

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1****Special Session No. 1 of
2007-2008**

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FERLO, WONDERLING AND EICHELBERGER, OCTOBER 4, 2007

AS AMENDED ON THIRD CONSIDERATION, DECEMBER 11, 2007

AN ACT

1 Providing for development of alternative sources of energy.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 CHAPTER 1

5 PRELIMINARY PROVISIONS

6 Section 101. Short title.

7 This act shall be known and may be cited as the Alternative
8 Energy Investment Act.

9 Section 102. Definitions.

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

13 "Alternative energy production project." Except as provided
14 under section 702, includes the development or construction of
15 the following:

16 (1) A facility that utilizes waste coal, biofuel,
17 biomass, solar power, wind energy, geothermal technologies,

1 clean coal technologies, waste energy technologies or other
2 alternative energy sources as defined in the act of November
3 30, 2004 (P.L.1672, No.213), known as the Alternative Energy
4 Portfolio Standards Act, to produce or distribute renewable
5 energy.

6 (2) A facility that manufactures or produces products
7 that provide renewable energy OR PRODUCTS THAT IMPROVE ENERGY <—
8 EFFICIENCY.

9 (3) A facility used for the research and development of
10 technology to provide alternative or renewable energy
11 sources.

12 (4) A project for the development or enhancement of rail
13 transportation systems that deliver alternative or renewable
14 fuels.

15 "Authority." The Commonwealth Financing Authority
16 established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth
17 Financing Authority).

18 "Business." A corporation, partnership, sole proprietorship,
19 limited liability company, business trust or other commercial
20 entity approved by the authority. The term shall include not-
21 for-profit entities.

22 "Clean energy project." A project which does any of the
23 following:

24 (1) Replaces or supplements an existing ENERGY system <—
25 that utilizes nonrenewable energy with a AN ENERGY system <—
26 that utilizes renewable energy.

27 (2) Facilitates the installation of a renewable energy
28 system in an existing building or in new construction or a
29 major renovation of a building, including a green energy
30 building.

(3) Installs energy efficient equipment or energy efficient heating and cooling equipment.

(4) AN ENERGY SERVICE PROJECT. <—

"CONSUMER ENERGY CONSERVATION PROJECT." THE PURCHASE OR INSTALLATION OF ANY OF THE FOLLOWING:

(1) SOLAR OR SOLAR PHOTOVOLTAIC PANELS.

(2) ENERGY EFFICIENT WINDOWS AND DOORS, INCLUDING WINDOWS AND DOORS WITH LOW-EMISSIVITY GLASS, COATINGS AND GLAZINGS.

(3) GEOTHERMAL HEAT PUMPS.

(4) INSULATION, AIR-SEALING AND OTHER ENERGY SAVING PROJECTS APPROVED BY THE DEPARTMENT.

(5) ENERGY EFFICIENT HEATING AND COOLING EQUIPMENT.

(6) ENERGY EFFICIENT SOLID FUEL RESIDENTIAL FURNACES, AS APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, TO INCLUDE FURNACES THAT BURN COAL OR WOOD PELLETS.

"Department." The Department of Environmental Protection of the Commonwealth.

"Energy efficient equipment." Equipment purchased for manufacturing or processing which is designed to utilize significantly less energy than the industry standard available at the time of purchase as determined by the department.

"Energy efficient heating and cooling equipment." Heating and cooling equipment designed to utilize significantly less energy than the industry standards AVAILABLE AT THE TIME OF PURCHASE as determined by the department. <—

"ENERGY SERVICE PROJECT." A PROJECT UNDERTAKEN BY A POLITICAL SUBDIVISION PURSUANT TO AN ENERGY SAVINGS CONTRACT WITH A QUALIFIED PROVIDER UNDER 62 PA.C.S. CH. 37 SUBCH. E (RELATING TO GUARANTEED ENERGY SAVINGS CONTRACTS) AND THE ACT OF

1 MAY 10, 1996 (P.L.153, NO.29), KNOWN AS THE GUARANTEED ENERGY
2 SAVINGS ACT.

3 "Green energy building." A building that adheres to
4 standards adopted by the Department of General Services that
5 optimize the energy performance of buildings.

6 "Pollution control technology project." The acquisition,
7 construction or installation of pollution control technology and
8 equipment that enables an electric generating unit or
9 cogeneration unit to meet any of the following requirements:

10 (1) Mercury emission reductions under 25 Pa. Code Ch.
11 123 (relating to standards for contaminants).

12 (2) The regulations adopted by the United States
13 Environmental Protection Agency known as the Clean Air
14 Mercury Rule codified at 40 CFR Pts. 60 (relating to
15 standards of performance for new stationary sources), 72
16 (relating to permits regulation) and 75 (relating to
17 continuous emission monitoring).

18 (3) Nitrogen oxides and sulfur dioxide emission
19 reduction under 25 Pa. Code Chs. 121 (relating to general
20 provisions), 129 (relating to standards for sources) and 145
21 (relating to interstate pollution transport reduction).

22 (4) The Clean Air Interstate Rule in 40 C.F.R. (relating
23 to protection of environment).

24 "Renewable energy system." Energy generated from alternative
25 energy sources as defined under the act of November 30, 2004
26 (P.L.1672, No.213), known as the Alternative Energy Portfolio
27 Standards Act. The term shall not include a system that is
28 defined as a demand-side management system consisting of the
29 management of customer consumption of electricity or the demand
30 for electricity.

1 ~~"Residential energy conservation project." The purchase or~~ <—
2 ~~installation of any of the following:~~

3 ~~(1) Solar or solar photovoltaic panels.~~

4 ~~(2) Energy efficient windows and doors.~~

5 ~~(3) Geothermal heat pumps.~~

6 ~~(4) Insulation, air sealing and other energy saving~~
7 ~~projects approved by the department.~~

8 ~~(5) Energy efficient heating and cooling equipment.~~

9 "Site preparation project." The construction of water and
10 sewer lines, excavation, construction of access roads and
11 traffic control devices.

12 "SMALL BUSINESS." A PERSON THAT IS ENGAGED IN A FOR-PROFIT <—
13 ENTERPRISE AND THAT EMPLOYS 100 OR FEWER INDIVIDUALS. THE TERM
14 INCLUDES AN AGRICULTURAL PRODUCER OF A FARM COMMODITY.

15 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
16 No.2), known as the Tax Reform Code of 1971.

17 CHAPTER 3

18 ALTERNATIVE ENERGY DEVELOPMENT PROGRAM

19 Section 301. Program.

20 The Alternative Energy Development Program is established.
21 The purpose of the program is to fund projects under this
22 chapter.

