

No. 1998-100

AN ACT

SB 1013

Amending the act of June 29, 1996 (P.L.434, No.67), entitled "An act to enhance job creation and economic development by providing for an annual financing strategy, for opportunity grants, for job creation tax credits, for small business assistance and for the Small Business Advocacy Council; conferring powers and duties on various administrative agencies and authorities; further providing for various funds; and making repeals," further providing for definitions; further providing for job creation tax credits and prohibitions; further providing for Small Business First definitions, funds and accounts, loan eligibility and administration; further providing for family savings account definition and administration; providing for industrial development assistance; providing for community development bank grants and loans; providing for tax-exempt bond allocation; transferring assets; making appropriations; and making repeals.

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

Section 1. The title of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is amended to read:

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AN ACT

To enhance job creation and economic development by providing for an annual financing strategy, for opportunity grants, for job creation tax credits, for small business assistance **[and]**, for the Small Business Advocacy Council, ***for a family savings program, for industrial development assistance, for community development bank grants and loans and for tax-exempt bond allocation***; conferring powers and duties on various administrative agencies and authorities; further providing for various funds; and making repeals.

Section 2. The definition of "financing programs" in section 103 of the act is amended to read:

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Financing programs." All of the following programs:

- (1) The Pennsylvania Industrial Development Authority.
- (2) Pennsylvania Economic Development Financing Authority.
- (3) Pennsylvania Minority Business Development Authority Board.
- (4) The Infrastructure Development Program.
- (5) The Opportunity Grant Program.

- (5) The Opportunity Grant Program.
- (6) The Industrial Sites Reuse Program.
- (7) The Customized Job Training Program.
- (8) The Machinery and Equipment Loan Program.
- (9) The Small Business First Program.
- (10) Job Creation Tax Credit.
- (10.1) The Community Development Bank Grant and Loan Program.**
- (11) Any other similar program operated by the department.

* * *

Section 3. Sections 904(e) and 905 of the act are amended to read:

Section 904. Tax credits.

* * *

(e) Maximum.—The total amount of all tax credits approved in a year under this chapter shall not exceed **[\$15,000,000] \$20,000,000.**

Section 905. Prohibitions.

(a) Prohibitions.—The following actions with regard to job creation tax credits are prohibited:

- (1) Approval of jobs that have been created prior to the start date.
- (2) Approval for a company which is relocating operations from one municipality in this Commonwealth to another unless special circumstances exist and the municipality that is losing the existing jobs has an opportunity to submit comments prior to action by the department. If the department approves the tax credits, the company must commit to preserving the existing employees, and the credit shall apply only to the new jobs.

(3) The assignment, transfer or use of credits by any other company.

(b) Allocations.—Twenty-five percent of *the total amount of all tax credits [approved] authorized in any fiscal year under section 904(e)* shall be available to companies with fewer than **[26] 100** employees. ***Any portion of this allocation not committed by April 30 of each year shall be available to any business which meets the remaining program criteria.***

Section 4. The definition of “capital development project” or “project” in section 1301 of the act is amended by adding a paragraph and the section is amended by adding definitions to read:

Section 1301. Definitions.

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

* * *

“Capital development project” or “project.” Land, buildings, equipment and machinery and working capital which is acquired, constructed, renovated or used by a small business enterprise:

* * *

(6) As part of a for-profit project or venture that meets the requirements of section 1303(a.1).

* * *

“Hazardous substance.” The term includes any element, compound or material which is:

(1) regulated as a hazardous air pollutant under section 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, and the regulations promulgated thereunder;

(2) defined as a hazardous waste under section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, and the regulations promulgated thereunder; or

(3) regulated under the act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act.

* * *

“Pollution prevention.” Pollution prevention is the reduction or elimination of pollution at the source. It occurs when raw materials, water, energy and other resources are used more efficiently, when less harmful substances are substituted for hazardous ones and when toxic materials are eliminated from the production process. The term does not include any action or change resulting in:

(1) a substitution of one hazardous or toxic substance for another that will cause an increased risk to the environment or to human health;

(2) cross-media transfers;

(3) delisting of a hazardous waste or toxic chemical.

“Reuse.” Use of a product or component in its original form more than once.

* * *

Section 5. The heading of section 1302 of the act is amended and the section is amended by adding a subsection to read:

Section 1302. Small Business First Fund *and Pollution Prevention Assistance Account.*

* * *

(b.1) Pollution Prevention Assistance Account.—There is hereby created within the Small Business First Fund a Pollution Prevention Assistance Account to provide revolving loans to small businesses that employ 100 or fewer individuals, that operate from a stationary source and that adopt or install pollution prevention or energy-efficient equipment or processes. The account shall be administered by the department. All appropriations made for the purposes of this account and all proceeds from loan repayments, including interest, and any and all other deposits, payments and contributions from any other source made available to the department for the purposes of this account shall be deposited into this account.

