

AMENDMENTS TO SENATE BILL NO. 30

Sponsor: REPRESENTATIVE QUINN

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1 Amend Bill, page 8, lines 12 through 30; pages 9 through 14,
2 lines 1 through 30; page 15, lines 1 through 16; 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 five-year period that begins with the
14 taxable year in which a taxpayer is awarded a tax credit
15 certificate in accordance with section 1903-G.

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

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

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

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

22 (2) A Pennsylvania S Corporation as defined in section
23 301(n.1).

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

25 "Qualified allocation plan." The agency's plan for
26 allocation of Federal housing tax credits developed under
27 section 42(m)(1) of the Internal Revenue Code of 1986.

28 "Qualified low-income housing project." The term shall have
29 the same meaning as provided under section 42(g)(1) of the
30 Internal Revenue Code of 1986.

31 "Qualified tax liability." The tax liability imposed on a
32 taxpayer under Article III, IV, VII, VIII, IX, XI or XV,
33 excluding any tax withheld by an employer under Article III.

34 "Tax credit." The Pennsylvania Housing Tax Credit
35 established under this article.

36 "Taxable year." The term shall have the same meaning as
37 provided under section 441(b) of the Internal Revenue Code of

1 1986.

2 "Taxpayer." An individual, business firm, corporation,
3 business trust, limited liability company, partnership, limited
4 liability partnership, association or any other form of legal
5 business entity.

6 Section 1903-G. Pennsylvania Housing Tax Credit.

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

11 (b) Availability.--

12 (1) Beginning in fiscal year 2021-2022 and each fiscal
13 year thereafter, the agency may award a total of \$10,000,000
14 in tax credits per fiscal year in accordance with this
15 article.

16 (2) In addition to the amount available under paragraph
17 (1), the agency may award unallocated tax credits from the
18 preceding fiscal year.

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

22 (d) Application.--

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

26 (2) The agency may require such information on the
27 application as necessary to verify compliance with this act.

28 (3) Except as otherwise provided by law, before the tax
29 credit may be awarded, the department must find that the
30 taxpayer has filed all required State tax reports and returns
31 for all applicable tax years and paid any balance of State
32 tax due as determined at settlement or assessment by the
33 department, unless the tax due is currently under appeal.

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

35 (1) The agency shall review applications submitted for a
36 tax credit and, in accordance with the procedures established
37 by the agency under section 1909-G, conditionally reserve tax
38 credits for a qualified low-income housing project.

39 (2) The agency shall conditionally reserve tax credits
40 in a manner that the agency, at the time of conditional
41 reservation, reasonably believes will result in at least 10%
42 of the tax credits being used to provide housing units
43 targeting households with incomes at or below 30% of the area
44 median income.

45 (3) The agency shall determine the amount of tax credits
46 conditionally reserved to a taxpayer based on the merits of
47 the qualified low-income housing project.

48 (f) Tax credit certificates.--Upon notification that a
49 qualified low-income housing project receiving a conditional
50 reservation of tax credits has been completed, the agency shall
51 determine compliance with this act. Following verification of

1 compliance, the agency shall issue the tax credit certificates
2 in an amount not to exceed 20% of the conditional reservation
3 for each taxable year in the tax credit period.

4 Section 1904-G. Use of tax credits.

5 (a) Claiming the credit.--Upon presentation of a tax credit
6 certificate to the department, the taxpayer may claim a tax
7 credit against the qualified tax liability.

8 (b) Amount.--The tax credit may be claimed at an amount not
9 to exceed 50% of the taxpayer's qualified tax liability for a
10 single taxable year.

11 Section 1905-G. Carryover, carryback and refund.

12 (a) General rule.--A taxpayer shall be entitled to carry
13 forward a tax credit for a period not to exceed five taxable
14 years from the taxable year in which the tax credit was awarded.
15 Each time the tax credit is carried over to a succeeding taxable
16 year, the tax credit shall be reduced by the amount that was
17 used as a credit during the immediately preceding taxable year.

18 (b) Application.--A tax credit certificate received by the
19 department in a taxable year shall first be applied against the
20 taxpayer's qualified tax liability for the current taxable year
21 as of the date on which the credit was issued before the tax
22 credit can be applied against a qualified tax liability under
23 subsection (a).

