF THE LOAN. THE GUARANTEE WILL TERMINATE AT
16 THE END OF SEVEN YEARS.

17 (2) AT NO TIME MAY A GUARANTEE EXCEED \$1,000,000 FOR ANY
18 ONE LOAN.

19 § 1554. NEW PENNSYLVANIA VENTURE GUARANTEE PROGRAM.

20 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM TO BE
21 KNOWN AS THE NEW PENNSYLVANIA VENTURE GUARANTEE PROGRAM. THE
22 PROGRAM SHALL PROVIDE GUARANTEES TO VENTURE CAPITAL PARTNERSHIPS
23 FOR INVESTMENTS IN PENNSYLVANIA-RELATED COMPANIES WHICH ARE IN
24 THE EARLY STAGE OR MID-STAGE OF DEVELOPMENT.

25 (B) GUARANTEE APPLICATIONS.--A VENTURE CAPITAL PARTNERSHIP
26 MAY SUBMIT AN APPLICATION TO THE AUTHORITY REQUESTING A
27 GUARANTEE OF INVESTMENTS OF PRINCIPAL TO BE MADE IN
28 PENNSYLVANIA-RELATED COMPANIES. THE APPLICATION SHALL BE ON THE
29 FORM PRESCRIBED BY THE BOARD AND SHALL INCLUDE OR DEMONSTRATE
30 ALL OF THE FOLLOWING:

1 (1) THE APPLICANT'S NAME AND ADDRESS AND THE ADDRESS OF
2 ALL OF THE APPLICANT'S OFFICES LOCATED IN PENNSYLVANIA.

3 (2) THE RESUMES OF THE INDIVIDUALS RESPONSIBLE FOR THE
4 INVESTMENT DECISIONS OF THE APPLICANT.

5 (3) A HISTORY OF THE APPLICANT'S DEVELOPMENT,
6 OPERATIONS, ACCOMPLISHMENTS AND HISTORICAL INVESTMENT
7 RETURNS, INCLUDING PAST PERFORMANCE OF PRINCIPALS AND
8 PARTNERS AND THE APPLICANT'S HISTORY OF INVESTMENTS IN
9 PENNSYLVANIA-RELATED COMPANIES.

10 (4) THE APPLICANT'S BUSINESS PLAN, WHICH MAY BE A
11 PRIVATE PLACEMENT MEMORANDUM PURSUANT TO 17 CFR §§ 230.501
12 THROUGH 230.508 (RELATING TO REGULATION D--RULES GOVERNING
13 THE LIMITED OFFER AND SALE OF SECURITIES WITHOUT REGISTRATION
14 UNDER THE SECURITIES ACT OF 1933).

15 (5) A DESCRIPTION OF THE INTENDED INDUSTRY SECTORS AND
16 STAGE OF INVESTMENT IN WHICH THE APPLICANT WILL INVEST AND
17 THE ANTICIPATED AMOUNT OF INVESTMENT TO BE MADE IN
18 PENNSYLVANIA-RELATED COMPANIES.

19 (6) A STATEMENT OF ANY RECENT CHANGES IN THE PRINCIPALS
20 OR PARTNERS OF THE APPLICANT.

21 (7) A STATEMENT OF THE FEES OR OTHER PAYMENT PROPOSED TO
22 BE PAID TO THE AUTHORITY BY THE APPLICANT AS CONSIDERATION
23 FOR THE ISSUANCE OF A GUARANTEE.

24 (8) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

25 (C) APPLICATION REVIEW.--THE BOARD SHALL REVIEW THE
26 APPLICATION TO DETERMINE ALL OF THE FOLLOWING:

27 (1) THAT THE MANAGING PARTNER OF THE APPLICANT HAS
28 MANAGED ONE OR MORE VENTURE CAPITAL PARTNERSHIPS WHICH HAVE
29 PERFORMANCE RANKINGS IN THE TOP QUARTILE NATIONWIDE WHEN
30 COMPARED TO OTHER VENTURE CAPITAL PARTNERSHIPS WITH SIMILAR

1 INVESTMENTS MADE OVER THE SAME PERIOD OF TIME.

2 (2) THAT THE APPLICANT WILL INVEST AT LEAST \$15,000,000
3 IN PENNSYLVANIA-RELATED COMPANIES.