* * *

Section 6. Section 1303 of the act is amended to read:

Section 1303. Eligibility for and terms and conditions of loans.

(a) EDA loans.—Eligibility requirements for EDA loans shall be established by the department and shall be consistent with the requirements imposed by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.).

(a.1) Loans to small business enterprises in certain areas.—

(1) The department may provide loans to small business enterprises located in distressed communities. Loans shall be made in accordance with the provisions of this chapter except that:

(i) Loans may be made to mercantile or service-related enterprises approved by the department.

(ii) The provisions of subsection (b) relating to required increases in employment shall not apply to loans made under this subsection.

(iii) The department may authorize flexible repayment terms and an interest rate of not less than 2%.

(iv) The department may utilize additional area loan organizations, including community development financial institutions, to receive loan applications and administer loans.

(v) The department may use its best judgment to identify and secure collateral.

(2) Distressed communities shall include:

(i) Any census tract in which:

(A) there is a median income below 80% of the median income for this Commonwealth or the United States;

(B) 20% or more of the population is below the poverty level by family size published by the Bureau of the Census; or

(C) there is an unemployment rate 50% higher than the national average.

(ii) A Keystone Opportunity Zone.

(iii) Any other geographic area designated by the department as distressed. The designation shall be published in the Pennsylvania Bulletin.

(3) The department and area loan organization shall not make loans under this subsection on the basis of direct financial return on investment and shall not be held to the loan loss standards of private commercial lenders. Loans shall be for the purpose of establishing a strong economic base and promoting entrepreneurial activity within the distressed community.

(a.2) Pollution prevention assistance loans.—The Pollution Prevention Assistance Account created under section 1302(b.1) shall provide revolving loans to small businesses.

(1) The loans shall be for the purpose of enabling the small business to adopt or install pollution prevention equipment or processes to:

(i) Reduce or reuse raw materials onsite.

(ii) *Reduce the production of waste.*

(iii) *Reduce energy consumption.*

(2) *The Pollution Prevention Assistance Account shall not invest on the basis of direct financial return and shall not be held to the loan loss standards of commercial lenders. Loans shall be for the purpose of reducing pollution through source reduction technologies or processes.*

(3) *A loan under this subsection may not exceed the lesser of:*

(i) *\$50,000; or*

(ii) *75% of eligible project costs.*

(4) *Loans under this subsection shall have an interest rate of 2% per year and a maximum repayment term of seven years.*

(5) *An industrial resource center receiving funds under the act of July 2, 1993 (P.L.439, No.64), known as the Ben Franklin/IRC Partnership Act, may utilize the account to provide assistance to a small business enterprise for which a loan application has been made.*

(6) *Loans under this subsection shall be used to further the goal of pollution prevention through the purchase and installation of equipment to make operational changes and modify production practices.*

(b) *Terms and conditions.—*

(1) The department may make advances from the Small Business First Fund, subject to the terms, conditions and restrictions provided under this chapter, to area loan organizations for the purpose of making loans to eligible small enterprises for capital development projects which demonstrate a substantial likelihood of creating or preserving employment opportunities. All loans shall be limited to projects that demonstrate the creation or preservation of one job for every \$25,000 received from the Small Business First Fund.

(2) No loans shall be made which would do any of the following:

(i) Cause, aid or assist in, directly, the relocation of any business operations from one part of this Commonwealth to another unless there is at least a 25% net increase in employment.

(ii) Refinance any portion of the total project cost or other existing loans or debt.

(iii) Finance projects located outside the geographic boundaries of this Commonwealth.

(iv) Provide funds, directly or indirectly, for payment, distribution or as loan owners, partners or shareholders of the small business enterprise, except as ordinary compensation for services rendered.

(v) Provide funds for speculation in any kind of property, real or personal, tangible or intangible.

(3) All loans shall carry an interest rate and term and shall be secured by lien positions on collateral at the highest level of priority as may be determined by the area loan organization with the approval of the department.

Section 7. Section 1304 of the act is amended by adding subsections to read:

Section 1304. Application and administration.

* * *

(a.1) Distressed communities.—An area loan organization designated to administer loans to distressed communities under section 1303(a.1) shall provide documentation that the small business enterprise is located in a distressed community as required by the department.

(a.2) Pollution prevention assistance loans.—

(1) Applications for loans from the Pollution Prevention Assistance Account established under section 1302(b.1) shall be on a form prescribed by the department and shall be reviewed under subsection (b)(2). The Department of Environmental Protection shall assist the department and provide technical assistance with application review.

(2) The department, an area loan organization or an industrial resource center may charge fees, costs, service charges, loan commitment fees or other expenses not to exceed 1% of the loan amount.

