

AMENDMENTS TO SENATE BILL NO. 30

Sponsor: REPRESENTATIVE QUINN

Printer's No. 474

1 Amend Bill, page 1, lines 16 through 21; pages 2 through 7,
2 lines 1 through 30; page 8, lines 1 through 10; by striking out
3 all of said lines on said pages and inserting

ARTICLE XIX-GPENNSYLVANIA HOUSING TAX CREDITSection 1901-G. Scope of article.

7 This article establishes the Pennsylvania Housing Tax Credit.

Section 1902-G. Definitions.

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

12 "Agency." The Pennsylvania Housing Finance Agency.

13 "Credit period." A 5-year period that begins with the
14 taxable year in which a taxpayer is awarded a tax credit
15 certificate in accordance with section 1904-G or, at the
16 irrevocable election of a taxpayer, the next succeeding taxable
17 year following the completion of a qualified low-income housing
18 project.

19 "Department." The Department of Revenue of the Commonwealth.

20 "Federal housing tax credit." The Federal tax credit created
21 under section 42 of the Internal Revenue Code of 1986 (Public
22 Law 99-514, 26 U.S.C. § 42).

23 "Pass-through entity." Any of the following:

24 (1) A partnership as defined in section 301(n.1).

25 (2) A Pennsylvania S Corporation as defined in section
26 301(n.1).

27 (3) An unincorporated entity subject to section 307.21.

28 "Qualified allocation plan." The agency's plan for
29 allocation of Federal housing tax credits developed under
30 section 42(m)(1) of the Internal Revenue Code of 1986 (Public
31 Law 99-514, 26 U.S.C. § 42(m)(1)).

32 "Qualified low-income housing project." The term shall have
33 the same meaning as provided under section 42(g)(1) of the
34 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
35 42(g)(1)).

36 "Qualified tax liability." The tax liability imposed on a
37 taxpayer under Article III, IV, VII, VIII, IX, XI or XV,

1 excluding any tax withheld by an employer under Article III.

2 "Tax credit." The Pennsylvania Housing Tax Credit
3 established under this article.

4 "Taxable year." The term shall have the same meaning as
5 provided under section 441(b) of the Internal Revenue Code of
6 1986 (Public Law 99-514, 26 U.S.C. § 441(b)).

7 "Taxpayer." An individual, business firm, corporation,
8 business trust, limited liability company, partnership, limited
9 liability partnership, association or any other form of legal
10 business entity.

11 Section 1903-G. Pennsylvania Housing Tax Credit.

12 (a) Establishment.--The Pennsylvania Housing Tax Credit is
13 established to encourage the development of qualified low-income
14 housing projects in this Commonwealth. The agency and department
15 shall administer the tax credit as provided in this article.

16 (b) Availability.--

17 (1) Beginning in fiscal year 2020-2021 and each fiscal
18 year thereafter, the agency may award a total of \$10,000,000
19 in tax credits per fiscal year in accordance with this
20 article.

21 (2) In addition to the amount available under paragraph
22 (1), the agency may award the following, as available, during
23 a fiscal year:

24 (i) unused and unallocated tax credits for the
25 preceding fiscal year; and

26 (ii) tax credits returned to the agency.

27 (c) Maximum amount.--No taxpayer may be awarded a tax credit
28 in an amount that exceeds \$1,500,000 for a qualified low-income
29 housing project.

30 (d) Application.--

31 (1) A taxpayer may apply to the agency for a tax credit
32 under this section by submitting an application on a form
33 required by the agency.

34 (2) The agency may require such information on the
35 application as necessary to verify the costs incurred in
36 constructing the qualified low-income housing project.

37 (e) Review of application by agency.--

38 (1) The agency shall review applications submitted for a
39 tax credit and, in accordance with the procedures established
40 by the agency under section 1909-G, issue a certificate
41 stating the amount of the tax credit for a qualified low-
42 income housing project.

43 (2) The agency shall conditionally award a tax credit in
44 a manner that the agency, at the time of allocation,
45 reasonably believes will result in at least 10% of the tax
46 credits being used to provide housing units targeting
47 households with incomes at or below 30% of area median
48 income.

49 (3) The agency shall determine the amount of a tax
50 credit conditionally awarded to a taxpayer based on the
51 merits of the qualified low-income housing project.

1 Section 1904-G. Use of tax credits.

2 (a) Initial use.--

3 (1) Unless otherwise permitted under paragraph (2),
4 prior to the sale or assignment of a tax credit under section
5 1905-G, a taxpayer must first use a tax credit against the
6 qualified tax liability incurred in the taxable year in which
7 the tax credit was approved.

8 (2) A taxpayer may elect to use a tax credit the next
9 succeeding taxable year following the completion of a
10 qualified low-income housing project.

11 (b) Application.--The tax credit shall be applied against a
12 taxpayer's qualified tax liability only after all other tax
13 credits and deductions available to the taxpayer under act of
14 the General Assembly have been used.

15 (c) Amount.--The tax credit may be claimed for an amount not
16 to exceed 50% of the taxpayer's qualified tax liability or 20%
17 of the amount certified per taxable year during the credit
18 period, whichever is less.

