

No. 1990-196

## AN ACT

SB 1261

Amending the act of July 2, 1934 (P.L.545, No.109), entitled "An act establishing a loan program for capital development projects; providing for the use of funds made available under the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965; providing for loans, loan guarantees and other programs for capital development projects of small businesses; creating the Capital Loan Fund; providing standards for and requirements of the program; and making appropriations," adding a definition and further defining "small business enterprise"; and further providing for terms, conditions, applications and administration.

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

Section 1. The definition of "small business enterprise" in section 2 of the act of July 2, 1984 (P.L.545, No.109), known as the Capital Loan Fund Act, amended July 9, 1986 (P.L.1226, No.111), is amended and the section is amended by adding a definition to read:

Section 2. Definitions.

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

\* \* \*

*"Export-related services."* A service provided by a Pennsylvania business enterprise that derives 51% or more of gross receipts from expenditures made by out-of-state companies or individuals.

\* \* \*

*"Small business enterprise."* A for-profit corporation, partnership or proprietorship which is small enough to be aided by assistance provided under this act, including small business enterprises located in small business incubator facilities. *For the purpose of export assistance loans, the term is restricted to a for-profit corporation, partnership or proprietorship which, together with its parents, affiliates and subsidiaries, employs in the aggregate less than 500 full-time employees.*

\* \* \*

Section 2. Sections 4(e)(6), 5(c)(2)(iv), (3)(ii) and (6) and 6(a) of the act, amended or added July 9, 1986 (P.L.1226, No.111), are amended to read:

Section 4. Eligibility for loans; terms and conditions.

\* \* \*

(e) Export assistance loans.—

\* \* \*

(6) Export assistance loan recipients are not disqualified from receiving Class I, II or III or apparel loans because of eligibility to apply for an export assistance loan: Provided, however, That, *exclusive of any loan*

*guarantees granted under section 6*, the loans approved shall not exceed in the aggregate 50% of the total project cost or \$200,000, whichever is less.

\* \* \*

Section 5. Application and administration.

\* \* \*

(c) Class III and export assistance loans.—

\* \* \*

(2) Upon receipt of the application, the area loan organization shall investigate and review the application and either approve or disapprove the loan application by proper action of the governing body of the organization. The decision action of the organization shall be based, in whole or in part, upon the following criteria:

\* \* \*

(iv) Number of net new employment opportunities created by the proposed project. This criterion shall *not* apply to export assistance loans.

\* \* \*

(3) Upon approval of the loan application by the area loan organization, the organization shall forward the application and all supporting documentation which the secretary shall require, including a copy of the proper resolution of the governing body, to the secretary for review and final approval or disapproval. The secretary shall review each application and supporting documentation to ensure the following:

\* \* \*

(ii) Creation of a satisfactory number of new net employment opportunities within the Commonwealth. This criterion shall *not* apply to export assistance loans.

\* \* \*

(6) In the event that a small business enterprise shall fail to comply with and create the number of new employment opportunities specified in its approved application, the secretary shall impose a penalty equal to an increase in the interest 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 of the control of the small business enterprise. This penalty shall not apply to **[companies receiving only]** export assistance loans. The penalty shall be payable in installments which the secretary deems appropriate. Immediate notice of penalties and waivers of penalties (with reasons therefor) shall be submitted by the secretary to the Chief Clerk of the House of Representatives and the Secretary of the Senate.

\* \* \*

Section 6. Loan guarantees; other programs.

(a) Guarantees; endorsements and sureties.—The secretary may make advances or provide other means of guaranteed payment from the Capital Loan Fund to area loan organizations for the purpose of guaranteeing, endorsing or acting as surety on the bonds, notes, contracts, mortgages or other obligations of small business enterprises on such terms and conditions

and according to such policies and procedures as the secretary may prescribe. Such guarantees, endorsements or sureties may be provided only for those small business enterprises and manufacturers of apparel products and in connection with those capital development projects which conform in all respects to the provisions of section 4(c) or (d), or for export development projects which conform in all respects to the provisions of section 4(e) *except that loan guarantees may be made in an amount not exceeding the lesser of 90% of the total project cost or \$500,000*. Further, area loan organizations and the secretary shall, in reviewing applications for guarantees, endorsements or sureties, base their respective decisions regarding approval or disapproval upon the findings and determinations required under section 5(c).

\* \* \*

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

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY