

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 434 Session of
2005

INTRODUCED BY CORMAN, ERICKSON, ORIE, O'PAKE, MUSTO, LEMMOND,
KITCHEN, BOSCOLA, C. WILLIAMS, D. WHITE, WENGER, WAUGH,
TOMLINSON, TARTAGLIONE, ROBBINS, RHOADES, RAFFERTY, PIPPY AND
PILEGGI, MARCH 22, 2005

REFERRED TO FINANCE, MARCH 22, 2005

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for tax credits for redevelopment or
11 investment of a brownfield.

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

14 Section 1. Section 1902-A of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
16 by adding definitions to read:

17 Section 1902-A. Definitions.--The following words, terms and
18 phrases, when used in this article, shall have the meanings
19 ascribed to them in this section, except where the context
20 clearly indicates a different meaning:

21 "Brownfield." A parcel of real property or a portion of that

1 parcel that has an active potential for redevelopment and has
2 been remediated pursuant to applicable cleanup standards as
3 evidenced by written confirmation from the Department of
4 Environmental Protection.

5 "Brownfield investor." Any person or entity authorized to do
6 business in this Commonwealth and subject to taxes imposed by
7 Article III, IV, VI, VII, VII-A, VIII, VIII-A, IX, X or XV of
8 this act.

9 * * *

10 "Infrastructure investment." Investment designated by the
11 Secretary of Community and Economic Development in the
12 demolition, construction, restoration, alteration, renovation or
13 improvement of land or buildings on brownfields or the addition
14 of machinery, equipment and fixtures to brownfields.

15 * * *

16 "Keystone opportunity zone." A keystone opportunity zone or
17 a keystone opportunity expansion zone established under the act
18 of October 6, 1998 (P.L.705, No.92), known as the Keystone
19 Opportunity Zone, Keystone Opportunity Expansion Zone and
20 Keystone Opportunity Improvement Zone Act.

21 * * *

22 Section 2. Section 1903-A of the act, added June 16, 1994
23 (P.L.279, No.48), is amended to read:

24 Section 1903-A. Public Policy.--It is hereby declared to be
25 public policy of this Commonwealth to [encourage]:

26 (1) Encourage investment by business firms in offering
27 neighborhood assistance and providing job training, education,
28 crime prevention and community services, to encourage
29 contributions by business firms to neighborhood organizations
30 which offer and provide such assistance and services and to

1 promote qualified investments made by private companies to
2 rehabilitate, expand or improve buildings or land which promote
3 community economic development and which occur in portions of
4 impoverished areas which have been designated as enterprise or
5 keystone opportunity zones.

6 (2) Promote redevelopment of brownfields by encouraging
7 investments to improve the infrastructure of these sites.

8 Section 3. Section 1906-A of the act, amended May 7, 1997
9 (P.L.85, No.7), is amended to read:

10 Section 1906-A. Decision in Writing.--The decision of the
11 secretary to approve or disapprove a proposal pursuant to
12 section 1904-A or 1907-A of this act shall be in writing, and,
13 if it approves the proposal, it shall state the maximum credit
14 allowable to the business firm or the brownfield investor. A
15 copy of the decision of the secretary shall be transmitted to
16 the Governor and to the Secretary of Revenue.

17 Section 4. The act is amended by adding sections to read:

18 Section 1907-A. Brownfield Infrastructure Tax Credit.--(a)
19 Any brownfield investor which makes infrastructure investment to
20 a brownfield shall receive a tax credit as provided in section
21 1908-A if the secretary annually approves the proposal of such
22 brownfield investor. The proposal shall set forth the
23 infrastructure work to be conducted, the brownfield selected,
24 the estimated amount to be invested in the brownfield and the
25 plans for implementing the proposed infrastructure work.

26 (b) The credit is not available to any brownfield investor
27 if the brownfield investor, after January 1, 1990, intentionally
28 or negligently caused or contributed to, in any material
29 respect, a level of a regulated substance above the cleanup
30 standards in the act of May 19, 1995 (P.L.4, No.2), known as the

"Land Recycling and Environmental Remediation Standards Act,"
on, in or under the brownfield.

(c) The secretary shall promulgate rules and regulations
designating the types of infrastructure investment that qualify
for a tax credit and the methods for approval or disapproval of
proposals by brownfield investors.

(d) The secretary shall provide a listing of all proposals
received and their disposition in each fiscal year to the
General Assembly by October 1 of the following fiscal year.

Section 1908-A. Grant of Brownfield Infrastructure Tax
Credit.--The Department of Revenue shall grant a brownfield
infrastructure tax credit against any tax due under Article III,
IV, VI, VII, VII-A, VIII, VIII-A, IX, X or XV of this act, or
any tax substituted in lieu thereof in an amount which shall not
exceed fifty per cent of the total amount invested during the
taxable year by the brownfield investor in infrastructure
investments approved pursuant to section 1907-A of this act
except that a tax credit of up to seventy per cent of the total
amount of infrastructure investment during the taxable year by a
brownfield investor may be allowed where activities fall within
the scope of special program priorities as defined with the
approval of the Governor in regulations promulgated by the
secretary or if the investment activity and proposed work meets
the requirements of the strategic plan for development of the
governmental entity in which the brownfield is located.

