

No. 2004-12

AN ACT

SB 778

Amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, codifying portions of the Job Enhancement Act; further providing for contract requirements, for guidelines, for administration and for application and review requirements; providing for Keystone Innovation Zones; and making repeals relating to the Job Enhancement Act.

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

Section 1. The General Assembly finds and declares as follows:

(1) An economic stimulus program which provides direct immediate economic assistance to Pennsylvania businesses, industries, communities, their instrumentalities and economic development organizations is necessary for the preservation and creation of jobs within this Commonwealth.

(2) By targeting grant and loan assistance to these entities for job creation and site development, the Commonwealth will trigger needed redevelopment and economic growth within this Commonwealth.

(3) By targeting assistance to the greatest extent possible to previously used sites, the Commonwealth can foster the redevelopment of older communities, the reuse of industrial brownfield sites and the protection of open space while encouraging more efficient and effective use of existing environmental infrastructure, improving the environment and protecting the general public health and safety.

(4) By expanding tax-based financing of economic development projects, the Commonwealth will assist communities in retaining and recruiting employers to this Commonwealth.

(5) By targeting grant and loan assistance to the tourism and agriculture sectors of the Commonwealth's economy, the Commonwealth will provide additional financial support to those leading Commonwealth industries hard hit by world events and economic instability.

(6) By targeting capital investment to emerging and growth sector business, the Commonwealth will stimulate the growth and increase the stability of businesses within this Commonwealth.

(7) By preparing communities within this Commonwealth for the Federal Base Realignment and Closure (BRAC) process, the Commonwealth will increase the number of existing jobs it retains during the next round of Federal base realignment and closures.

Section 2. Title 12 of the Pennsylvania Consolidated Statutes is amended by adding parts to read:

PART I
GENERAL PROVISIONS

Chapter

1. Preliminary Provisions
3. Economic Development Financing Strategy
5. Small Business Council
7. Tax-Exempt Bond Allocation (Reserved)

CHAPTER 1
PRELIMINARY PROVISIONS

Sec.

101. Definitions.

§ 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

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

CHAPTER 3
ECONOMIC DEVELOPMENT FINANCING STRATEGY

Sec.

301. Scope.

302. Definitions.

303. Development.

304. Oversight.

§ 301. Scope.

This chapter relates to the development of an annual economic development financing strategy.

§ 302. 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:

“Economic development program.” A program which is administered by the department, including programs administered or staffed by the department, and which provides financial assistance for economic development to persons. The term includes all of the following:

- (1) Any program created under Part III (relating to economic development programs).
- (2) Any program of an entity created under Part IV (relating to economic development financing).

- (3) The Pennsylvania Industrial Development Authority.
- (4) The Pennsylvania Minority Business Development Authority.
- (5) The Infrastructure Development Program.
- (6) The Industrial Sites Reuse Program.

(7) The tax credit programs established in Articles XVII-B and XVIII-B of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

§ 303. Development.

The department shall annually develop a report containing a financing strategy for economic development within this Commonwealth. In developing the report, the department shall gather input and recommendations from businesses, community leaders and organizations, legislators and private citizens. The report shall include all of the following:

(1) A financial audit or statement of operations for each economic development program.

(2) A narrative description of accomplishments for each economic development program during the preceding fiscal year.

(3) A detailed description of the parameters of operation for the economic development programs during the upcoming fiscal year. The description shall include the terms and conditions under which the economic development programs shall be administered.

(4) A description of the performance measurements and accountability factors to be applied and the performance targets or goals to be met for each economic development program.

(5) A description of long-range planning for the economic development programs through the next five fiscal years.

(6) A list of the loans, grants or credits approved for the economic development programs during the fiscal year. The list shall include a brief description of and details regarding each loan, grant or credit approved, including penalties imposed by the department.

(7) A review of pending projects.

§ 304. Oversight.

Concurrent with the submission of the Governor's annual budget message, the department shall submit the report required by this chapter to all of the following:

(1) The Secretary of the Senate.

(2) The chairperson of the Appropriations Committee of the Senate.

(3) The Chief Clerk of the House of Representatives.

(4) The chairperson of the Appropriations Committee of the House of Representatives.

CHAPTER 5
SMALL BUSINESS COUNCIL

Sec.**501. Scope.****502. Definitions.****503. Small Business Council.****504. Regulatory review.****§ 501. Scope.**

This chapter relates to the Small Business Council.

§ 502. 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:

“Council.” The Small Business Council established under section 503 (relating to Small Business Council).

“Executive agency.” The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth. The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies or any independent agency or State-affiliated entity.

“Small business.” A person that employs fewer than 100 employees.

§ 503. Small Business Council.

(a) Establishment.—There is established within the department an agency to be known as the Small Business Council. The council shall do all of the following:

(1) Assist with the development of policies and regulations which affect small businesses within this Commonwealth.

(2) Provide advice relating to the nature of small business practices and problems in this Commonwealth.

(3) Provide a review of existing and proposed policies and regulations which are relevant to small business.

(b) Composition.—The council shall be composed of 13 members. The secretary shall serve ex officio. Twelve members shall be appointed as follows:

(1) Four individuals appointed by the Governor.

(2) Two individuals appointed by the President pro tempore of the Senate.

(3) Two individuals appointed by the Minority Leader of the Senate.

(4) Two individuals appointed by the Speaker of the House of Representatives.

(5) Two individuals appointed by the Minority Leader of the House of Representatives.

(c) Qualifications.—In order to be eligible for appointment to the council, an individual must:

(1) have a background in improving small businesses; and

(2) be one of the following:

- (i) a present owner or operator of a small business within this Commonwealth;
 - (ii) a member of the academic community who has expertise regarding small business practices; or
 - (iii) a professional who specializes in representing small businesses.
- (d) Term.—Each member of the council shall serve for a period of two years.
- (e) Organization.—The secretary shall serve as chairperson.
- (f) Meetings.—The council shall meet at the call of the chairperson.
- (g) Quorum.—A majority of the board shall constitute a quorum. A majority of the members present shall be necessary to transact business on behalf of the council.
- (h) Expenses.—A member shall not receive compensation or remuneration but shall be entitled to reimbursement for all reasonable and necessary actual expenses.
- (i) Administrative assistance.—The department shall do all of the following:
- (1) Provide administrative and technical support to the council.
 - (2) Publish notice of council meetings in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).
 - (3) Maintain a mailing list of persons who have requested specific notification of meetings and activities of the council.
 - (4) Designate a deputy secretary to attend council meetings and to serve as the public's liaison of the council.
- (j) Cooperation.—Upon the council's request, an executive agency shall provide the council with officially promulgated regulatory and nonregulatory documents which regulate or would regulate small businesses.

§ 504. Regulatory review.

- (a) Notification.—To the extent known to the secretary, the department shall, on a semiannual basis, provide the council with a list of regulations being proposed by all executive agencies which may affect small businesses in this Commonwealth.
- (b) Conference.—The department shall, upon request of the council, arrange a meeting between the council and representatives of an executive agency to discuss regulatory proposals and policy initiatives of the executive agency which might affect small businesses in this Commonwealth.
- (c) Written comments.—The council shall provide the department with written comments regarding the council's position on the proposed regulations. The department shall transmit the comments to the appropriate executive agencies. The written comments shall include an impact statement and any other information which the council deems necessary for the public to make an informed opinion on the proposals.

(d) Exceptions.—The requirements under subsections (a) and (b) shall not apply to the promulgation of the following regulations relating to small businesses:

- (1) Regulations required by court order.
- (2) Regulations necessitated by a Federal or State declaration of emergency.
- (3) Interim regulations which are authorized by statute.

CHAPTER 7
TAX-EXEMPT BOND ALLOCATION
(Reserved)

PART II
ECONOMIC DEVELOPMENT ENTITIES

Chapter

11. Ben Franklin (Reserved)
13. Industrial Resource Centers (Reserved)
15. (Reserved)
17. (Reserved)
19. (Reserved)

CHAPTER 11
BEN FRANKLIN
(Reserved)

CHAPTER 13
INDUSTRIAL RESOURCE CENTERS
(Reserved)

CHAPTER 15
(Reserved)

CHAPTER 17
(Reserved)

CHAPTER 19
(Reserved)

PART III
ECONOMIC DEVELOPMENT PROGRAMS

Chapter

21. Opportunity Grants
23. Small Business First
25. Industrial Development Assistance (Reserved)
27. Customized Job Training (Reserved)
29. Machinery and Equipment Loans
31. Family Savings Account (Reserved)

- 33. Economic Enhancement (Reserved)
- 35. Keystone Opportunity Zones (Reserved)
- 37. Keystone Innovation Zones

CHAPTER 21 OPPORTUNITY GRANTS

Sec.

