

No. 1984-179

## AN ACT

SB 1379

Providing for the administration and allocation of certain Federal Block Grants.

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

Section 1. Declaration of purpose.

The purpose of this act is to establish an annual Community Development Block Grant Entitlement for certain cities, boroughs, towns and townships and for 54 counties to be used by said counties principally in boroughs, towns and townships which are not allocated annual entitlements. Assured annual funding will permit meaningful programs to be developed and local staff capacity to be created and maintained. Boroughs, towns and townships will also have the opportunity to obtain annually discretionary funding for projects for community development activities which are eligible under the Housing and Community Development Act. Initially, it will put 54 counties and certain municipalities on a comparable basis with the 12 urban counties and 28 cities, boroughs and townships which receive direct annual community development block grant entitlements from the Federal Department of Housing and Urban Development.

Section 2. Short title.

This act shall be known and may be cited as the Community Development Block Grant Entitlement Program for Nonurban Counties and Certain Other Municipalities.

Section 3. 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:

“County’s net population.” The balance remaining after subtracting the populations of all metropolitan cities and eligible cities, boroughs, incorporated towns and townships situate within the county from its total population.

“Department.” The Department of Community Affairs.

“Eligible city, borough, incorporated town and township.” All cities, boroughs, incorporated towns and townships which are eligible to receive and which apply directly or through a county or a designated local public agency for funds which are available to the Commonwealth pursuant to the Housing and Community Development Act and which are not eligible as a metropolitan city and which were not considered in Federal fiscal year 1984 as part of an urban county’s federally funded community development block grant program. In addition, a borough, incorporated town and township to be eligible must have a population according to the latest Decennial Census of 4,000 or more and at the time of filing for the annual entitlement grant

must also meet the current minimum standards of physical and economic distress for the Federal Urban Development Action Grant Program as determined by the Secretary of Housing and Urban Development pursuant to section 119 of the Housing and Community Development Act. All eligible entitlement municipalities must also meet the general qualifications criteria of this section.

“Eligible county.” Those counties which are eligible to receive and which apply for funds available to the Commonwealth pursuant to the Housing and Community Development Act and which are not eligible as an urban county. All eligible entitlement counties must also meet the general qualifications criteria of this section.

“Eligible entitlement entity.” Any eligible county or any eligible city, borough, incorporated town and township.

“General qualifications criteria.”

(1) An eligible entitlement entity must have the legal capacity to undertake assisted housing programs and community development activities. The designation of a housing or redevelopment authority to undertake assisted housing programs in the entitlement entity’s jurisdiction shall be considered prima facie evidence of capacity to undertake assisted housing programs. Every eligible entitlement entity shall adopt a three-year community development plan, which shall be reviewed and approved by the department, and identify the activities to be undertaken and the projected use of funds for the year for which funding is applied. The entitlement entity shall also certify that it has the legal capacity to carry out the community development program either directly, or through the designation of a local public agency.

(2) However, in the case of an eligible borough, incorporated town or township which is under 10,000 in population, it shall be deemed to have met the general qualifications criteria, if the county in which it is located and which receives the annual grant on behalf of the eligible entitlement entity meets the criteria. Further, any borough, incorporated town or township with a population of 10,000 or more and which by resolution designates the eligible county to receive its grant on its behalf shall also be deemed to have met the general qualifications criteria if said county meets the criteria.

(3) The department shall review and approve the three-year community development plan and the projected use of funds, in whole or in part, within 45 days of receipt. An activity or use of funds may be disapproved if ineligible or if the department deems the scope of the project to be inadequate to meet the municipality’s community development needs. To the extent an activity or use of funds is deemed ineligible or inadequate, the community shall be eligible to submit an amended proposal for review and approval within 45 days of receipt.

“Housing and Community Development Act.” Title I of the Federal Housing and Community Development Act of 1974 (Public Law 93-383), as amended.

“Local public agency.” A redevelopment authority under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, or a housing authority under the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law.

“Metropolitan city.” A metropolitan city as defined in section 102(a)(4) of the Housing and Community Development Act.

“Population.” The number of inhabitants as reflected in the latest decennial census.

“Urban county.” An urban county as defined in section 102(a)(6) of the Housing and Community Development Act.