19 Section 1905-G. Carryover, sale and assignment.

20 (a) General rule.--A taxpayer shall be entitled to carry
21 forward a tax credit for a period not to exceed five taxable
22 years from the taxable year in which the tax credit was awarded.
23 Each time the tax credit is carried over to a succeeding taxable
24 year, the tax credit shall be reduced by the amount that was
25 used as a credit during the immediately preceding taxable year.

26 (b) Application.--A tax credit certificate received by the
27 department in a taxable year shall first be applied against the
28 taxpayer's qualified tax liability for the current taxable year
29 as of the date on which the credit was issued before the tax
30 credit can be applied against a qualified tax liability under
31 subsection (a).

32 (c) No carryback or refund.--A taxpayer may not carry back
33 or obtain a refund of all or any portion of an unused tax credit
34 granted to the taxpayer under this article.

35 Section 1906-G. Pass-through entity.

36 (a) General rule.--If a pass-through entity has any unused
37 tax credit under section 1906-G, the taxpayer may elect in
38 writing, according to procedures established by the department,
39 to transfer all or a portion of the tax credit to shareholders,
40 members or partners in proportion to the share of the entity's
41 distributive income to which the shareholder, member or partner
42 is entitled.

43 (b) Limitation.--A pass-through entity and a shareholder,
44 member or partner of a pass-through entity may not claim the
45 credit under subsection (a) for the same qualified project.

46 (c) Application.--A shareholder, member or partner of a
47 pass-through entity to whom a credit is transferred under
48 subsection (a) shall immediately claim the credit in the taxable
49 year in which the transfer is made. The shareholder, member or
50 partner may not carry forward, carry back, obtain a refund of or
51 sell or assign the tax credit.

1 (d) Tax credit allocation.--The distribution under section
2 1908-G may be allocated in any manner provided by the
3 partnership agreement or other agreement governing the
4 operations of the taxpayer.

5 Section 1907-G. Sale or assignment.

6 (a) Authorization.--Upon approval by the department, a
7 qualified taxpayer may sell or assign, in whole or in part, a
8 tax credit granted to the taxpayer under this article.

9 (b) Application.--The following provisions shall apply to
10 the sale and assignment of a tax credit:

11 (1) To sell or assign a tax credit, a qualified taxpayer
12 must file an application for the sale or assignment of the
13 tax credit with the department. The application must be on a
14 form required by the department.

15 (2) The department shall approve a sale or assignment if
16 the purchaser or assignee has:

17 (i) filed all required State tax reports and returns
18 for all applicable taxable years; and

19 (ii) paid any balance of State tax due as determined
20 by assessment or determination by the department and not
21 under timely appeal.

22 Section 1908-G. Purchasers and assignees.

23 (a) Claim.--The purchaser or assignee of all or a portion of
24 a tax credit under section 1710-J shall immediately claim the
25 tax credit in the taxable year in which the purchase or
26 assignment is made.

27 (b) Amount.--The amount of the tax credit that a purchaser
28 or assignee may use against any one qualified tax liability may
29 not exceed 75% of such qualified tax liability for the taxable
30 year.

31 (c) Use.--The purchaser or assignee may not carry forward,
32 carry back or obtain a refund of or sell or assign the tax
33 credit.

34 Section 1909-G. Administration.

35 (a) Agency guidelines and procedures.--The agency shall
36 issue guidelines and procedures for the administration of the
37 tax credit in conjunction with the qualified allocation plan and
38 when possible, administer the tax credit using the same
39 guidelines, procedures and priorities that the agency uses to
40 administer the Federal housing tax credit.

41 (b) Recapture.--The department, in consultation with the
42 agency, shall establish guidelines that include procedures for
43 recapture of tax credits during the credit period that are
44 similar in structure and effect to events of noncompliance under
45 section 42 of the Internal Revenue Code of 1986 (Public Law 99-
46 514, 26 U.S.C. § 42). The guidelines shall provide for the
47 mechanism and formula that the tax credit may be recaptured over
48 the remaining credit period.

49 (c) Fraud or misrepresentation.--If a taxpayer engages in
50 fraud or intentional misrepresentation of information required
51 to be provided to the agency or the department under this

1 article or the agency's guidelines, the department may:

2 (1) Recapture all or a portion of the tax credit.

3 (2) Deem ineligible the applicant or taxpayer from
4 future tax credits.

5 (3) Impose other penalties as specified in the agency's
6 guidelines.

7 (d) Fee.--The agency may charge a taxpayer applying for a
8 tax credit a reasonable fee not to exceed 5% of the tax credit
9 allocated for the administrative expenses of the agency for
10 processing applications under this article.

11 Section 1910-G. Annual report.

12 (a) Duty of agency.--By June 30, 2021, and each June 30
13 thereafter, the agency shall submit a report on the tax credit
14 to the chairperson and minority chairperson of the
15 Appropriations Committee of the Senate, the chairperson and
16 minority chairperson of the Appropriations Committee of the
17 House of Representatives, the chairperson and minority
18 chairperson of the Urban Affairs and Housing Committee of the
19 Senate and the chairperson and minority chairperson of the Urban
20 Affairs Committee of the House of Representatives. The report
21 shall include:

22 (1) The number and amount of tax credits awarded.

23 (2) The taxpayers that were awarded tax credits.

24 (3) The amount of tax credits issued to each taxpayer.

25 (b) Public posting.--The agency shall make the report
26 identified in subsection (a) available on the agency's publicly
27 accessible Internet website.

28 Section 2. This act shall take effect immediately.