- 2101. Scope.
- 2102. Definitions.
- 2103. Establishment.
- 2104. Application.
- 2105. Review.
- 2106. Approval.
- 2107. Penalty.
- 2108. Limitations.
- 2109. Guidelines.

§ 2101. Scope.

This chapter relates to the Opportunity Grant Program.

§ 2102. 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:

“Applicant.” A person that applies for a grant in accordance with this chapter.

“Developer.” A person that has as a purpose the promotion or construction of economic development projects and that is engaged in the development of real estate for use by more than one person.

“Eligible recipient.” Any of the following persons:

- (1) A municipality.
- (2) An entity created under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.
- (3) An entity certified as an industrial development agency under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.
- (4) An entity created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.
- (5) An entity created under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law.

(6) A developer.

(7) A person that is engaged in any of the following activities:

- (i) The production or processing of farm commodities.
- (ii) Manufacturing.
- (iii) Research and development.

(iv) Export services.

(v) Any other activity which offers a significant economic impact on the Commonwealth, as determined by the department.

“Eligible use.” Any of the following activities:

- (1) Job training.
- (2) The acquisition of interest in land, buildings or rights-of-way.
- (3) The construction or rehabilitation of buildings.
- (4) The construction or rehabilitation of infrastructure.
- (5) The purchase or upgrading of machinery and equipment.
- (6) Working capital.
- (7) Site preparation, including demolition and clearance.
- (8) Environmental assessments.
- (9) Remediation of hazardous material.
- (10) Architectural and engineering fees up to 10% of the award.

“Job-creating economic development.” Includes the expansion or preservation of existing industry.

“Program.” The Opportunity Grant Program established in section 2103 (relating to establishment.)

“Project.” An activity conducted in this Commonwealth.

“Recipient.” A person who receives a grant under this chapter.

§ 2103. Establishment.

There is established within the department a program to be known as the Opportunity Grant Program. The program shall be administered by the department to provide grants to eligible persons for certain projects which encourage job-creating economic development within this Commonwealth.

§ 2104. Application.

A person may submit an application to the department requesting a grant for a project. The application shall be on the form required by the department and shall include or demonstrate all of the following:

- (1) The name and address of the applicant.
- (2) A statement that the applicant is an eligible recipient under the program.
- (3) A statement of the amount of grant sought.
- (4) A statement of the project, including a detailed statement of the cost of the project.
- (5) A statement identifying the economic impact of the project to the region and the estimated impact on State and local revenues.
- (6) A commitment of private matching funds of at least \$4 for every \$1 of grant funds, and of the balance of funding for the entire project cost, from a responsible source.
- (7) A commitment from the applicant to complete the project.
- (8) Any other information required by the department.

§ 2105. Review.

The department shall review the application to determine if the applicant has met all of the criteria set forth in section 2104 (relating to application).

§ 2106. Approval.

The following shall apply:

(1) Upon being satisfied that all requirements have been met, the department may approve the application and award a grant.

(2) Prior to providing grant funds to the applicant, the department shall enter into a contract with the applicant. The contract shall include provisions requiring the applicant to use the grant to pay the costs of the project.

(3) The department may impose any other terms and conditions on the grants authorized by this chapter as the department determines is in the best interests of the Commonwealth, including a provision requiring collateral to secure repayment of any penalty imposed under the program.

§ 2107. Penalty.

(a) Imposition.—Except as provided in subsection (b), the department shall impose a penalty upon a recipient for any of the following:

(1) Failing to create the number of jobs specified in the recipient's application.

(2) Failing to inject the required amount of private matching funds into the project.

(3) Failing to operate at the project site for a minimum period of five years.

(b) Exception.—The department may waive the penalty required by subsection (a) if the department determines that the failure was due to circumstances outside the control of the recipient.

(c) Amount.—The amount of the penalty shall be equal to the full amount of the grant received plus an additional amount of up to 10% of the amount of the grant received. The penalty shall be payable in one lump sum or in installments, with or without interest, as the department deems appropriate.

§ 2108. Limitations.

(1) An applicant may not receive a grant under this chapter for more than two consecutive fiscal years for the same project.

(2) A grant awarded under this chapter may not be used to do any of the following:

(i) Refinance or retire existing debt.

(ii) Pay costs unrelated to a project location at a site in this Commonwealth.

(3) In no case shall the aggregate amount of grants paid in any fiscal year under this chapter exceed the annual appropriation to the department for the program.

(4) A grant awarded under this chapter shall in no way constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.

§ 2109. Guidelines.

The department shall develop written guidelines for the program. The guidelines shall do all of the following:

- (1) Limit grant size for any single project.
- (2) Clarify eligible uses of grants.
- (3) Clarify standards for eligibility.
- (4) Require geographic diversity of funded projects.

CHAPTER 23
SMALL BUSINESS FIRST

Sec.

2301. Scope.

2302. Definitions.

2303. Establishment.

2304. Fund and accounts.

2305. Department responsibilities.

2306. Capital development loans.

2307. EDA loans.

2308. Loans in distressed communities.

2309. Pollution prevention assistance loans.

2310. Export financing loans.

2311. Reporting and inspection.

2312. Limitations.

§ 2301. Scope.

This chapter relates to the Small Business First Program.

§ 2302. 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:

“Agricultural processor.” A person that adds value by subjecting one or more farm commodities to a process of manufacture, development or preparation for sale or a person that converts a farm product into a marketable form.

“Agricultural producer.” A person involved in the management and use of a normal agricultural operation for the production of a farm commodity.

“Apparel products.” Products manufactured, woven, cut, sewn or otherwise similarly processed by mechanical or human effort from fabrics, leather or cloth and made for use as clothing, shoes or other attire.

“Applicant.” A person that applies for a loan in accordance with this chapter.

“Area loan organization.” A local development district, an industrial development agency organized and existing under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, or any other nonprofit economic development

organization certified by the department as possessing the qualifications necessary to evaluate and administer loans made under this chapter.

“Capital development project.” Land, buildings, equipment and machinery and working capital which is acquired, constructed, renovated or used by a small business in accordance with any of the following:

(1) As part of a for-profit project or venture not of a mercantile or service-related nature, except for hospitality industry projects.

(2) As part of an effort to:

(i) bring a small business into compliance with Federal or State environmental laws or regulations;

(ii) complete an approved remediation project; or

(iii) permit a small business to adopt generally acceptable pollution prevention practices.

(3) As part of an effort to provide assistance to a small business that is a recycler of municipal or commercial waste or that is a manufacturer using recycled municipal or commercial waste materials.

(4) As part of an effort to assist a small business with defense conversion activities.

(5) As part of a for-profit project or venture to manufacture products to be exported out of the United States by a small business which is not of a mercantile or service-related nature, except for export-related services and international export-related mercantile ventures or advanced technology and computer-related services and mercantile ventures and which will increase this Commonwealth’s national or international market shares.

(6) As part of a for-profit project or venture that meets the requirements of section 2308 (relating to loans in distressed communities)

(7) As part of an effort to assist in the start-up or expansion of a for-profit or not-for-profit child day-care center subject to licensure by the Commonwealth.

“Child day-care center.” Any premises in which child day care is provided simultaneously for seven or more children who are not related to the provider.

“Community development institution.” Any of the following:

(1) An area loan organization for a distressed community.

(2) A community development financial institution located in a distressed community and approved by the department.

“Distressed community.” A community which has any of the following:

(1) A census tract or other specifically defined geographic area in which there is any of the following:

(i) A median income below 80% of the median income for the United States or this Commonwealth.

(ii) Twenty percent or more of the population is below the poverty level by family size published by the Bureau of the Census.

(iii) An unemployment rate 50% higher than the national average.

