

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 682 Session of 2011

INTRODUCED BY FONTANA, COSTA, TARTAGLIONE, SOLOBAY, HUGHES,  
WOZNIAK, YUDICHAK, BREWSTER, FARNESE AND KASUNIC,  
MARCH 28, 2011

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
MARCH 28, 2011

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public  
2 Corporations) of the Pennsylvania Consolidated Statutes,  
3 providing for the definition of "small business"; and further  
4 providing for indebtedness and for Second Stage Loan Program.

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

7 Section 1. Section 1504 of Title 64 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a definition to read:  
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 \* \* \*

14 "Small business." A company that is engaged in a for-profit  
15 enterprise and that employs no more than 100 individuals.

16 \* \* \*

17 Section 2. Sections 1543(b)(8) and 1553 of Title 64 are  
18 amended to read:

1 § 1543. Indebtedness.

2 \* \* \*

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

6 \* \* \*

7 (8) \$50,000,000 for the program established in section  
8 1553 (relating to [Second Stage Loan] Small Business  
9 Investment Guarantee Program).

10 \* \* \*

11 § 1553. [Second Stage Loan] Small Business Investment Guarantee  
12 Program.

13 (a) Establishment.--There is established a program to be  
14 known as the Second Stage Loan Program. The program shall  
15 provide loan guarantees to commercial lending institutions or  
16 eligible entities that make loans to [life sciences, advanced  
17 technology or manufacturing businesses] Pennsylvania-related  
18 businesses for projects.

19 (b) Application for enrollment.--A commercial lending  
20 institution or an eligible entity may apply for enrollment in  
21 the program authorized by this section. The application shall be  
22 on the form prescribed by the board and shall include or  
23 demonstrate all of the following:

24 (1) The name and address of the commercial lending  
25 institution or eligible entity and the name and title of the  
26 individual who will serve as the point of contact for the  
27 commercial lending institution or eligible entity.

28 (2) A statement defining the service area of the  
29 commercial lending institution or the jurisdiction of the  
30 eligible entity.

1           (3) A statement describing the commercial lending  
2 activities engaged in by the commercial lending institution  
3 or eligible entity and how the institution intends to expand  
4 those activities as a result of its participation in the  
5 program authorized by this section.

6           (3.1) A statement describing any lending activities  
7 associated with the economic development functions of the  
8 eligible entity and how the eligible entity intends to expand  
9 or supplement those lending activities through participation  
10 in the program authorized under this section.

11           (4) Any other information required by the board.

12           (c) Enrollment approval.--Upon being satisfied that all  
13 requirements have been met, the board may enroll the commercial  
14 lending institution or eligible entity in the program authorized  
15 by this section, and, if enrolled, the authority shall execute a  
16 master guarantee agreement in favor of the commercial lending  
17 institution or eligible entity. In addition to any other terms  
18 and conditions required by the board, the master guarantee  
19 agreement shall provide for the following:

20           (1) The procedure for the submission of a claim for  
21 payment by the commercial lending institution or eligible  
22 entity. This procedure shall require that the commercial  
23 lending institution or eligible entity demonstrate that it  
24 has exhausted all available remedies against the borrower,  
25 other guarantors and collateral for the loan before seeking  
26 payment under the agreement.

27           (2) A requirement that a percentage of any moneys  
28 recovered by the commercial lending institution or eligible  
29 entity subsequent to any payment made under the master  
30 guarantee agreement by the authority be remitted to the

1 authority.

2 (3) Periodic reporting requirements by the commercial  
3 lending institution or eligible entity regarding itself and  
4 regarding the loans for which guarantee certificates have  
5 been issued under this section.

6 (d) Application for guarantee.--A commercial lending  
7 institution or eligible entity enrolled in the program  
8 authorized by this section may submit an application to the  
9 authority for the guarantee of a proposed loan. The application  
10 shall be on the form prescribed by the board and shall include  
11 or demonstrate all of the following:

12 (1) The name and address of the borrower, the type of  
13 business the borrower conducts, the location and age of the  
14 business and the names and addresses of the principals of the  
15 borrower.

16 (2) The number of projected new or retained employees of  
17 the borrower as a result of the loan.

18 (3) A copy of the borrower's last two years of financial  
19 statements prepared or reported on by an independent  
20 certified public accountant.

21 (4) A statement describing the purpose of the loan, the  
22 requested amount of the loan, a copy of the commercial  
23 lending institution's or eligible entity's commitment letter  
24 and applicable credit underwriting that supports the  
25 repayment of the loan, as well as the collateral and other  
26 guarantees offered by the borrower to support the loan.

27 (4.1) A statement describing the need for the guarantee,  
28 including the likelihood that the projects can be completed  
29 without the guarantee.

30 (5) Any other information required by the board.

1 (e) Application review.--

2 (1) The board shall review the application to determine  
3 all of the following:

4 (i) That the borrower owns and operates a [life  
5 sciences, advanced technology or manufacturing]  
6 Pennsylvania-related business.

7 [(ii) That the borrower's business has been in  
8 existence for at least two years but no more than seven  
9 years at the time of application.]

10 (iii) That the borrower is financially responsible  
11 and has the ability to repay the loan.

12 (iv) That the use of loan proceeds by the borrower  
13 will result in jobs being created or retained within this  
14 Commonwealth.

15 (v) That the borrower's business is located within  
16 the commercial lending institution's service area or  
17 within the eligible entity's jurisdiction and within this  
18 Commonwealth.

19 (v.1) That the project is unlikely to proceed  
20 without a loan guarantee.

21 (vi) That the borrower and the commercial lending  
22 institution or the eligible entity have met all other  
23 requirements established by the board.

24 (2) Upon being satisfied that all requirements have been  
25 met, the board may approve the guarantee, and, if approved,  
26 the authority shall issue a guarantee certificate for the  
27 loan to the commercial lending institution or eligible entity  
28 stating the terms and amount of the guarantee.

29 (3) The board may establish a subcommittee composed of  
30 one or more members of the board and staff of the department

1 to review and approve applications for guarantees under this  
2 section.

3 (4) Priority shall be given to applications for loan  
4 guarantees for projects related to the life sciences,  
5 advanced technology or manufacturing.

6 (f) Limitations.--

7 [(1) During the first two years of the term of a loan  
8 for which a guarantee certificate has been issued, the  
9 guarantee may not exceed 50% of the outstanding principal  
10 amount of the loan. From the end of year two through either  
11 the end of year seven or the end of the term of the loan,  
12 whichever occurs first, the guarantee may not exceed 25% of  
13 the outstanding principal amount of the loan. The guarantee  
14 will terminate at the end of seven years.]

15 (1.1) The board may not approve a guarantee unless the  
16 borrower has an equity investment of at least 10% of the  
17 total cost of the project from nonpublic sources.

18 (2) At no time may a guarantee exceed [\$1,000,000]  
19 \$2,000,000 for any one loan.

20 (3) At no time may a guarantee exceed 40% of the  
21 outstanding principal amount of the loan, except that in the  
22 case of a loan to a small business a guarantee may not exceed  
23 100% of the principal amount of the loan.

24 (4) The board may not approve a guarantee for any  
25 project directly or indirectly related to the conduct of  
26 gaming as defined in 4 Pa.C.S. § 1103 (relating to  
27 definitions).

28 (g) Definitions.--For purposes of this section, an "eligible  
29 entity" shall mean a political subdivision, a municipal  
30 authority, a redevelopment authority, an industrial development

1 corporation or any board, commission or other agency or  
2 instrumentality of a political subdivision, municipal authority,  
3 redevelopment authority or industrial development corporation.

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