

AMENDMENTS TO SENATE BILL NO. 734

Sponsor: SENATOR HAYWOOD

Printer's No. 836

1 Amend Bill, page 1, lines 1 through 21, by striking out all
2 of said lines and inserting

3 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
4 act relating to tax reform and State taxation by codifying
5 and enumerating certain subjects of taxation and imposing
6 taxes thereon; providing procedures for the payment,
7 collection, administration and enforcement thereof; providing
8 for tax credits in certain cases; conferring powers and
9 imposing duties upon the Department of Revenue, certain
10 employers, fiduciaries, individuals, persons, corporations
11 and other entities; prescribing crimes, offenses and
12 penalties," in tax credit eligibility, further providing for
13 definitions and for eligibility and providing for application
14 and administration, for assessment, for administering agency
15 training, for broker registration, for tax credit and tax
16 benefit reports, for allocation of tax credits or tax benefit
17 program awarded upon appeal and for guidelines; in research
18 and development tax credit, further providing for credit for
19 research and development expenses, for carryover, carryback,
20 refund and assignment of credit and for report to General
21 Assembly; in keystone innovation zones, further providing for
22 keystone innovation zone tax credits and for annual report;
23 in procedure and administration, further providing for
24 petition for reassessment, for petition procedure and for
25 review by board; and making editorial changes.

26 Amend Bill, page 1, lines 24 through 27; pages 2 through 13,
27 lines 1 through 30; page 14, lines 1 through 4; by striking out
28 all of said lines on said pages and inserting

29 Section 1. The heading of Article XVII-A.1 of the act of
30 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
31 1971, is amended to read:

ARTICLE XVII-A.1

TAX CREDIT [ELIGIBILITY] AND TAX BENEFIT ADMINISTRATION

34 Section 2. The definition of "tax credit" in section 1701-
35 A.1 of the act is amended and the section is amended by adding

1 definitions to read:

2 Section 1701-A.1. Definitions.

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

6 "Administering agency." A department, board or commission
7 that administers a tax benefit or tax credit as required by a
8 law of this Commonwealth. The term includes a Keystone
9 innovation zone coordinator under Article XIX-F.

10 "Applicant." A person applying to an administering agency
11 for a tax credit or a tax benefit.

12 "Application." An application submitted to an administering
13 agency by an applicant for a tax credit or tax benefit. The term
14 includes a transfer application and supplemental documentation
15 required to be provided by an applicant, including reports,
16 returns and statements.

17 "Broker." A person registered to engage in the business of
18 effectuating transactions in tax credits for the account of
19 others, including assisting a taxpayer to apply for, sell,
20 transfer, assign or purchase a tax credit. The term includes an
21 entity and any partner, officer, director or affiliate of the
22 entity or a person occupying a similar status or performing
23 similar functions for the entity.

24 * * *

25 "Person." Any individual, employer, association, fiduciary,
26 partnership, corporation, entity, estate or trust, whether a
27 resident or nonresident of this Commonwealth.

28 "Program year." The annual period in which the tax credit or
29 tax benefit operates.

30 "Recipient." A person which is sold, assigned or transferred
31 a transferrable tax credit.

32 "Tax benefit." For purposes of this article, a tax benefit
33 authorized under any of the following:

34 (1) Article XVII-A.

35 (2) Article XVIII-C.

36 (3) Article XIX-B.

37 (4) Article XIX-D.

38 (5) Article XXIX-C.

39 (6) Article XXIX-D.

40 (7) The act of October 6, 1998 (P.L.705, No.92), known
41 as the Keystone Opportunity Zone, Keystone Opportunity
42 Expansion Zone and Keystone Opportunity Improvement Zone Act.

43 "Tax credit." A tax credit authorized under any of the
44 following:

45 (1) Article XVII-B.

46 (2) Article XVII-D.

47 (3) Article XVII-E.

48 (4) Article XVII-G.

49 (5) Article XVII-H.

50 (6) Article XVII-I.

51 (7) Article XVII-J.

(8) Article XVII-K.
(8.1) Article XVII-L.
(9) Article XVIII.
(10) Article XVIII-B.
(11) Article XVIII-D.
(12) Article XVIII-E.
(13) Article XVIII-F.
(14) Article XVIII-G.
(14.1) Article XVIII-H.
(15) Article XIX-A.
(15.1) Article XIX-C.
(16) Article XIX-E.
(16.1) Article XIX-F.
(17) Section 2010.
(18) Article XXIX-D.
(19) Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.
(20) The act of December 1, 2004 (P.L.1750, No.226), known as the First Class Cities Economic Development District Act.
(21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and Facilities Improvement Program).
(22) Any other program established by a law of this Commonwealth in which a person applies for and receives a credit against a tax. This paragraph shall not apply to a credit against a tax liability as a result of an overpayment.
"Taxpayer." A person which was approved for a tax credit or tax benefit or which otherwise received a tax credit.
"Transfer application." An application submitted to the department or the administering agency by an applicant or a recipient as part of the sale, assignment or transfer of a transferrable tax credit to a recipient.
"Transferrable tax credit." A tax credit which may be sold, assigned or transferred from an applicant to a different taxpayer. The term includes a tax credit which may be transferred to a shareholder, member or partner of an applicant.
Section 3. Section 1702-A.1 of the act is amended to read:
Section 1702-A.1. [Eligibility.] Determination of eligibility and method of submission.
(a) Tax reports and returns.--Except as otherwise provided by law, before a tax credit [can] or tax benefit may be awarded, the department [may] or administering agency, as applicable, shall make a finding that [the taxpayer] an applicant or a recipient has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment by the department, unless the tax due is [currently] under appeal at the time the finding was made by the department or administering agency.
(b) [(Reserved).] Electronic applications.--The department or administering agency, as applicable, may require an

1 application for a tax benefit or tax credit to be filed
2 electronically.

3 Section 4. The act is amended by adding sections to read:
4 Section 1703-A.1. Application and administration.

5 (a) Insufficient application.--If an administering agency
6 finds that an application is insufficient, the department, in
7 consultation with the administering agency, may do all of the
8 following:

9 (1) Require the submission of additional documentation
10 or verification which verifies material in the application.
11 Additional documentation or verification required under this
12 paragraph may include any of the following:

13 (i) A copy of the photo identification of the
14 applicant's or recipient's chief executive officer and
15 authorized representative responsible for submitting the
16 application. A copy of photo identification under this
17 subparagraph shall include the individual's name and
18 address.

19 (ii) Bank account statements relating to the
20 business.

21 (iii) Business records, including receipts and
22 expenditures.

23 (iv) Business origination documents, including
24 articles of incorporation, partnership or reference to
25 documents under this subparagraph in records of the
26 Department of State or similar entity in another
27 jurisdiction.

28 (v) Any other information required by the department
29 or administering agency to validate the application.

30 (2) For an applicant which is not an individual, require
31 that the applicant or recipient meet for a virtual or in-
32 person interview with representatives or agents of the
33 department or the administering agency to verify the
34 application.

35 (3) For an applicant which is not an individual, require
36 the applicant or recipient to agree to submit to scheduled or
37 unscheduled site inspections by the department, the
38 administering agency or representatives or agents of the
39 department or administering agency. If the site is located in
40 an area where unscheduled site visits are not feasible, the
41 department or administering agency shall provide sufficient
42 notice prior to the visit.

43 (b) Risk criteria.--The department and an administering
44 agency may jointly develop risk scoring criteria to determine
45 when an applicant or recipient may be required to do any of the
46 following:

47 (1) As a condition of approval of the application, to
48 hire an independent auditor to prepare audited financial
49 statements. The independent auditor under this paragraph
50 shall be a certified public accountant.

51 (2) Provide information which shall be included in the

1 audited financial statements under paragraph (1).

2 (3) Require the audited financial statements under
3 paragraph (1) to be submitted to the department.

4 (c) Reports.--An applicant which is approved for a tax
5 credit or tax benefit shall file an annual report with the
6 department or administering agency detailing all of the
7 following:

8 (1) For a transferrable tax credit, all of the
9 following:

10 (i) Whether the applicant used, sold, assigned or
11 transferred a portion or all of the tax credit in the
12 prior program year.

13 (ii) Whether the tax credit was sold, assigned or
14 transferred for consideration in the prior program year
15 and the name of the recipient.

16 (iii) If the tax credit was sold, assigned or
17 transferred for consideration, the amount of the
18 consideration.

19 (iv) If the tax credit was sold, assigned or
20 transferred for consideration, whether the sale,
21 assignment or transfer was conducted with the assistance
22 of a broker and the name and registration number of the
23 broker.

24 (2) If applicable, an itemization of expenses, income
25 and jobs generated as a result of the receipt of the tax
26 credit or tax benefit.

27 (3) Any other information that the department or
28 administering agency deems necessary.