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

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

"EDA loan." A loan made under this chapter utilizing funds made available to the department under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.).

"Ex-Im Bank." The Export-Import Bank of the United States.

"Export activity." An activity undertaken by a person within this Commonwealth related to exports.

"Export business." A person that is engaged in a for-profit enterprise involving export activities and that employs 250 or fewer individuals.

"Exports." Goods or services to be sold or performed outside the United States.

"Farm commodity." Any Pennsylvania-grown agricultural, horticultural, aquacultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wools, hides, furs, poultry, eggs, dairy products, nuts, mushrooms, honey products and forest products.

"Fund." The Small Business First Fund continued under section 2304 (relating to fund and accounts).

"Hazardous substance." Any element, compound or material which is any of the following:

(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.

(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.

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

"Hospitality industry project." A for-profit project or venture which involves a small business that operates a hotel, motel or other lodging facility and that employs at least five full-time equivalent employees at the time an application is submitted to the department for financing. The term includes a for-profit project or venture which involves a small business that operates a restaurant or food service operation open to the public, that has been in continuous operation for at least five years and that employs at least five full-time equivalent employees at the time an application is submitted.

"Insurance policy." An export credit insurance policy for small businesses offered by the Export-Import Bank of the United States.

“Natural disaster.” As defined in 35 Pa.C.S. § 7102 (relating to definitions).

“Normal agricultural operation.” As defined in section 2 of the act of June 10, 1982 (P.L.454, No.133), entitled “An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances.”

“Pollution prevention.” The reduction or elimination of pollution at its source. The term does not include any of the following:

- (1) A substitution of one hazardous or toxic substance for another which will cause an increased risk to the environment or to human health.
- (2) A cross-media transfer.
- (3) A delisting of a hazardous waste or toxic chemical.

“Pollution prevention assistance agency.” Any of the following:

- (1) An area loan organization.
- (2) An industrial resource center created pursuant to the act of June 22, 2001 (P.L.400, No.31), known as the Industrial Resources Center Partnership Act.

“Pollution prevention infrastructure.” A capital development project which permits a small business to adopt or install pollution prevention equipment or processes to:

- (1) Reduce or reuse raw materials onsite.
- (2) Reduce the production of waste.
- (3) Reduce energy consumption.

“Program.” The Small Business First Program established under section 2303 (relating to establishment).

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

“Small business.” A person that is engaged in a for-profit enterprise and that employs 100 or fewer individuals. The term includes the following:

- (1) An enterprise located in a small business incubator facility.
- (2) An agricultural processor.
- (3) An agricultural producer.
- (4) An enterprise which manufactures apparel products.
- (5) An enterprise which is a for-profit or not-for-profit child day-care center subject to licensure by the Commonwealth.

“Working capital.” Capital used by a small business for operations, excluding fixed assets and production machinery and equipment.

§ 2303. Establishment.

There is established within the department a program to be known as the Small Business First Program. The program shall be administered by the department and provide loans to eligible persons for certain projects which encourage job-creating and job-preserving economic development within this Commonwealth.

§ 2304. Fund and accounts.

(a) Fund.—The Small Business First Fund, created under section 1302(a) of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is continued. The Treasury Department shall credit the following to the fund:

(1) Appropriations made by the General Assembly to the department for the program.

(2) Federal funds made available under the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3121 et seq.) or any other Federal statute, regulation or program for the program.

(3) Payments from recipients of loans made from the fund.

(4) Payments from recipients of loans made under the former act of July 2, 1984 (P.L.545, No.109), known as the Capital Loan Fund Act.

(5) Interest income derived from investment of the money in the fund.

(6) Any other deposits, payments or contributions from any other source made available to the department for the program.

(b) Pollution prevention assistance.—The Pollution Prevention Assistance Account, created under the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is continued. The Treasury Department shall credit the following to this account:

(1) Appropriations made by the General Assembly to the department for pollution prevention assistance.

(2) Payments from recipients of loans made from the Pollution Prevention Assistance Account.

(3) Transfers from the Hazardous Sites Cleanup Fund as established in section 602.3 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(4) Interest income derived from investment of the money in the Pollution Prevention Assistance Account.

(5) Any other deposits, payments or contributions from any other source made available to the department for pollution prevention assistance.

(c) Use of fund.—

(1) Money in the fund may be used as follows:

(i) By the department to make loans in accordance with this chapter and for administrative costs of the department in administering the program.

(ii) By area loan organizations for administrative costs associated with the program which are approved by the department.

(2) Money from the fund derived from appropriations specified for export financing assistance may be deposited by the department in banks or trust companies in special accounts. The special accounts must be continuously secured by a pledge of direct obligations of the United States or of the Commonwealth having an aggregate market value, exclusive of

accrued interest, at least equal to the balance on deposit in the account. The securities shall be deposited with the department to be held by a trustee or agent satisfactory to the department. Banks and trust companies are authorized to give security under this paragraph. Money in these special accounts shall be paid out on order of the department.

(d) Use of Pollution Prevention Assistance Account.—Money in the Pollution Prevention Assistance Account may be used by the department to provide loans to small businesses for the adoption or installation of pollution-prevention or energy-efficient equipment or processes in accordance with section 2309 (relating to pollution prevention assistance loans).

§ 2305. Department responsibilities.

(a) General rule.—The department shall do all of the following:

(1) Administer the program.

(2) Establish written guidelines as necessary. Any guidelines established shall be included in the report required by Chapter 3 (relating to economic development financing strategy).

(3) Deposit payments made by recipients in the fund or the Pollution Prevention Assistance Account, as appropriate.

(4) Approve standards for area loan organization application fees.

(5) Approve community development financial institutions.

(b) Program.—In administering the program, the department may do any of the following:

(1) Provide grants or other financial assistance to area loan organizations for any of the following purposes:

(i) To establish loan reserve funds.

(ii) To reimburse loan losses to commercial banks and other financial institutions as a means of encouraging the expansion and financing of small businesses.

(2) Apply to the Ex-Im Bank for delegated authority lender status under the Ex-Im Bank's Working Capital Guaranty Program.

(3) Utilize the outstanding portfolio of loans made under this chapter to raise additional funds by selling, securing, hypothecating or otherwise using such loan proceeds as a financing vehicle if the funds raised are used by the department for either of the following purposes:

(i) To make new and additional loans under this chapter.

(ii) To pay costs associated with financing.

§ 2306. Capital development loans.

(a) Application.—A small business may submit an application and any applicable application fee to its area loan organization requesting a loan for certain costs of a capital development project. The application shall be on the form required by the department and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of loan assistance sought.

(3) A statement of the capital development project, including a detailed statement of the cost of the project.

(4) A financial commitment from a responsible source for any cost of the capital development project in excess of the amount requested.

(5) Any other information required by the department.

(b) Area loan organization review.—

(1) Upon receipt of a completed application, an area loan organization shall investigate and determine all of the following:

(i) If the applicant is a small business.

(ii) If the project is a capital development project.

(iii) If, when the applicant is a small business, the capital development project demonstrates a substantial likelihood of creating or preserving employment activities in this Commonwealth or if, when the applicant is an agricultural producer, the project demonstrates a substantial likelihood of enhancing and growing normal agriculture operations.

(iv) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable.

(v) The existence and sufficiency of collateral for the loan.

(vi) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.

(vii) The number of employment opportunities to be created or preserved by the proposed capital development project.

(viii) If the applicant complied with all other criteria established by the department.

(2) Upon being satisfied that all requirements have been met, the area loan organizations shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.

(c) Department review.—

(1) Within 30 days of receiving a recommendation and a completed application, the department shall review the application. If the department is satisfied that all requirements have been met, the department may approve the loan request in accordance with the following:

(i) A loan for land, buildings and machinery and equipment may not exceed \$200,000 or 50% of the total capital development project costs, whichever is less. For the purposes of this subparagraph, capital development project costs incurred during the 12-month period prior to the date of submission of the application to the department shall be considered part of the total capital development project costs.

(ii) A loan for working capital may not exceed \$100,000 or 50% of the total capital development project costs, whichever is less.

(iii) Except for loans to agricultural producers, a loan must create or preserve one job for every \$25,000 loaned.

(2) The department shall notify the area loan organization and applicant of its decision.

