

1 AN ACT in relation to recycling.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 ARTICLE 1

5 Section 1-1. Short title. This Act may be cited as the
6 Recyclable Markets Development Act.

7 Section 1-5. Legislative intent. The General Assembly
8 finds that in this State the following conditions exist:

9 (1) There is an inadequate supply of funds at
10 interest rates sufficiently low to enable persons engaged
11 in the development of markets for recyclable materials in
12 this State to pursue recyclable markets operations at
13 levels necessary to absorb the available supply of
14 recyclables being collected and available for further
15 processing and use.

16 (2) A stable supply of adequate funds for
17 recyclable markets financing is required to encourage
18 companies and local governments to reduce the continuing
19 accumulation of solid waste in landfills.

20 (3) The inability to pursue recyclable markets
21 operations lessens the supply of recyclable markets
22 commodities available to fulfill the needs of the
23 citizens of this State.

24 (4) The inability to continue operations decreases
25 available employment in the recyclable markets sector of
26 the State and results in unemployment and its attendant
27 problems.

28 (5) Those conditions prevent the acquisition of an
29 adequate capital stock of recyclable products equipment
30 and machinery, much of which is manufactured in this

1 State, therefore impairing the productivity of recyclable
2 markets companies and, further, causing unemployment or
3 lack of an appropriate increase in employment in
4 manufacturing.

5 (6) Those conditions are conducive to a decrease in
6 value of recyclable materials, putting in jeopardy the
7 ability of local governments to maintain recycling
8 collection, sorting, and transfer programs.

9 (7) Those conditions result in a loss in
10 population, unemployment, and movement of persons from
11 the State to other areas.

12 (8) There have been recurrent shortages of funds
13 from private sources at reasonable rates of interest.

14 (9) These shortages have made the sale and purchase
15 of recyclable markets equipment a virtual impossibility
16 in many parts of the State.

17 (10) The ordinary operations of private enterprise
18 have not in the past corrected these conditions.

19 (11) The use of recyclable materials is in the
20 long-run cheaper, more energy-efficient, and far safer
21 for the environment than the continued accumulation of
22 solid waste in landfills and the depletion of virgin
23 materials being used when recycled materials are
24 available for similar purposes.

25 (12) To the extent practical, the State needs to
26 devote resources to projects intended to aid recyclable
27 market commodities that are difficult to market.

28 (13) To the extent practical, a Recycling Markets
29 Development Advisory Council should assist in converting
30 previously collected post-consumer products that would
31 otherwise be disposed of in landfills at increasing costs
32 to the taxpayers of Illinois.

33 (14) Any agreements among lenders, borrowers, or
34 political jurisdictions that require collected-source

1 separated recyclable material to be delivered to a
2 designated location shall not be a criteria for granting
3 guarantees under this Act.

4 (15) No new or existing businesses shall be given
5 any competitive advantage as a result of this Act.

6 Based upon these findings, it is determined that
7 conditions exist in the State that require the creation of
8 the Recyclable Markets Development Advisory Council to review
9 and recommend project applications relating to manufacturing,
10 production, or construction of recyclable markets
11 commodities, buildings, or facilities that are filed with the
12 Illinois Development Finance Authority. It is further
13 determined that it is the intention of the General Assembly
14 to devote, by separate appropriation, a portion of any
15 unanticipated revenues from the Illinois Estate and
16 Generation-Skipping Transfer Tax Act in an amount equal to
17 10% of the excess of \$120,000,000 in collections during each
18 subsequent fiscal year until a reserve fund to support the
19 loan guarantees provided for in this Act is established.

20 Section 1-10 Definitions. As used in this Act:

21 "Recyclable markets facility" means land, any building or
22 other improvement, and any personal property deemed necessary
23 or suitable for use, whether or not now in existence, in the
24 production or use of recyclable markets commodities
25 (including, without limitation, the products of paper,
26 plastic, glass, aluminum, newsprint, tires, or other
27 commodities consisting of recycled materials) or the
28 treating, processing, or storing of recyclable markets
29 commodities when the activities are customarily engaged in by
30 businesses engaged in using, processing, or converting
31 recycled commodities into usable by-products, components, or
32 materials available for sale to other buyers.

33 "Authority" means the Illinois Development Finance

1 Authority.

2 "Advisory Council" means Recyclable Markets Development
3 Advisory Council.