#### Section 4. Allocation of funds for 1985 and thereafter.

The funds which the Commonwealth receives pursuant to the Housing and Community Development Act shall be allocated by the department in accordance with the following formula:

(1) An amount of 2% of the funds shall be used by the department for administrative costs.

(2) An additional amount of 13% of the funds may be used by the department for discretionary projects in boroughs, towns and townships which are not eligible entitlement entities, for urgent need projects, planning projects, economic development projects and other projects eligible under the Housing and Community Development Act; or in eligible entitlement entities with a population less than 10,000, for urgent need projects or to complete planning projects, economic development projects and other projects eligible under the Housing and Community Development Act undertaken by the eligible entitlement entity with its entitlement.

(3) The balance of the funds which remain after subtracting the administrative costs of the department and the amount reserved by the department for discretionary projects shall be allocated as follows:

(i) Thirty-eight percent to eligible counties.

(ii) Thirty-eight percent to eligible boroughs, incorporated towns and townships.

(iii) Twenty-four percent to eligible cities.

(iv) The amount of funds allocated to an entitlement entity and which are not awarded to the entitlement entity whether due to failure to timely apply for the funds or due to a failure to meet the general qualifications criteria shall, for that funding year, be added to the funds available to the class of which the entity is a part and allocated to other members of the class in accordance with the provisions for additional grants pursuant to section 6 or 7 unless provisions of section 7(c) are operative.

#### Section 5. Minimum grants for 1985 and thereafter.

(a) Amounts.—Each eligible entitlement entity shall receive a minimum annual grant of \$200,000 if a county; \$300,000 if a city; and \$50,000 if a borough, incorporated town or township.

(b) Division of insufficient funds.—In any year in which the amount of Federal funds which are available to the Commonwealth pursuant to the Housing and Community Development Act are insufficient to provide in full

all of the minimum grants provided for by subsection (a), each eligible entitlement entity shall receive an annual grant which shall be equal to the sum which is obtained by multiplying the minimum grant it is authorized pursuant to subsection (a) times a fraction, the numerator of which shall be the amount of Federal money available to the class of which it is a part and the denominator of which shall be the total amount of funds which would be necessary to provide each eligible entitlement entity of the class of which it is a part with a grant in an amount in accordance with subsection (a).

Section 6. Additional grants for counties for 1985 and thereafter.

(a) **Basic grant.**—Each eligible county shall receive an annual grant, in addition to the minimum annual grant provided under section 5, which shall be equal to the sum which is obtained by multiplying the balance of funds available to eligible counties by a fraction, the numerator of which shall be each eligible county's net population and the denominator of which shall be the total net population for all eligible counties.

(b) **Inclusions.**—To the total annual grant to the county determined by section 5 and subsection (a) shall be added the annual grants of each borough, incorporated town and township located in the eligible county whose population is less than 10,000. There shall also be added to the annual grants of the county, the annual grants of each borough, incorporated town and township with a population of 10,000 or more provided such eligible entitlement entity specifically designates the county to administer the grant on its behalf. These add-on grants pursuant to this subsection must be expended by the county on behalf of the eligible borough, incorporated town or township for eligible activities designated by said eligible entity. The county shall, however, have the right to subtract from such add-on grant the proportionate share of environmental compliance, administration, monitoring and audit costs incurred by the county up to the amount allowed under Federal law.

Section 7. Additional grants for cities, boroughs, incorporated towns and townships for 1985 and thereafter.

(a) **Amount.**—Each eligible city, borough, incorporated town and township shall receive an annual grant, in addition to the minimum annual grant provided by section 5, which shall be equal to the sum which is obtained by multiplying the balance of funds available to eligible cities, in the case of cities and the balance of funds available to eligible boroughs, incorporated towns and townships in the case of such eligible entities, by a fraction, the numerator of which shall be each eligible city's, borough's, incorporated town's and township's population and the denominator of which shall be the total population in the case of a city, for all eligible cities; and in the case of a borough, incorporated town or township, the net population of all eligible boroughs, incorporated towns and townships.

(b) **Discretionary projects.**—A nonentitlement borough, town or township may apply to the department annually for funds reserved by the department under section 4 for discretionary projects. Each eligible municipality may authorize an eligible entitlement entity or its designated local public agency to contract with the department for such funds and administer the project on its behalf.