(d) Approvals.—For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the fund. The advance shall be forwarded to the area loan organization and, upon receipt by the area loan organization, shall become an obligation of the area loan organization. Prior to providing loan funds to the applicant, the area loan organization shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may require the area loan organization to impose other terms and conditions on the recipient if the department determines that they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).

(e) Loan terms.—A loan agreement entered into in accordance with subsection (c) shall do all of the following:

(1) State the collateral securing the loan. All loans 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.

(2) State the repayment period in accordance with the following:

(i) A loan for real property shall have a repayment period of up to 15 years.

(ii) A loan for machinery and equipment shall have a repayment period of up to ten years.

(iii) A loan for working capital shall have a repayment period of up to three years.

(iv) If, in a capital development project, there are two or more uses planned, the loan terms may be blended.

(3) State the interest rate in accordance with the following:

(i) Except as provided in subparagraph (ii), loans shall be made at an interest rate not to exceed 5% for the term of the loan.

(ii) A loan to a small business which is an agricultural producer shall be made at an interest rate of not less than 2% for the term of the loan if all of the following apply:

(A) A declaration under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor) is in effect for at least ten days prior to the date of application.

(B) The application is made within nine months of termination of the declaration.

(C) The agricultural producer is in the area which has been declared to be a natural disaster area.

(f) Loan administration.—A loan made under this section shall be administered in accordance with departmental policies and procedures by the area loan organization which made the loan. Each area loan organization shall submit an annual report on the form required by the department and which includes or demonstrates all of the following:

- (1) Each outstanding loan.
- (2) The date approved.
- (3) The original principal amount.
- (4) The current principal balance.
- (5) The interest rate.
- (6) The purpose for which the loan was made.
- (7) An enumeration of any problems or issues which have arisen with regard to each loan.
- (8) A statement regarding the progress of the small business in creating or preserving its requisite number of employment opportunities.
- (9) Any other information or documentation required by the department.

(g) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to create or preserve the number of employment opportunities specified in its approved application.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of the penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(h) Defaults.—The department may by foreclosure take title to a capital development project which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from moneys held in the fund. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw moneys from the fund to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed where purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any moneys derived from the sale of any first mortgages in the fund.

§ 2307. EDA loans.

(a) Application and administration procedures.—The department shall establish application and administration procedures to be used for EDA loans. The procedures shall be established by guidelines and shall conform in

all respects to those procedures required or established 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.).

(b) Eligibility for EDA loans.—The department shall establish eligibility requirements to be used for EDA loans. The requirements shall be established by guidelines and shall conform in all respects to those procedures required or established by the Economic Development Administration for use of Federal funds under the Public Works and Economic Development Act of 1965.

§ 2308. Loans in distressed communities.

(a) Application.—A small business located in a distressed community may submit an application and any applicable application fee to a community development institution requesting a loan for certain costs of a capital development project. The application shall be on the form required by the department and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement that the small business is engaged in business-to-public service or in the mercantile, commercial or point-of-sale retail business sectors.

(3) A statement of the amount of loan assistance sought.

(4) A statement of the capital development project, including a detailed statement of the cost of the project.

(5) A financial commitment from a responsible source for the cost of the capital development project in excess of the amount requested.

(6) Any other information required by the department.

(b) Community development institution review.—

(1) Upon receipt of a completed application, a community development institution shall investigate and determine all of the following:

(i) If the applicant is a small business which is engaged in business-to-public service or in the mercantile, commercial or point-of-sale retail business sectors in accordance with conditions or criteria established by the department.

(ii) If the project is a capital development project.

(iii) If the applicant has demonstrated a direct impact on the community in which the capital development project is or will be located, on residents of that community or on the local and/or regional economy. The department shall establish criteria that will assist in making this demonstration.

(iv) Number of employment opportunities to be created or preserved by the proposed capital development project.

(v) If the applicant complied with all other criteria established by the department.

(2) Upon being satisfied that all requirements have been met, the community development institution shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.

(c) Department review.—

(1) Upon receipt of a recommendation and a completed application, the department shall investigate and determine all of the following:

(i) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable. In reviewing repayment obligations, loans shall not be approved 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 reviewed for the purpose of establishing a strong economic base and promoting entrepreneurial activity within the distressed community.

(ii) The existence and sufficiency of collateral for the loan.

(iii) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.

(2) If the department is satisfied that all requirements have been met, the department may approve the loan request in an amount not to exceed \$200,000 or 50% of the total capital development project costs, whichever is less. For the purpose of this paragraph, capital development project costs, except the costs related to working capital, incurred during the 12-month period prior to the date of submission of the application to the department shall be considered part of the total capital development project costs.

(3) The department shall notify the community development institution and applicant of its decision.

(d) Approvals.—For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the fund and, prior to providing loan funds to the applicant, the department shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).

(e) Loan terms.—A loan agreement entered into in accordance with subsection (d) shall do all of the following:

(1) State any collateral securing the loan. The department may use its best judgment to identify and secure collateral.

(2) State the repayment period which may be flexible.

(3) State the interest rate which may not be less than 2% nor more than 5% for the term of the loan.

(4) State that the recipient agrees to maintain, at a minimum, the number of jobs in existence as of the date of loan application.

(f) Loan administration.—A loan made under this section shall be administered in accordance with departmental policies and procedures.

(g) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to preserve the number of employment opportunities specified in its approved application.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of any penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(h) Defaults.—The department may take title by foreclosure to a capital development project which it financed where acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the fund. The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw money from the fund to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed if purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit in the fund money derived from the sale of any first mortgages.

§ 2309. Pollution prevention assistance loans.

(a) Application.—A small business may submit an application and any application fee to a pollution prevention assistance agency requesting a loan for a pollution prevention infrastructure. The application shall be on the form required by the department and shall include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of loan assistance sought.

(3) A statement of the pollution prevention infrastructure, including a detailed statement of the cost of the infrastructure.

(4) A financial commitment from a responsible source for the cost of the pollution prevention infrastructure in excess of the amount requested.

(5) Any other information required by the department.

(b) Pollution prevention assistance agency review.—

(1) Upon receipt of a completed application, a pollution prevention assistance agency shall investigate and determine all of the following:

- (i) If the applicant is a small business.
- (ii) If the project is for pollution prevention infrastructure.
- (iii) If the applicant complied with all other criteria established by the department.

(2) Upon being satisfied that all requirements have been met, the pollution prevention assistance agency shall recommend the applicant to the department and forward the application with all supporting documentation to the department for its review and approval.

(c) Department review.—

(1) Upon receipt of a recommendation and a completed application, the department shall investigate and determine all of the following:

(i) If the pollution prevention infrastructure demonstrates a substantial likelihood of preventing or reducing pollution. The Department of Environmental Protection shall assist the department in reviewing the applications and provide technical assistance.

(ii) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable. In reviewing repayment obligations, loans shall not be approved 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 reviewed for the purpose of reducing pollution through source reduction technologies or processes.

(iii) The existence and sufficiency of collateral for the loan.

(iv) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.

(2) If the department is satisfied that all requirements have been met, the department may approve the loan request. A loan approved under this subsection may not exceed the lesser of:

(i) \$100,000; or

(ii) 75% of infrastructure costs.

(3) The department shall notify the pollution prevention assistance agency and applicant of its decision.

(d) Approvals.—For applications which are approved, the department shall draw an advance equal to the principal amount of the loan from the Pollution Prevention Assistance Account. Prior to providing loan funds to the applicant, the department shall require the applicant to execute a note and to enter into a loan agreement. In addition to the requirements of subsection (e), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the pollution prevention infrastructure. The department may impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including a provision requiring collateral for any penalty imposed under subsection (g).

(e) Loan terms.—A loan agreement entered into in accordance with subsection (d) shall do all of the following:

(1) State the collateral securing the loan. All loans shall be secured by lien positions on collateral at the highest level of priority as may be determined by the department.

(2) State the repayment period which may not exceed 10 years.

(3) State that the interest rate is 2%.

(4) State that any loan fee is not to exceed 5% of the loan amount.

(f) Loan administration.—A loan made under this section shall be administered in accordance with departmental policies and procedures.

