

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 632 Session of  
2015

INTRODUCED BY THOMAS, COHEN, ROZZI, DRISCOLL, CALTAGIRONE,  
LONGIETTI, BROWNLEE, V. BROWN AND McCARTER, FEBRUARY 26, 2015

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 26, 2015

AN ACT

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

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

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

10 § 1504. Definitions.

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

14 \* \* \*

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

17 \* \* \*

18 Section 2. Sections 1543(b)(8) and 1553 of Title 64 are  
19 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] Small Business Investment  
15 Guarantee Program. The program shall provide loan guarantees to  
16 commercial lending institutions or economic development  
17 organizations that make loans to [life sciences, advanced  
18 technology or manufacturing businesses.] small businesses  
19 located in this Commonwealth that are not engaged in commercial  
20 services, retail or agriculture production activities, except  
21 that a guarantee may be approved for a small business engaged in  
22 the activities if it is located in an underserved area of a  
23 distressed community.

24 (b) Application for enrollment.--A commercial lending  
25 institution or an economic development organization may apply  
26 for enrollment in the program authorized by this section. The  
27 application shall be on the form prescribed by the board and  
28 shall include or demonstrate all of the following:

29 (1) The name and address of the commercial lending  
30 institution or economic development organization and the name

1 and title of the individual who will serve as the point of  
2 contact for the commercial lending institution or economic  
3 development organization.

4 (2) A statement defining the service area of the  
5 commercial lending institution or the economic development  
6 organization.

7 (3) A statement describing the commercial lending  
8 activities engaged in by the commercial lending institution  
9 or economic development organization and how the institution  
10 intends to expand those activities as a result of its  
11 participation in the program authorized by this section.

12 (3.1) A statement describing any lending activities  
13 associated with the economic development functions of the  
14 economic development organization and how the economic  
15 development organization intends to expand or supplement  
16 those lending activities through participation in the program  
17 authorized under this section.

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

19 (c) Enrollment approval.--Upon being satisfied that all  
20 requirements have been met, the board may enroll the commercial  
21 lending institution or economic development organization in the  
22 program authorized by this section, and, if enrolled, the  
23 authority shall execute a master loan guarantee agreement in  
24 favor of the commercial lending institution or economic  
25 development organization. In addition to any other terms and  
26 conditions required by the board, the master loan guarantee  
27 agreement shall provide for the following:

28 (1) The procedure for the submission of a claim for  
29 payment by the commercial lending institution or economic  
30 development organization. This procedure shall require that

1 the commercial lending institution or economic development  
2 organization demonstrate that it has exhausted all available  
3 remedies against the borrower, other guarantors and  
4 collateral for the loan before seeking payment under the  
5 agreement.

6 (2) A requirement that a percentage of any moneys  
7 recovered by the commercial lending institution or economic  
8 development organization subsequent to any payment made under  
9 the master loan guarantee agreement by the authority be  
10 remitted to the authority.

11 (3) Periodic reporting requirements by the commercial  
12 lending institution or economic development organization  
13 regarding itself and regarding the [loans for which] loan  
14 guarantee certificates that have been issued under this  
15 section.

16 (d) Application for loan guarantee.--A commercial lending  
17 institution or economic development organization enrolled in the  
18 program authorized by this section may submit an application to  
19 the authority for [the guarantee of a proposed loan] a loan  
20 guarantee. The application shall be on the form prescribed by  
21 the board and shall include or demonstrate all of the following:

22 (1) The name and address of the borrower, the type of  
23 small business the borrower conducts, the location and age of  
24 the small business and the names and addresses of the  
25 principals of the borrower.

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

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

1           (4) A statement describing the purpose of the loan, the  
2 requested amount of the loan, a copy of the commercial  
3 lending institution's or economic development organization's  
4 commitment letter and applicable credit underwriting that  
5 supports the repayment of the loan, as well as the collateral  
6 and other [guarantees] documents offered by the borrower to  
7 support the loan.

8           (4.1) A statement describing the need for the loan  
9 guarantee, indicating that the project is unlikely to proceed  
10 without the loan guarantee.

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

12       (e) Application review.--

13           (1) The board shall review the application to determine  
14 all of the following:

15               (i) That the borrower owns and operates a [life  
16 sciences, advanced technology or manufacturing business]  
17 small business located in this Commonwealth.

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

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

23               (iv) That the use of loan proceeds by the borrower  
24 will result in jobs being created or retained within this  
25 Commonwealth.

26               (v) That the borrower's small business is located  
27 within the commercial lending institution's service area  
28 or within the economic development organization's  
29 jurisdiction and within this Commonwealth.

30           (v.1) That the project is unlikely to proceed

1       without a loan guarantee.

2               (vi) That the borrower and the commercial lending  
3       institution or the economic development organization have  
4       met all other requirements established by the board.

5       (2) Upon being satisfied that all requirements have been  
6       met, the board may approve the loan guarantee, and, if  
7       approved, the authority shall issue a loan guarantee  
8       certificate [for the loan] to the commercial lending  
9       institution or economic development organization stating the  
10      terms and amount of the loan guarantee.

11      [(3) The board may establish a subcommittee composed of  
12      one or more members of the board and staff of the department  
13      to review and approve applications for guarantees under this  
14      section.]

15      (4) Priority shall be given to applications for loan  
16      guarantees for projects related to the life sciences,  
17      advanced technology, energy production, aviation and  
18      aerospace or manufacturing.

19      (f) Limitations.--

20      [(1) During the first two years of the term of a loan  
21      for which a guarantee certificate has been issued, the  
22      guarantee may not exceed 50% of the outstanding principal  
23      amount of the loan. From the end of year two through either  
24      the end of year seven or the end of the term of the loan,  
25      whichever occurs first, the guarantee may not exceed 25% of  
26      the outstanding principal amount of the loan. The guarantee  
27      will terminate at the end of seven years.]

28      (1.1) The board may not approve a loan guarantee unless  
29      the borrower has an equity investment of at least 10% of the  
30      total cost of the project from nonpublic sources.

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

3           (3) At no time may a loan guarantee exceed 50% of the  
4 outstanding principal amount of the loan.

5           (4) The board may not approve a loan guarantee for any  
6 project directly or indirectly related to the conduct of  
7 gaming as defined in 4 Pa.C.S. § 1103 (relating to  
8 definitions).

9           (g) Definitions.--As used in this section, the following  
10 words and phrases shall have the meanings given to them in this  
11 subsection unless the context clearly indicates otherwise:

12           "Distressed community." Any of the following:

13           (1) An area which is designated a subzone, expansion  
14 subzone or improvement subzone under the act of October 6,  
15 1998 (P.L.705, No.92), known as the Keystone Opportunity  
16 Zone, Keystone Opportunity Expansion Zone and Keystone  
17 Opportunity Improvement Zone Act.

18           (2) Any other area designated as a distressed community  
19 according to standards adopted by the authority.

20           "Economic development organization." A community development  
21 financial institution, an industrial development agency or a  
22 local development district that is certified by the authority as  
23 possessing the qualifications necessary to evaluate and approve  
24 applications to the authority for financial assistance.

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