(c) Unused grants.—

(1) If an eligible county fails to apply for an annual grant, of any eligible entitlement borough, incorporated town or township within said county, subject to section 6(b), the eligible entitlement entity may apply for its own grant.

(2) If an eligible county fails to apply for its annual grant determined by sections 5 and 6(a), the department shall distribute the county grant to one or more boroughs or townships within such county which are not entitlement entities pursuant to this act and are not considered a metropolitan city.

Section 8. Use of funds for 1985 and thereafter.

(a) Eligible activities.—The funds which are allocated to eligible entitlement entities by the department in accordance with this act shall be used only for eligible activities which are permitted in accordance with the Housing and Community Development Act.

(b) Use.—Those funds which are allocated to counties pursuant to sections 5 and 6(a) must be used by the county to benefit boroughs and townships, which are not entitlement entities pursuant to this act nor considered a metropolitan city.

(c) Countywide projects.—If a countywide or an areawide project benefits an eligible entitlement entity or metropolitan city, the proportional cost of the project benefiting the eligible entitlement entity or metropolitan city shall be met by funds not allocated to the county under sections 5 and 6.

(d) Authority.—

(1) Funds allocated to an eligible entitlement borough, incorporated town or township, and which are added on to the county's annual grant pursuant to section 6(b), shall be spent, less the county's proportionate share of environmental, administrative, monitoring and audit costs, solely for eligible projects specifically designated by resolution by the eligible borough, incorporated town or township.

(2) Further, if an eligible borough, incorporated town or township wishes to undertake an eligible project at a cost which exceeds the amount of the annual allocation grant, or if the department determines that the scope of the proposed project exceeds the amount of the annual allocation grant, the eligible borough, incorporated town or township may temporarily waive, in whole or in part, its annual allocation in order to aggregate a larger amount by combining the amount of the temporarily waived grant with a grant anticipated for receipt in the second and/or third year of any three-year cycle. Temporary waiver of an annual allocation grant shall be accomplished by resolution by the eligible borough, incorporated town or township.

(3) In the event of a temporary waiver the amount of the waived grant shall be considered a county grant for said year or years and expended by the county in accordance with subsections (b) and (c).

(4) The county in the subsequent year or years shall first use the funds allocated to it for nonentitlement entities to reimburse the temporarily waived grant or grants of the eligible borough, incorporated town or township to be used for the purposes designated by said eligible entity.

(5) If the total amount of the temporarily waived grants in any year is adequate to fund any of the anticipated projects, then the county shall immediately fund those projects for which sufficient funding is available. Any eligible borough, incorporated town or township which receives a grant pursuant to this paragraph shall forego future funding, in whole or in part, until the amount of the advanced grant, in excess of the community's entitlement, is returned to the county.

Section 9. Allocation of funds for 1984.

(a) Broad allocation.—The funds which the Commonwealth receives pursuant to the Housing and Community Development Act for Federal fiscal year 1984 shall be allocated by the department as follows:

(1) An amount of 2% shall be used by the department for administrative costs.

(2) The balance of funds shall be distributed on a competitive basis in accordance with sections 10, 11 and 12.

(b) Specific allocation and distribution.—It shall be assumed that had an entitlement program been in place for 1984, the funds available under subsection (a)(2) would have been allocated as follows:

(1) Thirty-eight percent to eligible counties to be distributed pursuant to sections 5 and 6.

(2) Thirty-eight percent to eligible boroughs, incorporated towns or townships to be distributed pursuant to sections 5 and 7.

(3) Twenty-four percent to eligible cities to be distributed pursuant to sections 5 and 7.

Section 10. Grants to cities for 1984.

(a) Funding limit.—Total grants to all cities which will be entitlement entities in 1985 and thereafter according to sections 4, 5, 7 and 8 shall be equal to the total amount all such cities would have received had the entitlement program been in place for 1984, plus or minus 15% of the sum of all such grants.

(b) Repayment of excess.—Cities receiving a grant under the 1984 program which is in excess of what they would have received had the entitlement program been in place shall repay that excess, in thirds, in the form of a reduced entitlement during the following three years.

(c) Additional amount for underpayment.—Entitlement cities not receiving a grant under the 1984 program or receiving a grant which is less than they would have received had the entitlement program been in place shall receive the amount necessary to match the amount they would have received had the entitlement program been in place, in thirds, in the form of an increased entitlement during the following three years.