(g) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to carry out the pollution prevention infrastructure project as specified in its approved application.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of any penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(h) Defaults.—The department may take title by foreclosure to a pollution prevention infrastructure which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the Pollution Prevention Assistance Account. The department may, in order to minimize financial losses and sustain employment, lease the pollution prevention infrastructure. The department may withdraw money from the Pollution Prevention Assistance Account to purchase first mortgages and to make payments on first mortgages on any pollution prevention infrastructure which it financed if the purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any money derived from the sale of any first mortgages in the Pollution Prevention Assistance Account.

§ 2310. Export financing loans.

(a) Application.—A person may submit an application and any applicable application fee to the department or its area loan organization requesting a loan for certain costs of a capital development project which will be used in export activities. The application must be on the form required by the department and must include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the amount of loan assistance sought.

(3) A statement of the capital development project, including a detailed statement of the cost of the project.

(4) A financial commitment from a responsible source for any cost of the capital development project in excess of the amount requested.

- (5) A statement that the loan, if approved, would not supplant funding from private sector sources on commercially reasonable terms.
 - (6) Any other information required by the department.
- (b) Review.—Upon receipt of a completed application, the department shall investigate and determine all of the following:
- (1) If the applicant is an export business.
 - (2) If the project is a capital development project.
 - (3) The ability of the applicant to meet and satisfy the debt service as it becomes due and payable.
 - (4) The existence and sufficiency of collateral for the loan.
 - (5) Relevant criminal and credit history and ratings of the applicant as determined from outside credit reporting services and other sources.
 - (6) Number of employment opportunities to be created or preserved by the proposed capital development project.
 - (7) If the applicant complied with all other criteria established by the department.
- (c) Approvals.—If the department is satisfied that all requirements have been met, the department may approve the loan request. A loan approved under this section may not exceed \$350,000. The department shall notify the applicant and, if applicable, the area loan organization of its decision. The department shall reserve an amount equal to the principal amount of the loan within the fund or the special account authorized by section 2304(c)(2) (relating to fund and accounts). Prior to providing funds to the applicant, the department shall require the applicant to execute a note and enter into a loan agreement. In addition to the requirements of subsection (d), the loan agreement shall include a provision requiring the recipient to use the loan proceeds to pay the costs of the capital development project. The department may impose other terms and conditions on the recipient if the department determines they are in the best interests of this Commonwealth, including any of the following:
- (1) A provision requiring collateral for any penalty imposed under subsection (f).
 - (2) A provision requiring the person to be eligible for an insurance policy.
 - (3) A provision requiring the loan to be guaranteed by the Working Capital Guaranty Program offered by the Ex-Im Bank.
 - (4) A provision requiring an export credit sales contract insured by an insurance policy.
- (d) Loan terms.—A loan agreement entered into in accordance with subsection (c) shall do all of the following:
- (1) State the collateral securing the loan. All loans shall be secured by lien positions on collateral at the highest level of priority as may be determined by the department.
 - (2) State the repayment period as determined by the department.

(3) State the interest rate as determined by the department.

(e) Loan administration.—A loan made under this section shall be administered in accordance with departmental policies and procedures.

(f) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient if the recipient fails to carry out the export activities specified in its approved application.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the recipient.

(3) The amount of the penalty imposed under paragraph (1) shall be equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan.

(g) Defaults.—The department may, by foreclosure, take title to a capital development project which it financed if acquisition is necessary to protect a loan made under this section. The department shall pay all costs arising out of the foreclosure and acquisition from money held in the fund or a special account authorized by section 2304(c)(2). The department may, in order to minimize financial losses and sustain employment, lease the capital development project. The department may withdraw money from the fund or a special account authorized by section 2304(c)(2) to purchase first mortgages and to make payments on first mortgages on any capital development project which it financed if purchase or payment is necessary to protect a loan made under this section. The department may sell, transfer, convey and assign the first mortgages and shall deposit any money derived from the sale of any first mortgages in the fund or a special account authorized by section 2304(c)(2).

§ 2311. Reporting and inspection.

(a) Inspection.—An applicant or a recipient shall, upon request, permit authorized employees of the department or its agent to inspect the plant, books and records of the applicant or recipient.

(b) Updating.—An applicant or a recipient shall provide updated information to the department and its agents if conditions change or to the extent that the information originally given becomes inaccurate or misleading.

(c) Periodic reports.—A recipient shall provide the department and its agents with such periodic financial reports as the department may require until the loan is repaid in full.

(d) Financial and performance audits.—An agent of the department shall annually submit to the department, at the agent's expense, an independent financial audit. If the audit reveals misconduct of a material nature on the part of the agent, the department shall take appropriate action.

§ 2312. Limitations.

No loans shall be recommended or approved if the proceeds of the loan could do any of the following:

- (1) Cause, aid or assist directly in 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.
- (2) Refinance any portion of the total cost of a capital development project, pollution prevention infrastructure or other existing loans or debt.
- (3) Finance a capital development project or pollution prevention infrastructure located outside the geographic boundaries of this Commonwealth.
- (4) Provide funds, directly or indirectly, for payment distribution or as loan owners, partners or shareholders of a small business, except as ordinary compensation for services rendered.
- (5) Provide funds for speculation in real or personal property, whether tangible or intangible.

CHAPTER 25
INDUSTRIAL DEVELOPMENT ASSISTANCE
(Reserved)

CHAPTER 27
CUSTOMIZED JOB TRAINING
(Reserved)

CHAPTER 29
MACHINERY AND EQUIPMENT LOANS

Sec.

- 2901. Scope.
- 2902. Definitions.
- 2903. Establishment.
- 2904. Machinery and Equipment Loan Fund.
- 2905. Eligibility for loans; terms and conditions.
- 2906. Application and administration.
- 2907. Powers of secretary.
- 2908. Reporting and inspection.
- 2909. Nondiscrimination.
- 2910. Conflict of interest.
- 2911. Reports to General Assembly.
- 2912. Guidelines.

§ 2901. Scope.

This chapter relates to the Machinery and Equipment Loan Program.

§ 2902. 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:

“Business enterprise.” A for-profit corporation, partnership or proprietorship. The term includes a medical facility.

“Farm commodity.” Any Pennsylvania-grown agricultural, horticultural, aquacultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wools, hides, furs, poultry, eggs, dairy products, nuts, mushrooms, honey products and forest products.

“Fund.” The Machinery and Equipment Loan Fund created and established by this chapter.

“Medical facility.” An entity licensed as a hospital under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, or the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

“Normal agricultural operation.” The term shall have the same meaning as given to it in section 2 of the act of June 10, 1982 (P.L.454, No.133), entitled “An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances.”

“Production agriculture.” The management and use of a normal agricultural operation for the production of a farm commodity.

§ 2903. Establishment.

There is established within the department a program to be known as the Machinery and Equipment Loan Program. The program shall be administered by the department and provide loans to business enterprises for machinery and equipment.

§ 2904. Machinery and Equipment Loan Fund.

(a) Creation.—There is created a special account in the Treasury Department, to be known as the Machinery and Equipment Loan Fund, to which shall be credited all program appropriations made by the General Assembly, all proceeds from loan repayments and any and all other deposits, payments or contributions from any other source made available to the fund. The fund shall operate as a revolving fund whereby all appropriations, payments and interest made thereto may be applied and reapplied to the purposes of this chapter.

(b) Credits to fund.—All appropriations, deposits and contributions made to the fund shall be immediately credited in full to the fund, and earnings on the moneys held in the fund shall also be credited to the fund for the purposes of this chapter.

§ 2905. Eligibility for loans; terms and conditions.

(a) Loans; general rules.—The secretary may make advances from the fund, subject to the terms, conditions and restrictions provided under this chapter, for the purpose of making loans to business enterprises involved in industrial processes, mining, manufacturing, production agriculture, information technology, biotechnology, service as a medical facility or other industrial or technology sectors, as defined by the department, to acquire and install new machinery and equipment or upgrade existing machinery and

equipment, including the acquisition, application and utilization of computer hardware and software.

(1) All loans shall be subject to all of the following conditions:

(i) Be made to eligible business enterprises under the provisions of this chapter.

(ii) Have a maximum loan ceiling of \$5,000,000 or 50% of the cost of the project, whichever is less.

