

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1117 Session of
2009

INTRODUCED BY PETRI, BARRAR, CLYMER, CUTLER, GEIST, GINGRICH,
HESS, MOUL, QUINN, REICHLEY, SCAVELLO, SIPTROTH, J. TAYLOR
AND WATSON, MARCH 25, 2009

REFERRED TO COMMITTEE ON FINANCE, MARCH 25, 2009

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes, in
3 Commonwealth Financing Authority, further providing for
4 indebtedness; and establishing the Energy Independence Bond
5 Guarantee Program.

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

8 Section 1. Section 1543(b) and (d) of Title 64 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 1543. Indebtedness.

11 * * *

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

15 (1) \$300,000,000 for the program established in section
16 1551 (relating to Business in Our Sites Program).

17 (2) \$150,000,000 for the program established in section
18 1552 (relating to First Industries Program).

19 (3) \$60,000,000 for the program established in section

1 1557 (relating to New Pennsylvania Venture Capital Investment
2 Program).

3 (4) \$150,000,000 for the program established in section
4 1555 (relating to Building Pennsylvania Program).

5 (5) \$75,000,000 for the program established in 12
6 Pa.C.S. Ch. 29.

7 (6) \$250,000,000 for the program established in section
8 1554 (relating to New Pennsylvania Venture Guarantee
9 Program).

10 (7) \$100,000,000 for the program established in section
11 1556 (relating to Tax Increment Financing Guarantee Program).

12 (8) \$50,000,000 for the program established in section
13 1553 (relating to Second Stage Loan Program).

14 (9) \$1,000,000,000 for the program established in
15 section 1559 (relating to Energy Independence Bond Guarantee
16 Program).

17 * * *

18 (d) Exception.--Subsection (c) shall not apply to the
19 aggregate amount of indebtedness incurred by the authority,
20 including through the issuance of bonds, for the following
21 programs:

22 (1) The program established in section 1553.

23 (2) The program established in section 1554.

24 (3) The program established in section 1556.

25 (4) The program established in section 1559.

26 * * *

27 Section 2. Title 64 is amended by adding a section to read:
28 \$ 1559. Energy Independence Bond Guarantee Program.

29 (a) Establishment.--There is established a program to be
30 known as the Energy Independence Bond Guarantee Program. The

1 program shall guarantee the payment of energy independence bonds
2 issued by public utilities to the public, provided that the
3 public utilities agree to certain requirements specified in this
4 section and by the authority.

5 (b) Guarantee applications.--A public utility may submit an
6 application to the authority requesting a guarantee of payment
7 for energy independence bonds issued by the public utility to
8 the public. The application shall be on a form required by the
9 board and shall include or demonstrate all of the following:

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

11 (2) The resumes of the individuals responsible for the
12 infrastructure development project decisions of the
13 applicant.

14 (3) A history of the applicant's infrastructure
15 development.

16 (4) The location of all infrastructure development
17 projects intended to be financed in whole or in part by
18 proceeds from energy independence bonds issued by the
19 applicant.

20 (5) That the revenues to be realized from the
21 infrastructure development projects will be sufficient to
22 offset the amount of debt service to be paid on the energy
23 independence bonds.

24 (6) The amount of the guarantee sought.

25 (7) A listing of banks with which the applicant intends
26 to enter into an agreement or has already entered into an
27 agreement for selling the energy independence bonds of the
28 applicant to the public.

29 (8) A statement of the fees or other payment proposed to
30 be paid to the authority by the applicant as consideration

1 for the issuance of a guarantee.

2 (9) Any other information required by the board.

3 (c) Application review.--The board shall review the
4 application to determine all of the following:

5 (1) That the applicant intends to issue energy
6 independence bonds meeting the requirements of this section.

7 (2) That the applicant will provide the board with its
8 annual financial statements, audited by a nationally
9 recognized independent certified public accountant, for the
10 duration of the guarantee. Financial statements shall be
11 prepared in accordance with generally accepted accounting
12 principles.

13 (3) That the board will have the ability to determine
14 that the subject of a proposed infrastructure development
15 project using proceeds from the energy independence bonds is
16 acceptable to the board prior to the applicant expending the
17 proceeds.

18 (4) That the applicant has complied with all other
19 requirements established by the board.

20 (d) Approval of guarantee.--Upon being satisfied that all
21 requirements have been met, the board may approve the
22 application, and, if approved, the authority shall execute a
23 guarantee agreement in favor of the applicant. In addition to
24 any other terms and conditions required by the board, the
25 guarantee agreement shall provide for all of the following:

26 (1) Each energy independence bond shall have a face
27 value of \$100 and shall state on its face that repayment is
28 guaranteed by the authority.

29 (2) The energy independence bonds shall be sold by the
30 applicant at its offices and at financial institutions in

1 this Commonwealth that have entered into an agreement with
2 the applicant for that purpose, which agreement provides that
3 the financial institution may not receive more than 1% of the
4 proceeds from each energy independence bond sold.

5 (3) The applicant shall provide the authority with the
6 right to inspect the infrastructure development projects
7 supported by the proceeds from the energy independence bonds.

8 (4) The applicant shall not permit any work on the
9 infrastructure development projects to be conducted outside
10 this Commonwealth and shall only use materials produced in
11 the United States unless the authority grants a waiver
12 therefrom in writing.

13 (5) The procedure under which the holder of an energy
14 independence bond may submit a claim for payment under the
15 guarantee agreement in the event that the applicant is unable
16 to do so.

17 (6) A provision that the guarantee will cover the face
18 amount of the energy independence bond.

19 (7) A procedure and schedule for the periodic
20 reconciliation of amounts payable under the guarantee.

21 (8) A prohibition against the transfer of the benefits
22 of the guarantee to another person without the prior approval
23 of the board.

24 (9) If the authority makes payment on a claim submitted
25 by the holder of an energy independence bond, the authority
26 may assume all rights and privileges previously belonging to
27 the bondholder and may renegotiate the terms of the repayment
28 of the debt guaranteed by the authority under terms as the
29 authority deems appropriate.

30 (e) Limitations.--

1 (1) The liability of the authority for any guarantee
2 approved under this section shall be limited to the approved
3 amount of that guarantee.

4 (2) The board may approve guarantees under this section
5 not to exceed \$1,000,000,000 in the aggregate for public
6 utilities. No public utility shall receive more than
7 \$300,000,000 in guarantees under this section.

8 (3) Applications for guarantees may be accepted until
9 July 1, 2010, or until the aggregate of approved guarantees
10 equals \$1,000,000,000, whichever occurs first.

11 (4) No individual may purchase more than ten energy
12 independence bonds issued by any public utility.

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