4 "Recyclable markets commodities" means any solid waste,
5 as defined in Section 3-3 of the Illinois Hazardous and Solid
6 Waste Recycling and Treatment Act, that may be converted by
7 any method, technique, or process into a usable or marketable
8 product.

9 "Fund" means the Recyclable Markets Loan Guarantee Fund
10 established under Section 7.96 of the Illinois Development
11 Finance Authority Act.

12 Section 1-15. Recyclable Markets Development Advisory
13 Council. The Recyclable Markets Development Advisory Council
14 is created. The Advisory Council shall consist of 9 members,
15 no more than 5 of whom may be of the same political party, 7
16 of whom shall be appointed by the Governor, by and with the
17 consent of the Senate. If the Governor does not appoint
18 those members by January 1, 2002, the appointment power is
19 transferred to the Treasurer, with the advice and consent of
20 the Senate. The Treasurer shall serve as a member of the
21 Advisory Council. The Lieutenant Governor shall serve as a
22 member of the Advisory Council. The Lieutenant Governor or
23 the Treasurer may appoint a representative to serve as a
24 voting member of the Advisory Council in his or her absence. The
25 Advisory Council shall consist of one person representing the
26 recycling industry; one person representing environmental
27 organizations; one person who is an environmental engineer;
28 one person representing an end-user of recyclable
29 commodities; the Director of Natural Resources, and 2 other
30 persons. No other person may be appointed as a member of the
31 Advisory Council who is serving as an elected officer for the
32 State or who is an employee of the State, any unit of local
33 government, or any school district within the State. The

1 Chair shall be elected annually from the members of the
2 Advisory Council.

3 All members shall be residents of the State and
4 knowledgeable in the fields of finance or recycling
5 materials. If the Senate is not in session when the first
6 appointments are made, the Governor shall make temporary
7 appointments as in the case of a vacancy. In making the first
8 appointments, the Governor shall designate 3 members to serve
9 until January, 2003, 2 members to serve until January, 2004,
10 and 2 members to serve until January, 2005 or until their
11 successors are appointed and qualified. Their successors
12 shall be appointed to serve for 3-year terms expiring on the
13 third Monday in January or until their successors are
14 appointed and qualified. Any vacancy occurring in the
15 Advisory Council, whether by death, resignation, or
16 otherwise, shall be filled by appointment by the Governor in
17 the same manner as original appointments. A member appointed
18 to fill a vacancy shall serve for the remainder of the
19 unexpired term or until a successor is qualified.

20 Section 1-20. Related financial interests. No member of
21 the Advisory Council may be employed by, hold any official
22 relation to, or have any financial interest (i) in any
23 corporation or entity receiving loans, advances, or grants
24 under this Act or Sections 7.89 through 7.96 of the Illinois
25 Development Finance Authority Act or (ii) in any corporation
26 or entity providing services or materials to the Advisory
27 Council or to any Recyclable Markets Facility financed or
28 assisted under this Act or Sections 7.89 through 7.96 of the
29 Illinois Development Finance Authority Act.

30 Section 1-25. Advisory Council duties. All project
31 applications for the Recyclable Markets Loan Guarantee Fund
32 created under Section 7.96 of the Illinois Development

1 Finance Authority Act relating to manufacturing, production,
2 or construction of recyclable markets commodities, buildings,
3 or facilities must be referred to the Advisory Council
4 created by this Act for review. The Advisory Council must
5 make recommendations to the Authority for the financing of
6 the projects. Any applications from the Advisory Council
7 received by the Authority by the end of the month must be
8 placed on the Authority's agenda no later than the next
9 month.

10 The Advisory Council must file with the Governor, the
11 Secretary of the Senate, the Clerk of the House of
12 Representatives, and the Illinois Economic and Fiscal
13 Commission, by March 1 of each year, a written report
14 covering its activities for the previous fiscal year and,
15 when filed, the report is a public record and open for
16 inspection at the offices of the Advisory Council during
17 normal business hours. The report must include a complete
18 list of (1) all applications for loans and other financial
19 assistance presented to the Advisory Council during the
20 fiscal year, (2) all persons that have received any form of
21 financial assistance from the Advisory Council during the
22 fiscal year, (3) the nature and amount of all the financial
23 assistance, and (4) and any other related information the
24 Advisory Council deems necessary.

