

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 878 Session of 2021

INTRODUCED BY STRUZZI, PICKETT, R. BROWN, MERSKI, SCHLEGEL
 CULVER, MOUL, PASHINSKI, KINKEAD, FREEMAN, DEASY, DRISCOLL,
 STURLA, NEILSON, INNAMORATO AND CIRESI, MARCH 11, 2021

REFERRED TO COMMITTEE ON COMMERCE, MARCH 11, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled
 2 "An act relating to the finances of the State government;
 3 providing for cancer control, prevention and research, for
 4 ambulatory surgical center data collection, for the Joint
 5 Underwriting Association, for entertainment business
 6 financial management firms, for private dam financial
 7 assurance and for reinstatement of item vetoes; providing for
 8 the settlement, assessment, collection, and lien of taxes,
 9 bonus, and all other accounts due the Commonwealth, the
 10 collection and recovery of fees and other money or property
 11 due or belonging to the Commonwealth, or any agency thereof,
 12 including escheated property and the proceeds of its sale,
 13 the custody and disbursement or other disposition of funds
 14 and securities belonging to or in the possession of the
 15 Commonwealth, and the settlement of claims against the
 16 Commonwealth, the resettlement of accounts and appeals to the
 17 courts, refunds of moneys erroneously paid to the
 18 Commonwealth, auditing the accounts of the Commonwealth and
 19 all agencies thereof, of all public officers collecting
 20 moneys payable to the Commonwealth, or any agency thereof,
 21 and all receipts of appropriations from the Commonwealth,
 22 authorizing the Commonwealth to issue tax anticipation notes
 23 to defray current expenses, implementing the provisions of
 24 section 7(a) of Article VIII of the Constitution of
 25 Pennsylvania authorizing and restricting the incurring of
 26 certain debt and imposing penalties; affecting every
 27 department, board, commission, and officer of the State
 28 government, every political subdivision of the State, and
 29 certain officers of such subdivisions, every person,
 30 association, and corporation required to pay, assess, or
 31 collect taxes, or to make returns or reports under the laws
 32 imposing taxes for State purposes, or to pay license fees or
 33 other moneys to the Commonwealth, or any agency thereof,

1 every State depository and every debtor or creditor of the
2 Commonwealth," in emergency COVID-19 response, establishing
3 the County Block Grant - Entertainment Venue Industry
4 Recovery Program.

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

7 Section 1. The act of April 9, 1929 (P.L.343, No.176), known
8 as The Fiscal Code, is amended by adding a section to read:

9 Section 135-C. Entertainment Venue Industry Recovery Program.

10 (a) County block grants.--From money appropriated by the
11 General Assembly for the distribution of grants under this
12 section, each county shall receive an amount equal to the
13 population proportion amount as determined under paragraph (2).

14 The following shall apply:

15 (1) The department shall distribute funding to counties
16 in accordance with this subsection no later than 21 days
17 after the starting date.

18 (2) For purposes of this subsection, the population
19 proportion amount shall be determined as follows:

20 (i) Divide:

21 (A) the population estimate of the county; by

22 (B) the sum of the population estimates of all
23 counties; and

24 (ii) Multiply the quotient under subparagraph (i) by
25 the total amount appropriated by the General Assembly for
26 the distribution of grants under this section.

27 (3) For the purpose of this subsection, a county's
28 population shall be equal to the published estimate by the
29 United States Census Bureau's Population Estimates Program
30 for calendar year 2019.

31 (b) Entertainment Venue Industry Recovery Program.--The
32 County Block Grant - Entertainment Venue Industry Recovery

1 Program is established within the department for the purpose of
2 awarding grants under this section. The following shall apply to
3 the program:

4 (1) No later than 22 days after the starting date, each
5 county that receives a grant under this section shall
6 contract with at least one CEDO or CDFI designated to serve
7 that county to award grants under this section.

8 (2) Subject to the prohibition under subparagraph (ii),
9 grants under this section may be awarded to eligible
10 applicants for the purpose of alleviating revenue losses and
11 paying eligible operating expenses. The following shall apply
12 to grants awarded under this section:

13 (i) A grant awarded to an eligible applicant may not
14 exceed \$50,000.

15 (ii) A grant may not be awarded to pay for the same
16 eligible operating expenses for which an eligible
17 applicant receives or received payment, reimbursement or
18 loan forgiveness from the following sources:

19 (A) Money that is not required to be repaid to
20 the Federal Government under the CARES Act or
21 Consolidated Appropriations Act, 2021.