* * *

Section 8. Section 1309 of the act is amended to read:

Section 1309. Air Quality Improvement Fund; Storage Tank Loan Fund; **[and]** Recycling Incentive Development Account; **and Pollution Prevention Assistance Account.**

(a) Initial transfer.—

(1) As of [the effective date of this chapter] July 1, 1996, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Air Quality Improvement Fund, the Storage Tank Loan Fund and the Recycling Incentive Development Account shall be transferred to the Small Business First Fund and shall thereafter be handled in accordance with the provisions of section 1302 with the proviso that the funds shall be maintained and accounted for in a separate account of the Small Business First Fund and shall be available for use only for those capital development projects which will bring a small business enterprise into compliance with Federal or State environmental laws or regulations or which will permit the small business enterprise to adopt generally acceptable pollution prevention practices. Any transfers of moneys from the Department of Environmental Protection to the Small Business First Fund after [the effective date of this chapter] July 1, 1996, shall likewise be deposited into the separate account and be available only for the capital development projects described in this section. The department shall report annually to the Department of Environmental Protection on the status of the account and the loans made with the funds. As of [the effective date of this chapter] July 1, 1996, the Air Quality Improvement Fund, the Storage Tank Loan Fund and the Recycling Incentive Development

Account shall be terminated as separate accounts within the State Treasury.

(2) All assets in the separate account in the Small Business First Fund transferred from the Air Quality Improvement Fund under paragraph (1) shall be deposited in the Pollution Prevention Assistance Account established in section 1302(b.1).

(b) Transfers.—

(1) On July 1, 1999, and each year thereafter, the State Treasurer may transfer, upon approval by the Governor, up to \$2,000,000 from the Hazardous Sites Cleanup Fund into the Pollution Prevention Assistance Account. This transfer shall be in addition to other appropriations, Federal funding and private contributions received by the account.

(2) This subsection shall expire June 30, 2004.

Section 9. Sections 2101 and 2102 of the act, added June 24, 1997 (P.L.247, No.23), are amended to read:

Section 2101. Definitions.

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

“Account.” A family savings account at a financial institution or other institution that is approved by the Department of Community and Economic Development and which is maintained by the saver as part of an approved account program for the restricted purpose of providing funds for an eligible use.

“Approved account program.” A program approved by the Department of Community and Economic Development and that is operated by a service provider.

“Approved plan.” A plan defining savings goals and program requirements, including the anticipated use of both the savings and the match. The plan shall serve as the contract between the saver and the service provider *and shall be for a contribution period of not less than 12 months nor more than 24 months.*

“Education.” A postsecondary program of instruction provided by a college, university, community college, area vocational-technical school, professional institution or specialized degree-granting college or school legally authorized to grant degrees. The term shall also include a job training or related educational program approved by the Department of Community and Economic Development. The term shall not include a school of theology or theological seminary.

“Eligible uses.” Education, purchase of a home, participation in entrepreneurial activity, enrollment of a saver’s child in day care to enable the saver to participate in job training, any work-related activity or educational program or other activity based on an approved plan.

“Entrepreneurial activity.” Purchase of or investment in a for-profit venture in which the saver will be a principal.

“Financial institution.” Any of the following:

(1) A Federal or State-chartered bank, bank and trust company, savings bank, savings and loan association, trust company or credit union.

(2) A financial entity which:

(i) is licensed or regulated by a Federal or Commonwealth agency; and

(ii) insures its deposits up to \$100,000.

“Match.” An amount equal to 50%, up to \$500 per year, of the *contribution* amount deposited into an account by a saver during [a two-year] the period of the approved plan.

“Minimum savings amount.” An amount established in the approved plan as the minimum amount to be deposited by a saver in order to be eligible for the match.

“Program.” The Family Savings Account Program established pursuant to this chapter.

“Saver.” An individual or family who resides in this Commonwealth and whose total annual income at the time of enrollment is not more than 200% of the Federal poverty standard and who has applied for enrollment in an approved account program.

“Service provider.” A nonprofit institution that encourages and assists local community building and that is certified by the Department of Community and Economic Development for participation in the program. Section 2102. Administration.

(a) Certification of service providers.—The department shall certify service providers who shall enroll eligible savers into the program.

(b) Application process.—Eligible savers shall apply to a service provider to participate in the program. The service provider shall develop an approved plan with each enrolled saver which specifies a minimum savings amount and how much money the saver intends to contribute to the saver’s family savings account on either a weekly, biweekly or monthly basis [up to the two-year period]. The application and plan shall be on a form and shall meet such requirements as deemed appropriate by the department.

(c) Ownership.—Each enrolled saver shall open an account as defined under this chapter at a financial institution that is certified by the department as qualified to participate in the program for deposit of the saver’s contributions. All moneys in that account, including interest earned thereon, shall belong to the individual saver.