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

27 Section 1906-G. Sale or assignment.

28 (a) Application.--A taxpayer, upon application to and
29 approval by the department, may sell or assign, in whole or in
30 part, a tax credit granted to the taxpayer under this article.

31 (b) Compliance.--Before an application under subsection (a)
32 is approved, the department must find that the applicant has
33 filed all required State tax reports and returns for all
34 applicable taxable years and paid any balance of State tax due
35 as determined at settlement, assessment or determination by the
36 department.

37 Section 1907-G. Pass-through entity.

38 (a) General rule.--If a pass-through entity has any unused
39 tax credit under section 1904-G, the taxpayer may elect in
40 writing, according to procedures established by the department,
41 to transfer all or a portion of the tax credit to shareholders,
42 members or partners in proportion to the share of the entity's
43 distributive income to which the shareholder, member or partner
44 is entitled.

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

48 (c) Application.--A shareholder, member or partner of a
49 pass-through entity to whom a credit is transferred under
50 subsection (a) shall immediately claim the credit in the taxable
51 year in which the transfer is made. The shareholder, member or

1 partner may not carry forward, carry back, obtain a refund of or
2 sell or assign the tax credit.

3 Section 1908-G. Purchasers and assignees.

4 The purchaser or assignee of all or a portion of the tax
5 credit under section 1906-G shall immediately claim the tax
6 credit in the taxable year in which the purchase or assignment
7 is made, subject to the following:

8 (1) If a purchaser or assignee of all or a portion of
9 the tax credit obtained under section 1906-G cannot use the
10 entire amount of the tax credit for the taxable year in which
11 the tax credit was purchased or assigned, the excess may be
12 carried over to succeeding taxable years and used as a credit
13 against the qualified tax liability of the purchaser or
14 assignee for those taxable years.

15 (2) Each time a tax credit is carried over to a
16 succeeding taxable year, the tax credit shall be reduced by
17 the amount that was used as a credit during the immediately
18 preceding taxable year.

19 (3) The tax credit may be carried over and applied to
20 succeeding taxable years for the remainder of the
21 carryforward period from the original tax credit certificate.

22 (4) The purchaser or assignee may not carry back the
23 credit or obtain a refund.

24 Section 1909-G. Administration.

25 (a) Agency guidelines and procedures.--The agency shall
26 issue guidelines and procedures for the administration of the
27 tax credit in conjunction with the qualified allocation plan and
28 when possible, administer the tax credit using the same
29 guidelines, procedures and priorities that the agency uses to
30 administer the Federal housing tax credit.

31 (b) Recapture.--The department, in consultation with the
32 agency, shall establish guidelines that include procedures for
33 recapture of tax credits during the credit period that are
34 similar in structure and effect to events of noncompliance under
35 section 42 of the Internal Revenue Code of 1986 (Public Law 99-
36 514, 26 U.S.C. § 42). The guidelines shall provide for the
37 mechanism and formula that the tax credit may be recaptured over
38 the remaining credit period.

39 (c) Fraud or misrepresentation.--If a taxpayer engages in
40 fraud or intentional misrepresentation of information required
41 to be provided to the agency or the department under this
42 article or the agency's guidelines, the department may:

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

44 (2) Deem ineligible the applicant or taxpayer from
45 future tax credits.

46 (3) Impose other penalties as specified in the agency's
47 guidelines.

48 (d) Fee.--The agency may charge a taxpayer applying for a
49 tax credit a reasonable fee not to exceed 5% of the tax credit
50 awarded for the administrative expenses of the agency for
51 processing applications under this article.

1 Section 1910-G. Annual report.

2 (a) Duty of agency.--By June 30, 2022, and each June 30
3 thereafter, the agency shall submit a report on the tax credit
4 to the chairperson and minority chairperson of the
5 Appropriations Committee of the Senate, the chairperson and
6 minority chairperson of the Appropriations Committee of the
7 House of Representatives, the chairperson and minority
8 chairperson of the Urban Affairs and Housing Committee of the
9 Senate and the chairperson and minority chairperson of the Urban
10 Affairs Committee of the House of Representatives. The report
11 shall include:

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

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

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

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

18 Section 2. This act shall take effect immediately.