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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 653 Session of  
2023

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INTRODUCED BY FREEMAN, JAMES, D. WILLIAMS, MADDEN, SANCHEZ,  
HILL-EVANS, ZIMMERMAN, DELLOSO, WARREN, NEILSON AND CIRESI,  
MARCH 21, 2023

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REFERRED TO COMMITTEE ON FINANCE, MARCH 21, 2023

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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 rehabilitation and  
11 reconstruction of certain factory and mill buildings and for  
12 a business tax credit.

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

15 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
16 the Tax Reform Code of 1971, is amended by adding an article to  
17 read:

18 ARTICLE XVII-M

19 FACTORY OR MILL BUILDING

20 ECONOMIC REVITALIZATION

21 Section 1701-M. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Certifiable building." A factory or mill complex or a  
4 building the use of which conforms to the comprehensive plan and  
5 local land use management ordinances of the municipality in  
6 which the factory or mill complex or building is located and  
7 that:

8 (1) was constructed prior to January 1, 1973;

9 (2) has at least one floor, excluding a basement;

10 (3) has been, is or will be used primarily for  
11 manufacturing, processing, wholesale trade and other  
12 commercial purposes;

13 (4) is proposed for substantial rehabilitation;

14 (5) has been at a minimum 75% vacant for a minimum of 24  
15 months at the time of submission by the municipality;

16 (6) is designated by the municipality for consideration  
17 as a certifiable building as provided in this article; and

18 (7) meets any other requirement established by the  
19 department.

20 "Certified building." A building with respect to which the  
21 department has issued a written notice of final designation as a  
22 certified building in accordance with section 1703-M.

23 "Certified building owner." An individual, partnership,  
24 corporation, limited liability company or other entity which is  
25 the owner of record of a certified building and may include one  
26 or more successors in title to the owner of the building at the  
27 time the building received written notice of final designation  
28 as a certified building in accordance with section 1703-M. The  
29 term includes the owner of a leasehold interest with a minimum  
30 term of 30 years, with respect to which a memorandum of lease

1 has been recorded in the office of the recorder of deeds of the  
2 county.

3 "Department." The Department of Community and Economic  
4 Development of the Commonwealth.

5 "Eligible business." Any business, corporation, sole  
6 proprietorship, partnership, limited partnership or limited  
7 liability company or other entity that:

8 (1) is located in a certified building after the  
9 building has undergone substantial rehabilitation;

10 (2) is engaged principally in manufacturing, processing,  
11 wholesale trade or other commercial business activities;

12 (3) has total Pennsylvania salaries and wages that  
13 exceed the total Pennsylvania salaries and wages paid to its  
14 employees in the prior calendar year;

15 (4) has received certification from the department in  
16 accordance with rules and regulations of the department; and

17 (5) as part of its annual certification:

18 (i) obtains certificates of good standing from the  
19 Department of Revenue, the Corporation Bureau of the  
20 Department of State and the appropriate municipal  
21 authority;

22 (ii) provides the department an affidavit stating  
23 under oath that the entity seeking certification as an  
24 eligible business has not within the preceding 12 months  
25 from the date of application for certification changed  
26 its legal status or location solely for the purpose of  
27 gaining favorable treatment under this article; and

28 (iii) meets any other requirement as may be set  
29 forth by the department.

30 "Factory or mill complex." One or more factory or mill

1 buildings, located on the same or contiguous parcels of land,  
2 each of which, at one time, had the same owner or owners.

3 "Qualified employee." A full-time employee of an eligible  
4 business whose business activity originates and terminates from  
5 within the eligible business and certified building on a daily  
6 basis, who is employed by the eligible business at the end of  
7 the calendar year and who is a resident of this Commonwealth.

8 "Qualified tax liability." Tax liability imposed on a  
9 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,  
10 excluding any tax withheld by an employer under Article III.

11 "Rehabilitation and reconstruction costs." As follows:

12 (1) Only those amounts incurred and paid by the  
13 certified building owner, after issuance of the notice of  
14 final designation of the building, solely and exclusively for  
15 the rehabilitation of the certified building and which are  
16 incurred and paid by the certified building owner to acquire  
17 tangible personal property and structural components of the  
18 certified building which:

19 (i) are depreciated under 26 U.S.C. § 167 (relating  
20 to depreciation);

21 (ii) have a useful life of three years or more as  
22 evidenced by the tax depreciation method taken and shown  
23 on the Federal tax return of the certified building  
24 owner; and

25 (iii) are acquired by purchase as defined in 26  
26 U.S.C. § 179(d) (relating to election to expense certain  
27 depreciable business assets).