Regulations establishing special program priorities are to be
promulgated during the first month of each fiscal year and at
such times during the year as the public interest dictates. Any
credit awarded to a brownfield investor shall not exceed five
hundred fifty thousand dollars (\$550,000) annually. No tax

1 credit shall be granted to any bank, bank and trust company,
2 insurance company, trust company, national bank, savings
3 association, mutual savings bank or building and loan
4 association for activities that are a part of its normal course
5 of business. Any tax credit not used in the period the
6 investment was made may be carried over for the next five
7 succeeding calendar or fiscal years until the full credit has
8 been allowed. The total amount of all tax credits allowed
9 pursuant to this act shall not exceed eighteen million dollars
10 (\$18,000,000) in any one fiscal year.

11 Section 1909-A. Termination.--A brownfield investor is not
12 entitled to a brownfield infrastructure tax credit for the cost
13 of infrastructure investment incurred in taxable years ending
14 after December 31, 2005. The secretary shall not approve a
15 brownfield infrastructure tax credit under this article for
16 taxable years ending after December 31, 2005.

17 Section 5. The act is amended by adding an article to read:

18 Article XIX-B

19 BROWNFIELD REDEVELOPMENT TAX CREDIT

20 Section 1901-B. Short Title.--This article shall be known
21 and may be cited as the Brownfield Redevelopment Tax Credit Act.

22 Section 1902-B. Definitions.--The following words, terms and
23 phrases when used in this article shall have the meanings
24 ascribed to them in this section, except where the context
25 clearly indicates a different meaning:

26 "Brownfield." A parcel of real property, or a portion of
27 that parcel, that has an active potential for redevelopment and
28 that has been remediated pursuant to applicable cleanup
29 standards as evidenced by written confirmation from the
30 Department of Environmental Protection.

1 "Brownfield redeveloper." A person or entity subject to the
2 taxes imposed by Article III, IV, VI, VII, VII-A, VIII, VIII-A,
3 IX, X or XV of this act, who owns, leases or invests in a
4 brownfield and proposes or has begun to redevelop the site.

5 "Brownfield redevelopment costs." Unreimbursed costs
6 designated by the secretary incurred in the demolition,
7 construction, restoration, alteration, renovation or improvement
8 of land or buildings on a brownfield or the addition of
9 machinery, equipment and fixtures to the brownfields. The term
10 shall also include the contribution of personal, real,
11 intangible or tangible property toward the redevelopment of a
12 brownfield.

13 "Secretary." The Secretary of Community and Economic
14 Development of the Commonwealth.

15 Section 1903-B. Brownfield Redevelopment Tax Credit.--(a)
16 Any brownfield redeveloper which incurs brownfield redevelopment
17 costs shall receive a tax credit as provided in section 1904-B
18 if the secretary annually approves the proposal of such
19 brownfield redeveloper. The proposal shall set forth the
20 redevelopment work to be conducted, the brownfield selected, the
21 estimated amount of costs to be incurred in the redevelopment
22 work and the plans for implementing the redevelopment work.

23 (b) The credit is not available to any brownfield
24 redeveloper if the brownfield redeveloper, after January 1,
25 1990, intentionally or negligently caused or contributed to, in
26 any material respect, a level of regulated substance above the
27 cleanup standards in the act of May 19, 1995 (P.L.4, No.2),
28 known as the "Land Recycling and Environmental Remediation
29 Standards Act," on, in or under the brownfield.

30 (c) The secretary shall promulgate rules and regulations

1 designating the types of redevelopment costs that qualify for a
2 tax credit and the methods for approval or disapproval of
3 proposals by brownfield redevelopers.

4 (d) The secretary shall provide a listing of all proposals
5 received and their disposition in each fiscal year to the
6 General Assembly by October 1 of the following fiscal year.

7 Section 1904-B. Grant of Brownfield Redevelopment Tax
8 Credit.--The Department of Revenue shall grant a tax credit
9 against any tax due under Article III, IV, VI, VII, VII-A, VIII,
10 VIII-A, IX, X or XV of this act, or any tax substituted in lieu
11 thereof in an amount equal to ten per cent of the brownfield
12 redevelopment costs incurred by the brownfield redeveloper in
13 the tax year in redevelopment programs approved pursuant to
14 section 1903-B of this act except that the maximum tax credits
15 claimed by a brownfield redeveloper under this article for a
16 redevelopment brownfield shall not exceed one million dollars
17 (\$1,000,000). No tax credit shall be granted to any bank, bank
18 and trust company, insurance company, trust company, national
19 bank, savings association, mutual savings bank or building and
20 loan association for activities that are a part of its normal
21 course of business. Any tax credit not used in the period the
22 brownfield redevelopment costs are incurred may be carried over
23 for the next five succeeding calendar or fiscal years until the
24 full credit has been allowed. The total amount of all tax
25 credits allowed pursuant to this act shall not exceed eighteen
26 million dollars (\$18,000,000) in any one fiscal year.

27 Section 1905-B. Decision in Writing.--The decision of the
28 secretary to approve or disapprove a proposal pursuant to
29 section 1903-B of this act shall be in writing, and, if it
30 approves the proposal, it shall state the maximum credit

1 allowable to the business firm. A copy of the decision of the
2 secretary shall be transmitted to the Governor and to the
3 Secretary of Revenue.

4 Section 1906-B. Termination.--A brownfield redeveloper is
5 not entitled to a brownfield redevelopment tax credit for the
6 costs of brownfield redevelopment in taxable years ending after
7 December 31, 2005. The secretary shall not approve a brownfield
8 redemption tax credit under this article for taxable years
9 ending after December 31, 2005.

10 Section 6. This act shall take effect in 60 days.