23 Section 302. Procedure.

24 ~~(a) Transfer. For each fiscal year beginning after June 30,~~ <—
25 ~~2008, and ending before July 1, 2033, the sum of \$20,000,000, or~~
26 ~~as much thereof as necessary, of the gross receipts tax~~
27 ~~collected during that fiscal year under Article XI of the Tax~~
28 ~~Reform Code of 1971 shall be annually transferred from the~~
29 ~~General Fund in accordance with this chapter to the authority~~
30 ~~for the projects under this section.~~

~~(b) Authority. Funds transferred to the authority under this section may be used for grants or loans or for the payment of debt services for up to 20 years to be incurred in accordance with 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority) for the award of grants or loans to fund projects under this section.~~

(A) APPROPRIATION.--AN AMOUNT NOT TO EXCEED \$20,000,000 OF THE GROSS RECEIPTS COLLECTED DURING EACH FISCAL YEAR UNDER ARTICLE XI OF THE TAX REFORM CODE OF 1971 SHALL BE ANNUALLY APPROPRIATED FROM THE GENERAL FUND TO THE AUTHORITY. THE AUTHORITY MAY USE THE FUNDS IN ACCORDANCE WITH THE FOLLOWING:

(1) THE AUTHORITY MAY ELECT TO INCUR INDEBTEDNESS UNDER THIS SECTION IN THE AMOUNT OF \$250,000,000 PLUS THE PAYMENT OF ALL REASONABLE COSTS AND EXPENSES RELATED TO THE ISSUANCE OF INDEBTEDNESS IN ACCORDANCE WITH 64 PA.C.S. CH. 15 (RELATING TO COMMONWEALTH FINANCING AUTHORITY) FOR UP TO 25 YEARS. FOR FISCAL YEARS 2008-2009 THROUGH 2032-2033, THE \$20,000,000 APPROPRIATED UNDER THIS SECTION, OR AS MUCH THEREOF AS MAY BE NECESSARY, SHALL BE USED BY THE AUTHORITY FOR PAYMENT OF DEBT SERVICE. PROCEEDS FROM ANY DEBT INCURRED UNDER THIS SECTION SHALL BE ALLOCATED IN ACCORDANCE WITH THIS CHAPTER. ALLOCATION OF PROCEEDS FROM DEBT SHALL BE MADE OVER A PERIOD OF AT LEAST THREE YEARS AND SHALL NOT EXCEED \$75,000,000 IN ANY YEAR.

(2) IF THE AUTHORITY DOES NOT INCUR INDEBTEDNESS UNDER PARAGRAPH (1), FOR FISCAL YEARS 2008-2009 THROUGH 2019-2020, THE AUTHORITY SHALL ALLOCATE THE \$20,000,000 ANNUALLY APPROPRIATED UNDER THIS SECTION IN ACCORDANCE WITH THIS CHAPTER. FOR FISCAL YEAR 2020-2021, THE SUM OF \$10,000,000 OF GROSS RECEIPTS TAX SHALL BE APPROPRIATED UNDER THIS SECTION

1 AND ALLOCATED IN ACCORDANCE WITH THIS CHAPTER.

2 (B) AUTHORITY.--FUNDS AVAILABLE TO THE AUTHORITY UNDER
3 SUBSECTION (A) MAY BE USED FOR THE AWARD OF GRANTS OR LOANS FOR
4 PROJECTS UNDER THIS CHAPTER.

5 Section 303. Ben Franklin Technology Development Authority.

6 (a) Allocation of funds.--The sum of \$3,000,000 from funds

7 ~~transferred under section 302(a) or from proceeds from~~ <—
8 ~~indebtedness incurred under section 302(b) shall be allocated~~
9 ~~and annually appropriated to the Ben Franklin Technology~~

10 AVAILABLE TO THE AUTHORITY UNDER SECTION 302(A) SHALL BE <—
11 ALLOCATED TO THE BEN FRANKLIN TECHNOLOGY Development Authority.

12 The total aggregate amount transferred under this subsection
13 shall not exceed \$15,000,000. Funds under this subsection shall
14 be distributed as follows:

15 (1) Sixty percent of the funds ~~allocated under this~~ <—
16 ~~subsection~~ shall be transferred to the Ben Franklin
17 Technology Partners for energy-related investments to support
18 early-stage activities, including incubator support services,
19 management support, translational research, early-stage
20 research of other programs or administrative activities to
21 develop and implement alternative energy technologies. FUNDS <—
22 ALLOCATED UNDER THIS PARAGRAPH SHALL BE DISTRIBUTED EQUALLY
23 AMONG THE BEN FRANKLIN TECHNOLOGY PARTNERS.

24 (2) Forty percent OF THE FUNDS shall be used for venture <—
25 capital for Pennsylvania start-up businesses to develop or
26 expand alternative or renewable energy technologies,
27 including private and public projects, to include funding of
28 the costs associated with capital investments, translational
29 research and other costs necessary to develop commercial
30 spin-offs and licensing agreements. A project receiving funds

under this paragraph shall not receive more than \$500,000 during the life of the program.

(b) Guidelines.--Funds under this section shall be used in accordance with guidelines of the Ben Franklin Technology Development Authority Board. THE GUIDELINES SHALL SEEK TO ENSURE <— THAT MINORITY-OWNED, WOMEN-OWNED AND OTHER DISADVANTAGED BUSINESSES HAVE THE OPPORTUNITY TO SUBSTANTIALLY PARTICIPATE IN FUNDING ACTIVITIES UNDERTAKEN PURSUANT TO THIS SECTION. The guidelines shall be posted on its official Internet website.

(c) Application.--An applicant for funds under this section shall submit an application including any supporting information as required by the Ben Franklin Technology Development Authority.

(d) Administrative costs.--No more than 1% of funds allocated to the Ben Franklin Technology Development Authority shall be used for administrative costs.

(e) Reporting.--The Ben Franklin Technology Development Authority shall provide an annual report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives. The report shall be posted and maintained on its official Internet website. The report shall include a list of all funds distributed under subsection (a), the recipients of the funds, the technology to be developed, A DESCRIPTION OF HOW THE INVESTMENTS OF THE <— PARTNERS THROUGH THIS PROGRAM WILL SAVE ENERGY IN THIS COMMONWEALTH and other details relating to the project. Section 304. Pollution control technology projects.

(a) Allocation.--The sum of \$5,000,000 from funds <— ~~transferred under section 302(a) or from proceeds from~~

1 ~~indebtedness incurred under section 302(b) shall be allocated~~
2 ~~and annually appropriated to the department for pollution~~
3 AVAILABLE TO THE AUTHORITY UNDER SECTION 302(A) SHALL BE <—
4 ALLOCATED TO THE DEPARTMENT FOR POLLUTION control technology
5 projects which shall be utilized for grants to electric
6 generating units or cogeneration units, as defined under 25 Pa.
7 Code § 123.202 (relating to definitions), that utilize coal, as
8 defined under 25 Pa. Code § 123.202, as their primary fuel
9 source, and that have an installed capacity of less than 500
10 megawatts, located in this Commonwealth. The total aggregate
11 amount transferred under this subsection shall not exceed
12 \$25,000,000.

13 (b) Distribution.--Each electric generating unit or
14 cogeneration unit shall be eligible to receive a pro rata share
15 of moneys allocated for pollution control technology projects
16 based on criteria developed by the department. The department
17 shall publish the criteria to be used in the Pennsylvania
18 Bulletin and shall submit the criteria to the Environmental
19 Resources and Energy Committee of the Senate and the
20 Environmental Resources and Energy Committee of the House of
21 Representatives for comment and review 60 days prior to
22 accepting a grant application under this section.

23 ~~Section 305. Distribution of transfers or proceeds.~~ <—

24 SECTION 305. COMMONWEALTH FINANCING AUTHORITY. <—

25 (a) Determination.--Funds AVAILABLE TO THE AUTHORITY UNDER <—
26 SECTION 302(A) AND not distributed under sections 303 and 304
27 shall be used by the authority for grants or loans for the
28 following programs:

29 (1) Loans to businesses and loans or grants to political
30 subdivisions for clean energy projects.

(2) Loans and grants to businesses for alternative energy production projects.

(b) Eligibility.--In order to be eligible to receive funds under this section, an applicant must provide the authority with the following:

(1) Plans and other documents that show the type, structure and character of the project.