(d) Limitation.—No grant to any city shall exceed four times the amount that such city would have received had the entitlement program been in place.

Section 11. Grants to boroughs, incorporated towns and townships for 1984.

(a) Funding limit.—The sum of the grants to boroughs, incorporated towns and townships which will be entitlement entities in 1985 and thereafter

according to sections 4, 5, 7 and 8 shall be equal to the total amount all such municipalities would have received had the entitlement program been in place for 1984, plus or minus 15% of the sum of all such grants.

(b) Repayment of excess.—Municipalities receiving a grant under the 1984 program which is in excess of what they would have received had the entitlement program been in place shall repay that excess, in thirds, in the form of a reduced entitlement during the following three years.

(c) Additional amount for underpayment.—Entitlement municipalities not receiving a grant under the 1984 program or receiving a grant which is less than they would have received had the entitlement program been in place shall receive the amount necessary to match the amount they would have received had the entitlement program been in place, in thirds, in the form of an increased entitlement during the following three years.

(d) Limitation.—No grant to any municipality shall exceed four times the amount that such municipality would have received had the entitlement program been in place.

Section 12. Grants to nonentitlement communities for 1984.

(a) Funding limit.—Total grants to municipalities which will not be entitlement entities in 1985 and thereafter according to sections 4, 5, 7 and 8 in each county shall be equal to the amount that county would have received to make grants to such municipalities had the entitlement program been in place for 1984, plus or minus 15% of the amount each county would receive under the entitlement program.

(b) Repayment of excess.—If total grants under this section are in excess of the sum of the grants counties would have received had the entitlement program been in place, such excess shall be repaid, in thirds, in the form of a reduction in the administrative and discretionary pool provided in section 4 during the following three years.

Section 13. Use of local public agencies.

Any entitlement entity, which is eligible to receive an annual grant directly and which has not designated a county to apply for a grant on its behalf, and those municipalities under sections 10, 11 and 12, may designate any local public agency to administer any program or project on its behalf and may authorize the agency to apply to the department and contract with the department for its annual entitlement. Further, in the case of an eligible entitlement borough or township which is located in an urban county, it may apply and administer its grant in its own name or it may designate a county local public agency.

Section 14. Regulations.

(a) Authority.—The department shall adopt regulations to carry out the provisions of this act and to provide for projects whose scope is adequate to meet the community development needs of the municipalities covered by this act. Such regulations, unless specifically required by Federal or State law, shall not be more restrictive or more burdensome than the Federal regulations which are applicable to urban counties and metropolitan cities which receive funding directly from the Federal Government under the Housing and Community Development Act. The department shall make prompt

review of applications for funds and amendments thereto and rely on local certifications unless independent evidence is available which tends to challenge in a substantial manner the certifications.

(b) Time.—

(1) The department shall, within 45 days of the effective date of this act, submit for review pursuant to section 5(e) of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, regulations for the allocation of funds to eligible entities under sections 10, 11 and 12 of this act, with notice of proposed rulemaking omitted pursuant to section 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(2) The department shall, within 90 days of the effective date of this act, submit for review pursuant to section 5(a) of the Regulatory Review Act, notice of proposed rulemaking for regulations to govern the allocation of funds to eligible entities for Federal fiscal year 1985 and thereafter. If, for any reason the department fails to issue such regulations within the 30 days, an eligible entitlement entity shall follow the presubmission and submission requirements of the Federal regulations contained in Subpart D - Entitlement Grants of Title 24 Part 570, Community Development Block Grants. However, where "HUD" is contained in said regulations, the department shall be substituted in its place; and the requirements of 24 CFR § 570.306 for Housing Assistance Plan shall not be applicable.

Section 15. Applicability.

This act shall apply to the distribution of Federal Community Development Block Grant funds which are available to the Commonwealth beginning with the Federal fiscal year 1984 and thereafter pursuant to the Housing and Community Development Act and any amendments thereto. The State shall not be liable for any commitment or for completion of any partially completed or partially funded project which cannot be completed due to the unavailability of Federal funds or future Federal appropriations.

Section 16. Effective date.

This act shall take effect immediately.

APPROVED—The 11th day of October, A. D. 1984.

DICK THORNBURGH