22 (B) The act of May 29, 2020 (P.L. , No.2A),
23 known as the COVID-19 Emergency Supplement to the
24 General Appropriation Act of 2019.

25 (3) The receipt of a loan or grant issued under the
26 authority of the Federal Government or the Commonwealth shall
27 not disqualify an applicant from eligibility for a grant
28 under this section.

29 (4) Priority in the awarding of grants under this
30 section shall be given to an eligible applicant that meets

1 any of the following:

2 (i) The eligible applicant has not received a loan
3 or grant issued under the authority of the Commonwealth
4 or the Commonwealth's political subdivisions or by the
5 Federal Government under the CARES Act or Consolidated
6 Appropriations Act, 2021.

7 (ii) The eligible applicant was subject to closure
8 by the proclamation of disaster emergency issued by the
9 Governor on March 6, 2020, published at 50 Pa.B. 1644
10 (March 21, 2020), and any renewal of the state of
11 disaster emergency.

12 (iii) The eligible applicant can demonstrate a
13 reduction in revenue that meets any of the following:

14 (A) A reduction in gross receipts of 50% or more
15 for the period beginning after March 31, 2020, and
16 ending before December 31, 2020, in comparison to the
17 period beginning after March 31, 2019, and ending
18 before December 31, 2019.

19 (B) If the eligible applicant was not in
20 operation during the entire comparison period under
21 clause (A), but was in operation on March 1, 2020, a
22 monthly average reduction in gross receipts of 50% or
23 more for the period beginning after March 31, 2020,
24 and ending before December 31, 2020, in comparison to
25 the period beginning after January 1, 2020, and
26 ending before April 1, 2020.

27 (5) The following shall apply to applications to receive
28 grants under this section:

29 (i) Applications shall be in a form determined by a
30 county with input from a CEDO or CDFI processing the

1 application on behalf of a county.

2 (ii) Applications shall contain documentation as
3 required by the county.

4 (iii) Applications shall be available
5 electronically.

6 (iv) No later than 45 days after the starting date,
7 a CEDO or CDFI shall receive and consider applications on
8 a rolling basis until funding for grants received by the
9 county under subsection (a) has been completely expended,
10 or 130 days after the starting date, whichever occurs
11 first. Upon completely expending the funds available for
12 grants, a CEDO or CDFI shall notify the department.

13 (6) The following shall apply to reviewing applications
14 for grants under this section:

15 (i) No later than 160 days after the starting date,
16 a CEDO or CDFI shall approve or disapprove applications
17 for grants.

18 (ii) Upon approving an application under
19 subparagraph (i), a CEDO or CDFI shall enter into a grant
20 agreement with the eligible applicant in order to award
21 the grant.

22 (iii) The grant agreement under subparagraph (ii)
23 shall explain the terms and conditions of the grant,
24 including the applicable laws of this Commonwealth and
25 reporting requirements.

26 (iv) The grant agreement under subparagraph (ii) may
27 be electronically signed and returned to the CEDO or CDFI
28 that approved the application.

29 (7) An eligible applicant or authorized representative
30 of the eligible applicant that submits an application for a

1 grant under this section shall certify in good faith to all
2 of the following:

3 (i) The eligible applicant was in operation on March
4 1, 2020, and, if required, paid income taxes to the
5 Federal Government and the Commonwealth, as reported on
6 individual or business tax returns.

7 (ii) The eligible applicant remains in operation and
8 does not intend to permanently cease operations within
9 one year of the date of application.

10 (iii) COVID-19 had an adverse economic impact on the
11 eligible applicant, which makes the grant request
12 necessary to support the ongoing operations of the
13 eligible applicant.

14 (iv) The grant will be used to pay for COVID-19-
15 related economic impacts.

16 (v) During the period beginning January 1, 2021, and
17 ending 150 days after the starting date, the eligible
18 applicant has not and will not receive another grant
19 under this section.

20 (vi) The information provided in the application
21 and all supporting documents and forms is true and
22 accurate in all material respects. An eligible applicant
23 or an authorized representative of the eligible applicant
24 that knowingly makes a false statement to obtain a grant
25 shall be subject to 18 Pa.C.S. § 4904 (relating to
26 unsworn falsification to authorities).