29 (d) Submission of data.--The department or administering
30 agency shall provide the information submitted under subsection
31 (c)(2) to the Independent Fiscal Office for use in preparing a
32 tax credit report under section 5 of the act of October 30, 2017
33 (P.L.797, No.48), known as the Performance-Based Budgeting and
34 Tax Credit Efficiency Act.
35 Section 1704-A.1. Assessment.

36 (a) Authorization.--The department may issue an assessment
37 against a taxpayer if the department determines that a tax
38 credit or tax benefit was improperly issued or the benefits of
39 the tax credit or tax benefit were improperly conferred.

40 (b) Liability for assessment.--If a tax credit is sold,
41 transferred or assigned to a bona fide purchaser for
42 consideration, the department may only issue an assessment under
43 subsection (a) against the person selling the tax credit and the
44 broker which signed the certification required by section 1706-
45 A.1(g). A seller and broker under this subsection shall be
46 jointly and severally liable for the amount due.

47 (c) Procedures.--The procedures, collection, enforcement and
48 appeals of an assessment made under subsection (a) shall be
49 subject to Part X of Article III, except that the limitations on
50 assessment and collection under section 348 shall not apply.

51 (d) Limitations.--

1 (1) Except as provided under paragraph (2), the
2 department must issue an assessment under subsection (a)
3 within three years of the date the tax credit or tax benefit
4 is awarded or within three years of the date the tax credit
5 is sold, transferred or assigned, whichever is later.

6 (2) If a taxpayer obtains a tax credit or tax benefit by
7 fraud, the department may issue an assessment under
8 subsection (a) at any time.

9 Section 1705-A.1. Administering agency training.

10 (a) Training.--An administering agency shall provide agency
11 employees and representatives and agents of the administering
12 agency who assist applicants with applications with training on
13 all of the following:

14 (1) The requirements for a tax credit or tax benefit.

15 (2) Advising an applicant that has been issued a tax
16 credit or tax benefit of the duty of the business to file
17 reports concerning use of the tax credit or tax benefit as
18 required by the laws of this Commonwealth.

19 (3) Conducting onsite visits to verify compliance with
20 the requirements relating to application for and issuance of
21 a tax credit or tax benefit.

22 (4) Conducting scheduled and unscheduled visits to the
23 site of a taxpayer to ensure compliance with the requirements
24 of the tax credit or tax benefit.

25 (b) (Reserved).

26 Section 1706-A.1. Broker registration.

27 (a) Registration required.--A broker shall be registered
28 with the department under this section. An agent or other party
29 representing a broker or assisting a broker on behalf of an
30 applicant executing an application for, purchase of or sale of a
31 tax credit shall register under this section.

32 (b) Guidelines.--The department, in consultation with the
33 Department of Community and Economic Development, shall
34 establish guidelines providing for the application and
35 registration of a broker under this section. The guidelines
36 shall require all of the following:

37 (1) The name and address of the broker showing that the
38 broker resides in this Commonwealth.

39 (2) The name and address of the business with which the
40 broker is employed or otherwise associated that is located in
41 this Commonwealth.

42 (3) That the broker be at least 18 years of age.

43 (4) The minimum educational requirements, qualifications
44 and experience necessary for the issuance of a registration
45 under this section.

46 (5) A criminal background check prepared by the
47 Pennsylvania State Police that demonstrates the broker has
48 not been convicted of a felony offense or an offense that
49 involved fraud or misrepresentation in this Commonwealth or
50 any other jurisdiction.

51 (6) A list of each professional license that has been

1 issued to the broker and whether the broker is in good
2 standing with the licensing authority.

3 (7) Verification that the application is submitted in
4 accordance with 18 Pa.C.S. §§ 4903 (relating to false
5 swearing) and 4904 (relating to unsworn falsification to
6 authorities).

7 (8) Payment of any required application, licensing and
8 registration fees.

9 (9) Tax clearance showing satisfaction of all State and
10 local taxes.

11 (c) Applications.--A broker shall obtain an initial or
12 renewed registration by filing an application with the
13 department, providing information and documentation and paying
14 all fees as required by the department.

15 (d) Duration of registration.--A registration under this
16 section shall be valid for a period of two years from the date
17 of issuance.

18 (e) Registration number.--A registration under this section
19 shall include a unique registration number for the registrant. A
20 registration under this section may be suspended or revoked by
21 the department for good cause.

22 (f) Appeals.--A broker who is denied a registration under
23 this section, or whose registration is suspended or revoked, may
24 appeal the department's determination in the same manner as
25 provided by Article XXVII.

