

No. 2008-125

AN ACT

SB 768

Amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, further providing for the definitions of “commercial lending activities” and “commercial lending institutions” and for the First Industries Program.

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

Section 1. The definitions of “commercial lending activities” and “commercial lending institutions” in section 1504 of Title 64 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1504. Definitions.

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

* * *

“Commercial lending activities.” The making of loans and the provision of deposit services to business entities, *except that a farm credit system institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) need not offer deposit services to qualify as a provider of commercial lending activities under this chapter.*

“Commercial lending institutions.” A federally chartered or state-chartered bank, savings bank [or], savings and loan association *or farm credit system institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583)* which has a satisfactory rating from its primary regulator and which is engaged in commercial lending activities. The institution must operate at least one full-service branch for deposit gathering and lending located within this Commonwealth *or be a farm credit system institution under the Farm Credit Act of 1971.*

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Section 2. Section 1552(e)(2) and (3) of Title 64 are amended, subsection (e) is amended by adding paragraphs and the section is amended by adding subsections to read:

§ 1552. First Industries Program.

* * *

(e) Loan guarantees.—

* * *

(2) The board shall review the application to determine all of the following:

(i) ~~[That]~~ *(A) Except as set forth in clause (B), that* the project has been awarded a planning grant under this section or that at least \$1,000,000 of private funds are being invested in the project.

(B) Beginning on the effective date of this paragraph through June 30, 2011, that the project has been awarded a planning grant under this section or that at least \$500,000 of private funds are being invested in the project.

(ii) That the value of the proposed collateral is sufficient to cover the full amount of the loan.

(iii) That the applicant complied with all other criteria established by the board.

(3) Upon being satisfied that all requirements have been met, the board may approve the guarantee, and, if approved, the authority shall execute a guarantee agreement in favor of the commercial lending institution or community development financial institution stating the terms and amounts of the guarantee. ~~[The]~~ *Except as provided in paragraph (3.1), the* guarantee may not exceed 50% of the outstanding principal amount of the loan or \$2,500,000 at any point in time, whichever is less. In addition to any other terms and conditions required by the board, the guarantee agreement shall provide for all of the following:

(i) The procedure for the submission by the commercial lending institution or community development financial institution of a claim for payment. This procedure shall require that the commercial lending institution or community development financial institution demonstrate that it has exhausted all available remedies against the borrower, other guarantors and collateral before seeking payment under the agreement.

(ii) A requirement that a percentage of any moneys recovered subsequent to the payment of a claim by the authority be remitted to the authority.

(iii) Periodic reporting requirements by the commercial lending institution or community development financial institution regarding itself and regarding the loans which have been awarded guarantees under this section.

(3.1) Beginning on the effective date of this paragraph through June 30, 2011, a guarantee of 51% to 90% of the principal amount of the loan to assist with the financing of a project related to agriculture may be awarded by the board. The guarantee shall be subject to a one-time fee of 2% of the amount of the loan multiplied by the percentage of the guarantee.

(3.2) The amount of a guarantee under this subsection, if any, shall be set at the discretion of the board based upon its determination of the potential financial risk to the Commonwealth.

(e.1) Limitation.—A Farm Credit Institution under the Farm Credit Act of 1971 (Public Law 92-181, 85 Stat. 583) shall only be permitted to participate in the First Industries Program established under this section and may not participate in any other loan guarantee program established under this chapter.

(e.2) Sunset.—After June 30, 2011, no Farm Credit Institution under the Farm Credit Act of 1971 shall be eligible for any loan guarantees under this chapter.

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Section 3. The Department of Community and Economic Development shall provide annually, as determined beginning one year from the effective date of this act, to the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives, a written report stating the impact and number of loans originated, purchased, held and assigned by the farm credit lender or other commercial lender during the corresponding most recent one-year period. The report shall be posted on the department's Internet website.

Section 4. This act shall take effect in 60 days.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL