

**ENERGY CONSERVATION AND ASSISTANCE ACT**  
**Act of Jul. 10, 1986, P.L. 1398, No. 122**  
AN ACT

Cl. 72

Establishing a special fund for moneys received by the Commonwealth from resolution of oil overcharge matters; designating certain low-income energy conservation and assistance programs for funding from this special fund; and making appropriations.

**Compiler's Note:** Section 301(a)(10) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that the weatherization functions of the Department of Community Affairs under Act 122 are transferred from the Department of Community Affairs to the Department of Community and Economic Development.

**Compiler's Note:** Section 504(b) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Environmental Protection has the powers and duties previously vested in the Governor's Energy Council by Act 122 of 1986.

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

Section 1. Short title.

This act shall be known and may be cited as the Energy Conservation and Assistance Act.

Section 2. Legislative findings.

The General Assembly hereby finds and declares that:

(1) There are and will be funds available to the Commonwealth due to resolution of litigation and administrative proceedings brought by the United States Department of Energy against the petroleum industry for alleged violations of the Federal Petroleum Price and Allocation Regulations.

(2) Where permissible under the terms and conditions of the documents or orders controlling resolution, these moneys are to be distributed to the states for specific energy conservation and assistance programs.

(3) In recognition of the economic plight of low-income persons in this Commonwealth, the high and rising costs of energy, and the substantial reduction in energy consumption which is known to result from effective weatherization, the General Assembly considers it sound public policy to provide additional funding for weatherization for low-income persons, energy assistance for low-income persons and other conservation programs as specified in this act, and further declares that oil overcharge funds shall be utilized to pay the costs of such programs so long as such uses are permissible under the terms and conditions of the documents or orders controlling resolution of the particular oil overcharge matter for which money is received.

(4) By emphasizing assistance for low-income persons with these oil overcharge funds, all of the citizens of this Commonwealth benefit since such assistance will reduce the burden of providing for these low-income persons with tax dollars.

(5) Even as the oil overcharge funds near exhaustion, the need for the continued operation of energy conservation and assistance programs in this Commonwealth remains. ((5) added Oct. 24, 2012, P.L.1308, No.164)

(6) Improved oversight, fraud control measures and income eligibility verification procedures are necessary to ensure that this Commonwealth's low-income residents continue to be served by energy conservation and assistance programs in the most efficient manner possible. ((6) added Oct. 24, 2012, P.L.1308, No.164)

### 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:

"Energy conservation and assistance programs." Includes any of the following:

(1) The programs established under Part D of Title III of the Energy Policy and Conservation Act (Public Law 94-163, 42 U.S.C. § 6321 et seq.), providing for state energy conservation programs.

(2) The programs established under Part G of Title III of the Energy Policy and Conservation Act, providing for energy conservation investments in schools and hospitals.

(3) The programs established under the National Energy Extension Service Act (Public Law 95-39, 42 U.S.C. § 7001 et seq.), providing for, inter alia, energy conservation outreach programs to small businesses and individual consumers.

(4) The programs established under the Low-Income Home Energy Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. § 8621 et seq.), providing for energy assistance and weatherization assistance to low-income households.

(5) The programs established under Part A of the Energy Conservation in Existing Buildings Act of 1976 (Public Law 94-385, 42 U.S.C. § 6851 et seq.), establishing the Low Income Weatherization Program.

(6) The programs established by the Governor's Energy Council and now administered by the Department of Environmental Protection to promote energy conservation and energy development, in compliance with the terms and conditions of oil overcharge settlement agreements, oil overcharge orders issued by the courts or the Department of Energy or fund distribution requirements of the Department of Energy.

(Def. amended Oct. 24, 2012, P.L.1308, No.164)

"Fund." The Energy Conservation and Assistance Fund established in section 4.

"Household." Any individual or group of individuals who are living together as one economic unit and whose residential energy is customarily purchased in common or who make undesignated payments for energy as part of a rental payment. A roomer and boarder who is related to any member of the applicant household is considered to be a member of the household.

"Subgrantee." As defined in 10 CFR § 440.3 (relating to definitions). (Def. added Oct. 24, 2012, P.L.1308, No.164) Section 4. Establishment of special fund.