(iii) Be limited to the purchase and installation of new equipment and machinery or the upgrade of existing machinery and equipment. This subparagraph includes the acquisition, application and utilization of computer hardware and software.

(iv) Be limited to projects that demonstrate the creation or retention of one job for every \$25,000 received from the fund. This subparagraph does not apply to loans made to business enterprises involved in production agriculture or to loans made to medical facilities.

(v) Have an interest rate which shall be established by the secretary.

(vi) Have a term of not in excess of ten years.

(2) For loans to medical facilities, loan funds may be used only to finance the acquisition, installation and utilization of machinery and equipment, including computer hardware and software components, to be used in the prescribing and dispensing of medication for medical facility patients.

(b) Restrictions.—No loans shall be made that do any of the following:

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

(2) Supplant funding that is otherwise available expeditiously from private sector sources on commercially reasonable terms.

(3) Be for the purpose of refinancing any portion of the total project cost or other existing loans or debt.

(4) Be for the purpose of financing projects located outside the geographic boundaries of this Commonwealth.

(5) Be for the purpose of paying off a creditor that is inadequately secured and is in a position to sustain a loss.

(6) Be for the purpose of repaying a debt owed to a small business investment company.

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

(c) Security.—All loans shall be secured by no less than a second lien position on the equipment purchased and other sufficient collateral as determined by the secretary.

§ 2906. Application and administration.

(a) Procedures.—Application and administration procedures for fund loans shall be established by the secretary.

(b) Receipt.—The secretary shall receive applications from eligible business enterprises for machinery and equipment loans. Applications shall be made to the secretary in the form and manner as the department may require.

(c) Investigation.—Upon receipt of the application, the secretary shall investigate and review the application and either approve or disapprove the loan application by proper action of the department. The decision of the secretary shall be based, in whole or in part, upon the following criteria:

(1) Ability of the applicant to meet and satisfy all debt service as it becomes due and payable.

(2) Sufficiency of available collateral, including satisfactory lien positions on real and personal property.

(3) Eligibility of the applicant as a business enterprise involved in industrial processes, manufacturing, mining, production agriculture, information technology, biotechnology, services as a medical facility or other industrial or technology sectors as defined by the secretary.

(4) Sufficient evidence that funds shall be used only to acquire and install new equipment and machinery or upgrade existing equipment and machinery, including the acquisition, application and utilization of computer hardware and software.

(5) Capital needs of the applicant.

(6) Conformity of the project to the provisions of this chapter.

(7) Relevant criminal and credit history and ratings of applicant as determined from outside credit reporting services and other sources.

(8) Number of net employment opportunities created and retained by the proposed project. This paragraph does not apply to business enterprises involved in production agriculture or medical facilities.

(9) Supporting evidence that the loan project will increase the firm's competitiveness and value added within its respective industry.

(10) Explanation of how the loan will aid the Commonwealth in its efforts to assist business enterprises to increase their productivity and improve the future competitive position of this Commonwealth's industries.

(11) Compliance with the loan amount limitations provided for machinery and equipment loans.

(12) Payment to date of all tax obligations due and owing to the Commonwealth or any political subdivision thereof.

(13) Conformity of all aspects of the loan transaction with the substantive and procedural provisions of this chapter and regulations promulgated hereunder.

(14) Such information and documentation as the secretary shall require.

(d) Notification.—The secretary shall notify the applicant of final approval or disapproval of the loan application within a reasonable period of time following the receipt of the application. In the case of approval of a loan application, the secretary shall arrange to draw the loan amount from the fund and advance the sum to the recipient. The advance shall be made available in the form of a loan transaction, which loan shall be evidenced by a note executed by the recipient and secured in a manner as the secretary shall require in conformity in all respects to the loan as approved by the secretary.

(e) Policy requirements and report.—All loans shall be administered and monitored by the department in accordance with the policies and procedures prescribed by the secretary. On or before September 1 of each year, the secretary shall prepare a report that includes the following:

- (1) Each outstanding loan.
- (2) The date of approval.
- (3) The original principal balance.
- (4) The current principal balance.
- (5) The interest rate.
- (6) The purpose for which the loan was made.
- (7) An enumeration of any problems or issues which have arisen with regard to each loan.
- (8) A statement regarding the progress of the business enterprise in creating and retaining its requisite number of employment opportunities.
- (9) Such other information and documentation as the secretary shall require.

(f) Penalty for noncompliance.—In the event that a loan recipient shall not comply with its approved application by failing to create or preserve the number of employment opportunities specified in its approved application, the secretary shall impose a penalty equal to an increase in the interest rate to 2% greater than the current prime interest rate for the remainder of the loan unless the penalty is waived by the secretary because the failure is due to circumstances outside the control of the loan recipient. The penalty shall be payable in installments that the secretary deems appropriate.

§ 2907. Powers of secretary.

The secretary shall have and may exercise all powers and authority necessary to the proper administration and implementation of this chapter and shall have the authority to adopt policies, procedures and guidelines and promulgate rules and regulations necessary to effectuate the provisions of this chapter.

§ 2908. Reporting and inspection.

(a) Inspection.—Each business enterprise which applies for or receives assistance under this chapter, upon reasonable request of the department, shall permit duly authorized employees of the department to inspect the plant, books and records of the business enterprise.

(b) Updating.—Each business enterprise shall update the information given to the department in its application if conditions change or to the extent that the information given originally becomes inaccurate or misleading.

(c) Periodic reports.—Each recipient of assistance under this chapter shall provide the department with periodic financial reports as the secretary may require until such time as the loan is paid off.

§ 2909. Nondiscrimination.

No loan shall be made to a business enterprise unless the business enterprise certifies to the department, in a form satisfactory to the department, that it shall not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex or age. The business enterprise shall also certify to the department that it is not currently under citation for pollution violations and that in the future it will meet all applicable antipollution standards.

§ 2910. Conflict of interest.

No employee of the department shall, either directly or indirectly, be a party to or have any financial interest in any contract or agreement arising pursuant to this chapter.

§ 2911. Reports to General Assembly.

(a) Annual reports.—On or before September 1 of each year, the secretary shall provide a report to the Secretary of the Senate and to the Chief Clerk of the House of Representatives. The report shall describe all relevant activities of the department pursuant to this chapter and shall include the following:

(1) List of business enterprises receiving loans from the fund and the amounts and terms of this assistance.

(2) Loan amounts repaid. Information under this paragraph may be reported in the aggregate.

(3) Loans outstanding, balances due and any penalties imposed. Information under this paragraph may be reported in the aggregate.

(4) Jobs created by businesses receiving funds in previous years. Information under this paragraph may be reported in the aggregate.

(5) Other relevant information as determined by the secretary.

(b) Availability of departmental reports.—Reports prepared by the secretary under section 2906(e) (relating to application and administration) shall be made available upon request to members of the General Assembly.

§ 2912. Guidelines.

The department shall develop written guidelines for the implementation of this chapter.

PART IV
ECONOMIC DEVELOPMENT FINANCING

CHAPTER 31
FAMILY SAVINGS ACCOUNT
(Reserved)

CHAPTER 33
ECONOMIC ENHANCEMENT
(Reserved)

CHAPTER 35
KEYSTONE OPPORTUNITY ZONES
(Reserved)

CHAPTER 37
KEYSTONE INNOVATION ZONES

Sec.

- 3701. Scope.
- 3702. Definitions.
- 3703. Program.
- 3704. Assistance.
- 3705. Keystone innovation grants.
- 3706. Keystone innovation zone tax credits.
- 3707. Guidelines.
- 3708. Annual report.

§ 3701. Scope.

This chapter relates to the Keystone Innovation Zone Program.

§ 3702. 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:

“Institution of higher education.” A public or private institution within this Commonwealth authorized by the Department of Education to grant an associate degree or higher degree. The term includes branch or satellite campus of the institution.

“Keystone innovation zone.” A clearly defined contiguous geographic area comprised of portions of one or more political subdivisions.

“Keystone innovation zone company.” A for-profit business entity which is all of the following:

- (1) Located within a keystone innovation zone.
- (2) Has been in operation for less than eight years.
- (3) Falls within one of the targeted industry segments adopted by the keystone innovation zone partnership in its strategic plan.