(2) A general description of the type, classes and number of current employees and an estimate of any future employment opportunities.

(3) The cost of the project.

(4) A description of how the project will reduce the Commonwealth's reliance on nonrenewable energy.

(c) Eligibility of alternative energy production project.--

In order to be eligible for funding under this chapter ~~or~~ <—
~~Chapter 7,~~ an alternative energy production project shall have a useful life of at least four years and shall be located in this Commonwealth.

(d) Project review.--The authority shall review and prepare an assessment of each application and determine which projects will best utilize and promote the use of renewable energy and promote energy conservation in this Commonwealth. PROJECTS SHALL <—
BE AWARDED IN ACCORDANCE WITH 64 PA.C.S. § 1512 (RELATING TO BOARD).

(e) Adoption of standards.--The Department of General Services shall adopt standards to receive the certification of a green energy building under this act in order to optimize the energy performance of buildings in this Commonwealth. The standards shall include all of the following:

(1) Be consensus-based as defined by the UNITED STATES <—

Office of Management and Budget, Cir. No. ~~A-199~~ A-119, dated <—
February 10, 1998.

(2) Require documentation of performance.

(3) Require third party, postconstruction review and
verification.

~~(4) Include performance based criteria that promotes <—
energy performance and environmental quality and other
criteria deemed appropriate by the department.~~

(4) INCLUDE HIGH-PERFORMANCE CATEGORIES AND STANDARDS <—
THAT HAVE BEEN TESTED AND PROVEN IN THE MARKETPLACE AND OTHER
CRITERIA THAT HAVE BEEN DEEMED APPROPRIATE BY THE DEPARTMENT.

(f) Reporting.--The authority shall provide an annual report
to the chairman and minority chairman of the Appropriations
Committee of the Senate and the chairman and minority chairman
of the Appropriations Committee of the House of Representatives
by October 1, 2008, and October 1 of each year thereafter. The
first report shall be due in 2008. The report shall be posted
and maintained on the authority's official Internet website and
shall include:

(1) A list of all loans and grants approved and loans
repaid during the previous fiscal year, including the name
and address of each recipient, the name of ~~the chief <—
executive officer~~ A CONTACT PERSON of the recipient, the <—
amount of the loan or grant and a detailed description of
each approved project.

(2) The estimated ~~current or future~~ energy savings for <—
the previous fiscal year AND THE CURRENT FISCAL YEAR for all <—
projects receiving funding during that fiscal year, including
an explanation of the method used to arrive at the estimated
savings.

1 (3) Recommendations regarding any potential amendments
2 to this act to include new energy technologies that provide
3 alternative energy sources that encourage or promote energy
4 independence.

5 (4) A DESCRIPTION OF HOW THE PROGRAM WILL SAVE ENERGY IN <—
6 THIS COMMONWEALTH.

7 (g) Administrative costs.--No more than 1% of funds
8 allocated under this section shall be used by the authority for
9 administrative costs. ~~other than costs related to the issuance~~ <—
10 ~~of indebtedness under section 305(a).~~

11 CHAPTER 4 <—

12 APPROPRIATION FROM GROSS RECEIPTS TAX

13 SECTION 401. APPROPRIATION.

14 FOR FISCAL YEARS 2008-2009 THROUGH 2012-2013, THE SUM OF
15 \$3,000,000 OF THE GROSS RECEIPTS TAX COLLECTED EACH YEAR UNDER
16 ARTICLE XI OF THE TAX REFORM CODE OF 1971 SHALL BE APPROPRIATED
17 TO THE ALTERNATIVE FUELS INCENTIVE FUND ESTABLISHED UNDER THE
18 ACT OF NOVEMBER 29, 2004 (P.L.1376, NO.178), KNOWN AS THE
19 ALTERNATIVE FUELS INCENTIVE ACT, FOR REBATES FOR THE PURCHASE OF
20 BI-FUEL, DUAL-FUEL, HYBRID OR DEDICATED VEHICLES UNDER SECTION
21 3(D) OF THE ALTERNATIVE FUELS INCENTIVE ACT.

22 SECTION 402. AMOUNT OF REBATE.

23 NOTWITHSTANDING THE PROVISIONS OF SECTION 3(D) OF THE ACT OF
24 NOVEMBER 29, 2004 (P.L.1376, NO.178), KNOWN AS THE ALTERNATIVE
25 FUELS INCENTIVE ACT, REBATES FOR THE PURCHASE OF A VEHICLE UNDER
26 THAT ACT SHALL BE UP TO \$750 PER APPLICANT TO THE EXTENT FUNDING
27 IS AVAILABLE.

28 CHAPTER 5

29 CONSUMER ~~HOME ENERGY EFFICIENCY~~ ENERGY PROGRAM <—

30 Section 501. Program.

1 There is established in the department a consumer energy
2 program to provide LOANS, grants, reimbursement and rebates to <—
3 ~~consumers~~ INDIVIDUALS AND SMALL BUSINESSES in accordance with <—
4 this chapter.

5 Section 502. ~~Transfer.~~ APPROPRIATION. <—

6 For ~~each fiscal year beginning after June 30, 2008, and~~ <—
7 ~~ending before July 1, 2018~~ FISCAL YEARS 2008-2009 THROUGH 2017- <—
8 2018, the sum of \$20,000,000 of the gross receipts tax collected
9 during that fiscal year under Article XI of the Tax Reform Code
10 of 1971, shall be annually ~~transferred~~ APPROPRIATED from the <—
11 General Fund ~~and appropriated~~ to the department to provide <—
12 LOANS, grants, reimbursements ~~and~~ OR rebates in accordance with <—
13 this chapter.

14 Section 503. ~~Distribution~~ ALLOCATION. <—

15 Money ~~transferred~~ APPROPRIATED under section 502 shall be <—
16 used by the department for the consumer energy program as
17 follows:

18 (1) ~~Fifty percent of funds received annually under this~~ <—
19 ~~section~~ THE SUM OF \$10,000,000 shall be deposited into the <—
20 Emergency Energy Assistance Fund. Funds deposited under this
21 paragraph shall be administered by the Department of Public
22 Welfare for State-funded emergency energy assistance when all
23 of the following occur:

24 (i) The Governor issues a declaration that either
25 weather conditions, natural or man-made disasters, or
26 high energy prices or a combination thereof are a threat
27 to public health within this Commonwealth and available
28 Federal home energy assistance funds are not sufficient
29 to meet this need.

30 (ii) The Governor has the emergency declaration

1 issued under subparagraph (i) published in the
2 Pennsylvania Bulletin along with the criteria and
3 emergency regulations for the emergency energy assistance
4 program and transmits copies of the declaration to the
5 chair and minority chair of the Appropriations Committee
6 of the Senate and the chair and minority chair of the
7 Appropriations Committee of the House of Representatives.

8 ~~(2) Fifty percent of the funds received by the~~ <—
9 ~~department under this section~~ THE SUM OF \$10,000,000 shall be <—
10 used for LOANS, grants, reimbursements or rebates to <—
11 individuals ~~for residential~~ RESIDING IN OWNER-OCCUPIED <—
12 DWELLINGS OR TO SMALL BUSINESSES FOR THE PURCHASE AND
13 INSTALLATION PRICE OF CONSUMER energy conservation projects.
14 An applicant shall be eligible for up to ~~35%~~ 25% of the <—
15 purchase and installation price of a ~~residential~~ CONSUMER <—
16 energy conservation project.