4 (3) THAT THE APPLICANT WILL AGREE TO NOTIFY THE BOARD OF
5 ALL ADVISORY, VALUATION AND ANNUAL MEETINGS OF THE APPLICANT
6 FOR THE DURATION OF THE GUARANTEE, AND WILL PERMIT A
7 REPRESENTATIVE OF THE BOARD TO ATTEND SUCH MEETINGS. THE
8 BOARD MAY REQUEST THAT THE APPLICANT PROVIDE REIMBURSEMENT
9 FOR REASONABLE TRAVEL EXPENSES IF MEETINGS ARE HELD OUTSIDE
10 OF THE COMMONWEALTH OR THAT A BOARD REPRESENTATIVE BE ABLE TO
11 PARTICIPATE IN MEETINGS BY ACCEPTABLE TELECOMMUNICATION
12 MEANS.

13 (4) THAT THE APPLICANT HAS OR WILL OPEN AN OFFICE IN
14 PENNSYLVANIA, STAFFED WITH AT LEAST ONE SENIOR-LEVEL PARTNER
15 AND WILL MAINTAIN THE OFFICE FOR THE DURATION OF THE
16 GUARANTEE.

17 (5) THAT THE APPLICANT WILL PROVIDE THE BOARD WITH ITS
18 ANNUAL FINANCIAL STATEMENTS, AUDITED BY A NATIONALLY
19 RECOGNIZED INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, FOR THE
20 DURATION OF THE GUARANTEE. FINANCIAL STATEMENTS SHALL BE
21 PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
22 PRINCIPLES.

23 (6) THAT THE BOARD WILL HAVE THE ABILITY TO DETERMINE
24 THAT THE SUBJECT OF A PROPOSED INVESTMENT TO BE COVERED BY
25 THE GUARANTEE IS A PENNSYLVANIA-RELATED COMPANY ACCEPTABLE TO
26 THE BOARD PRIOR TO THE APPLICANT MAKING AN INVESTMENT IN THE
27 COMPANY.

28 (7) THAT THE APPLICANT HAS COMPLIED WITH ALL OTHER
29 REQUIREMENTS ESTABLISHED BY THE BOARD.

30 (D) APPROVAL OF GUARANTEE.--UPON BEING SATISFIED THAT ALL

1 REQUIREMENTS HAVE BEEN MET, THE BOARD MAY APPROVE THE
2 APPLICATION AND, IF APPROVED, THE AUTHORITY SHALL EXECUTE A
3 GUARANTEE AGREEMENT IN FAVOR OF THE APPLICANT. IN ADDITION TO
4 ANY OTHER TERMS AND CONDITIONS REQUIRED BY THE BOARD, THE
5 GUARANTEE AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

6 (1) THE PROCEDURE FOR THE SUBMISSION OF A CLAIM FOR
7 PAYMENT UNDER THE GUARANTEE AGREEMENT. A VENTURE CAPITAL
8 PARTNERSHIP WILL BE REQUIRED TO HAVE AN AUDIT PERFORMED BY A
9 NATIONALLY RECOGNIZED INDEPENDENT CERTIFIED PUBLIC ACCOUNTING
10 FIRM PRIOR TO NOTIFYING THE BOARD THAT IT IS MAKING A CLAIM
11 UNDER THE GUARANTEE. NO CLAIM MAY BE MADE PRIOR TO THE
12 COMPLETION OF THE SEVENTH YEAR FOLLOWING THE FIRST INVESTMENT
13 BY THE APPLICANT IN A PENNSYLVANIA-RELATED COMPANY WHICH IS
14 COVERED BY THE GUARANTEE.

15 (2) A PROVISION THAT THE GUARANTEE WILL COVER THE FIRST
16 LOSS OF THE AGGREGATE AMOUNT OF PRINCIPAL INVESTED IN
17 PENNSYLVANIA-RELATED COMPANIES COVERED BY THE GUARANTEE.

18 (3) A PROCEDURE AND SCHEDULE FOR THE PERIODIC
19 RECONCILIATION OF AMOUNTS PAYABLE UNDER THE GUARANTEE.

20 (4) A REQUIREMENT THAT ANY INCREASE IN THE VALUATION OF
21 INVESTMENTS IN PENNSYLVANIA-RELATED COMPANIES COVERED BY THE
22 GUARANTEE SUBSEQUENT TO THE PAYMENT OF A CLAIM BY THE
23 AUTHORITY WILL RESULT IN A PORTION OF THE PAYMENT BEING
24 RETURNED TO THE AUTHORITY.