“Keystone innovation zone coordinator.” A nonprofit organization which is all of the following:

- (1) Not an institution of higher education.

(2) Chosen by a keystone innovation zone partnership and agreed to by the department to administer the activities of a keystone innovation zone.

“Keystone innovation zone partnership.” Any association or group which is all of the following:

(1) Comprised of at least one institution of higher education and a combination of private businesses, business support organizations, commercial lending institutions, venture capital companies, angel investor networks or foundations.

(2) Formed for the creation and administration of a keystone innovation zone.

“KIZ.” A keystone innovation zone.

“KIZ company.” A keystone innovation zone company.

“KIZ coordinator.” A keystone innovation zone coordinator.

“KIZ partnership.” A keystone innovation zone partnership.

§ 3703. Program.

(a) Establishment.—There is established a program in the department to be known as the Keystone Innovation Zone Program. The program shall provide economic assistance to KIZ companies for the purpose of improving and encouraging research and development efforts and technology commercialization efforts resulting in employment growth and revitalization of communities.

(b) Application.—A keystone innovation zone partnership may apply to the department to establish a keystone innovation zone. All applications must be received by July 1, 2007, be on the form required by the department and include and demonstrate all of the following:

(1) The KIZ coordinator’s name and address.

(2) A statement that the applicant is a KIZ partnership and the identity of its members.

(3) The geographic boundaries of the proposed keystone innovation zone.

(4) A copy of a written strategic plan adopted by the KIZ partnership describing the targeted industry segments which the KIZ will foster.

(5) Any other information required by the department.

(c) Review and designation.—The department shall review the application. Upon being satisfied that all requirements have been met, the department may approve the application. If the department approves the application, the department shall designate the identified area as a keystone innovation zone and accept the organization designated as the KIZ coordinator for the zone.

§ 3704. Assistance.

(a) Existing programs.—A KIZ company shall be eligible and may be given priority consideration in applying for assistance under any of the following:

(1) This title.

(2) The act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(4) The act of June 22, 2001 (P.L.569, No.38), known as The Ben Franklin Technology Development Authority Act.

(5) The act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.

(6) The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

(7) Any other act enacted after the effective date of this subsection which has economic development assistance as its primary objective.

(b) Loans of the Pennsylvania Industrial Development Authority.—The board of the Pennsylvania Industrial Development Authority may provide loans to entities for land and structures, including structures providing space for research and development activities, in which, when completed, at least one KIZ company will be located. If the structure is intended to accommodate more than one KIZ company, at least 80% of the space in the structure must be leased to KIZ companies. The board may establish the eligibility criteria, the interest rate, the loan term and the participation rate to be applied to these projects.

(c) KIZ operation grants.—

(1) The Ben Franklin Technology Development Authority may provide an annual KIZ operation grant of up to \$250,000 to a keystone innovation zone coordinator for administrative costs incurred in establishing and implementing the keystone innovation zone.

(2) In subsequent years, a grant shall be reduced in accordance with all of the following:

(i) By 25% of the initial amount in the second year.

(ii) By 50% of the initial amount of the grant in the third year.

(iii) By 75% of the initial amount of the grant in the fourth year.

(3) The Ben Franklin Technology Development Authority shall develop guidelines for the application, receipt and use of operation grant funds.

§ 3705. Keystone innovation grants.

(a) Grants.—The department may provide keystone innovation grants to institutions of higher education to facilitate technology transfer, including patent filings, technology licensing, intellectual property and royalty agreements and other designated resource needs. The application must be on the form required by the department and must include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The KIZ partnership of which the applicant is a member.

(3) A written proposal. The proposal must state all of the following:

(i) The technology transfer activities to be undertaken. The activities may include the addition of personnel who are directly related in transferring technology to the local businesses.

(ii) The quantifiable goals and objectives to be achieved.

(iii) How the activities, goals and objectives will integrate with the strategic plan adopted for the KIZ.

(iv) The role of the applicant and other members of the KIZ partnership.

(4) Identification of a dollar-to-dollar match, which may be in kind if the department determines that the proposed match can be readily identified and tracked and which is directly related to the stated goals and objectives.

(5) Any other information required by the department.

(b) Approval.—The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application. Prior to releasing grant funds, the department shall enter into a contract with the applicant that contains all of the following:

(1) The grant may not exceed \$250,000 per year.

(2) Grants under this program shall not exceed \$750,000 in the aggregate per applicant under this program.

(3) The aggregate amount of grants awarded to all applicants under this subsection shall not exceed \$10,000,000 under this program.

(c) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient of a grant for any of the following:

(i) If the recipient fails to use the grant for the technology transfer activities specified in the application.

(ii) If the recipient's membership in the KIZ partnership is terminated voluntarily or involuntarily.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the grant recipient.

(3) A penalty imposed under paragraph (1) shall be equal to the full amount of the grant received plus an additional amount of up to 10% of the amount of the grant received. The penalty shall be payable in one lump sum or in installments, with or without interest, as the department deems appropriate.

§ 3706. Keystone innovation zone tax credits.

(a) Tax credit.—A KIZ company may claim a tax credit equal to 50% of the increase in the KIZ company's gross revenues in the immediately preceding taxable year attributable to activities in the KIZ over the KIZ company's gross revenues in the second preceding taxable year attributable to its activities in the KIZ. A tax credit for a KIZ company shall not exceed

\$100,000 annually. For the purposes of the keystone innovation zone tax credit, the term "gross revenues" may include grants received by the KIZ company from any source whatsoever.

(b) Application for tax credit.—A KIZ company may file an application for a tax credit with the department. An application under this subsection must be filed by September 15 of each year for the prior taxable year, beginning September 15, 2006. The application must be submitted on a form required by the department and must be accompanied by a certification from the KIZ coordinator that the KIZ company falls within a targeted industry segment identified in the strategic plan adopted by the KIZ partnership. The department shall review the application and, upon being satisfied that all requirements have been met, the department shall issue a tax credit certificate to the KIZ company. All certificates shall be awarded by December 15 of each year.

(c) Limitation on tax credits.—

(1) The total amount of tax credits approved by the department shall not exceed \$25,000,000 for any one taxable year.

(2) If \$25,000,000 of the tax credits are not approved for any one taxable year, the unused portion shall not be available for use in future taxable years.

(3) If the total amount of tax credits applied for by all taxpayers for any one taxable year exceeds \$25,000,000, then the tax credit to be received by each applicant shall be determined as follows:

(i) Divide:

(A) the eligible tax credit applied for by the applicant; by

(B) the total of all eligible tax credits applied for by all applicants.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) \$25,000,000.

(d) Application of tax credit and election.—A tax credit approved under this section must be first applied against the KIZ company's tax liability under Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for the taxable year during which the tax credit is approved. If the amount of tax liability owed by the KIZ company is less than the amount of the tax credit, the KIZ company may elect to carry forward the amount of the remaining tax credit for a period not to exceed four additional taxable years and to apply the credit against tax liability incurred during those tax years; or the KIZ company may elect to sell or assign a portion of the tax credit in accordance with the provisions of subsection (f). A KIZ company may not carry back or obtain a refund of an unused keystone innovation zone tax credit.

(e) Pennsylvania S corporation shareholder pass-through.—

(1) If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the product of:

- (i) the tax credit determined for the Pennsylvania S corporation for the taxable year; and
- (ii) the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.

(2) The credit provided under paragraph (1) is in addition to any tax credit to which a shareholder of the Pennsylvania S corporation is otherwise entitled. However, a Pennsylvania S corporation and a shareholder of the Pennsylvania S corporation may not claim a tax credit under this section for the same activity.

(f) Sale or assignment of tax credit.—

(1) Upon application to and approval by the department, a KIZ company which has been awarded a tax credit may sell or assign, in whole or in part, the tax credit granted to the KIZ company. The application must be on the form required by the department and must include or demonstrate all of the following:

- (i) The applicant's name and address.
- (ii) A copy of the tax credit certificate previously issued by the department.
- (iii) A statement as to whether any part of the tax credit has been applied to tax liability of the applicant and the amount so applied.
- (iv) Any other information required by the department.

(2) The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application and shall notify the Department of Revenue.

