

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1150 Session of  
2011

INTRODUCED BY SMUCKER, ERICKSON, ARGALL, RAFFERTY, COSTA,  
ALLOWAY, FONTANA, WASHINGTON, BOSCOLA, YUDICHAK, WAUGH, YAW,  
SCHWANK AND FERLO, JUNE 26, 2011

REFERRED TO FINANCE, JUNE 26, 2011

AN ACT

1 Providing tax incentives and credits for rehabilitation of  
2 blighted historic structures.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Historic  
7 Rehabilitation Investment Incentive Act.

8 Section 2. Definitions.

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

12 "Commission." The Pennsylvania Historical and Museum  
13 Commission.

14 "DCED." The Department of Community and Economic Development  
15 of the Commonwealth.

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

17 "Part 2." Part 2 of the application for a tax credit

provided for under section 47 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47), or any future similar application requirement provided for under Federal law.

"Qualified expenditures." The costs and expenses incurred by a qualified taxpayer in the restoration of a qualified historic structure pursuant to a qualified rehabilitation plan which are defined as qualified rehabilitation expenditures under section 47(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(2)).

"Qualified historic structure." A commercial building located in Pennsylvania that is defined as a certified historic structure under section 47(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(3)).

"Qualified rehabilitation plan." A project that is approved by the Pennsylvania Historical and Museum Commission as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the United States Secretary of the Interior.

"Qualified tax liability." Tax liability imposed on a taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, excluding any tax withheld by an employer under Article III of the Tax Reform Code of 1971.

"Qualified taxpayer." The owner of a qualified historic structure or any other person who may qualify for the Federal rehabilitation tax credit allowable under section 47 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47).

Section 3. Credit allowed.

For all taxable years commencing after December 31, 2011,

1 there shall be allowed a tax credit against qualified tax  
2 liability in an amount equal to 25% of qualified expenditures  
3 incurred by a qualified taxpayer pursuant to a qualified  
4 rehabilitation plan.

5 Section 4. Limitations on credits.

6 (a) Aggregation of credits.--Credits may not exceed an  
7 aggregate of \$10,000,000 in any fiscal year in which tax credits  
8 are allowed.

9 (b) Qualified historic structure.--Credits allowed to any  
10 qualified historic structure owner shall not exceed \$500,000 in  
11 any fiscal year in which tax credits shall be allowed.

12 Section 5. Excess of credits.

13 (a) Seven-year carryover.--If the amount of the credits  
14 exceeds the total of a qualified taxpayer's qualified tax  
15 liability, the excess amount shall be carried over for offset  
16 against such taxes in the next succeeding year or years until  
17 the seventh taxable year succeeding the taxable year in which  
18 the qualified rehabilitation plan was placed in service.

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

25 (c) No carryback or refund.--An applicant is not entitled to  
26 carry back or obtain a refund of all or any portion of an unused  
27 tax credit allowed to the taxpayer under this chapter.

28 Section 6. Pass-through entities.

29 If a qualified taxpayer is a corporation having an election  
30 in effect under Subchapter S of the Federal Internal Revenue

1 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), a  
2 partnership or a limited liability company, the credit provided  
3 under this act shall be claimed by the shareholders of such  
4 corporation, the partners of such partnership or the members of  
5 such limited liability company, pro rata, in the same manner as  
6 the shareholders, partners or members account for the  
7 proportionate share of the income and loss of the corporation,  
8 partnership or limited liability company, or as the  
9 shareholders, partners or members may agree pursuant to an  
10 executed agreement among the shareholders, partners or members  
11 documenting an alternative distribution method, a copy of which  
12 shall be furnished to the department.

13 Section 7. Transfer of credits.

14 (a) General rule.--Any person, hereafter designated the  
15 assignor, may sell, assign, convey or otherwise transfer tax  
16 credits allowed or earned under section 3. The taxpayer or  
17 taxpayers acquiring credits, hereafter designated the assignee,  
18 may use the amount of the acquired credits to offset 100% of its  
19 qualified tax liability for either the taxable year in which the  
20 qualified rehabilitation plan was first placed in service or for  
21 the taxable year in which the credit was acquired.

22 (b) Carryover of seven years.--Unused credits may be carried  
23 forward for seven years following the taxable year in which the  
24 acquisition was made.