17 SECTION 504. ADDITIONAL APPROPRIATION. <—

18 (A) APPROPRIATION.--FOR FISCAL YEARS 2008-2009 THROUGH 2017-
19 2018, THE SUM OF \$5,000,000 OF THE GROSS RECEIPTS TAX COLLECTED
20 DURING EACH FISCAL YEAR UNDER ARTICLE XI OF THE TAX REFORM CODE
21 OF 1971 SHALL BE ANNUALLY APPROPRIATED FROM THE GENERAL FUND TO
22 THE DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROVIDE LOANS,
23 GRANTS, REIMBURSEMENTS AND REBATES FOR SOLAR AND SOLAR
24 PHOTOVOLTAIC PANELS.

25 (B) REBATE AMOUNT.--REBATE AMOUNTS SHALL BE SET BY THE
26 DEPARTMENT AND SHALL NOT EXCEED 35% OF THE PURCHASE OR
27 INSTALLATION PRICE OF THE SOLAR OR SOLAR PHOTOVOLTAIC PANEL.

28 Section ~~504~~ 505. Application. <—

29 An individual ~~seeking a~~ OR A SMALL BUSINESS SEEKING A LOAN, <—
30 grant, reimbursement or rebate under section 503(2) shall submit

1 an application and any supporting information as required by the
2 department. THE APPLICATION SHALL INCLUDE A STATEMENT THAT THE
3 NEW CONSUMER ENERGY CONSERVATION PRODUCT REPLACES AN EXISTING
4 PRODUCT.

5 ~~Section 505. Guidelines.~~

6 ~~The department shall publish guidelines in the Pennsylvania~~
7 ~~Bulletin relating to the following:~~

8 ~~(1) Eligibility of applicant.~~

9 ~~(2) Types of products and residential energy~~
10 ~~conservation projects eligible under this chapter.~~

11 ~~Section 506. Reporting.~~

12 ~~The department shall provide an annual report to the chairman~~
13 ~~and minority chairman of the Appropriations Committee of the~~
14 ~~Senate and the chairman and minority chairman of the~~
15 ~~Appropriations Committee of the House of Representatives which~~
16 ~~shall include program guidelines, the number and category of~~
17 ~~grants and reimbursements or rebates. The report shall be posted~~
18 ~~and maintained on an official Internet website of the~~
19 ~~department. The report shall include a summary of grants and~~
20 ~~rebates awarded and other information relating to the program.~~

21 ~~Section 507. Administrative costs.~~

22 ~~No more than 1% of the funds allocated to the department~~
23 ~~under this chapter shall be used for administrative costs.~~

24 SECTION 506. STANDARDS.

25 (A) SOLAR.--THE DEPARTMENT SHALL ESTABLISH A SCHEDULE THAT
26 DETERMINES THE AMOUNT OF ANY LOAN, GRANT, REIMBURSEMENT OR
27 REBATE FOR THE PRICE AND INSTALLATION FOR EACH TYPE OF SOLAR OR
28 SOLAR PHOTOVOLTAIC PANEL BASED ON THE NUMBER OF KILOWATT HOURS
29 GENERATED. THE DEPARTMENT SHALL PUBLISH SYSTEM PERFORMANCE
30 INFORMATION RELATING TO THE ELECTRICITY SAVINGS FOR SOLAR OR

1 SOLAR PHOTOVOLTAIC PANELS THAT ARE ELIGIBLE FOR A LOAN, GRANT,
2 REIMBURSEMENT OR REBATE UNDER THIS CHAPTER.

3 (B) CONSUMER ENERGY CONSERVATION PROJECTS.--THE DEPARTMENT
4 SHALL DEVELOP AND PUBLISH PERFORMANCE STANDARDS FOR CONSUMER
5 ENERGY CONSERVATION PROJECTS. IN ORDER TO BE ELIGIBLE FOR A
6 LOAN, GRANT, REIMBURSEMENT OR REBATE UNDER THIS CHAPTER, THE
7 PROJECT MUST COMPLY WITH THE APPROPRIATE STANDARD.

8 (C) PUBLICATION.--THE INFORMATION REQUIRED UNDER SUBSECTIONS
9 (A) AND (B) SHALL BE POSTED AND MAINTAINED ON THE DEPARTMENT'S
10 INTERNET WEBSITE.

11 SECTION 507. GUIDELINES.

12 THE DEPARTMENT SHALL PUBLISH GUIDELINES IN THE PENNSYLVANIA
13 BULLETIN RELATING TO THE FOLLOWING:

14 (1) ELIGIBILITY OF APPLICANT.

15 (2) TYPES OF PRODUCTS AND CONSUMER ENERGY CONSERVATION
16 PROJECTS ELIGIBLE UNDER THIS CHAPTER.

17 SECTION 508. REPORTING.

18 THE DEPARTMENT SHALL PROVIDE AN ANNUAL REPORT TO THE CHAIRMAN
19 AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE
20 SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
21 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE
22 REPORT SHALL INCLUDE:

23 (1) PROGRAM GUIDELINES;

24 (2) THE NUMBER AND CATEGORY OF LOANS, GRANTS,
25 REIMBURSEMENTS OR REBATES; AND

26 (3) A DESCRIPTION OF HOW THE PROGRAM WILL SAVE ENERGY IN
27 THIS COMMONWEALTH.

28 SECTION 509. ADMINISTRATIVE COSTS.

29 NO MORE THAN 1% OF THE FUNDS ALLOCATED TO THE DEPARTMENT
30 UNDER THIS CHAPTER SHALL BE USED FOR ADMINISTRATIVE COSTS.

CHAPTER 6

HOME ENERGY EFFICIENCY LOAN PROGRAM

SECTION 601. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO THE HOME ENERGY EFFICIENCY LOAN PROGRAM.

SECTION 602. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"ADULT HOUSEHOLD MEMBER." ANY PERSON OVER THE AGE OF 18 WHO RESIDES IN THE HOME AS A PRINCIPAL RESIDENCE AND WHO IS NOT A FULL-TIME UNDERGRADUATE STUDENT.

"AGENCY." THE PENNSYLVANIA HOUSING FINANCE AGENCY.

"APPLICANT." A PERSON THAT SUBMITS AN APPLICATION FOR A LOW-INTEREST RATE HOME ENERGY EFFICIENCY LOAN UNDER THIS CHAPTER.

"APPROVED CONTRACTOR." A CONTRACTOR APPROVED BY THE AGENCY IN ACCORDANCE WITH THIS CHAPTER.

"CONTRACTOR." ANY PERSON WHO OWNS AND OPERATES AN ENERGY EFFICIENCY SERVICE-RELATED BUSINESS OR WHO UNDERTAKES, OFFERS TO UNDERTAKE OR AGREES TO PERFORM ANY ENERGY EFFICIENCY PROJECT TO BE FINANCED BY A LOAN ISSUED UNDER THIS CHAPTER.

"ENERGY EFFICIENCY PROJECT." THE PURCHASE OR INSTALLATION OF ANY OF THE FOLLOWING:

(1) AIR SEALING, INSULATION AND DUCT WORK.

(2) ENERGY EFFICIENT WINDOWS AND DOORS.

(3) ENERGY EFFICIENT HEATING OR COOLING SYSTEMS OR REPAIRS.

(4) ROOFING REPAIR, REPLACEMENT OR IMPROVEMENTS.