(g) Use of sold or assigned tax credit.—The purchaser or assignee of all or a portion of a keystone innovation zone tax credit under this section shall claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee of a tax credit may use the tax credit against any tax liability of the purchaser or assignee under Article III, IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971. The amount of the tax credit used may not exceed 75% of the purchaser's or assignee's tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the keystone innovation zone tax credit. The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the keystone innovation zone tax credit in compliance with procedures specified by the department.

§ 3707. Guidelines.

Before any keystone innovation zone is approved by the department, the department shall approve written guidelines for the program and shall provide a copy of the guidelines to the Majority Leader and Minority Leader

of the Senate, the Majority Leader and Minority Leader of the House of Representatives, 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.

§ 3708. Annual report.

The department shall submit an annual report to the Secretary of the Senate and the Chief Clerk of the House of Representatives indicating the effectiveness of the keystone innovation zone tax credit provided by this chapter by December 31 of each year, beginning December 31, 2007. Notwithstanding any law providing for the confidentiality of tax records, the report shall include the names of all taxpayers awarded the credits, all taxpayers utilizing the credits, the amount of credits approved and utilized by each taxpayer and the locations of the KIZ companies awarded the credits. The report shall be a public document.

Section 3. Repeals are as follows:

(1) The following provisions of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, are repealed:

- (i) Chapter 3.
- (ii) Chapter 7.
- (iii) Chapter 13.
- (iv) Chapter 17.
- (v) Chapter 30.

(2) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 4. Chapters 3, 7, 13, 17 and 30 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, are continued by this codification as follows:

(1) The addition of 12 Pa.C.S. Ch. 3 is a continuation of Chapter 3 of the Job Enhancement Act. The following apply:

(i) Except as otherwise provided in 12 Pa.C.S. Ch. 3, all activities initiated under Chapter 3 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 3. Orders, regulations, rules and decisions which were made under Chapter 3 of the Job Enhancement Act and which are in effect on the effective date of section 2(1)(i) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 3. Contracts, obligations and collective bargaining agreements entered into under Chapter 3 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 3 of the Job Enhancement Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 3 and Chapter 3 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or

affect the legislative intent, judicial construction or administration and implementation of Chapter 3 of the Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to the addition of 12 Pa.C.S. § 303.

(2) The addition of 12 Pa.C.S. Ch. 5 is a continuation of Chapter 17 of the Job Enhancement Act. The following apply:

(i) All activities initiated under Chapter 17 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 5. Orders, regulations, rules and decisions which were made under Chapter 17 of the Job Enhancement Act and which are in effect on the effective date of section 2(1)(iv) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 5. Contracts, obligations and collective bargaining agreements entered into under Chapter 17 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 17 of the Job Enhancement Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 5 and Chapter 17 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 17 of the Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to the following:

(A) The addition of 12 Pa.C.S. § 502.

(B) The addition of 12 Pa.C.S. § 503.

(iv) The members of the Small Business Council in office on the effective date of section 3(2)(iv) of this act shall continue in office under the addition of 12 Pa.C.S. Ch. 5.

(3) The addition of 12 Pa.C.S. Ch. 21 is a continuation of Chapter 7 of the Job Enhancement Act. The following apply:

(i) Except as otherwise provided in 12 Pa.C.S. Ch. 21, all activities initiated under the Chapter 7 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 21. Orders, regulations, rules and decisions which were made under Chapter 7 of the Job Enhancement Act and which are in effect on the effective date of section 2(1)(ii) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 21. Contracts, obligations and collective bargaining agreements entered into under Chapter 7 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 7 of the Job Enhancement Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 21 and Chapter 7 of the Job Enhancement Act is intended only to conform to the style of the

Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 7 of the Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to any of the following provisions:

(A) The addition of 12 Pa.C.S. § 2106(2).

(B) The addition of 12 Pa.C.S. § 2109.

(4) The addition of 12 Pa.C.S. Ch. 23 is a continuation of Chapter 13 of the Job Enhancement Act. The following apply:

(i) Except as otherwise provided in 12 Pa.C.S. Ch. 23, all activities initiated under Chapter 13 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 23. Orders, regulations, rules and decisions which were made under Chapter 13 of the Job Enhancement Act and which are in effect on the effective date of section 2(1)(iii) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 23. Contracts, obligations and collective bargaining agreements entered into under Chapter 13 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 13 of the Job Enhancement Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 23 and Chapter 13 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 13 of the Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to any of the following provisions:

(A) The addition of 12 Pa.C.S. § 2305(a).

(B) The addition of 12 Pa.C.S. § 2306(a), (b), (c) and (e).

(C) The addition of 12 Pa.C.S. § 2308(a), (b) and (c).

(D) The addition of 12 Pa.C.S. § 2309(b).

(E) The addition of 12 Pa.C.S. § 2310(b).

(iv) In continuation of section 1302 of the Job Enhancement Act, 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 Pollution Prevention Assistance Account and shall be administered in accordance with 12 Pa.C.S. §§ 2304 and 2309. The Department of Community and Economic Development shall report annually to the Department of Environmental Protection on the status of the Pollution Prevention Assistance Account and the loans made under 12 Pa.C.S. § 2309.

(v) In continuation of section 1309(a) of the Job Enhancement Act, as of July 1, 1997, all funds, accounts, assets, encumbrances and liabilities located in or associated with the Capital Loan Fund shall be transferred to the Small Business First Fund and shall thereafter be administered in accordance with 12 Pa.C.S. Ch. 23.

(vi) In continuation of section 1309(b) of the Job Enhancement Act, annually on July 1, 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.

(5) The addition of 12 Pa.C.S. Ch. 29 is a continuation of Chapter 30 of the Job Enhancement Act. The following apply:

(i) Except as otherwise provided in 12 Pa.C.S. Ch. 29, all activities initiated under Chapter 30 of the Job Enhancement Act shall continue and remain in full force and effect and may be completed under 12 Pa.C.S. Ch. 29. Orders, regulations, rules and decisions which were made under Chapter 30 of the Job Enhancement Act and which are in effect on the effective date of section 2(1)(v) of this act shall remain in full force and effect until revoked, vacated or modified under 12 Pa.C.S. Ch. 29. Contracts, obligations and collective bargaining agreements entered into under Chapter 30 of the Job Enhancement Act are not affected nor impaired by the repeal of Chapter 30 of the Job Enhancement Act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 12 Pa.C.S. Ch. 29 and Chapter 30 of the Job Enhancement Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of Chapter 30 of the Job Enhancement Act.

(iii) Subparagraph (ii) does not apply to any of the following:

(A) The addition of the definitions of "business enterprise" and "medical facility" in 12 Pa.C.S. § 2902.

(B) The addition of 12 Pa.C.S. § 2905(a) and (c).

(C) The following provisions in the addition of 12 Pa.C.S. § 2906:

(I) Subsection (c)(3), (4) and (8).

(II) The introductory paragraph of subsection (e).

(D) The following provisions in the addition of 12 Pa.C.S. § 2911:

(I) The introductory paragraph of subsection (a).

(II) Paragraphs (2), (3), (4) and (5) of subsection (a).

(E) The addition of 12 Pa.C.S. § 2912.

Section 5. Money appropriated to the Department of Community and Economic Development for the Base Retention and Conversion Pennsylvania Action Committee shall be used for all of the following:

(1) The development of a Statewide strategy.

(2) Matching grants for economic impact studies, environmental impact studies, encroachment studies, community and regional interaction with military bases, infrastructure needs at military bases and job training needs at or near military bases. Grants under this subparagraph:

(i) shall be awarded by the Base Retention and Conversion Pennsylvania Action Committee;

(ii) require a 25% local match; and

(iii) are limited to \$75,000 or less per military base.

Section 6. This act shall take effect as follows:

(1) The following provisions shall take effect upon publication of the guidelines required by the addition of 12 Pa.C.S. § 2912:

(i) The addition of 12 Pa.C.S. §§ 2901 through 2911.

(ii) Section 3(1)(v) of this act.

(iii) Section 4(5) of this act.

(2) The addition of 12 Pa.C.S. §§ 3705 and 3706 shall take effect July 1, 2004.

(3) The remainder of this act shall take effect immediately.

APPROVED—The 12th day of February, A.D. 2004.

EDWARD G. RENDELL