25 (c) Written agreement.--The assignor shall enter into a  
26 written agreement with the assignee establishing the terms and  
27 conditions of the agreement and shall perfect such transfer by  
28 notifying the department and the commission within 90 days of  
29 the effective date of the transfer and shall provide such  
30 information as may be required by the department or the

1 commission to administer and carry out the provisions of this  
2 section.

3 Section 8. Applications; allocation of credits.

4 (a) Joint approval by department and commission required.--  
5 Applications for credits shall be made jointly to DCED and the  
6 commission, in such form as DCED and the commission shall  
7 jointly approve. The commission shall be responsible for  
8 reviewing the applications to determine whether the project  
9 proposed qualifies for a credit under section 3. In the event  
10 that the aggregate amount proposed to be claimed in any tax year  
11 and tentatively approved by the commission exceeds the  
12 limitation set forth in section 4, DCED shall be responsible for  
13 allocating the credits among the applicants. In making such  
14 allocation, DCED shall give priority to applications for  
15 qualified historic structures so as to achieve equitable  
16 geographic distribution of the credits throughout this  
17 Commonwealth.

18 (b) Application deadline.--Applications shall be filed on or  
19 before February 1 of each year for which tax credits are  
20 allowed.

21 (c) Action on application.--The commission shall complete  
22 its review of the application no later than April 1 or 30 days  
23 following receipt of a complete Part 2 application, whichever  
24 shall occur later, and shall promptly notify the applicant  
25 whether the application has been tentatively approved or the  
26 application has been disapproved and, if disapproved, the  
27 reasons for disapproval. In the event the aggregate amount of  
28 credits claimed on applications timely received by the  
29 commission does not exceed the limitations set forth in section  
30 4, approval by the commission shall be deemed final, and the

1 commission shall issue a certificate to the applicant to that  
2 effect. If the aggregate amount of credits reflected in  
3 applications tentatively approved by the commission exceeds the  
4 limitations set forth in section 4, any approval by the  
5 commission shall be deemed tentative, and final approval may be  
6 granted only by DCED. Upon final approval by DCED, DCED shall  
7 issue a certificate to the applicant to that effect.

8 (d) Finding.--Before an application is approved, the  
9 department must make a finding that the applicant has filed all  
10 required State tax reports and returns for all applicable  
11 taxable years and paid any balance of State tax due as  
12 determined by assessment or final determination by the  
13 department or court of law upon appeal from a determination of  
14 the department.

#### 15 Section 9. Fees.

16 DCED and the commission shall agree upon a schedule of fees  
17 for applications which shall not exceed \$5,000 for an  
18 application. The proceeds of fees shall be applied to offset the  
19 costs of administration of the program in such manner as DCED  
20 and the commission agree.

#### 21 Section 10. Certificates.

22 The developer of a project for which a certificate has been  
23 issued shall notify the commission when the project has been  
24 placed in service. Upon verifying that the project has been  
25 placed in service and was allowed a Federal credit, the  
26 commission shall endorse the certificate. The certificate shall  
27 state the amount of the credit claimed. The developer or an  
28 assignee of the credit shall attach a copy of the certificate,  
29 as so endorsed, together with any other documentation specified  
30 by the department to any tax return on which the credit or

1 portion thereof is claimed.

2 Section 11. Repeals.

3 (1) The General Assembly declares that the repeal under  
4 paragraph (2) is necessary to effectuate the provisions of  
5 this act.

6 (2) Section 6104(d.2)(2) of the act of July 13, 2005  
7 (P.L.213, No.45), entitled "An act amending Title 27  
8 (Environmental Resources) of the Pennsylvania Consolidated  
9 Statutes, further providing for definitions, for allocation  
10 of Environmental Stewardship Fund and for administrative  
11 expenses; deleting provisions relating to environmental  
12 infrastructure grants; providing for fee deposits;  
13 authorizing indebtedness for environmental initiatives;  
14 authorizing sale of bonds, temporary financing and debt  
15 retirement; further providing for disposal fee for municipal  
16 waste landfills and deposit of disposal fee; deleting certain  
17 sunset provisions; and making a repeal relating to the  
18 Hazardous Sites Cleanup Fund," is repealed.

19 Section 21. Effective date.

20 This act shall take effect immediately.