26 (g) Attachment of certification.--A broker executing the
27 sale of a tax credit or assisting an applicant or a taxpayer to
28 apply for or purchase a tax credit shall attach a certification
29 to the application that the statements and representations made
30 in the application are true and correct and subject to the
31 penalties as set forth in 18 Pa.C.S. § 4903 or 4904. The broker
32 shall include the broker's unique registration number issued by
33 the department in the certification under this section.

34 (h) Fees.--The department may require the payment of an
35 application fee to review and process a registration under this
36 section.

37 (i) Penalties.--A person who violates the requirements
38 specified under this section shall pay a civil fine of \$25,000
39 for the first offense and \$50,000 for each additional offense to
40 the department.

41 (j) Bond required.--A broker registered under this section
42 shall post a bond of \$50,000 with the department.
43 Section 1707-A.1. Tax credit and tax benefit reports.

44 (a) Reports.-- Notwithstanding any law providing for the
45 confidentiality of tax credits, beginning with the first program
46 year which begins after the effective date of this section and
47 each program year thereafter, the administering agency shall
48 publish a report for each tax credit or tax benefit, which shall
49 include the following information:

50 (1) The name of each applicant which received a tax
51 credit or tax benefit in the prior program year. For a tax

1 credit, the amount of tax credit awarded to each applicant.

2 (2) For a tax credit, whether an applicant under
3 paragraph (1) sold, assigned or transferred a tax credit in
4 the prior program year.

5 (3) If applicable, a summary of the data submitted under
6 section 1703-A.1(c) (2).

7 (4) If available, all of the following:

8 (i) The name of the recipient to which the tax
9 credit under paragraph (2) was sold, assigned or
10 transferred in the prior program year. The name of an
11 individual receiving a tax credit without consideration
12 from a pass-through entity in which the individual is a
13 shareholder, member or partner shall not be published.

14 (ii) The amount of tax credit under paragraph (2)
15 that was sold, assigned or transferred in the prior
16 program year.

17 (iii) The price for which a tax credit under
18 paragraph (2) was sold, assigned or transferred.

19 (b) Publication.--

20 (1) Except as provided under paragraph (2), an
21 administering agency shall publish a report under subsection
22 (a) on the administering agency's publicly available Internet
23 website no later than 45 days after the end of a program
24 year.

25 (2) If an administering agency is required by a law of
26 this Commonwealth to prepare an annual report on the tax
27 credit or tax benefit, the information under subsection (a)
28 shall be included in the annual report required by the law of
29 this Commonwealth.

30 Section 1708-A.1. Allocation of tax credits or tax benefits
31 awarded upon appeal.

32 (a) Appeal.--If an administering agency denies an
33 applicant's application for a tax credit or tax benefit program,
34 the applicant may appeal the administering agency's
35 determination in the same manner as provided by Article XXVII.

36 (b) Awarding of tax credit or tax benefit upon appeal.--The
37 following shall apply to an allocation of tax credits awarded
38 upon the final resolution of an appeal:

39 (1) If an applicant is awarded a tax credit which is
40 subject to a total annual limitation, upon the final
41 resolution of an appeal after the full allocation of credits
42 available for a fiscal year is completely expended, the
43 administering agency shall include the awarded tax credit
44 within the distribution of tax credits in the next program
45 year after the resolution of the appeal for which an amount
46 for allocation is available.

47 (2) When awarding a tax credit to an applicant under
48 paragraph (1), the administering agency shall apply any
49 reduction in the awarded tax credit amount as was applied in
50 the program year for which the credit was denied if the
51 reduction was applied due to the total credits applied for

exceeding the amount of credits allocated for the program year.

(3) When awarding a tax credit to an applicant under paragraph (1), the administering agency shall reduce the total amount of credits available for allocation in the next program year by the amount of credits awarded.

(4) The awarded tax credits under paragraph (1) shall apply for the program year in which the credit was denied.

(c) Appeal.--If the Department of Community and Economic Development denies an applicant's application for a tax credit or tax benefit program, the applicant may appeal in a manner established by the Department of Community and Economic Development.

(d) Definition.--As used in this section, the term "administering agency" shall exclude the Department of Community and Economic Development.

Section 1709-A.1. Guidelines.

The department shall develop written guidelines for the implementation of this article.