"FULL-TIME UNDERGRADUATE STUDENT." AN INDIVIDUAL ENROLLED FOR AT LEAST 12 CREDIT HOURS PER SEMESTER AT AN INSTITUTION OF

1 HIGHER EDUCATION.

2 "FUND." THE HOME ENERGY EFFICIENCY LOAN FUND ESTABLISHED
3 UNDER SECTION 605.

4 "HOME ENERGY EFFICIENCY LOAN." A LOW-INTEREST RATE LOAN
5 AWARDED UNDER THIS CHAPTER.

6 SECTION 603. HOME ENERGY EFFICIENCY LOAN PROGRAM.

7 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A HOME ENERGY
8 EFFICIENCY LOAN PROGRAM WHICH SHALL BE ADMINISTERED BY THE
9 AGENCY. THE PROGRAM SHALL PROVIDE LOANS TO ELIGIBLE HOUSEHOLDS
10 FOR ENERGY EFFICIENCY PROJECTS.

11 (B) HOUSEHOLD ELIGIBILITY.--DWELLING UNITS THAT ARE OWNER-
12 OCCUPIED AND HAVE AN ADJUSTED GROSS INCOME, AS DETERMINED BY THE
13 MOST CURRENT FEDERAL TAX RETURNS OF ALL ADULT HOUSEHOLD MEMBERS,
14 THAT DOES NOT EXCEED 150% OF THE GREATER OF THE CURRENT
15 STATEWIDE OR AREA MEDIAN INCOME (AMI) AS ESTABLISHED BY THE
16 FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE
17 COUNTY IN WHICH THE HOME IS LOCATED.

18 (C) APPLICATIONS.--AN INDIVIDUAL MAY SUBMIT AN APPLICATION
19 TO THE AGENCY REQUESTING A LOAN. THE APPLICATION SHALL BE ON THE
20 FORM REQUIRED BY THE AGENCY AND SHALL INCLUDE OR DEMONSTRATE ALL
21 OF THE FOLLOWING:

22 (1) THE APPLICANT'S NAME AND ADDRESS.

23 (2) THE IDENTITY OF THE APPROVED CONTRACTOR WHO WILL
24 COMPLETE THE ENERGY EFFICIENCY PROJECT.

25 (3) A DESCRIPTION OF THE ENERGY EFFICIENCY PROJECT AND
26 AN ESTIMATE OF THE COST OF THE PROJECT, INCLUDING AN ITEMIZED
27 LIST OF PROJECT COSTS, PREPARED BY THE APPROVED CONTRACTOR
28 IDENTIFIED UNDER PARAGRAPH (2).

29 (4) THE AMOUNT OF THE LOAN SOUGHT.

30 (5) A STATEMENT AUTHORIZING THE AGENCY TO CONDUCT A

CREDIT HISTORY CHECK.

(6) ANY OTHER INFORMATION REQUIRED BY THE AGENCY.

(D) REVIEW OF PROJECT FINANCING APPLICATIONS.--THE AGENCY SHALL REVIEW THE APPLICATION TO DETERMINE IF:

(1) THE PROJECT IS ELIGIBLE FOR FINANCING UNDER THIS PROGRAM.

(2) THE APPLICANT IS ELIGIBLE TO RECEIVE A LOAN UNDER THIS PROGRAM.

(3) THE VALUE OF THE PROPOSED COLLATERAL AND THE FINANCIAL RESOURCES OF THE APPLICANT ARE SUFFICIENT TO REPAY THE LOAN.

(4) THE STATEMENT OF THE ESTIMATED COST OF THE PROJECT IS ACCURATE AND REASONABLE.

(5) THE APPLICANT COMPLIED WITH ALL OTHER CRITERIA ESTABLISHED BY THE AGENCY.

(E) APPROVAL OF LOAN APPLICATIONS.--ONCE THE APPLICATION IS DEEMED COMPLETE, THE AGENCY MAY APPROVE THE APPLICATION. THE AGENCY SHALL HAVE COMPLETE DISCRETION IN DETERMINING WHETHER A PROPOSED ENERGY EFFICIENCY PROJECT IS ELIGIBLE FOR A LOAN.

(F) SECURITY.--ALL LOANS AWARDED UNDER THIS ACT SHALL BE SECURED BY A LIEN ON THE PROPERTY FOR WHICH THE LOAN WAS APPROVED AND OTHER SUFFICIENT COLLATERAL AS DETERMINED BY THE AGENCY.

(G) LIMITATIONS.--

(1) AN APPLICANT MAY NOT APPLY FOR A LOAN IN AN AMOUNT LESS THAN \$1,000 NOR MORE THAN \$10,000.

(2) THE AGENCY SHALL NOT REQUIRE A LOAN TO BE REPAYED IN FULL WITHIN SIX MONTHS OF THE LOAN CLOSING DATE.

(3) THE INTEREST RATE SHALL BE A BELOW-MARKET, FIXED INTEREST RATE, AS DETERMINED BY THE AGENCY.

(4) THE LOAN REPAYMENT PERIOD MAY NOT EXCEED TEN YEARS
WITH NO PREPAYMENT PENALTY.

SECTION 604. APPROVED CONTRACTORS.

(A) REGISTRATION REQUIRED.--NO CONTRACTOR MAY UNDERTAKE,
OFFER TO UNDERTAKE OR AGREE TO PERFORM ANY ENERGY EFFICIENCY
PROJECT TO BE FINANCED BY A LOAN ISSUED UNDER THIS PROGRAM
UNLESS THE CONTRACTOR IS APPROVED BY THE AGENCY.

(B) APPLICATION FOR ENROLLMENT.--A CONTRACTOR MAY APPLY TO
BECOME AN APPROVED CONTRACTOR BY FILING AN APPLICATION WITH THE
AGENCY. THE APPLICATION SHALL BE ON THE FORM PRESCRIBED BY THE
AGENCY AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE FOLLOWING:

(1) FOR AN INDIVIDUAL APPLICANT, THE NAME, HOME ADDRESS,
HOME TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION
NUMBER OF THE APPLICANT OR AN IDENTIFICATION CARD ISSUED BY
THE DEPARTMENT OF TRANSPORTATION, AS WELL AS THE INDIVIDUAL'S
BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER IF DIFFERENT, AND
ALL PRIOR BUSINESS NAMES AND ADDRESSES OF HOME IMPROVEMENT
BUSINESSES.

(2) FOR A PARTNERSHIP APPLICANT, THE NAME, HOME ADDRESS,
HOME TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION
NUMBER OF EACH PARTNER AS WELL AS THE PARTNERSHIP NAME,
ADDRESS AND TELEPHONE NUMBER.

(3) FOR A CORPORATION, LIMITED LIABILITY COMPANY OR
LIMITED PARTNERSHIP APPLICANT, THE NAME, HOME ADDRESS, HOME
TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION NUMBER
OF EACH OFFICER, EACH DIRECTOR OR EACH INDIVIDUAL HOLDING
GREATER THAN A 5% STAKE IN THE BUSINESS, AS WELL AS THE
ENTITY'S BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER.

(4) FOR AN OUT-OF-STATE CORPORATION, LIMITED LIABILITY
COMPANY OR LIMITED PARTNERSHIP, THE NAME AND ADDRESS OF THE

1 ENTITY'S RESIDENT AGENT OR REGISTERED OFFICE PROVIDER WITHIN
2 THIS COMMONWEALTH AND ANY REGISTRATION NUMBER OR LICENSE
3 NUMBER ISSUED TO THE ENTITY BY ITS HOME STATE OR POLITICAL
4 SUBDIVISION OF THE OTHER STATE, IF APPLICABLE.