25 (5) A PROCEDURE FOR AN EXPEDITIOUS PROCESS FOR THE BOARD
26 TO DETERMINE THAT PROPOSED INVESTMENTS TO BE COVERED BY THE
27 GUARANTEE WILL BE MADE TO PENNSYLVANIA-RELATED COMPANIES
28 ACCEPTABLE TO THE BOARD.

29 (6) A PROHIBITION AGAINST THE TRANSFER OF THE BENEFITS
30 OF THE GUARANTEE TO ANOTHER PERSON WITHOUT THE PRIOR APPROVAL

1 OF THE BOARD.

2 (E) LIMITATIONS.--

3 (1) THE LIABILITY OF THE AUTHORITY FOR ANY GUARANTEE
4 APPROVED UNDER THIS SECTION SHALL BE LIMITED TO THE APPROVED
5 AMOUNT OF THAT GUARANTEE.

6 (2) A GUARANTEE APPROVED BY THE BOARD SHALL NOT EXCEED
7 50% OF THE TOTAL INVESTMENTS MADE IN PENNSYLVANIA-RELATED
8 COMPANIES COVERED BY THE GUARANTEE OR \$37,500,000, WHICHEVER
9 IS LESS.

10 (3) THE BOARD MAY APPROVE ONE OR MORE GUARANTEES NOT TO
11 EXCEED \$50,000,000 IN THE AGGREGATE FOR VENTURE CAPITAL
12 PARTNERSHIPS IN WHICH THE STATE EMPLOYEES' RETIREMENT SYSTEM
13 OR THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM IS A
14 LIMITED PARTNER.

15 (4) APPLICATIONS FOR GUARANTEES MAY BE ACCEPTED UNTIL
16 JULY 1, 2007, OR UNTIL THE AGGREGATE OF APPROVED GUARANTEES
17 EQUALS \$250,000,000, WHICHEVER OCCURS FIRST.

18 § 1555. BUILDING PENNSYLVANIA PROGRAM.

19 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM TO BE
20 KNOWN AS THE BUILDING PENNSYLVANIA PROGRAM. THE PROGRAM SHALL
21 PROVIDE LOANS TO FUND MANAGERS FOR INVESTMENT IN REAL ESTATE
22 PROJECTS WITHIN THIS COMMONWEALTH.

23 (B) REQUESTS FOR PROPOSALS.--THE BOARD SHALL ISSUE ONE OR
24 MORE REQUESTS FOR PROPOSALS IN ACCORDANCE WITH 62 PA.C.S. § 518
25 (RELATING TO COMPETITIVE SELECTION PROCEDURES FOR CERTAIN
26 SERVICES) FOR FUND MANAGERS. EACH REQUEST FOR PROPOSALS SHALL
27 INCLUDE ALL OF THE FOLLOWING:

28 (1) A STATEMENT THAT THE SERVICE BEING REQUESTED IS THE
29 INVESTMENT IN REAL ESTATE PROJECTS LOCATED IN THIS
30 COMMONWEALTH WHICH WILL BE ACQUIRED AND DEVELOPED,

1 REDEVELOPED OR REVITALIZED.

2 (2) A REQUEST TO SUPPLY ALL OF THE FOLLOWING
3 INFORMATION:

4 (I) THE FUND MANAGER'S NAME AND ADDRESS.

5 (II) THE RESUMES OF THE INDIVIDUALS RESPONSIBLE FOR
6 THE INVESTMENT DECISIONS OF THE FUND MANAGER.

7 (III) THE FUND MANAGER'S HISTORY OF INVESTMENTS IN
8 REAL ESTATE PROJECTS, INCLUDING THE NUMBER OF PREVIOUS
9 INVESTMENTS, RATES OF RETURN AND CAPITAL RAISED.

10 (IV) A DESCRIPTION OF THE PROPOSED APPROACH BY THE
11 FUND MANAGER TO INVESTMENTS IN REAL ESTATE PROJECTS
12 LOCATED IN THIS COMMONWEALTH.

13 (V) THE FUND MANAGER'S HISTORY OF INVESTMENTS IN
14 THIS COMMONWEALTH.