Section 5. Sections 1703-B(a) and (c), 1704-B(a) and (b), 1711, 1906(b) and 1908-F of the act are amended to read:

Section 1703-B. Credit for Research and Development Expenses.--(a) A taxpayer who incurs Pennsylvania qualified research and development expense in a taxable year may apply for a research and development tax credit as provided in this article. By [September 15] November 1, a taxpayer must submit an application to the department for Pennsylvania qualified research and development expense incurred in the taxable year that ended in the prior calendar year.

* * *

(c) By [December 15 of the] May 1 of the second calendar year following the close of the taxable year during which the Pennsylvania qualified research and development expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's research and development tax credit approved by the department.

Section 1704-B. Carryover, Carryback, Refund and Assignment of Credit.--(a) If the taxpayer cannot use the entire amount of the research and development tax credit for the first taxable year in which the taxpayer applied for a research and development tax credit [is first approved], then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the research and development tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The research and development tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than fifteen taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) A research and development tax credit approved by the department for Pennsylvania qualified research and development expense in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the [credit was approved] taxpayer applied for the credit before the research and development tax credit is applied against any tax liability under subsection (a).

* * *

Section 1711-B. Report to General Assembly.--The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this article no later than [March 15 following the] October 1 following the calendar year in which the credits were approved. The report shall include the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized by each taxpayer. Notwithstanding any law providing for the confidentiality of tax records, the information contained in the report shall be public information. The report may also include any recommendations for changes in the calculation or administration of the credit.

Section 1906-F. Keystone innovation zone tax credits.

* * *

(b) Application for tax credit.--A KIZ company may file an application for a tax credit with the department. An application under this subsection must be filed by [September 15 of each year for the prior taxable year, beginning September 15, 2006] November 1 for the prior tax year. The application must be submitted on a form required by the department and must be accompanied by a certification from the KIZ coordinator that the KIZ company falls within a targeted industry segment identified in the strategic plan adopted by the KIZ partnership, and meet any other requirements specified by the department. The department shall review the application and, upon being satisfied that all requirements have been met, the department shall issue a tax credit certificate to the KIZ company. All certificates shall be awarded by [December 15 of each year] May 1 of each year following the calendar year of application.

* * *

(d) Application of tax credit and election.--A tax credit approved under this section must be first applied against the KIZ company's tax liability under Article III, IV or VI, for the taxable year [during] in which the taxpayer applied for the tax credit [is approved]. If the amount of tax liability owed by the KIZ company is less than the amount of the tax credit, the KIZ company may elect to carry forward the amount of the remaining tax credit for a period not to exceed four additional taxable years and to apply the credit against tax liability incurred during those tax years; or the KIZ company may elect to sell or assign a portion of the tax credit in accordance with the provisions of subsection (f). A KIZ company may not carry back

1 or obtain a refund of an unused keystone innovation zone tax
2 credit.

3 (e) Pennsylvania S corporation shareholder pass-through.--

4 (1) If a Pennsylvania S corporation does not have an
5 eligible tax liability against which the tax credit may be
6 applied, a shareholder of the Pennsylvania S corporation is
7 entitled to a tax credit equal to the product of:

8 (i) the tax credit determined for the Pennsylvania S
9 corporation for the taxable year; and

10 (ii) the percentage of the Pennsylvania S
11 corporation's distributive income to which the
12 shareholder is entitled.

13 (2) The credit provided under paragraph (1) is in
14 addition to any tax credit to which a shareholder of the
15 Pennsylvania S corporation is otherwise entitled. However, a
16 Pennsylvania S corporation and a shareholder of the
17 Pennsylvania S corporation may not claim a tax credit under
18 this section for the same activity.

19 (f) Sale or assignment of tax credit.--

20 (1) Upon application to and approval by the department,
21 a KIZ company which has been awarded a tax credit may sell or
22 assign, in whole or in part, the tax credit granted to the
23 KIZ company. The application must be on the form required by
24 the department and must include or demonstrate all of the
25 following:

26 (i) The applicant's name and address.

27 (ii) A copy of the tax credit certificate previously
28 issued by the department.

29 (iii) A statement as to whether any part of the tax
30 credit has been applied to tax liability of the applicant
31 and the amount so applied.

32 (iv) Any other information required by the
33 department.

34 (2) The department shall review the application and,
35 upon being satisfied that all requirements have been met, the
36 department may approve the application and shall notify the
37 Department of Revenue.

