
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1088 Session of
2017

INTRODUCED BY THOMAS, APRIL 7, 2017

REFERRED TO COMMITTEE ON COMMERCE, APRIL 7, 2017

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:

20 § 1543. Indebtedness.

1 * * *

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

5 * * *

6 (8) \$50,000,000 for the program established in section
7 1553 (relating to [Second Stage Loan] Small Business
8 Investment Guarantee Program).

9 * * *

10 § 1553. [Second Stage Loan] Small Business Investment Guarantee
11 Program.

12 (a) Establishment.--There is established a program to be
13 known as the [Second Stage Loan] Small Business Investment
14 Guarantee Program. The program shall provide loan guarantees to
15 commercial lending institutions or economic development
16 organizations that make loans to [life sciences, advanced
17 technology or manufacturing businesses.] small businesses
18 located in this Commonwealth that are not engaged in commercial
19 services, retail or agriculture production activities, except
20 that a guarantee may be approved for a small business engaged in
21 the activities if it is located in an underserved area of a
22 distressed community.

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

28 (1) The name and address of the commercial lending
29 institution or economic development organization and the name
30 and title of the individual who will serve as the point of

1 contact for the commercial lending institution or economic
2 development organization.

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

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

11 (3.1) A statement describing any lending activities
12 associated with the economic development functions of the
13 economic development organization and how the economic
14 development organization intends to expand or supplement
15 those lending activities through participation in the program
16 authorized under this section.

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

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

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

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

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

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

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

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

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

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

30 (4) A statement describing the purpose of the loan, the

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

7 (4.1) A statement describing the need for the loan
8 guarantee, indicating that the project is unlikely to proceed
9 without the loan guarantee.

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

11 (e) Application review.--

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

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

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

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

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

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

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

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

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

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

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

18 (f) Limitations.--

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

27 (1.1) The board may not approve a loan guarantee unless
28 the borrower has an equity investment of at least 10% of the
29 total cost of the project from nonpublic sources.

30 (2) At no time may a loan guarantee exceed \$1,000,000

1 for any one loan.

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

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

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

11 "Distressed community." Any of the following:

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

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

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

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