(d) Grants.—

(1) The department shall make grants to service providers from funds appropriated for this purpose. The amount and number of grants shall be calculated by the department in such a manner as to ensure payment of the maximum match required for the [two-year] *contribution* period for all approved plans for enrolled savers and in such a manner as to not exceed the amount appropriated.

(2) Service providers shall keep all matching grant funds in a separate account at a financial institution approved by the department until the funds are withdrawn or returned to the department according to the provisions of this chapter. The service provider shall use grant proceeds to provide the required match for the accounts of enrolled savers who have met all program requirements. Service providers shall be eligible for administrative costs in an amount as determined by the department. Not more than 5% of funds annually appropriated for this program may be used to reimburse service providers for eligible administrative costs. The department may approve the use of interest earnings on grant funds held by service providers as a portion of a service provider's approved administrative costs.

(e) Eligibility for match.—An enrolled saver with an approved plan and account monitored by a service provider must fulfill the requirements of the plan for a minimum of [18] 12 months but not more than 24 months. The saver shall present satisfactory evidence to the service provider on a quarterly basis that the savings requirements are being met.

(f) Restrictions on withdrawal.—

(1) In order to obtain matching funds, the saver must present satisfactory evidence to the service provider that the amount being withdrawn from the saver's family savings account is being used for an eligible use. Withdrawals from a family savings account for an eligible use by a saver shall be made payable to the legal entity which provides the eligible use.

(2) Match funds shall be paid by the service provider to the legal entity which provides the eligible use. Match funds shall not be paid to the saver.

(3) Match funds which have not been paid for an eligible use within five years after the end of the match period shall be returned to the department for deposit in the State Treasury.

(4) A saver who fails to meet the savings goal set forth in the approved plan or who decides to drop out of the program shall terminate his approved plan with the service provider according to procedures determined by the department. Upon the termination of an approved plan between a saver and a service provider, the service provider shall return the amount of match to the department in accordance with the guidelines established by the department, and the saver shall be entitled to withdraw funds within the saver's account for purposes other than provided by this chapter.

Section 10. The act is amended by adding chapters to read:

CHAPTER 23
INDUSTRIAL DEVELOPMENT ASSISTANCE

Section 2301. Definitions.

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

“Area loan organization.” *An organization, other than a community development financial institution, designated by the department as an area loan organization in accordance with this act, which is in good standing with the department.*

“County.” *Any county and any city of the first class.*

“Industrial and commercial development authority.” *An authority established under section 4 of the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.*

“Industrial development corporation.” *An organization certified under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, which is in good standing with the department.*

“Industrial development organization.” *An area loan organization, industrial development corporation, industrial and commercial development authority or other nonprofit economic development organization recommended by a county to receive grants under this act.*

Section 2302. Designation.**(a) Authorization.—**

(1) *A county may designate an industrial development organization to make application to the department to receive grants to plan and promote programs designed to stimulate the establishment of new or enlarged industrial, commercial, service or manufacturing enterprises within the county.*

(2) *The county may designate only one industrial development organization to make application to receive grants under this chapter. Two or more counties may designate the same industrial development organization.*

(b) Form.—*Authorizations must be in writing on a form and containing information prescribed by the department.*

(c) Specific reasons.—*The department may require the county to submit specific reasons for the designation and a description of how the industrial development organization will achieve the goals of this chapter.*

Section 2303. Grants.

(a) Requirements.—*The department may approve applications and provide grants to designated industrial development organizations for all of the following:*

(1) Operational, planning and promotional costs associated with all of the following:

(i) *The attraction of new businesses to the area served by the industrial development organization.*

(ii) *The retention or expansion of businesses located within the area served.*

(iii) *The formation of start-up businesses within the area served.*

(iv) *The costs associated with the delivery of financial and technical assistance to businesses by the industrial development organization.*

(2) *Special purpose projects developed by the department to promote initiatives to improve the business climate or improve the work force of this Commonwealth. Guidelines for special purpose projects shall be published as a statement of policy under the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.*

(b) *Nonprofit organizations.—The department may grant funding to a nonprofit organization designated under section 2302. If the designated nonprofit organization fails to receive grants from the department, the county may designate a different industrial development organization to apply for and receive grants under this section.*

(c) *Funding.—Grants made under this chapter shall be in accordance with the following:*

(1) *Twenty-five percent of any annual appropriation received for grants under this chapter shall be equally divided and distributed among the 67 counties to be used for the purposes set forth in subsection (a)(i). If the county has not designated an organization under section 2302, funds to that county under this paragraph shall be distributed pursuant to paragraph (2).*

(2) *The remainder of the appropriation shall be distributed in a manner that ensures that each grant does not exceed an amount equal to 10¢ for each inhabitant of the county represented by the industrial development organization. Grant amounts under this paragraph shall be determined by the last preceding decennial United States Census or any authorized update of the census.*

(d) *Matching funds.—The department may require an industrial development organization to demonstrate the availability of matching funds held by or committed to the organization to support the application.*

Section 2304. Reporting and regulations.