5 (5) FOR A JOINT VENTURE APPLICANT, THE NAME, ADDRESS AND
6 TELEPHONE NUMBER OF THE JOINT VENTURE, AS WELL AS THE NAME,
7 ADDRESS AND TELEPHONE NUMBER OF EACH PARTY TO THE JOINT
8 VENTURE. IF THE PARTIES TO A JOINT VENTURE INCLUDE BUSINESS
9 ENTITIES, THE INFORMATION REQUIRED FROM THE ENTITIES UNDER
10 THIS SUBSECTION SHALL ALSO BE PROVIDED.

11 (6) A COMPLETE DESCRIPTION OF THE NATURE OF THE
12 CONTRACTING BUSINESS OF THE APPLICANT, INCLUDING A STATEMENT
13 DEFINING THE SERVICE AREA OF THE BUSINESS.

14 (7) A STATEMENT WHETHER ANY OF THE FOLLOWING APPLY:

15 (I) THE INDIVIDUAL OR INDIVIDUALS MAKING
16 APPLICATION, EVEN IF DOING SO AS PART OF A BUSINESS
17 ENTITY APPLICATION, HAS EVER BEEN CONVICTED OF A CRIMINAL
18 OFFENSE RELATED TO A HOME IMPROVEMENT TRANSACTION, FRAUD,
19 THEFT, A CRIME OF DECEPTION OR A CRIME INVOLVING
20 FRAUDULENT BUSINESS PRACTICES.

21 (II) THE APPLICANT HAS EVER FILED A PETITION IN
22 BANKRUPTCY OR, WITHIN THE LAST TEN YEARS, RECEIVED A
23 FINAL CIVIL JUDGMENT ENTERED AGAINST THE APPLICANT OR
24 BUSINESSES IN WHICH THE APPLICANT HELD AN INTEREST THAT
25 WAS RELATED TO A HOME IMPROVEMENT TRANSACTION.

26 (III) THE APPLICANT'S CERTIFICATE OR THE CERTIFICATE
27 OF A BUSINESS WITH WHICH THE PERSON MAKING APPLICATION
28 HELD AN INTEREST HAS EVER BEEN REVOKED OR SUSPENDED
29 PURSUANT TO AN ORDER ISSUED BY A COURT OF COMPETENT
30 JURISDICTION IN THIS COMMONWEALTH OR ANY OTHER STATE OR

POLITICAL SUBDIVISION THEREOF AND, IF SO, THE CURRENT
STATUS OF THE CERTIFICATE.

(8) WHETHER WITHIN THE LAST TEN YEARS THE APPLICANT HAS
BEEN SUSPENDED OR DEBARRED FROM PARTICIPATING IN ANY FEDERAL,
STATE OR LOCAL PROGRAM THROUGH WHICH PUBLIC FUNDING OR OTHER
ASSISTANCE IS PROVIDED TO CONSUMERS FOR HOME IMPROVEMENTS.

(9) PROOF OF LIABILITY INSURANCE COVERING PERSONAL
INJURY IN AN AMOUNT NOT LESS THAN \$50,000 AND INSURANCE
COVERING PROPERTY DAMAGE CAUSED BY THE WORK OF THE CONTRACTOR
IN AN AMOUNT NOT LESS THAN \$50,000.

(C) APPROVAL OF APPLICATION.--UPON BEING SATISFIED THAT ALL
REQUIREMENTS HAVE BEEN MET, THE AGENCY MAY APPROVE THE
APPLICATION AND, IF APPROVED, DESIGNATE THE APPLICANT AS AN
APPROVED CONTRACTOR. THE AGENCY SHALL NOT APPROVE AN APPLICATION
IF ANY OF THE FOLLOWING CONDITIONS EXIST:

(1) THE INDIVIDUAL OR INDIVIDUALS MAKING APPLICATION,
EVEN IF DOING SO AS PART OF A BUSINESS ENTITY APPLICATION,
HAS EVER BEEN CONVICTED OF A CRIMINAL OFFENSE RELATED TO A
HOME IMPROVEMENT TRANSACTION, FRAUD, THEFT, A CRIME OF
DECEPTION OR A CRIME INVOLVING FRAUDULENT BUSINESS PRACTICES.

(2) THE APPLICANT HAS EVER BEEN SUSPENDED OR DEBARRED
FROM PARTICIPATING IN ANY FEDERAL, STATE OR LOCAL PROGRAM
THROUGH WHICH PUBLIC FUNDING OR OTHER ASSISTANCE IS PROVIDED
TO CONSUMERS FOR HOME IMPROVEMENTS.

SECTION 605. HOME ENERGY EFFICIENCY LOAN FUND.

(A) APPROPRIATION.--FOR FISCAL YEAR 2008-2009, THE SUM OF
\$5,000,000 OF THE GROSS RECEIPTS TAX COLLECTED DURING THAT
FISCAL YEAR UNDER ARTICLE XI OF THE TAX REFORM CODE OF 1971
SHALL BE APPROPRIATED FROM THE GENERAL FUND TO THE PENNSYLVANIA
HOUSING FINANCE AGENCY FOR DEPOSIT IN THE HOME ENERGY EFFICIENCY

1 LOAN FUND ESTABLISHED IN SUBSECTION (B).

2 (B) ESTABLISHMENT.--MONEY APPROPRIATED TO THE AGENCY UNDER
3 THIS SECTION SHALL BE DEPOSITED INTO A RESTRICTED RECEIPTS
4 ACCOUNT TO BE KNOWN AS THE HOME ENERGY EFFICIENCY LOAN FUND, AND
5 USED IN ASSOCIATION WITH LOANS AWARDED BY THE AGENCY UNDER THIS
6 PROGRAM.

7 (C) REVOLVING LOAN FUND.--PROCEEDS OF BONDS ISSUED TO FUND
8 THE LOANS AUTHORIZED UNDER THIS CHAPTER AND ANY MONEYS RECEIVED
9 AS LOAN REPAYMENTS, OR MONEYS OTHERWISE MADE AVAILABLE TO THE
10 FUND, SHALL BE DEPOSITED IN THE FUND AND MADE AVAILABLE FOR
11 ADDITIONAL LOANS. NO MORE THAN 1% OF THE FUNDS MAY BE USED FOR
12 REASONABLE ADMINISTRATIVE COSTS.

13 SECTION 606. ANNUAL REPORT.

14 (A) CONTENTS.--ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE
15 AGENCY SHALL PREPARE A REPORT EVALUATING THE LOANS AWARDED UNDER
16 THIS CHAPTER DURING THE PREVIOUS FISCAL YEAR. THE REPORT SHALL
17 BE SUBMITTED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
18 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
19 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE
20 OF REPRESENTATIVES AND INCLUDE THE FOLLOWING, LISTED BY COUNTY
21 WHERE APPROPRIATE:

22 (1) THE TOTAL NUMBER OF APPLICATIONS RECEIVED AND LOANS
23 AWARDED.

24 (2) THE DATE OF APPROVAL OF EACH LOAN, INCLUDING THE
25 ORIGINAL PRINCIPAL BALANCE, THE INTEREST RATE AND THE
26 REPAYMENT PERIOD.

27 (3) A BRIEF DESCRIPTION OF THE ENERGY EFFICIENCY PROJECT
28 FOR WHICH THE LOAN WAS MADE.