15 (VI) THE FUND MANAGER'S UNDERSTANDING OF THIS
16 COMMONWEALTH'S GEOGRAPHY AND ECONOMIC CLIMATE.

17 (VII) A STATEMENT BY THE FUND MANAGER OF THE AMOUNT
18 OF THE LOAN BEING REQUESTED.

19 (3) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

20 (C) REVIEW OF PROPOSALS.--THE BOARD SHALL REVIEW THE
21 PROPOSALS AND DETERMINE THE FUND MANAGER OR MANAGERS BEST
22 QUALIFIED TO PROVIDE THE SERVICES DESCRIBED IN THE REQUEST FOR
23 PROPOSALS. IF THE BOARD DETERMINES THAT NO FUND MANAGER IS
24 QUALIFIED, THE BOARD MAY RE-ISSUE REQUESTS FOR PROPOSALS IN
25 ACCORDANCE WITH THIS SECTION.

26 (D) CONTRACT NEGOTIATIONS.--THE BOARD SHALL SELECT FOR
27 CONTRACT NEGOTIATION ONE OR MORE FUND MANAGERS WHO ARE
28 DETERMINED TO BE THE BEST QUALIFIED TO PROVIDE THE SERVICES
29 DESCRIBED IN THE REQUEST FOR PROPOSALS.

30 (E) AWARD.--THE AUTHORITY MAY ENTER INTO CONTRACTS WITH ONE

1 OR MORE FUND MANAGERS. THE CONTRACTS SHALL INCLUDE ALL OF THE
2 FOLLOWING PROVISIONS:

3 (1) THE TERMS OF REPAYMENT OF PRINCIPAL AND PAYMENT OF
4 INTEREST AND OTHER RETURN TO THE AUTHORITY.

5 (2) THAT THE FUND MANAGER WILL RAISE AND INVEST IN REAL
6 ESTATE PROJECTS LOCATED IN THIS COMMONWEALTH AT LEAST \$1 OF
7 NONPUBLIC EQUITY FOR EVERY \$1 OF LOAN FUNDS RECEIVED BY THE
8 FUND MANAGER UNDER THIS SECTION.

9 (3) THAT THE FUND MANAGER WILL EXERCISE THE STANDARD OF
10 CARE IN ITS RESPONSIBILITIES SET FORTH IN SUBSECTION (F).

11 (4) THAT THE FUND MANAGER WILL PROVIDE THE BOARD WITH
12 ITS ANNUAL AUDITED FINANCIAL STATEMENTS FOR THE DURATION OF
13 THE LOAN. FINANCIAL STATEMENTS SHALL BE PREPARED IN
14 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

15 (5) THAT THE FUND MANAGER WILL INVEST IN INDUSTRIAL,
16 COMMERCIAL AND MULTIUSE REAL ESTATE PROJECTS LOCATED IN THIS
17 COMMONWEALTH WHICH WILL BE ACQUIRED AND DEVELOPED,
18 REDEVELOPED OR REVITALIZED, IN ACCORDANCE WITH THE PROVISIONS
19 OF THIS SECTION.

20 (6) ANY OTHER PROVISIONS REQUIRED BY THE BOARD.

21 (F) STANDARD OF CARE.--A FUND MANAGER AWARDED A CONTRACT
22 UNDER THIS SECTION SHALL EXERCISE THAT DEGREE OF JUDGMENT, SKILL
23 AND CARE UNDER THE CIRCUMSTANCES THEN PREVAILING WHICH PERSONS
24 OF PRUDENCE, DISCRETION AND INTELLIGENCE, WHO ARE FAMILIAR WITH
25 SUCH MATTERS, EXERCISE IN THE MANAGEMENT OF THEIR OWN AFFAIRS,
26 NOT IN REGARD TO SPECULATION, BUT IN REGARD TO THE PERMANENT
27 DISPOSITION OF FUNDS, CONSIDERING THE PROBABLE INCOME TO BE
28 DERIVED THEREFROM AS WELL AS THE PROBABLE SAFETY OF THEIR
29 CAPITAL.

30 (G) LIMITATIONS.--

1 (1) AT LEAST 50% OF THE FUNDS MADE AVAILABLE FOR THE
2 PROGRAM AUTHORIZED BY THIS SECTION MUST BE UTILIZED FOR
3 PROJECTS LOCATED IN AREAS OTHER THAN CITIES OF THE FIRST OR
4 SECOND CLASS.