38 (g) Use of sold or assigned tax credit.--The purchaser or
39 assignee of all or a portion of a keystone innovation zone tax
40 credit under this section shall claim the credit in the taxable
41 year in which the purchase or assignment is made. The purchaser
42 or assignee of a tax credit may use the tax credit against any
43 tax liability of the purchaser or assignee under Article III,
44 IV, VI, VII, VIII, IX or XV. The amount of the tax credit used
45 may not exceed 75% of the purchaser's or assignee's tax
46 liability for the taxable year. The purchaser or assignee may
47 not carry over, carry back, obtain a refund of or assign the
48 keystone innovation zone tax credit. The purchaser or assignee
49 shall notify the department and the Department of Revenue of the
50 seller or assignor of the keystone innovation zone tax credit in
51 compliance with procedures specified by the department.

1 * * *
2 Section 1908-F. Annual report.
3 The department shall submit an annual report to the Secretary
4 of the Senate and the Chief Clerk of the House of
5 Representatives indicating the effectiveness of the keystone
6 innovation zone tax credit provided by this article by [December
7 31 of each year, beginning December 31, 2007] October 1 of each
8 year following the calendar year of application. Notwithstanding
9 any law providing for the confidentiality of tax records, the
10 report shall include the names of all taxpayers awarded the
11 credits, all taxpayers utilizing the credits, the amount of
12 credits approved and utilized by each taxpayer and the locations
13 of the KIZ companies awarded the credits. The report shall be a
14 public document.

15 Section 6. Section 2702 of the act is amended by adding a
16 subsection to read:

17 Section 2702. Petition for reassessment.

18 * * *
19 (a.2) Petition for review of denial of tax credit or tax
20 benefit.--The following apply:

21 (1) A petition for reassessment under subsection (a) may
22 include a request for review of a denial of an application
23 for a tax credit or tax benefit made by an administering
24 agency.

25 (2) The administering agency shall have the right to be
26 represented in all proceedings before the department. An
27 applicant filing a petition under paragraph (1) shall provide
28 a copy of the petition to the administering agency within 30
29 days of the applicant filing the petition with the
30 department.

31 (3) The department's review of a petition filed under
32 paragraph (1) shall be limited to the administering agency's
33 denial of a tax credit or tax benefit and shall not include a
34 review of any underlying tax determinations.

35 (4) For the purposes of this subsection:

36 (i) The terms "applicant," "tax benefit" and "tax
37 credit" shall have the same meaning as in section 1701-
38 A.1.

39 (ii) The term "administering agency" shall have the
40 same meaning as in section 1701-A.1 but shall not include
41 the Department of Community and Economic Development.

42 * * *
43 Section 7. Section 2703(a) is amended by adding paragraphs
44 and the section is amended by adding a subsection to read:
45 Section 2703. Petition procedure.

46 (a) Content of petition.--

47 * * *
48 (2.2) A petition for review of tax adjustment not
49 resulting in an increase in liability shall state:

50 (i) The tax type and tax periods included within the
51 petition.

1 (ii) The amount of the tax that the taxpayer claims
2 to have been erroneously adjusted.

3 (iii) The basis upon which the taxpayer claims that
4 the adjustment is erroneous.

5 (2.3) A petition for review of denial of tax credit or
6 tax benefit shall state:

7 (i) The tax credit or tax benefit program for which
8 the applicant was denied.

9 (ii) The amount of the tax credit or tax benefit
10 that the taxpayer claims to have been erroneously denied.

11 (iii) The basis upon which the taxpayer claims that
12 the denial is erroneous.

13 * * *

14 (b.1) Participation of administering agency.--An
15 administering agency of a tax credit or tax benefit shall be
16 permitted to participate in a hearing before the department.
17 The department shall notify the administering agency of the
18 date, time and place where the hearing will be held. The
19 administering agency shall be provided the opportunity to
20 comment upon any submitted evidence and provide written and oral
21 argument to support its denial.

22 * * *

23 Section 8. Section 2704(d.1) of the act is amended by adding
24 a paragraph to read:

25 Section 2704. Review by board.

26 * * *

27 (d.1) Representation.--

28 * * *

29 (3) An administering agency of a tax credit or tax
30 benefit shall be permitted to participate in all proceedings
31 before the board. The board shall notify the administering
32 agency of the date, time and place where the hearing will be
33 held. The administering agency shall be provided the
34 opportunity to comment upon any submitted evidence and
35 provide written and oral argument to support its denial.

36 * * *

37 Section 9. This act shall take effect as follows:

38 (1) This section shall take effect immediately.

39 (2) The addition of section 1706-A.1 of the act shall
40 take effect in 180 days.

41 (3) The remainder of this act shall take effect in 30
42 days.