(a) *Reports.—The department may require reports, accountings and other procedures regarding the use of grant funds by the industrial development organization in order to carry out the purposes of this chapter.*

(b) *Regulations.—The department may promulgate regulations necessary to carry out the purposes of this chapter.*

CHAPTER 25
COMMUNITY DEVELOPMENT BANK GRANT
AND LOAN PROGRAM

Section 2501. Definitions.

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

“Authority.” *The Pennsylvania Economic Development Financing Authority.*

“Board.” *The Board of Directors of the Pennsylvania Economic Development Financing Authority.*

“Certification.” *Proof by any of the following:*

(1) *Receipts of paid taxes and municipal utility bills.*

(2) *Notarized affidavit by a recipient stating payments of real estate taxes and utility bills.*

“Community development financial institution.” *A community development financial institution certified in accordance with the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163).*

“Community development loan.” *A loan from a community development financial institution to low-income individuals, businesses and nonprofit organizations for the purpose of revitalizing distressed communities and buildings.*

“Eligible institution.” *A community development financial institution which has been accredited by the Department of Community and Economic Development under section 2504.*

“Participating investors.” *Public or private entities which elect to participate with the authority in the loan programs set forth in this chapter.*

“Program.” *The Community Development Bank Grant and Loan Program established under this chapter. The program shall operate under the name of the Pennsylvania Community Development Bank.*

“Recipient.” *A person that receives a grant or loan under the program.*

Section 2502. Establishment.

There is established within the Pennsylvania Economic Development Financing Authority a grant and loan program to be administered in accordance with the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

Section 2503. Operation of Pennsylvania Community Development Bank.

(a) **Operational committee.**—*The authority shall establish by resolution a committee of the board consisting of not more than 21 members to which the authority shall delegate its powers to operate the program. The committee shall consist of the State Treasurer, the Secretary of Community and Economic Development who shall be chairman, the Secretary of Banking, one member appointed by the President pro tempore of the Senate, one member appointed by the Speaker of the House of Representatives, one member appointed by the Minority Leader of the Senate, one member appointed by the Minority Leader of the House of*

Representatives and up to 14 members appointed by the Governor representing participating investors and members of the general public.

(b) Limitation on voting.—No representative of an eligible institution may serve as a voting member of the committee.

(c) Terms.—The members shall serve at the pleasure of the appointing authority.

(d) Expenses.—The members of the committee shall be entitled to no compensation for their services but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties.

(e) Quorum.—A majority of the members of the committee shall constitute a quorum.

Section 2504. Deposits.

(a) Special accounts.—Money appropriated to the program may be deposited by the authority in banks or trust companies in special accounts.

(1) Funds in the special accounts may be prudently invested in:

(i) Obligations of the United States Government, its agencies and instrumentalities, which have a liquid market with a readily determinable market value.

(ii) Certificates of deposit and other evidences of deposit at financial institutions, bankers' acceptances and commercial paper rated in the highest tier (for example, A1, P1, F1 or D1 or higher) by a nationally recognized rating agency.

(iii) Obligations of state and local governments and of public authorities, which obligations are rated in one of the top three rating categories by a nationally recognized rating agency.

(iv) Repurchase agreements whose underlying purchased securities consist of the foregoing.

(v) Money market funds regulated by the Securities and Exchange Commission having aggregate assets of at least \$50,000,000 on the date of investment and whose portfolio may consist only of dollar-denominated securities.

(2) Investments shall be made with judgment and care under circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(3) Investments shall be made in accordance with written policies. Such investment policies shall address liquidity, diversification, safety of principal, yield, maturity and quality and the capability of investment management, with primary emphasis on safety and liquidity.

(b) Disbursements.—Money in accounts under subsection (a) shall be paid out on order of the authority.

Section 2505. Accreditation.

(a) General rule.—*The department shall accredit community development financial institutions to participate in the program. The department may revoke accreditation from community development financial institutions which no longer meet accreditation criteria. Accreditation of a community development financial institution under this chapter does not, in and of itself, qualify an institution to participate in any other financing program administered by the department.*

(b) Criteria.—*Department criteria for accreditation shall include certification under the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163) and such other criteria as the department deems appropriate.*

(c) Geographic diversity.—*The department shall accredit eligible institutions in a manner to ensure the use of community development financial institutions in all geographic regions of this Commonwealth to the greatest extent possible.*

Section 2506. Grants.