5 (2) NO INVESTMENTS MAY BE MADE BY A FUND MANAGER IN REAL
6 ESTATE PROJECTS WHICH ARE PRIMARILY RESIDENTIAL OR PRIMARILY
7 RECREATIONAL.

8 § 1556. TAX INCREMENT FINANCING GUARANTEE PROGRAM.

9 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM TO BE
10 KNOWN AS THE TAX INCREMENT FINANCING GUARANTEE PROGRAM. THE
11 PROGRAM SHALL PROVIDE GUARANTEES FOR TAX INCREMENT FINANCING
12 BONDS OR OTHER INDEBTEDNESS ISSUED IN ACCORDANCE WITH THE ACT OF
13 JULY 11, 1990 (P.L.465, NO.113), KNOWN AS THE TAX INCREMENT
14 FINANCING ACT.

15 (B) APPLICATIONS FOR GUARANTEES.--AN ISSUING AUTHORITY MAY
16 SUBMIT AN APPLICATION TO THE AUTHORITY REQUESTING A GUARANTEE OF
17 BONDS OR OTHER INDEBTEDNESS TO BE ISSUED PURSUANT TO THE TAX
18 INCREMENT FINANCING ACT. THE APPLICATION MUST BE ON THE FORM
19 REQUIRED BY THE BOARD AND MUST INCLUDE OR DEMONSTRATE ALL OF THE
20 FOLLOWING:

21 (1) THE ISSUING AUTHORITY'S NAME AND ADDRESS.

22 (2) THE LOCATION OF THE PROJECT.

23 (3) A DESCRIPTION OF THE PROJECT, WHICH INCLUDES A
24 STATEMENT THAT THE PROJECT IS FOR THE:

25 (I) REDEVELOPMENT, REUSE OR REVITALIZATION OF
26 PREVIOUSLY DEVELOPED LAND, INCLUDING PREVIOUSLY MINED
27 AREAS; OR

28 (II) DEVELOPMENT OF UNDEVELOPED LAND WHICH MAY BE
29 THE SUBJECT OF FUTURE DEVELOPMENT PURSUANT TO ANY
30 EXISTING COMPREHENSIVE MUNICIPAL PLAN AND IS ZONED FOR

1 THAT DEVELOPMENT AT THE TIME OF APPLICATION.

2 (4) THAT THE REQUIREMENTS OF THE TAX INCREMENT FINANCING
3 ACT WILL BE COMPLIED WITH PRIOR TO THE ISSUANCE OF BONDS OR
4 OTHER INDEBTEDNESS BY THE ISSUING AUTHORITY.

5 (5) THAT THE INCREMENTAL TAX REVENUES TO BE REALIZED
6 FROM THE PROJECT WILL BE SUFFICIENT TO OFFSET THE AMOUNT OF
7 DEBT SERVICE TO BE PAID ON THE BONDS OR OTHER INDEBTEDNESS TO
8 BE ISSUED BY THE ISSUING AUTHORITY.

9 (6) THE AMOUNT OF THE GUARANTEE SOUGHT.

10 (7) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

11 (C) REVIEW OF GUARANTEE APPLICATIONS.--THE BOARD SHALL
12 REVIEW THE APPLICATION TO DETERMINE ALL OF THE FOLLOWING:

13 (1) THAT THE PROJECT IS CONSISTENT WITH ANY EXISTING
14 COMPREHENSIVE COUNTY PLAN WHERE THE PROJECT IS LOCATED.

15 (2) THAT THE PROJECT IS FOR THE:

16 (I) REDEVELOPMENT, REUSE OR REVITALIZATION OF
17 PREVIOUSLY DEVELOPED LAND, INCLUDING PREVIOUSLY MINED
18 AREAS; OR

19 (II) DEVELOPMENT OF UNDEVELOPED LAND WHICH MAY BE
20 THE SUBJECT OF FUTURE DEVELOPMENT PURSUANT TO ANY
21 EXISTING COMPREHENSIVE COUNTY PLAN OR COMPREHENSIVE
22 MUNICIPAL PLAN AND IS ZONED FOR THAT DEVELOPMENT AT THE
23 TIME OF APPLICATION.

24 (3) THAT THE INCREMENTAL TAX REVENUES TO BE REALIZED AS
25 A RESULT OF THE PROJECT ARE SUFFICIENT TO REPAY THE BONDS OR
26 OTHER INDEBTEDNESS ISSUED.

