

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 768 Session of
2007INTRODUCED BY ORIE, FERLO, CORMAN, BOSCOLA, PUNT, FOLMER, EARLL,
LOGAN, MADIGAN AND BROWNE, MAY 3, 2007

AS AMENDED ON THIRD CONSIDERATION, JUNE 16, 2008

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes,
3 further providing for the definitions of "commercial lending
4 activities" and "commercial lending institutions" and for the
5 First Industries Program.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The definitions of "commercial lending
9 activities" and "commercial lending institutions" in section
10 1504 of Title 64 of the Pennsylvania Consolidated Statutes are
11 amended to read:

12 § 1504. Definitions.

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

16 * * *

17 "Commercial lending activities." The making of loans and the
18 provision of deposit services to business entities, except that
19 a farm credit system institution under the Farm Credit Act of

1 1971 (Public Law 92-181, 85 Stat. 583) need not offer deposit
2 services to qualify as a provider of commercial lending
3 activities under this chapter.

4 "Commercial lending institutions." A federally chartered or
5 state-chartered bank, savings bank [or], savings and loan
6 association or farm credit system institution under the Farm
7 Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) which has a
8 satisfactory rating from its primary regulator and which is
9 engaged in commercial lending activities. The institution must
10 operate at least one full-service branch for deposit gathering
11 and lending located within this Commonwealth or be a farm credit
12 system institution under the Farm Credit Act of 1971.

13 * * *

14 Section 2. Section 1552(e)(2) and (3) of Title 64 are
15 amended, subsection (e) is amended by adding a paragraph and the
16 section is amended by adding subsections to read:

17 § 1552. First Industries Program.

18 * * *

19 (e) Loan guarantees.--

20 * * *

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

23 (i) That the project has been awarded a planning
24 grant under this section or that at least [\$1,000,000]
25 ~~\$100,000~~ \$250,000 of private funds are being invested in <—
26 the project.

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

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

1 (3) Upon being satisfied that all requirements have been
2 met, the board may approve the guarantee, and, if approved,
3 the authority shall execute a guarantee agreement in favor of
4 the commercial lending institution or community development
5 financial institution stating the terms and amounts of the
6 guarantee. [The] Except as provided in subsection (e)(3.1),
7 the guarantee may not exceed 50% of the outstanding principal
8 amount of the loan or \$2,500,000 at any point in time,
9 whichever is less. In addition to any other terms and
10 conditions required by the board, the guarantee agreement
11 shall provide for all of the following:

12 (i) The procedure for the submission by the
13 commercial lending institution or community development
14 financial institution of a claim for payment. This
15 procedure shall require that the commercial lending
16 institution or community development financial
17 institution demonstrate that it has exhausted all
18 available remedies against the borrower, other guarantors
19 and collateral before seeking payment under the
20 agreement.

21 (ii) A requirement that a percentage of any moneys
22 recovered subsequent to the payment of a claim by the
23 authority be remitted to the authority.

24 (iii) Periodic reporting requirements by the
25 commercial lending institution or community development
26 financial institution regarding itself and regarding the
27 loans which have been awarded guarantees under this
28 section.

29 (3.1) The guarantee may not exceed 90% of the
30 outstanding principal amount of the loan to assist with the

1 financing of a project related to agriculture.

2 * * *

3 (e.1) Limitation.--A Farm Credit Institution under the Farm
4 Credit Act of 1971 (Public law 92-181, 85 Stat. 583) shall only
5 be permitted to participate in the First Industries Program
6 established under this section and may not participate in any
7 other program established under this title.

8 (e.2) Sunset.--After June 30, 2011, no Farm Credit
9 Institution under the Farm Credit Act of 1971 shall be eligible
10 for any loan guarantees under this title.

11 Section 3. The Department of Community and Economic
12 Development shall provide annually, as determined beginning one
13 year from the effective date of this act, to the Majority Leader
14 of the Senate, the Minority Leader of the Senate, the Majority
15 Leader of the House of Representatives and the Minority Leader
16 of the House of Representatives, a written report stating the
17 impact and number of loans originated, purchased, held and
18 assigned by the farm credit lender OR OTHER COMMERCIAL LENDER <—
19 during the corresponding most recent one-year period. All loan <—
20 and loan guarantee information should be required of commercial
21 lenders as well as farm credit institutions. Members of the
22 general public, including any interested parties such as trade
23 associations or banking institutions, shall be provided a copy
24 of the report in a timely manner upon request to the department.
25 THE REPORT SHALL BE POSTED ON THE DEPARTMENT'S INTERNET WEBSITE. <—

26 Section 4. This act shall take effect in 60 days.