There is hereby created an Energy Conservation and Assistance Fund. All funds made available to the Commonwealth after December 1, 1985, due to resolution of litigation or administrative proceedings brought by the United States Department of Energy against the petroleum industry for alleged violations of the Federal Petroleum Price and Allocation Regulations shall be credited by the Treasury Department to this fund. Interest earned by investment of moneys in this fund by the Treasury Department shall also be credited by the Treasury Department to this fund. All moneys remaining in any special accounts for oil overcharge funds which are unexpended, uncommitted and unencumbered as of June 30, 1986, shall lapse and shall be transferred into the fund created by this section. No funds may be expended from this fund, except by annual appropriation by the General Assembly. At least 75% of the annual appropriations made from the fund shall be for the supplemental programs established in section 5.

Section 5. Supplemental low-income energy conservation and assistance programs.

(a) Establishment of programs.--The following supplemental low-income energy conservation and assistance programs are hereby established:

(1) Pennsylvania Supplemental Low-Income Weatherization Program. This program shall supplement the programs set forth in paragraph (4) or (5) of the definition of "energy conservation and assistance programs" in section 3.

(2) Pennsylvania Supplemental Low-Income Energy Assistance Program. This program shall supplement the programs set forth in paragraph (4) of the definition of "energy conservation and assistance programs" in section 3.

(b) Eligibility requirements.--Households applying for benefits under the programs established in subsection (a) shall meet the following eligibility requirements:

(1) Households to be eligible will be those dwelling units which are occupied by persons with annual income at or below 150% of the Federal poverty guidelines or contain a member who has, during the past 12 months, received cash assistance under Title IV or XVI of the Social Security Act (Public Law 74-271, 42 U.S.C. §§ 601-662) and section 2605(b)(2) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357).

(2) In addition to the income eligibility requirements specified in paragraph (1), households applying for benefits under this act shall meet the eligibility requirements for energy assistance as provided for by the Omnibus Budget Reconciliation Act of 1981, pursuant to the authority of section 201(2) of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(c) Administration of programs.--The programs established in subsection (a) shall be administered as follows:

(1) The Pennsylvania Supplemental Low-Income Weatherization Program established in subsection (a) (1) shall be administered by the Department of Community and Economic Development as a part of the programs authorized under the Low-Income Home Energy Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. § 8621 et seq.) or the Energy Conservation in Existing Buildings Act of 1976 (Public Law 94-385, 42 U.S.C. § 6851 et seq.). Community action agencies, existing low-income weatherization providers or other county, municipal or nonprofit corporations may apply for a portion of these funds. The Department of Community and Economic Development shall establish regulations necessary for administering this program consistent with the requirements of section 6.

(2) (i) The Pennsylvania Supplemental Low-Income Energy Assistance Program established in subsection (a) (2) shall be administered by the Department of Public Welfare as part of the program authorized under the Low-Income Home Energy Assistance Act of 1981. The Department of Public Welfare shall establish regulations necessary for administering this program.

(ii) The Department of Public Welfare shall provide the General Assembly with an annual report, which shall include an independent audit, not later than September 30 of each year, covering all expenditures made in administering this program.

((c) amended Oct. 24, 2012, P.L.1308, No.164)

(5 amended July 9, 1987, P.L.235, No.42)

**Compiler's Note:** The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 5.1. Verification of eligibility.

(a) Energy assistance.--The Department of Public Welfare shall verify the income eligibility of recipients receiving energy assistance through the programs set forth in paragraph (4) of the definition of "energy conservation and assistance programs" in section 3 and the program established in section 5(a)(2) in accordance with the verification procedures in sections 432.19 and 432.23 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, unless otherwise prohibited by Federal law.

(b) Weatherization services.--The Department of Community and Economic Development shall verify the income eligibility of recipients receiving weatherization services through the programs set forth in paragraphs (4) and (5) of the definition of "energy conservation and assistance programs" in section 3 and the program established in section 5(a)(1) in accordance with the verification procedures in sections 432.19 and 432.23 of the Public Welfare Code, unless otherwise prohibited by Federal law.