29 (4) ANY RECOMMENDATION TO THE GENERAL ASSEMBLY FOR
30 IMPROVEMENTS IN THE PROGRAM.

(5) ANY OTHER INFORMATION DEEMED BY THE AGENCY TO BE
RELEVANT OR NECESSARY TO COMPLETE A COMPREHENSIVE REVIEW OF
THE PROGRAM, PROVIDED THAT PERSONAL INFORMATION OF INDIVIDUAL
LOAN RECIPIENTS SHALL BE CONSIDERED CONFIDENTIAL AND NOT
SUBJECT TO DISCLOSURE.

(6) A DESCRIPTION OF THE ENERGY SAVINGS RESULTING FROM
THE PROJECT.

(B) REPORT POSTING.--THE AGENCY SHALL POST AND MAINTAIN THE
REPORT ON THE AGENCY'S INTERNET WEBSITE.

SECTION 607. AGENCY GUIDELINES.

THE AGENCY SHALL PROMULGATE GUIDELINES NECESSARY FOR THE
ADMINISTRATION AND ENFORCEMENT OF THIS ACT, WHICH SHALL BE
PUBLISHED BY THE AGENCY IN THE PENNSYLVANIA BULLETIN WITHIN 90
DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

CHAPTER 7

ALTERNATIVE ENERGY PRODUCTION TAX CREDIT PROGRAM

Section 701. Establishment.

There is established the alternative energy production tax
credit program.

Section 702. Definitions.

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

~~"Alternative energy production project." Includes the~~
~~following:~~

"ALTERNATIVE ENERGY PRODUCTION PROJECT." A PROJECT LOCATED
IN THIS COMMONWEALTH THAT HAS A USEFUL LIFE OF AT LEAST FOUR
YEARS. THE TERM INCLUDES:

(1) A facility that utilizes waste coal, biofuel,
biomass, solar power, wind energy, geothermal technologies,

1 clean coal technologies, WASTE ENERGY TECHNOLOGIES or other
2 alternative energy sources as defined in the act of November
3 30, 2004 (P.L.1672, No.213), known as the Alternative Energy
4 Portfolio Standards Act, to produce or distribute renewable
5 energy.

6 (2) A facility that manufactures or produces products
7 that provide renewable energy.

8 (3) A facility used for the research and development of
9 technology to provide alternative or renewable energy
10 sources.

11 (4) A project for the development or enhancement of rail
12 transportation systems that deliver alternative or renewable
13 fuels.

14 "Alternative energy production tax credit." The credit
15 provided for under this chapter.

16 "Pass-through entity." A partnership as defined under
17 section 301(n.0) of the act of March 4, 1971 (P.L.6, No.2),
18 known as the Tax Reform Code of 1971, or a Pennsylvania S
19 corporation as defined under section 301(n.1) of the Tax Reform
20 Code of 1971.

21 "Qualified tax liability." The liability for taxes imposed
22 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
23 No.2), known as the Tax Reform Code of 1971. The term does not
24 include any tax withheld by an employer from an employee under
25 Article III.

26 "Taxpayer." An entity subject to tax under Article III, IV
27 or VI of the act of March 4, 1971 (P.L.6, No.2), known as the
28 Tax Reform Code of 1971. The term shall include the shareholder
29 of a Pennsylvania S corporation that receives an alternative
30 energy production tax credit.

1 Section 703. Eligible applicants.

2 (A) GENERAL RULE.--A taxpayer who develops or constructs an <—
3 alternative energy production project LOCATED IN THIS <—
4 COMMONWEALTH WITH A USEFUL LIFE OF AT LEAST FOUR YEARS may apply
5 for an alternative energy production tax credit as provided
6 under this chapter. By February 1, ~~of each year~~ 2009, AND <—
7 FEBRUARY 1 OF EACH YEAR THEREAFTER, a taxpayer must submit an
8 application to the ~~Department of Revenue for~~ DEPARTMENT ON A <—
9 FORM PRESCRIBED BY THE DEPARTMENT, SETTING FORTH the amount of
10 the investment in an alternative energy production project that
11 was made in the taxable year that ended in the prior calendar
12 year.

13 (B) APPLICATION.--AN APPLICATION SHALL BE DEVELOPED BY THE <—
14 DEPARTMENT AND SHALL INCLUDE:

15 (1) TYPE AND LOCATION OF THE ALTERNATIVE ENERGY
16 PRODUCTION PROJECT.

17 (2) TOTAL COST OF THE ALTERNATIVE ENERGY PRODUCTION
18 PROJECT.

19 (3) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE
20 DEPARTMENT.

21 Section 704. Award of tax credits.

22 (a) Qualification.--A taxpayer that is eligible under
23 section 703 shall receive an alternative energy production tax
24 credit for the taxable year in an amount equal to ~~75%~~ 15% of the <—
25 total amount of all development, equipment and construction
26 costs paid for alternative energy production projects, NOT TO <—
27 EXCEED \$1,000,000 FOR EACH TAXPAYER, in the taxable year to be
28 applied against the taxpayer's qualified tax liability.

29 ~~(b) Notification.--By December 15 of the calendar year~~ <—
30 ~~following the close of the taxable year during which the~~

~~investment in an alternative energy production project was made,
the department shall notify the taxpayer of the amount of the
taxpayer's alternative energy production tax credit approved by
the department.~~

(B) CALCULATION.--IN CALCULATING THE TOTAL AMOUNT OF ALL
DEVELOPMENT, EQUIPMENT AND CONSTRUCTION COSTS PAID FOR
ALTERNATIVE ENERGY PRODUCTION PROJECTS, THE TAXPAYER SHALL
DEDUCT THE AMOUNT OF ANY GRANT OR OTHER SUBSIDY RECEIVED IN
RELATION TO THE ALTERNATIVE ENERGY PRODUCTION PROJECT FOR WHICH
THE CREDIT IS SOUGHT BY THE TAXPAYER FROM A FEDERAL, STATE OR
LOCAL GOVERNMENT ENTITY, INCLUDING AN AUTHORITY.

(C) NOTIFICATION OF APPLICANT.--THE DEPARTMENT SHALL WITHIN
90 DAYS OF RECEIPT REVIEW EACH APPLICATION AND NOTIFY THE
APPLICANT WHETHER OR NOT THE APPLICANT IS APPROVED FOR A TAX
CREDIT.

(D) NOTIFICATION OF DEPARTMENT OF REVENUE.--UPON
DETERMINATION THAT AN APPROVED APPLICANT HAS INCURRED COSTS FOR
AN ALTERNATIVE ENERGY PRODUCTION PROJECT, THE DEPARTMENT SHALL
NOTIFY THE DEPARTMENT OF REVENUE THAT THE APPLICANT HAS INCURRED
THE COSTS FOR AN ALTERNATIVE ENERGY PRODUCTION PROJECT AND THE
AMOUNT OF ALTERNATIVE ENERGY PRODUCTION TAX CREDIT APPROVED FOR
THE ELIGIBLE APPLICANT.

Section 705. Carryover, refund, assignment and carryback of
credit.

(a) Carryover.--If the taxpayer cannot use the entire amount
of the alternative energy production tax credit for the taxable
year in which the alternative energy production tax credit is
first approved, 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

1 that the alternative energy production tax credit is carried
2 over to a succeeding taxable year, it is to be reduced by the
3 amount that was used as a credit during the immediately
4 preceding taxable year. The alternative energy production tax
5 credit provided under this chapter may be carried over and
6 applied to succeeding taxable years for no more than five
7 taxable years following the first taxable year for which the
8 taxpayer was entitled to claim the credit.

