

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 271 Session of  
2007

INTRODUCED BY CAPPELLI, BARRAR, BELFANTI, BENNINGHOFF, BEYER,  
BOYD, BROOKS, BUXTON, CALTAGIRONE, CREIGHTON, GEIST, GEORGE,  
HARPER, HERSHEY, MARKOSEK, PAYNE, PETRARCA, PICKETT,  
REICHLEY, SAINATO, SCAVELLO, SIPTROTH, SOLOBAY, SONNEY,  
STERN, SWANGER, WANSACZ, WATSON AND YOUNGBLOOD,  
FEBRUARY 6, 2007

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 6, 2007

## AN ACT

1 Amending the act of May 17, 1956 (1955 P.L.1609, No.537),  
2 entitled "An act to promote the welfare of the people of the  
3 Commonwealth by the reduction of unemployment in certain  
4 areas of the Commonwealth determined to be critical economic  
5 areas; providing for the establishment of industrial  
6 development projects in such areas; creating The Pennsylvania  
7 Industrial Development Authority as a body corporate and  
8 politic with power to allocate funds for and make secured  
9 loans to industrial development agencies for the payment of a  
10 part of the cost of industrial development projects in  
11 critical economic areas; authorizing the Authority to enter  
12 into agreements with the Government of the United States or  
13 any Federal agency or industrial development agency;  
14 empowering the Authority to take title to, sell, convey and  
15 lease industrial development projects where necessary to  
16 protect loans made by the Pennsylvania Industrial Development  
17 Authority on industrial development projects; providing that  
18 no debt of the Commonwealth, its municipalities or political  
19 subdivisions shall be incurred in the exercise of any powers  
20 granted by this act; and providing for the examination of the  
21 accounts and affairs of the Authority; and making an  
22 appropriation," further providing for administrative powers.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. Section 6(e) of the act of May 17, 1956 (1955  
26 P.L.1609, No.537), known as the Pennsylvania Industrial

1 Development Authority Act, amended July 13, 1988 (P.L.534,  
2 No.95), is amended to read:

3 Section 6. Powers of the Authority; Loans to Industrial  
4 Development Agencies.--When it has been determined by the  
5 Authority upon application of an industrial development agency  
6 and hearing thereon in the manner hereinafter provided, that the  
7 establishment of a particular industrial development project of  
8 such industrial development agency in a critical economic area  
9 has accomplished or will accomplish the public purposes of this  
10 act, the Authority may contract to loan such industrial  
11 development agency an amount not in excess of the percentage of  
12 the cost of such industrial development project, as established  
13 or to be established as hereinafter set forth, subject, however,  
14 to the following conditions:

15 \* \* \*

16 (e) Any such loan of the Authority shall be for such period  
17 of time and shall bear interest at such rate not to exceed  
18 (3.75%) as shall be determined by the Authority and shall be  
19 evidenced by bond or note of the industrial development agency  
20 and secured by mortgage on the industrial development project  
21 for which such loan was made, such mortgage to be second and  
22 subordinate only to the mortgage securing the first lien  
23 obligation issued to secure the commitment of funds from the  
24 aforesaid independent and responsible sources and used in the  
25 financing of the industrial development project. Loans for  
26 industrial parks and multiple-tenancy building projects shall be  
27 secured as provided in subsections (b.1) and (b.2),  
28 respectively. The Authority may require such additional security  
29 for its loan as the board may determine necessary.

30 Moneys so loaned by the Authority to industrial development

1 agencies shall be withdrawn from the Industrial Development Fund  
2 or other account of the Authority and paid over to the  
3 industrial development agency in such manner as shall be  
4 provided and prescribed by the rules and regulations of the  
5 Authority.

6 Loans by the Authority to an industrial development agency  
7 for an industrial development project shall be made only in the  
8 manner and to the extent as in this section six provided,  
9 except, however, in those instances wherein an agency of the  
10 Federal government participates in the financing of an  
11 industrial development project by loan, grant or otherwise of  
12 Federal funds. When any Federal agency does so participate the  
13 Authority may adjust the required ratios of financial  
14 participation by the industrial development agency, the source  
15 of independent funds, and the Authority in such manner as to  
16 insure the maximum benefit available to the industrial  
17 development agency, the Authority, or both, by the participation  
18 of the Federal agency.

19 Where any Federal agency participating in the financing of an  
20 industrial development project is not permitted to take as  
21 security for such participation a mortgage the lien of which is  
22 junior to the mortgage of the Authority, the Authority shall in  
23 such instances be authorized to take as security for its loan to  
24 the industrial development agency a mortgage junior in lien to  
25 that of the Federal agency.

26 Before any loan is approved by the Authority, the responsible  
27 tenant or purchaser must certify to the Authority that it has  
28 not been cited by a governmental agency for causing pollution in  
29 the Commonwealth, or if it has been so cited, that it is  
30 embarked on a specific program for eliminating the cause of the

1 citation. The responsible tenant or purchaser must also certify  
2 to the Authority that the proposed project would be designed so  
3 as not to cause pollution in violation of existing standards.

4 In the event of the imposition of any civil or criminal  
5 penalty on a specific industrial development project hereinafter  
6 approved, resulting from the violation of any law or regulation  
7 relating to environmental pollution in the Commonwealth, the  
8 responsible tenant or purchaser shall, at the request of the  
9 Authority, be required to either show evidence of having entered  
10 into an agreement with the appropriate governmental agency  
11 providing for the required abatement, or if the violation has  
12 been appealed to the courts, evidence of having complied with a  
13 finally adjudicated decision of a court of law relating to the  
14 violation. If the responsible tenant or purchaser shall fail to  
15 show such evidence, the Pennsylvania Industrial Development  
16 Authority together with the Environmental Quality Board of the  
17 Department of Environmental Resources may at their discretion  
18 take such action as they deem appropriate with regard to the  
19 project loan.

20 Section 2. This act shall apply as follows:

21 (1) The amendment of section 6(e) of the act shall apply  
22 to loans made or renewed on or after the effective date of  
23 this section.

24 (2) The Pennsylvania Industrial Development Authority is  
25 authorized to renegotiate loans existing on the effective  
26 date of this section in accordance with the amendment of  
27 section 6(e) of the act.

28 Section 3. This act shall take effect in 60 days.