27 (4) THAT THE PROJECT AND THE PROPOSED BOND ISSUE OR
28 ISSUANCE OF DEBT COMPLIES WITH THE REQUIREMENTS OF THE TAX
29 INCREMENT FINANCING ACT.

30 (5) THAT THE ISSUING AUTHORITY COMPLIED WITH ALL OTHER

1 CRITERIA ESTABLISHED BY THE BOARD.

2 (D) APPROVAL OF GUARANTEE APPLICATIONS.--UPON BEING
3 SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE BOARD MAY
4 APPROVE THE APPLICATION AND, IF APPROVED, THE AUTHORITY SHALL
5 EXECUTE A GUARANTEE AGREEMENT IN FAVOR OF THE ISSUING AUTHORITY.
6 IN ADDITION TO ANY OTHER TERMS AND CONDITIONS REQUIRED BY THE
7 BOARD, THE GUARANTEE AGREEMENT SHALL PROVIDE FOR THE FOLLOWING:

8 (1) THE PROCEDURE FOR THE SUBMISSION OF A CLAIM FOR
9 PAYMENT UNDER THE GUARANTEE AGREEMENT. IF THE AUTHORITY MAKES
10 PAYMENT ON A CLAIM FOR PAYMENT SUBMITTED UNDER THE GUARANTEE
11 AGREEMENT, THE AUTHORITY MAY ASSUME ALL RIGHTS AND PRIVILEGES
12 PREVIOUSLY BELONGING TO THE BONDHOLDERS OR THE HOLDERS OF THE
13 DEBT AND MAY RENEGOTIATE THE TERMS OF REPAYMENT OF THE DEBT
14 ASSUMED BY THE AUTHORITY UNDER TERMS AS THE AUTHORITY DEEMS
15 APPROPRIATE.

16 (2) ANNUAL REPORTING BY THE ISSUING AUTHORITY ON THE
17 STATUS OF THE PROJECT, INCLUDING THE AMOUNT OF THE ANNUAL
18 DEBT SERVICE AND THE ANNUAL VALUE OF THE INCREMENTAL TAX
19 REVENUES.

20 (E) LIMITATIONS.--NO GUARANTEE APPROVED BY THE BOARD MAY
21 EXCEED \$5,000,000.

22 § 1557. NEW PENNSYLVANIA VENTURE CAPITAL INVESTMENT PROGRAM.

23 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A PROGRAM TO BE
24 KNOWN AS THE NEW PENNSYLVANIA VENTURE CAPITAL INVESTMENT
25 PROGRAM. THE PROGRAM SHALL PROVIDE LOANS TO VENTURE CAPITAL
26 PARTNERSHIPS FOR INVESTMENT IN PENNSYLVANIA-RELATED COMPANIES
27 WHICH IS EQUITY OR CONVERTIBLE DEBT.

28 (B) APPLICATIONS.--A VENTURE CAPITAL PARTNERSHIP SEEKING TO
29 MAKE INVESTMENTS IN PENNSYLVANIA-RELATED COMPANIES MAY SUBMIT AN
30 APPLICATION FOR A LOAN TO THE AUTHORITY. THE APPLICATION MUST BE

1 ON THE FORM REQUIRED BY THE BOARD AND SHALL INCLUDE OR
2 DEMONSTRATE ALL OF THE FOLLOWING:

3 (1) THE APPLICANT'S NAME.

4 (2) THE ADDRESS OF THE APPLICANT AND A LIST OF ALL
5 OFFICES OF THE APPLICANT LOCATED IN THIS COMMONWEALTH.

6 (3) THE APPLICANT'S BUSINESS PLAN, WHICH MAY BE A
7 PRIVATE PLACEMENT MEMORANDUM PURSUANT TO 17 CFR §§ 230.501
8 THROUGH 230.508 (RELATING TO REGULATION D--RULES GOVERNING
9 THE LIMITED OFFER AND SALE OF SECURITIES WITHOUT REGISTRATION
10 UNDER THE SECURITIES ACT OF 1933).

11 (4) A HISTORY OF THE APPLICANT'S DEVELOPMENT,
12 OPERATIONS, ACCOMPLISHMENTS AND HISTORICAL INVESTMENT
13 RETURNS, INCLUDING PAST PERFORMANCE OF PRINCIPALS AND
14 PARTNERS.