The authority may issue grants to eligible institutions or to nonprofit organizations which are attempting to obtain Federal certification or department accreditation as a community development financial institution. The authority may issue in a manner consistent with section 2505(c) grants for the purpose of developing or enhancing the ability of the community development financial institution or nonprofit organization to be accredited as an eligible institution and to participate in the loan program established by this chapter. The authority may also issue grants or loans from the program to nonprofit organizations which have entered into a written contract with a Pennsylvania-accredited community development financial institution or a nonprofit organization receiving grants from the authority to obtain certification and accreditation. In areas where no community development financial institution exists and no nonprofit organization is working to obtain certification and accreditation as a community development financial institution, the authority may issue grants to a nonprofit organization deemed by the department to be performing activities consistent with the goals of the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163). The grants shall provide technical assistance, training or other support to small businesses and, where applicable, shall be consistent with the community development financial institution's development plan.

Section 2507. Authority loans.

The authority may make loans to eligible institutions from moneys appropriated to the program on such terms and conditions as the authority may determine. Loans shall be made by the authority pursuant to the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law. Loans shall be made and used in a manner consistent with the requirements of the Community Development Banking

and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163) or any successor thereto. Loans to eligible institutions may be made by the authority as the sole lender or in cooperation with participating investors pursuant to agreements entered into in accordance with this chapter. Loan repayments shall be used by the authority to make new loans to eligible institutions.

Section 2508. Community development loans.

(a) Requirement.—Eligible institutions that receive loans from the authority under section 2507 shall make and use community development loans pursuant to guidelines established by the department and in a manner consistent with the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 Stat. 2163). The guidelines shall include criteria for the approval of a portfolio of loans submitted by eligible institutions.

(b) Certification required.—In connection with community development loans under this section, the recipient of a loan must provide certification to the department that the recipient does not have any outstanding municipal debts in the form of delinquent real estate taxes or municipal utility bills that are more than one year outstanding.

Section 2509. Agreements.

The authority may enter into agreements and contracts as appropriate to exercise the powers granted by this chapter, including agreements with participating investors.

Section 2510. Report.

Within 90 days of the end of the fiscal year, the authority shall prepare, in consultation with the committee, an annual report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives. The report, which shall be for the immediately preceding fiscal year, shall include the amount of funds appropriated to the program deposited by the authority in special accounts in banks or trust companies, the amount of disbursements made from the special accounts, the number, name and location of community development financial institutions accredited by the department, the number and amount of grants to community development financial institutions or nonprofit organizations.

Section 2511. Additional powers.

The authority shall have all other powers granted to it pursuant to the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law. The authority may operate other community development programs under the name of the Pennsylvania Community Development Bank, including programs authorized and funded under the Federal Rural Development Block Grant Program.

CHAPTER 27
TAX-EXEMPT BOND ALLOCATION

Section 2701. Purpose.

A tax-exempt bond allocation formula is established in response to restrictions imposed by section 146 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 146). Because of the limits on the amounts of tax-exempt bond funding available, this chapter is intended to use the restricted funding available in order to do all of the following:

- (1) Create career-oriented net new jobs or preserve jobs.*
- (2) Increase and diversify the manufacturing base of this Commonwealth.*
- (3) Aid in the expansion of existing private companies, particularly those which sell their products outside this Commonwealth.*
- (4) Attract new industries with new products into economically distressed areas within this Commonwealth.*
- (5) Promote industrial, commercial and other economic development within this Commonwealth.*
- (6) Promote a healthy environment through:
 - (i) abatement, safe storage, transportation, reduction, elimination, remediation and disposal within this Commonwealth of pollutants and wastes; and*
 - (ii) recycling of wastes.**
- (7) Prepare the necessary personnel, through a program of educational financial assistance to postsecondary students, their families and others providing educational opportunities to students and their families, to assume the manpower and administrative leadership roles required to carry out the objectives of paragraphs (1) through (6).*
- (8) Assist in providing multifamily, single-family, continuing care and personal care housing for residents of this Commonwealth and in financing the acquisition, construction, rehabilitation, preservation or improvement of that housing.*
- (9) Otherwise promote the health, welfare and safety of the residents of this Commonwealth by:
 - (i) promoting economic activity and efficiency;*
 - (ii) alleviating or eliminating unemployment, blight and other unhealthy conditions; and*
 - (iii) promoting education and housing assistance.**

Section 2702. Definitions.

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

“Agency.” An agency organized by the Commonwealth and authorized by the laws of the Commonwealth to issue tax-exempt bonds. The term includes the Pennsylvania Economic Development Financing Authority,

The Pennsylvania Industrial Development Authority, the Pennsylvania Housing Finance Agency and the Pennsylvania Higher Education Assistance Agency.

“Department.” The Department of Community and Economic Development of the Commonwealth.

“Enterprise zone facility.” A project which may be financed with an enterprise zone facility bond.

“Enterprise zone facility bond.” As defined in section 1394 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1394).