25 As soon as practical after creation of the Advisory
26 Council, the Advisory Council must hold a meeting and elect
27 officers of the Advisory Council, adopt by-laws, and adopt a
28 schedule of regular meetings.

29 The by-laws and schedule may be amended from time to time
30 at the will of the Advisory Council. Special meetings of the
31 Advisory Council may be called by the chair or any 2 members,
32 and notice of special meetings must be given to members of
33 the Advisory Council as provided in the by-laws and otherwise
34 as provided by law. Members may waive notice and do so

1 without further action by being present at any meeting.
2 Meetings of the Advisory Council must be open to the public.

3 Section 1-30. Board meetings. Five members of the
4 Advisory Council constitute a quorum at any meeting of the
5 Advisory Council, and the affirmative vote of 5 members is
6 necessary for any action taken by the Advisory Council at a
7 meeting, except that a lesser number may adjourn a meeting.
8 No vacancy in the membership of the Advisory Council shall
9 impair the right of a quorum to exercise all the rights and
10 perform all the duties of the Advisory Council.

11 Each member of the Advisory Council shall be reimbursed
12 for his necessary expenses incurred in the discharge of his
13 official duties.

14 Section 1-35. Liability. No member of the Advisory
15 Council or any authorized person executing the notes, bonds,
16 or guarantees issued under Sections 7.89 through 7.96 of the
17 Illinois Development Finance Authority Act is liable
18 personally on the notes or bonds or subject to any personal
19 liability or accountability by reason of their issuance.

20 Section 1-40. Cooperative agreements with the Department
21 of Natural Resources.

22 (a) The Advisory Council may enter into cooperative
23 agreements with the Department of Natural Resources to
24 evaluate current and potential markets for recyclable markets
25 development. Under the agreements, the Advisory Council may
26 request from the Department evaluations of existing
27 recyclable materials markets and flows of recyclable and
28 non-recyclable materials in the Illinois economy. The
29 information may be used by the Advisory Council when
30 reviewing applications for loans or other financial
31 incentives and in the development of other incentives that

1 will enhance the performance of recyclable materials markets.

2 (b) A cooperative agreement entered into by the Advisory
3 Council and the Department may provide for payment for
4 services rendered by the Department under the cooperative
5 agreement from interest earnings remaining in the Recyclable
6 Markets Loan Guarantee Fund.

7 Section 1-45. Construction. This Act is necessary for
8 the welfare of the State and its inhabitants; therefore it
9 shall be liberally construed to effect its purposes.

10 ARTICLE 2

11 Section 2-1. The Illinois Development Finance Authority
12 Act is amended by adding Sections 7.89, 7.90, 7.91, 7.92,
13 7.93, 7.94, 7.95, and 7.96 as follows:

14 (20 ILCS 3505/7.89 new)

15 Sec. 7.89. Definitions. As used in Sections 7.90
16 through 7.96 of this Act:

17 "Recyclable markets facility" means land, any building or
18 other improvement, and any personal property deemed necessary
19 or suitable for use, whether or not now in existence, in the
20 production or use of recyclable markets commodities
21 (including, without limitation, the products of paper,
22 plastic, glass, aluminum, newsprint, tires, or other
23 commodities consisting of recycled materials) or the
24 treating, processing, or storing of recyclable markets
25 commodities when the activities are customarily engaged in by
26 businesses engaged in using, processing, or converting
27 recycled commodities into usable by-products, components, or
28 materials available for sale to other buyers.

29 "Authority" means the Illinois Development Finance
30 Authority.

1 "Advisory Council" means the Recyclable Markets
2 Development Advisory Council.

3 "Board" means the governing body of the Authority.

4 "Bonds" includes bonds, notes, certificates, bond, grant,
5 or revenue anticipation notes, or any other evidence of
6 indebtedness representing an obligation to pay money.

7 "Lender" means any federal or State chartered bank,
8 federal or State chartered savings and loan association or
9 building and loan association, Small Business Investment
10 Company, or other institution qualified within this State to
11 originate and service loans, including, without limitation,
12 insurance companies, credit unions, and mortgage loan
13 companies. "Lender" also means a wholly owned subsidiary of
14 a manufacturer, seller, or distributor of goods or services
15 that makes loans to businesses or individuals, commonly known
16 as a "captive finance company".