15 (5) A DESCRIPTION OF THE INTENDED INDUSTRY SECTORS AND
16 STAGE OF INVESTMENT IN WHICH THE APPLICANT WILL INVEST.

17 (6) A DESCRIPTION OF THE APPLICANT'S CURRENT AND
18 PROPOSED RELATIONSHIP WITH ORGANIZATIONS IN THIS COMMONWEALTH
19 THAT FOSTER ECONOMIC DEVELOPMENT.

20 (7) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

21 (C) APPLICATION REVIEW.--THE BOARD SHALL REVIEW THE
22 APPLICATION TO DETERMINE ALL OF THE FOLLOWING:

23 (1) IF THE APPLICANT HAS INVESTED IN PENNSYLVANIA-
24 RELATED COMPANIES IN THE PAST.

25 (2) IF THE APPLICANT HAS DEMONSTRATED STRONG
26 RELATIONSHIPS WITH ORGANIZATIONS IN THIS COMMONWEALTH WHICH
27 FOSTER ECONOMIC DEVELOPMENT.

28 (3) THAT THE APPLICANT HAS DEMONSTRATED A SATISFACTORY
29 INVESTMENT PERFORMANCE RECORD.

30 (4) THAT THE APPLICANT HAS DEMONSTRATED THAT IT CAN AND

1 WILL RAISE AND INVEST IN PENNSYLVANIA-RELATED COMPANIES AT
2 LEAST \$1 OF NONPUBLIC EQUITY FOR EVERY \$1 OF LOAN FUNDS
3 RECEIVED BY THE APPLICANT UNDER THIS SECTION.

4 (5) THAT THE APPLICANT HAS OR WILL OPEN AN OFFICE IN
5 PENNSYLVANIA, STAFFED WITH AT LEAST ONE SENIOR-LEVEL PARTNER
6 AND WILL MAINTAIN SUCH OFFICE FOR THE DURATION OF THE LOAN.

7 (6) THAT THE APPLICANT COMPLIED WITH ALL OTHER CRITERIA
8 ESTABLISHED BY THE BOARD.

9 (D) APPROVAL OF THE APPLICATIONS.--

10 (1) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
11 MET, THE BOARD MAY APPROVE THE APPLICATION AND, IF APPROVED,
12 THE AUTHORITY SHALL AWARD A LOAN. THE BOARD SHALL ESTABLISH
13 THE TERM OF REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST
14 AND OTHER RETURN TO THE AUTHORITY AND ALL OTHER TERMS AND
15 CONDITIONS OF THE LOAN CONSISTENT WITH THE PROVISIONS OF THIS
16 SECTION.

17 (2) IN APPROVING APPLICATIONS, THE BOARD SHALL CONSIDER
18 WHETHER AN APPLICANT HAS HAD AN OFFICE IN THIS COMMONWEALTH
19 FOR AT LEAST THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE OF
20 THE APPLICANT'S APPLICATION.

21 (E) LIMITATION.--

22 (1) ALL LOANS AWARDED TO VENTURE CAPITAL PARTNERSHIPS
23 UNDER THIS SECTION AND THE MATCHING NONPUBLIC EQUITY SHALL BE
24 INVESTED IN PENNSYLVANIA-RELATED COMPANIES.

25 (2) AT LEAST 50% OF THE FUNDS MADE AVAILABLE FOR THE
26 PROGRAM UNDER THIS SECTION SHALL BE USED TO MAKE LOANS TO
27 BUSINESSES WHICH HAVE PRIMARY OFFICES STAFFED WITH AT LEAST
28 ONE SENIOR-LEVEL PARTNER LOCATED IN PENNSYLVANIA COUNTIES
29 WHICH ARE OUTSIDE THE PHILADELPHIA METROPOLITAN STATISTICAL
30 AREA AND WHICH DO NOT HAVE A POPULATION OF 1,000,000 OR MORE,

1 and Trade) of the Pennsylvania Consolidated Statutes, codifying
2 portions of the Job Enhancement Act; further providing for
3 contract requirements, for guidelines, for administration and
4 for application and review requirements; providing for Keystone
5 Innovation Zones; and making repeals relating to the Job
6 Enhancement Act," is repealed.

7 Section 4 6. This act shall take effect immediately.

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