27 (8) The following shall apply to the awarding of grants
28 under this section:

29 (i) A CEDO or CDFI may award grants in increments of
30 \$5,000, not to exceed the limitation under paragraph (2)

1 (i).

2 (ii) A fully executed grant agreement under
3 paragraph (6)(ii) shall be required before the
4 disbursement of grant funds.

5 (iii) The aggregate amount of all grants awarded may
6 not exceed the amount of money received by the county
7 under subsection (a).

8 (9) A CEDO or CDFI may charge a fee not to exceed \$500
9 per completed and reviewed application for a grant under this
10 section. Fees charged under this paragraph shall be deducted
11 from the total amount of money distributed to the county
12 under subsection (a) and may not reduce the amount of the
13 grant awarded to an eligible applicant.

14 (10) A grant awarded under this section shall be paid to
15 an eligible applicant no later than 175 days after the
16 starting date.

17 (11) A county that provides grants under this section
18 shall compile a report, which shall include all of the
19 following:

20 (i) A list of each grant awarded.

21 (ii) The name and address of each grant recipient.

22 (iii) The amount of the grant and a description of
23 the financial impact to the grant recipient.

24 (iv) The name of the CEDO or CDFI that processed the
25 grant.

26 (12) A county shall submit the report under paragraph
27 (11) to the department no later than 200 days after the
28 starting date.

29 (12.1) The department shall prepare a consolidated
30 report with information under paragraph (12) from all

1 counties and submit the consolidated report to the chair and
2 minority chair of the Appropriations Committee of the Senate
3 and the chair and minority chair of the Appropriations
4 Committee of the House of Representatives no later than 235
5 days after the starting date.

6 (12.2) The county shall post and maintain the report
7 under paragraph (11) on the county's publicly accessible
8 Internet website.

9 (12.3) The department shall post and maintain the
10 consolidated report under paragraph (12.2) on the
11 department's publicly accessible Internet website.

12 (13) A county awarding grants and a CEDO or CDFI
13 processing grants on behalf of a county under this section
14 shall provide documentation to the Department of the Auditor
15 General or the department, upon request, for purposes of an
16 audit review.

17 (14) The department may not impose additional
18 requirements on counties that are not specified in this
19 section.

20 (c) (Reserved).

21 (d) (Reserved).

22 (e) Definitions.--As used in this section, the following
23 words and phrases shall have the meanings given to them in this
24 subsection unless the context clearly indicates otherwise:

25 "CDFI." A community development financial institution that
26 is certified by the United States Department of Treasury, is
27 headquartered in this Commonwealth, is part of the 17-member
28 Pennsylvania community development financial institution network
29 and primarily provides business loans to low-to-moderate income
30 individuals and business owners.

1 "CEDO." An economic development organization that has been
2 certified by the Pennsylvania Industrial Development Authority
3 or an economic development organization that serves more than
4 one county and is accredited by the International Economic
5 Development Council.

6 "Consolidated Appropriations Act, 2021." The Consolidated
7 Appropriations Act, 2021 (Public Law 116-260, 134 Stat. 1182).

8 "Department." The Department of Community and Economic
9 Development of the Commonwealth.

10 "Economic development organization." Any local development
11 district, industrial development agency, industrial resource
12 center, redevelopment authority, community development financial
13 institution or any other nonprofit economic development
14 organization that is certified to participate in the
15 Pennsylvania Industrial Development Authority loan program.

16 "Eligible applicant." An entity that submits an application
17 for a grant under this section and meets all of the following:

18 (1) The entity is not publicly traded.

19 (2) The entity experienced a reduction in revenue in
20 calendar year 2020, measured as follows:

21 (i) The entity had gross receipts during the first,
22 second, third or fourth quarter in calendar year 2020
23 that demonstrate at least a 25% reduction from the
24 entity's gross receipts during the same quarter in
25 calendar year 2019.

26 (ii) If the entity was not in business during the
27 first or second quarter of calendar year 2019, but was in
28 business during the third and fourth quarters of calendar
29 year 2019, the entity had gross receipts during the
30 first, second, third or fourth quarter of calendar year

1 2020 that demonstrate at least a 25% reduction from the
2 entity's gross receipts during the third or fourth
3 quarter of calendar year 2019.