17 "Person" means, unless limited to a natural person by the
18 context in which it is used, a person, corporation,
19 association, trust, partnership, or cooperative.

20 "Recyclable markets business" means any sole
21 proprietorship, limited partnership, co-partnership, joint
22 venture, corporation, or cooperative that operates or will
23 operate a facility located within the State of Illinois that
24 converts or will convert recyclable markets commodities into
25 usable or marketable products or engage in the manufacturing,
26 production, or construction of recyclable markets buildings,
27 structures, equipment, implements, and supplies, or any other
28 facilities or processes used in recyclable products
29 production, but does not include the recovery of materials
30 for fuel in combination or energy production processes.

31 "Recyclable markets commodities" means any solid waste,
32 as defined in Section 3-3 of the Illinois Hazardous and Solid
33 Waste Recycling and Treatment Act, that may be converted by
34 any method, technique, or process into a usable or marketable

1 product.

2 "Fund" means the Recyclable Markets Loan Guarantee Fund
3 established under this Act.

4 "State guarantee" means a note held by a person for which
5 the State of Illinois is liable for 85% of the total
6 principal and interest of the note as determined by the
7 Authority.

8 "Secondary guarantee" means a security held by a person
9 for which the State of Illinois is liable for 100% of the
10 total principal and interest of the security as determined by
11 the Authority.

12 (20 ILCS 3505/7.90 new)

13 Sec. 7.90. Project applications. All project
14 applications for the Recyclable Markets Loan Guarantee Fund
15 created under Section 7.96 relating to manufacturing,
16 production, or construction of recyclable markets
17 commodities, buildings, or facilities must be referred to the
18 Recyclable Markets Development Advisory Council created by
19 the Recyclable Markets Development Act for review. The
20 Advisory Council must make recommendations to the Authority
21 for the financing of the projects. Any applications from the
22 Advisory Council received by the Authority by the end of the
23 month must be placed on the Authority's agenda no later than
24 the next month.

25 (20 ILCS 3505/7.91 new)

26 Sec. 7.91. Authority powers. The Authority has the
27 power to receive and accept from any source aid,
28 contributions, or loans of money, property, labor, or other
29 items of value for furtherance of any of its purposes,
30 subject to any conditions not inconsistent with this Act or
31 with the laws of this State pertaining to contributions,
32 including, without limitation, gifts, guarantees, or grants

1 from any department, agency, or instrumentality of the United
2 States of America and may participate in any other way in any
3 federal, State, or local government program.

4 (20 ILCS 3505/7.92 new)

5 Sec. 7.92. Bonds of the Authority. The Authority may
6 issue bonds or secondary guarantees for the purposes of
7 establishing secondary markets for the guaranteed loans
8 authorized by this Act. The Advisory Council shall develop a
9 report on developing secondary markets and submit it to the
10 Governor and the General Assembly no later than January 1,
11 2003.

12 (20 ILCS 3505/7.93 new)

13 Sec. 7.93. State guarantees limit. The Authority may
14 not have outstanding at any one time State guarantees under
15 Section 7.95 in an aggregate principal amount exceeding
16 \$20,000,000, except that until any time that the Recyclable
17 Markets Loan Guarantee Fund achieves a balance of \$4,000,000,
18 the Authority shall not have outstanding at any one time
19 State guarantees under Section 7.95 in an aggregate principal
20 amount exceeding 5 times the balance of the Fund.

21 (20 ILCS 3505/7.94 new)

22 Sec. 7.94. Notes and bonds of the Authority. The notes
23 and bonds of the Authority are securities in which all public
24 officers and bodies of this State, all municipalities and
25 municipal subdivisions, all insurance companies,
26 associations, and other persons carrying on an insurance
27 business, all banks, trust companies, savings banks, savings
28 associations, saving and loan associations, and investment
29 companies, all administrators, guardians, executors,
30 trustees, and other fiduciaries, and all other persons who
31 are authorized to invest in bonds or other obligations of the

1 State may properly and legally invest funds, including
2 capital, in their control or belonging to them.

3 (20 ILCS 3505/7.95 new)

4 Sec. 7.95. Issuance of State guarantees.

5 (a) The Authority may issue State guarantees for
6 Recyclable Markets Business debts held by a lender. The
7 Authority and the Advisory Council must establish the maximum
8 permissible debt-to-asset ratio based on criteria established
9 by the Authority.

