

No. 2002-115

AN ACT

HB 2398

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

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

Section 1. The definition of "small business enterprises" in section 1301 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, is amended and the section is amended by adding definitions to read:

Section 1301. Definitions.

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

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"Agricultural producer." *A person or entity involved in the management and use of a normal agricultural operation for the production of a farm commodity.*

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"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."*

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"Small business [enterprises] enterprise." *A for-profit corporation, partnership [or], proprietorship, limited liability company or other entity which meets the eligibility requirements established by the department. The term shall include, but is not limited to, a small business [enterprises] enterprise which:*

(1) is located in a small business incubator [facilities, small business enterprises which are] facility;

(2) is an agricultural [processors and small business enterprises which manufacture] processor;

(3) is an agricultural producer; or

(4) manufactures apparel products.

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Section 2. Section 1303(b) of the act, amended November 17, 1998 (P.L.788, No.100), is amended to read:

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

* * *

(b) Terms and conditions.—

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

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

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

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

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

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

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

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

Section 3. This act shall take effect immediately.

APPROVED—The 2nd day of October, A.D. 2002.

MARK S. SCHWEIKER