(c) Report.--No later than six months after the effective date of this section and every six months thereafter until this section is fully implemented, the Department of Community and Economic Development and the Department of Public Welfare shall

jointly provide a written report to the Governor, the chairperson and the minority chairperson of the Public Health and Welfare Committee of the Senate, the chairperson and the minority chairperson of the Health Committee of the House of Representatives and the Inspector General detailing the progress of the implementation of this section, including, but not limited to, the following information:

(1) The cause of any delay in the full implementation of this section.

(2) Any technical impediments to the full implementation of this section.

(3) A listing of the data required under section 432.23 of the Public Welfare Code that the Department of Community and Economic Development or the Department of Public Welfare was unable to obtain or access and a description of its efforts to obtain or access the data.

(5.1 added Oct. 24, 2012, P.L.1308, No.164)

**Compiler's Note:** The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 5.2. Fraud reporting to the Office of Inspector General.

(a) Reporting by employee, subgrantee or contractor.--If an employee, subgrantee or contractor of an energy conservation and assistance program has reason to believe a recipient of or applicant for weatherization services or energy assistance is committing fraud or providing false information in order to receive weatherization services or energy assistance, the employee, subgrantee or contractor shall make a fraud report directly to the Office of Inspector General.

(b) Reporting by applicant or recipient.--If a recipient of or applicant for energy assistance or weatherization services has reason to believe an employee, subgrantee or contractor of an energy conservation and assistance program is committing fraud, the applicant or recipient may make a fraud report directly to the Office of Inspector General.

(c) Sanctions.--The employee, subgrantee, contractor, applicant or recipient shall not be subject to any sanctions for making a fraud report in good faith.

(5.2 added Oct. 24, 2012, P.L.1308, No.164)

Section 5.3. Conflict of interest policy.

The Department of Community and Economic Development and the Department of Public Welfare shall each develop conflict of interest policies pertaining to employees and subgrantees authorizing services through the energy conservation and assistance programs and supplemental low-income energy conservation and assistance programs. (5.3 added Oct. 24, 2012, P.L.1308, No.164)

**Compiler's Note.** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 6. Weatherization and energy conservation.

(a) Establishment of Statewide Weatherization and Energy Conservation Policy Council.--A Statewide Weatherization and Energy Conservation Policy Council is hereby created and shall

have the responsibility of advising the Department of Community and Economic Development on matters of policy related to the development and implementation of this program. The council shall establish bylaws governing its activities and shall assume all responsibilities associated with the existing Policy Advisory Council required by the Department of Energy. Members of the council shall be appointed by the Secretary of the Department of Community and Economic Development.

(b) Approval of Statewide plan.--In accordance with 10 CFR § 440.14 (relating to State plans), the council shall review the Statewide plan each year and shall advise the Department of Community and Economic Development on suggested changes to the Statewide plan prior to the expenditure of any funds under this section.

(c) Members of council.--Council membership shall be in accordance with 10 CFR § 440.17 (relating to policy advisory council).

(d) Annual report to General Assembly.--The Statewide Weatherization and Energy Conservation Policy Council shall submit an annual report to the General Assembly on or before September 30 of each year summarizing and evaluating the expenditure of funds under this section during the previous State fiscal year. Such a report shall include, but not be limited to, a summary of program and administrative expenditures, the number of households served, the average investment per home, an estimate of energy savings, the number of applicants and any other relevant information the council deems appropriate. All such information shall be by county, where appropriate. In addition, the report shall contain recommendations to the General Assembly for improvements in the weatherization program.

(e) Coordination of activities.--Activities supported under this act shall be coordinated with other Federal, State, local and privately funded programs in order to avoid duplication of effort and promote integration with other conservation and energy assistance programs. Such coordination shall include, but not be limited to, the establishment, by interagency agreement or otherwise, of a joint policy advisory council to ensure that energy assistance and weatherization assistance benefits are delivered in an effective manner.

(f) Administrative and program efficiency.--All administrative and programmatic requirements shall be streamlined to the greatest extent possible and shall be structured so as to reinforce the quality and productivity of conservation work performed.

(g) Energy education.--A portion of the allocation to each subgrantee may be utilized for energy education, which shall include the instruction and demonstration in the home, at the time the work is performed, of behavior and skills necessary to effectively utilize and preserve the energy conservation measures involved and adopt sound conservation practices in daily lifestyle, as well as the provision of written educational materials and the development of instructional aids and followup.