“Exempt facility.” A project which may be financed with an exempt facility bond. The term includes any of the following which meets the requirements of section 142 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 142):

- (1) Solid waste disposal facility.*
- (2) Sewage facility.*
- (3) Hazardous waste facility.*
- (4) Facility for furnishing water.*
- (5) Facility for locally furnishing electricity or gas.*
- (6) Local district heating and cooling facility.*
- (7) Multifamily residential rental facility. This paragraph includes a continuing care facility and a personal care facility.*

“Exempt facility bond.” As defined and described in sections 142 and 1394 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 142 and 1394).

“Manufacturing facility.” A project which may be financed with a qualified bond small issue under section 144(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 144(a)).

“Mortgage revenue bond.” A tax-exempt qualified mortgage bond used to finance a single-family mortgage loan and a mortgage credit certificate, within the meaning of section 143(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 143(a)).

“Net new job.” A full-time job, or its equivalent, which increases the number of jobs at the project site above the number of jobs present before the project is started. The term does not include a job which:

- (1) Is being relocated from within this Commonwealth.*
- (2) Is created by the construction of the project.*
- (3) Is not designed to be permanent.*

“Project.” An activity for which tax-exempt bonds may be used.

“Qualified local issuer.” An authority organized by and authorized under State law to issue tax-exempt bonds on behalf of a county or other political subdivision for a project and a purpose described in section 2701.

“Redevelopment bond.” As defined in section 144(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 144(c)).

“Secretary.” The Secretary of Community and Economic Development of the Commonwealth.

“Student loan bond.” As defined in section 144(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 144(b)).

“Tax-exempt bonds.” Private activity bonds and other obligations which count against the unified volume ceiling of the Commonwealth under section 146 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 146).

“Unused tax-exempt bond authority.” The total tax-exempt bond allocation for the Commonwealth for a year minus the amount which has:

- (1) been allocated to approved projects as of a specified date; and
- (2) not been recaptured for reallocation under section 2704.

Section 2703. Selection of projects.

(a) **Criteria.**—In selecting projects for allocation of the tax-exempt bond authority of the Commonwealth, the department shall endeavor to best serve the purposes set forth in section 2701 in accordance with the requirements of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). In so doing, the secretary may, among other things, consider all of the following:

(1) The number of net new jobs to be created and the number of jobs to be preserved.

(2) The economic distress of the county, municipality or region as determined by its employment.

(3) The geographical diversity within this Commonwealth.

(4) The amount of private funds to be leveraged by the tax-exempt bond financing.

(5) Coordination with community and economic development plans of the Commonwealth and its counties, municipalities and regions.

(6) Whether the community has been designated a Federal disaster relief area or the community’s business district has been significantly damaged as a result of fire or natural disaster.

(b) **Tax-exempt bond authority set-aside.**—Either at the beginning of or at any time during the course of each year, the department may set aside such tax-exempt bond authority as the department, in consultation with the Secretary of the Budget, determines for use during the year for the various categories of tax-exempt bonds such as manufacturing facilities, enterprise zone facilities, exempt facilities, mortgage revenue bonds, student loan bonds and redevelopment bonds.

Section 2704. Allocation.

(a) **Application by agency.**—An agency may apply to the department for an allocation for a project to be undertaken by the agency consistent with the purposes set forth in section 2701. The department, in consultation with the agency and the Secretary of the Budget, shall determine what portion of an allocation request the agency will receive and may establish deadlines for the use of the allocation. A decision on the application shall be provided by the department within 30 days from the date that the application for an allocation is made to the department. Nothing in this chapter shall prevent

an agency from applying for additional allocations for projects throughout the year. Nothing in this chapter shall affect the rights of constitutional home rule cities to receive allocations under section 146(e)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 146(e)(3)).

(b) Application by qualified local issuers.—A qualified local issuer may apply to the department for an allocation for a project consistent with purposes set forth in section 2701 with respect to which the qualified local issuers are authorized by the laws of the Commonwealth to issue a tax-exempt bond. A qualified local issuer shall apply directly to the department, and the department shall determine what portion of an allocation request a particular authority organized by a county or other political subdivision will receive.

(c) Recapture of unused allocation.—A portion of an allocation provided under subsection (a) or (b) which is not used before the earlier of the end of the calendar year or the deadline set by the department under subsection (a), including an extension by the department, shall be recaptured for reallocation by the department in consultation with the Secretary of the Budget.

(d) Allocations to Pennsylvania Housing Finance Agency.—As provided by section 501-A.1 of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law, an allocation for a mortgage revenue bond shall only be made by the department to the Pennsylvania Housing Finance Agency, which may reallocate a mortgage revenue bond under the Housing Finance Agency Law. The department may make an allocation for a qualified multifamily residential facility to the ~~Pennsylvania~~ Housing Finance Agency, the Pennsylvania Economic Development Financing Authority or a qualified local issuer. An allocation for a qualified multifamily residential facility made to the Pennsylvania Housing Finance Agency may be reallocated in whole or in part by the Pennsylvania Housing Finance Agency to a qualified local issuer.