9 (b) Application.--An alternative energy production tax
10 credit approved by the ~~Department of Revenue~~ DEPARTMENT in a <—
11 taxable year first shall be applied against the taxpayer's
12 qualified tax liability for the current taxable year as of the
13 date on which the credit was approved before the alternative
14 energy production tax credit is applied against any tax
15 liability under subsection (a).

16 (c) Carryback and refund.--A taxpayer is not entitled to
17 carry back or obtain a refund of an unused alternative energy
18 production tax credit.

19 ~~(d) Sale or assignment. A taxpayer, upon application to and~~ <—
20 ~~approval by the Department of Revenue, may sell or assign, in~~

21 (D) SALE OR ASSIGNMENT.-- <—

22 (1) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
23 DEPARTMENT, MAY SELL OR ASSIGN, IN whole or in part, an
24 alternative energy production project tax credit granted to
25 the taxpayer under this chapter if no claim for allowance of
26 the credit is filed within one year from the date the credit
27 is approved by the department under this act. The ~~Department~~ <—
28 ~~of Revenue~~ DEPARTMENT shall establish guidelines for the <—
29 approval of applications under this subsection.

30 (2) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF <—

1 REVENUE MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL
2 REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE
3 TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS
4 DETERMINED AT ASSESSMENT BY THE DEPARTMENT OF REVENUE.

5 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
6 DEPARTMENT OF REVENUE SHALL ASSESS THE TAX OF AN APPLICANT
7 UNDER THIS SUBSECTION WITHIN 90 DAYS OF THE FILING OF ALL
8 REQUIRED FINAL RETURNS OR REPORTS IN ACCORDANCE WITH SECTION
9 806.1(A)(5) OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),
10 KNOWN AS THE FISCAL CODE.

11 (E) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF
12 ALL OR A PORTION OF A TAX CREDIT UNDER SUBSECTION (D) SHALL
13 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
14 PURCHASE OR ASSIGNMENT IS MADE. THE AMOUNT OF THE TAX CREDIT
15 THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED
16 TAX LIABILITY MAY NOT EXCEED 50% OF SUCH QUALIFIED TAX LIABILITY
17 FOR THE TAXABLE YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY
18 FORWARD, CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE
19 TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY THE
20 DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE TAX
21 CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY THE DEPARTMENT
22 OF REVENUE.

23 ~~Section 706. Limitation on tax credits.~~ <—

24 ~~(a) Total. The total amount of credits approved by the~~
25 ~~Department of Revenue shall not exceed \$20,000,000 in any fiscal~~
26 ~~year.~~

27 SECTION 706. LIMITATION ON TAX CREDITS. <—

28 (A) TOTAL.--THE TOTAL AMOUNT OF CREDITS APPROVED BY THE
29 DEPARTMENT SHALL NOT EXCEED:

30 (1) \$7,000,000 IN FISCAL YEAR 2008-2009.

(2) \$12,000,000 IN FISCAL YEARS 2009-2010 THROUGH 2012-2013.

(3) \$15,000,000 IN FISCAL YEARS 2013-2014 THROUGH 2017-2018.

(b) Formula.--If the total amount of alternative energy production tax credits applied for by all taxpayers exceeds the amount allocated for those credits, then the alternative energy production tax credit to be received by each applicant shall be the product of the allocated amount multiplied by the quotient of the alternative energy production tax credit applied for by the applicant divided by the total of all alternative energy production tax credits applied for by all applicants, the algebraic equivalent of which is:

taxpayer's alternative energy production tax credit =
amount allocated for those credits x (alternative energy
production tax credit applied for by the applicant/total
of all alternative energy production tax credits applied
for by all applicants).

Section 707. Pass-through entity.

(a) Unused credit.--If a pass-through entity has any unused tax credit under section 705, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Additional credit.--The credit provided under subsection (a) is in addition to any alternative energy production tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this chapter. A pass-through entity and a shareholder, member or partner of a pass-

1 through entity may not claim a credit under this chapter for the
2 same alternative energy production investment.

3 (c) Claim.--A shareholder, member or partner of a pass-
4 through entity to whom credit is transferred under subsection
5 (a) must immediately claim the credit in the taxable year in
6 which the transfer is made. The shareholder, member or partner
7 may not carry forward, carry back, obtain a refund of or sell or
8 assign the credit.

9 Section 708. Reporting.

10 (a) General rule.--No later than September 1 of each year,
11 ~~the Department of Revenue, in cooperation with the department~~ <—
12 ~~and the Department of Community and Economic Development, shall~~
13 THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF REVENUE, <—
14 SHALL submit a report to the General Assembly summarizing the
15 effectiveness of the tax credit provided under this chapter. The
16 report shall include the name of each taxpayer utilizing the
17 credit as of the date of the report and the amount of credits
18 approved for or utilized by each taxpayer. The report may also
19 include recommendation for changes in the calculation or
20 administration of the tax credit. The report shall be submitted
21 to the chairman and minority chairman of the Appropriations
22 Committee of the Senate, the chairman and minority chairman of
23 the Finance Committee of the Senate, the chairman and minority
24 chairman of the Appropriations Committee of the House of
25 Representatives and the chairman and minority chairman of the
26 Finance Committee of the House of Representatives. The report
27 shall include the following information, which shall be
28 separated by geographic location within this Commonwealth:

29 (1) The amount of credits claimed during the fiscal
30 year.

1 (2) The number of alternative energy production projects
2 receiving a tax credit and the dollar amount of tax credits
3 granted under this chapter in the aggregate and by project.

4 (3) The types, locations and costs of projects.

5 (4) The total amount spent in this Commonwealth during
6 the fiscal year by each alternative energy production
7 project.

8 (5) The estimated benefits of the projects in creating
9 alternative energy.

10 (6) The total amount of tax revenues generated in this
11 Commonwealth from alternative energy production projects.

12 (7) The total number of jobs created during the fiscal
13 year by alternative energy production projects.

14 (b) Public information.--Notwithstanding any law providing
15 for confidentiality of tax records, the following shall be
16 public information:

17 (1) Information in the report under subsection (a) which
18 shall be posted on the ~~Department of Revenue's and the~~ <—
19 ~~Department of Community and Economic Development's Internet~~
20 ~~website~~ INTERNET WEBSITES OF THE DEPARTMENT OF REVENUE AND <—
21 THE DEPARTMENT.

22 (2) The identity of each taxpayer utilizing a tax credit
23 under this chapter and the amount of credits approved and
24 utilized by each taxpayer which shall be made available
25 annually, beginning no later than one year after the credits
26 were granted.

27 Section 709. Termination.

28 The ~~Department of Revenue~~ DEPARTMENT shall not approve an <—
29 alternative energy production tax credit under this chapter for
30 taxable years ending after December 31, 2017.

1 Section 710. Regulations.

2 The ~~Department of Revenue~~ DEPARTMENT, IN COOPERATION WITH THE <—
3 DEPARTMENT OF REVENUE, shall promulgate regulations necessary
4 for the implementation and administration of this chapter.

5 Section 711. Applicability.

6 The addition of this chapter shall apply to ~~tax~~ TAXABLE years <—
7 beginning after December 31, 2007.

8 CHAPTER 29

9 MISCELLANEOUS PROVISIONS

10 Section 2901. Effective date.

11 This act shall take effect in 60 days.