(h) Program support cost.--((h) deleted by amendment Oct. 24, 2012, P.L.1308, No.164)

(i) Advance payment.--All funds shall be disbursed to subgrantees and their subcontractors in a timely fashion so as to promote continuity and productivity of program and staff.

(j) Inventory.--((j) deleted by amendment Oct. 24, 2012, P.L.1308, No.164)

(k) Reallocation of funds.--In order to ensure the maximum utilization of all funds, the Department of Community and Economic Development shall evaluate subgrantee performance. Such funds which may be more effectively used by other subgrantees, as determined by the Department of Community and Economic Development, shall be reallocated, forthwith, to other subgrantees able to utilize the funds during the contract period.

(l) Quality control monitoring and evaluation.--The Department of Community and Economic Development shall institute regulations, procedures and studies to the following ends:

(1) To ensure that only measures of high cost effectiveness consistent with priorities established by an energy audit have been installed.

(2) To ensure that the material quality and labor associated with the installation of all measures equals or exceeds, where applicable, prevailing industry standards and is sufficiently high to make the measures fully effective.

(3) To evaluate, with the cooperation of utilities and fuel vendors, and with the consent of the recipient household, energy usage before and after treatment in a minimum of 5% of the buildings weatherized with major measures. Any evaluations conducted pursuant to this paragraph shall be performed by a qualified independent organization which shall be chosen in accordance with bidding and selection criteria developed by the Department of Community and Economic Development.

(4) To ensure that an independent audit is performed annually for each subgrantee.

(5) To ensure that sufficient funds for research and development shall be available to review and evaluate specific technologies, installation procedures or other aspects of the program, including training and technical assistance, as may be necessary to ensure maximum energy savings and to improve the cost-effectiveness of the program.

(m) Audit.--The Legislative Budget and Finance Committee shall conduct a performance audit of the Pennsylvania Weatherization Program as administered prior to the effective date of this act by the Department of Community Affairs. The committee shall conduct such inquiries as it deems necessary, including, but not limited to, obtaining interviews with provider agencies and program recipients, with administrators within the Department of Public Welfare, the Department of Community Affairs, the Pennsylvania Public Utility Commission and the Weatherization Policy Advisory Council of the Department of Community Affairs, and with such other persons and entities as it deems necessary. The committee shall present to the General Assembly findings and recommendations for programmatic improvements within one year of the effective date of this act.

(6 amended Oct. 24, 2012, P.L.1308, No.164)

**Compiler's Note.** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 6.1. Powers and duties of Auditor General.

(a) Conduct of performance audit.--The Auditor General shall conduct a thorough performance audit of the programs set forth in paragraphs (4) and (5) of the definition of "energy conservation and assistance programs" in section 3 and the programs created in section 5(a)(1) and (2) which shall be completed within five years after the effective date of this section. Thereafter, the Auditor General shall conduct such

performance audits at intervals of not greater than five years from the date of completing the immediately preceding performance audit required under this subsection. The departments and individuals administering the programs being audited under this section shall make all records, documents and other information available for the inspection of the Auditor General that reasonably relate to the conduct of the performance audit prescribed in this section.

(b) Content of audit.--The audit shall address in detail the adequacy of the performance with respect to each of the administrative and regulatory activities and shall make detailed recommendations to the Department of Community and Economic Development, the Department of Public Welfare, the Governor and the General Assembly for remedial and regulatory changes in the programs that will further the purposes of this act.

(c) Transmission of audit reports and public access.--A copy of each performance audit conducted pursuant to subsection (a) shall be transmitted to the Department of Public Welfare, the Department of Community and Economic Development, the Governor, the Office of Inspector General, the Attorney General, the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives, the chairman and minority chairman of the Public Health and Welfare Committee of the Senate and the chairman and minority chairman of the Health Committee of the House of Representatives. A copy of the performance audit shall be published as a notice in the Pennsylvania Bulletin.

(d) Transmission of information related to fraudulent activities.--The Auditor General shall transmit any information uncovered during the conduct of the performance audit relating to fraud to the Department of Public Welfare, the Department of Community and Economic Development, the Attorney General and the Office of Inspector General.