(e) Carryforward of unused authority.—The department shall provide for the carryforward of any unused tax-exempt bond authority at the close of a year in a manner the department determines will best preserve the ability to use the allocation to carry out the purposes of this chapter. In providing for the carryforward, there shall be a presumption that ability to carry out the purposes of this chapter will be best maintained if carryforwards of unused tax-exempt bond authority are reserved for agencies.

Section 2705. Federal law change.

(a) Promulgation of regulations.—In the event that Federal law regulating tax-exempt bonds is changed and that such change would, in the opinion of the secretary, conflict with this chapter in such a way as to impair the ability of the Commonwealth to use tax-exempt bonds to their maximum benefit, the secretary shall, with the approval of the Governor, have the power to promulgate regulations or issue guidelines, directives,

rulings or procedures which may become effective when the Federal law takes effect and which shall better enable the Commonwealth to utilize tax-exempt bonds to their maximum benefit and which shall, to the largest extent possible, carry out the purposes set forth in this chapter. Provisions of this chapter may be suspended by the secretary to the extent deemed necessary to implement the regulations authorized by this subsection.

(b) Standby allocation.—(Reserved).

Section 2706. Powers and duties of department.

(a) Enumeration.—The department has the following powers and duties:

(1) Notify affected agencies and authorities of their bond allocations under section 2704.

(2) Submit reports to the Secretary of the Senate and the Chief Clerk of the House of Representatives within 45 days of January 1 and within 45 days of July 1 of each year. Reports shall include:

(i) A list of projects approved, disapproved and pending. The list shall contain for each request:

(A) Amount.

(B) Location, if applicable.

(C) Estimated jobs, if applicable.

(D) Issuing authority or agency.

(E) Section of this chapter under which bond authority was given.

(ii) The written procedures, policies, guidelines, forms and reporting requirements established under paragraph (4).

(iii) Other information which the secretary deems pertinent, including suggested changes to the program.

(3) Promulgate any regulations as may be necessary to carry out the purposes set forth in this chapter and publish all other general procedures, requirements, interpretations and guidelines and changes thereto utilized in the implementation of this chapter.

(4) The department shall establish procedures, policies, guidelines, forms and reporting requirements necessary or appropriate to carry out the purposes of this chapter within 180 days of the effective date of this section. Procedures, policies, guidelines, forms and reporting requirements to be established under this section shall be submitted to the Community and Economic Development Committee of the Senate and the Commerce and Economic Development Committee of the House of Representatives for their comment and review. These procedures, policies, guidelines, forms and reporting requirements shall be effective for one year from the effective date of this section or until regulations are promulgated under this chapter, whichever is sooner.

(b) Consultation with Secretary of the Budget.—In making the initial allocations to agencies and in making decisions as to allocation

carryforwards, the department shall consult with the Secretary of the Budget.

Section 11. (a) All assets of the Air Quality Improvement Fund shall be transferred to the Pollution Prevention Assistance Account. Payments on existing loans made from the Air Quality Improvement Fund shall be deposited in the Pollution Prevention Assistance Account.

(b) The sum of \$5,000,000 shall be transferred from the Minority Business Development Fund to the Small Business First Fund for the purpose of making loans pursuant to this act.

Section 12. (a) The sum of \$5,000,000, or as much thereof as may be necessary, is hereby appropriated from the Hazardous Sites Cleanup Fund to the Small Business First Fund for the fiscal year July 1, 1998, to June 30, 1999.

(b) The sum of \$2,500,000, or as much thereof as may be necessary, is hereby appropriated from the Hazardous Sites Cleanup Fund to the Pollution Prevention Assistance Account for the fiscal year July 1, 1998, to June 30, 1999.

Section 13. Regulations promulgated prior to the effective date of this section under the act of December 20, 1985 (P.L.483, No.113), known as the Tax-Exempt Bond Allocation Act, as well as 12 Pa. Code Chs. 61 (relating to private activity bonds—statement of policy) and 63 (relating to private activity bonds—allocations) are abrogated.

Section 14. The following acts and parts of acts are repealed:

Act of May 31, 1956 (1955 P.L.1911, No.635), known as the Industrial Development Assistance Law.

Section 7.13 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

Act of December 20, 1985 (P.L.483, No.113), known as the Tax-Exempt Bond Allocation Act.

Section 15. The amendment of Chapter 9 of the act shall be retroactive to July 1, 1998.

Section 16. This act shall take effect immediately.

APPROVED—The 17th day of November, A.D. 1998.

THOMAS J. RIDGE