4 (iii) If the entity was not in business during the
5 first, second or third quarter of calendar year 2019, but
6 was in business during the fourth quarter of calendar
7 year 2019, the entity had gross receipts during the
8 first, second, third or fourth quarter of calendar year
9 2020 that demonstrate at least a 25% reduction from the
10 fourth quarter of calendar year 2019.

11 (iv) If the entity was not in business during
12 calendar year 2019, but was in operation on March 1,
13 2020, the entity had gross receipts during the second,
14 third or fourth quarter of calendar year 2020 that
15 demonstrate at least a 25% reduction from the gross
16 receipts of the entity during the first quarter of
17 calendar year 2020.

18 (v) For the purpose of this definition, if the
19 entity was in operation in all four quarters of calendar
20 year 2019, the entity shall be deemed to have experienced
21 the revenue reduction under subparagraph (i) if the
22 entity experienced a reduction in annual receipts of at
23 least 25% in calendar year 2020 compared to calendar year
24 2019 and the entity provides copies of the entity's
25 annual Federal tax forms substantiating the revenue
26 decline

27 (vi) For the purpose of this definition, if the
28 entity changed ownership or control in calendar year
29 2020, the entity may measure the entity's reduction in
30 revenue in calendar year 2020 under subparagraph (i),

1 (ii), (iii), (iv) or (v) using the gross receipts of the
2 entity for calendar year 2019.

3 (3) The entity meets all of the following conditions as
4 of March 1, 2020:

5 (i) The entity operates a place of business within
6 this Commonwealth having a NAICS designation within the
7 Performing Arts, Spectator Sports, and Related Industries
8 subsector (711) or NAICS designation within the
9 Amusement, Gambling, and Recreation Industries subsector
10 (713).

11 (ii) The entity has fewer than 100 full-time
12 equivalent employees. For the purpose of determining the
13 number of full-time equivalent employees under this
14 subparagraph, the calculation shall include each employee
15 of the entity, notwithstanding whether the entity has
16 employees at multiple locations.

17 (iii) The entity has a maximum tangible net worth of
18 not more than \$7,000,000 computed in accordance with
19 generally accepted accounting principles.

20 "Eligible operating expense." An operating expense,
21 including a payroll and non-payroll expense, that is common and
22 accepted in an eligible applicant's industry, helpful and
23 appropriate for the eligible applicant's trade or business and
24 subject to the following limitations:

25 (1) The operating expense must have been incurred
26 between March 1, 2020, and 130 days after the starting date,
27 or prior to submission of an application for a grant under
28 this section, whichever occurs first.

29 (2) For a mortgage obligation, the mortgage must have
30 been in force before March 1, 2020.

1 (3) For rent, under lease agreements, the lease
2 agreement must have been in force before March 1, 2020.

3 (4) For utility costs, service must have begun before
4 March 1, 2020.

5 (5) For the purpose of paragraphs (2) and (3), if an
6 existing mortgage obligation or lease agreement is in force
7 before March 1, 2020, and is refinanced or restructured after
8 March 1, 2020, the mortgage obligation or lease agreement is
9 deemed to have been in force before March 1, 2020.

10 "Full-time equivalent employee." The quotient obtained by
11 dividing the total number of hours for which employees were
12 compensated for employment over the preceding 12-month period by
13 2,080.

14 "Gross receipts." Revenue in whatever form received or
15 accrued, in accordance with the recipient's accounting method,
16 from whatever source, including from the sales of products or
17 services, interest, dividends, rents, royalties, fees or
18 commissions, reduced by returns and allowances. The term does
19 not include any of the following:

20 (1) Taxes collected for and remitted to a taxing
21 authority if included in gross or total income, including
22 sales or other taxes collected from customers and excluding
23 taxes levied on an entity or the entity's employees.

24 (2) Proceeds from transactions between an entity and the
25 entity's domestic or foreign affiliates.

26 (3) Amounts collected for another by a travel agent,
27 real estate agent, advertising agent or conference management
28 service provider.

29 "NAICS." A classification within the North American Industry
30 Classification System developed for use by Federal statistical

1 agencies for the collection, analysis and publication of
2 statistical data related to the United States economy.

3 "Program." The County Block Grant - Entertainment Venue
4 Industry Recovery Program established under subsection (b).

5 "Starting date." The effective date of this section or the
6 effective date of an appropriation for distribution of grants
7 under this section, whichever is later.

8 Section 2. This act shall take effect immediately.