(6.1 added Oct. 24, 2012, P.L.1308, No.164)

**Compiler's Note:** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 7. Administration of certain energy conservation and assistance programs.

(a) Duties of Department of Environmental Protection.--The energy conservation and assistance programs set forth in paragraphs (1), (2), (3) and (6) of the definition of "energy conservation and assistance programs" in section 3 shall be administered by the Department of Environmental Protection. The Department of Environmental Protection shall establish regulations necessary for administering these programs. ((a) amended Oct. 24, 2012, P.L.1308, No.164)

(b) Priority.--Priority funding from moneys appropriated to the council shall be for the continued operation of the Pennsylvania Energy Center Program; operation of institutional conservation programs which include programs under paragraph (1) of the definition of "energy conservation and assistance programs" in section 3, programs for conservation measures at State-owned and locally owned facilities and programs for conservation measures at nonprofit facilities; and funding of waste-to-energy projects, including, but not limited to, the funding of feasibility studies. The council shall, not later than September 30 of each year, provide a report to the General Assembly which includes, at a minimum, a list of all projects funded, an explanation of how project selection was accomplished



and an explanation of how funds were used to further the priorities listed in this section.

#### Section 8. Administrative costs.

To the extent permitted by applicable court orders, no more than 10% of the annual appropriation for each of the energy conservation and assistance programs, including the supplemental programs established in section 5, shall be used for the planning and administrative costs of these programs.

##### Section 8.1. Limited grants for resource recovery projects.

(a) General rule.--Pursuant to the programs set forth in section 3(1), there is hereby established within the Department of Environmental Protection a limited grant program as part of the State Energy Conservation Plan to assist municipalities in developing resource recovery projects. Consistent with Federal law and regulations, including those governing State energy conservation plans, and departmental regulations, the program shall provide grants which cover up to 75% of the following:

(1) Costs associated with feasibility studies.

(2) Costs associated with project development activity. No grant funds shall be used to cover in any manner any construction costs incurred for resource recovery projects.

(b) Funding.--Money for the grant program shall be derived from the appropriation in section 9(c.1).

(c) Duration.--This grant program shall continue until June 30, 1988, at which time the program shall expire, and any unexpended funds shall lapse back to the Energy Conservation and Assistance Fund.

(d) Duties of Department of Environmental Protection.--In administering this program, the Department of Environmental Protection shall comply with such procedures and restrictions and submit such reports as may be required in order to fulfill its federally mandated responsibilities regarding the State Energy Conservation Plan.

(8.1 amended Oct. 24, 2012, P.L.1308, No.164)

#### Section 9. Appropriations.

(a) Department of Community Affairs.--The sum of \$20,000,000, or as much thereof as may be necessary, is hereby appropriated from the fund to the Department of Community Affairs for the fiscal year July 1, 1986, to June 30, 1987, for the purposes set forth in this act.

(b) Department of Public Welfare.--The sum of \$10,000,000, or as much thereof as may be necessary, is hereby appropriated from the fund to the Department of Public Welfare for the fiscal year July 1, 1986, to June 30, 1987, for the purposes set forth in this act.

(c) Governor's Energy Council.--The sum of \$5,000,000, or as much thereof as may be necessary, is hereby appropriated to the Governor's Energy Council for the fiscal period July 1, 1986, to June 30, 1989, for the programs set forth in section 7. At least 75% of these funds must be used to fund those programs listed as priorities in section 7(b). ((c) amended Dec. 21, 1988, P.L.1906, No.190)

(c.1) Department of Environmental Resources.--The sum of \$5,000,000 is hereby transferred to the Pennsylvania Solid Waste - Resource Recovery Development Fund for the fiscal period July 1, 1986, to June 30, 1989, to be used for grants under section 8.1. This transfer shall be for a three-year period of time ending on June 30, 1989. ((c.1) amended Dec. 21, 1988, P.L.1906, No.190)

(d) Lapse.--Except as provided in subsections (c) and (c.1), any funds unexpended, uncommitted and unencumbered as of June 30, 1987, shall lapse and shall be available for appropriation

from the fund for future fiscal years. ((d) amended July 9, 1987, P.L.235, No.42)

**Compiler's Note.** The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.  
Section 10. Effective date.  
This act shall take effect immediately.