10 Lenders must apply for the State guarantees on forms
11 provided by the Authority and certify that the application
12 and any other documents submitted are true and correct. The
13 lender or borrower, or both, in consideration, must pay an
14 administrative fee as determined by the Authority. The
15 applicant is responsible for paying any fees or charges
16 involved in recording mortgages, releases, financing
17 statements, insurance for secondary issues, and any other
18 similar fees or charges as the Authority may require. The
19 application must, at a minimum, contain the business name and
20 address, present credit and financial information, including
21 cash flow statements, financial statements, balance sheets,
22 and any other information pertinent to the application, and
23 the collateral to be used to secure the State guarantee. In
24 addition, the lender must agree to charge a fixed or
25 adjustable interest rate that the Authority determines to be
26 below the rate of interest generally available to the
27 borrower, taking into account the marketability of the loan
28 to potential secondary markets. If both the lender and
29 applicant agree, the interest rate on the State guarantee
30 loan may be converted to a fixed interest rate at any time
31 during the term of the loan.

32 (b) The Authority must provide or renew a State Guarantee
33 to a lender if:

1 (1) A fee equal to 25 basis points on the loan is
2 paid to the Authority on an annual basis by the lender.

3 (2) The application provides collateral acceptable
4 to the Authority that is at least equal to the State's
5 portion of the Guarantee to be provided.

6 (3) The lender assumes all responsibility and costs
7 for pursuing legal action on collecting any loan that is
8 delinquent or in default.

9 (4) The lender is responsible for the first 15% of
10 the outstanding principal of the note for which the State
11 guarantee has been applied.

12 (20 ILCS 3505/7.96 new)

13 Sec. 7.96. Recyclable Markets Loan Guarantee Fund. The
14 Recyclable Markets Loan Guarantee Fund is created inside of
15 the State Treasury as a trust fund. The State Treasurer is ex
16 officio custodian of the Fund. Any amounts in the Recyclable
17 Markets Loan Guarantee Fund not currently needed to meet the
18 obligations of the Fund shall be invested as provided by law,
19 and all interest earned from the investments shall be
20 retained in the Recyclable Markets Loan Guarantee Fund.
21 Moneys in the trust fund are not subject to appropriation by
22 the General Assembly. The Authority must provide for its
23 expenses from its operations by the charges and fees or from
24 the proceeds of investments on its reserve fund as it may
25 decide or from investment earnings from the Recyclable
26 Markets Loan Guarantee Fund or special funds that the
27 Authority is empowered to use.

28 In the event of default on any guaranteed loan, the
29 lender is entitled to and the Authority must direct payment
30 on the State guarantee after 90 days of delinquency. All
31 payments by the Authority must be made from the Recyclable
32 Markets Loan Guarantee Fund to satisfy claims against the
33 State guarantee. The Recyclable Markets Loan Guarantee Fund

1 must guarantee receipt of payment of the 85% of the principal
2 and interest owed on the State guarantee loan by the borrower
3 to the guarantee holder.

4 It is the responsibility of the lender to proceed with
5 the collecting and disposing of collateral on the State
6 guarantee within 14 months after the State guarantee is
7 declared delinquent. The lender may not, however, collect or
8 dispose of collateral on the State guarantee without the
9 express written prior approval of the Authority. If the
10 lender does not dispose of the collateral within 14 months,
11 the lender is liable to repay to the State interest on the
12 State guarantee equal to the same rate that the lender
13 charges on the State guarantee. The Authority may, however,
14 extend the 14-month period for a lender in the case of
15 bankruptcy or extenuating circumstances. The Fund must be
16 reimbursed for any amounts paid under this Section upon
17 liquidation of the collateral. The Authority, by resolution
18 of the Board, may borrow sums from the Fund and provide for
19 repayment as soon as practical upon receipt of payments of
20 principal and interest by a borrower. Money may be borrowed
21 from the Fund by the Authority for the sole purpose of paying
22 certain interest costs for borrowers associated with selling
23 a loan subject to a State guarantee in a secondary market as
24 may be deemed reasonable and necessary by the Authority.

25 ARTICLE 99

26 Section 99-1. Effective date. This Act takes effect
27 upon becoming law.