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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 768 Session of  
2007

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INTRODUCED BY ORIE, FERLO, CORMAN, BOSCOLA, PUNT, FOLMER, EARLL,  
LOGAN, MADIGAN AND BROWNE, MAY 3, 2007

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AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 23, 2008

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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

1 provision of deposit services to business entities, except that  
2 a farm credit system institution under the Farm Credit Act of  
3 1971 (Public Law 92-181, 85 Stat. 583) need not offer deposit  
4 services to qualify as a provider of commercial lending  
5 activities under this chapter.

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

15 \* \* \*

16 Section 2. Section 1552(e)(2) and (3) of Title 64 are  
17 amended, subsection (e) is amended by adding ~~a paragraph~~ <—  
18 PARAGRAPHS and the section is amended by adding subsections to <—  
19 read:

20 § 1552. First Industries Program.

21 \* \* \*

22 (e) Loan guarantees.--

23 \* \* \*

24 (2) The board shall review the application to determine  
25 all of the following:

26 (i) ~~【That】~~ (A) EXCEPT AS SET FORTH IN CLAUSE (B), <—  
27 THAT the project has been awarded a planning grant  
28 under this section or that at least ~~+\$1,000,000+~~ <—  
29 ~~\$250,000~~ of private funds are being invested in the  
30 project.

1                   (B) BEGINNING ON THE EFFECTIVE DATE OF THIS                   <—  
2                   PARAGRAPH THROUGH JUNE 30, 2011, THAT THE PROJECT HAS  
3                   BEEN AWARDED A PLANNING GRANT UNDER THIS SECTION OR  
4                   THAT AT LEAST \$500,000 OF PRIVATE FUNDS ARE BEING  
5                   INVESTED IN THE PROJECT.

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

8                   (iii) That the applicant complied with all other  
9                   criteria established by the board.

10                  (3) Upon being satisfied that all requirements have been  
11                  met, the board may approve the guarantee, and, if approved,  
12                  the authority shall execute a guarantee agreement in favor of  
13                  the commercial lending institution or community development  
14                  financial institution stating the terms and amounts of the  
15                  guarantee. [The] Except as provided in subsection (c)(3.1)                   <—  
16                  PARAGRAPH (3.1), the guarantee may not exceed 50% of the                   <—  
17                  outstanding principal amount of the loan or \$2,500,000 at any  
18                  point in time, whichever is less. In addition to any other  
19                  terms and conditions required by the board, the guarantee  
20                  agreement shall provide for all of the following:

21                  (i) The procedure for the submission by the  
22                  commercial lending institution or community development  
23                  financial institution of a claim for payment. This  
24                  procedure shall require that the commercial lending  
25                  institution or community development financial  
26                  institution demonstrate that it has exhausted all  
27                  available remedies against the borrower, other guarantors  
28                  and collateral before seeking payment under the  
29                  agreement.

30                  (ii) A requirement that a percentage of any moneys

recovered subsequent to the payment of a claim by the authority be remitted to the authority.

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

~~(3.1) The guarantee may not exceed~~ BEGINNING ON THE  
EFFECTIVE DATE OF THIS PARAGRAPH THROUGH JUNE 30, 2011, A  
GUARANTEE OF 51% TO 90% of the ~~outstanding~~ principal amount  
of the loan to assist with the financing of a project related  
to agriculture MAY BE AWARDED BY THE BOARD. THE GUARANTEE  
SHALL BE SUBJECT TO A ONE-TIME FEE OF 2% OF THE AMOUNT OF THE  
LOAN MULTIPLIED BY THE PERCENTAGE OF THE GUARANTEE.

(3.2) The amount of a guarantee under this subsection,  
if any, shall be set at the discretion of the board based  
upon its determination of the potential financial risk to the  
Commonwealth.

\* \* \*

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

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

\* \* \*

Section 3. The Department of Community and Economic

1 Development shall provide annually, as determined beginning one  
2 year from the effective date of this act, to the Majority Leader  
3 of the Senate, the Minority Leader of the Senate, the Majority  
4 Leader of the House of Representatives and the Minority Leader  
5 of the House of Representatives, a written report stating the  
6 impact and number of loans originated, purchased, held and  
7 assigned by the farm credit lender or other commercial lender  
8 during the corresponding most recent one-year period. The report  
9 shall be posted on the department's Internet website.

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