28 (2) The term does not include amounts incurred or paid  
29 with respect to tangible personal property and structural  
30 components of the certified building which the certified

1 building owner leases from any other person or corporation.  
2 For purposes of this paragraph, any contract or agreement to  
3 lease or rent or for a license to use the property shall be  
4 considered a lease unless the contract or agreement is  
5 treated for Federal income tax purposes of the certified  
6 building owner as an installment purchase rather than a  
7 lease.

8 "Salaries and wages." Salaries, wages, tips and other  
9 compensation as defined in 26 U.S.C. § 61 (relating to gross  
10 income defined).

11 "Substantial rehabilitation." Rehabilitation and  
12 reconstruction costs of a certified building in a dollar amount  
13 that equals or exceeds 20% of the appraised market value of the  
14 certified building prior to rehabilitation or reconstruction, as  
15 the prior market value is determined by a Commonwealth licensed  
16 and certified appraiser who is independent of the certified  
17 building owner or owners and their affiliated corporations and  
18 any tenants of the certified building and their affiliated  
19 corporations.

20 Section 1702-M. Building certification process.

21 (a) Initial consideration.--A municipality shall submit to  
22 the department a list of industrial factory or mill structures  
23 located within the municipality for consideration by the  
24 department as to whether any of these structures qualify as  
25 certifiable buildings. The department shall notify the  
26 municipality as to which structures qualify as certifiable  
27 buildings.

28 (b) Designation.--Eighteen months following the effective  
29 date of this section, any building designated by the department  
30 as a certifiable building may be submitted by the municipality

1 to the department for preliminary designation as a certified  
2 building if the municipality has given notice to the department:

3 (1) that within six months of the designation, the  
4 municipality agrees to adopt an ordinance to:

5 (i) expedite the building permit review and approval  
6 process required in the municipality for the  
7 rehabilitation of certified buildings;

8 (ii) provide design standards in the municipality  
9 which encourage historic preservation of certified  
10 buildings and that conform to rehabilitation design  
11 standards developed and recommended by the Pennsylvania  
12 Historical and Museum Commission and the United States  
13 Secretary of the Interior's Standards for the Treatment  
14 of Historic Properties; and

15 (iii) require the review and approval by the  
16 Pennsylvania Historical and Museum Commission be obtained  
17 for the rehabilitation of any certified building in the  
18 municipality;

19 (2) that within six months of the designation, the  
20 municipality agrees to establish a program for eligible  
21 businesses which coordinates the economic development  
22 activities of State and local business assistance programs  
23 and agencies; and

24 (3) that the building has been determined eligible for  
25 listing on the National Register of Historic Places or is  
26 already listed on the National Register of Historic Places.

27 (c) Treatment as separate building.--A portion of a building  
28 may be treated as a separate building for purposes of this  
29 article if:

30 (1) it consists of a clearly identifiable part of a

1 certifiable building, including, without limitation, one or  
2 more wings, stories or other separable portions of a  
3 certifiable building;

4 (2) it is held by a single owner, whether in fee or as a  
5 condominium, cooperative or leasehold interest; and

6 (3) at least one eligible business reasonably could be  
7 operated within the confines of the portion of the building.

8 Section 1703-M. Notice of final designation of certified  
9 building.

10 Upon notice to the department that the municipality has  
11 satisfied the requirements of section 1702-M(b) (1) and (2), the  
12 department shall provide to the municipality and to the  
13 certified building owner a written notice of final designation,  
14 which notice shall include a statement that an independent  
15 appraisal is required in order to document substantial  
16 rehabilitation.

17 Section 1704-M. Certified building rehabilitation.

18 (a) General rule.--A certified building shall be treated as  
19 having been substantially rehabilitated only if the  
20 reconstruction and rehabilitation expenditures incurred during  
21 the 32-month period selected by the certified building owner and  
22 ending with or within the taxable year in which the  
23 rehabilitated certified building is first placed in service by  
24 the certified building owner meet the definition of "substantial  
25 rehabilitation." For purposes of determining whether the  
26 certified building has been substantially rehabilitated, the  
27 market value of the certified building shall be determined at  
28 the beginning of the first day of the 32-month period.

29 (b) Special rule for phased rehabilitation.--In the case of  
30 any rehabilitation which may reasonably be expected to be

1 completed in phases set forth in architectural, engineering and  
2 relevant historic preservation plans, documentation and  
3 specifications completed before the rehabilitation begins,  
4 subsection (a) shall be applied by substituting a 60-month  
5 period for the 32-month period.

6 Section 1705-M. Tax credit.

7 (a) General rule.--A certified building owner may be allowed  
8 a tax credit against the qualified tax liability of the owner.

9 (b) Eligible costs.--The taxpayer may claim a tax credit for  
10 the rehabilitation and reconstruction costs of a certified  
11 building which has been substantially rehabilitated. Once  
12 substantial rehabilitation is established by the taxpayer, the  
13 taxpayer may claim a tax credit for all rehabilitation and  
14 reconstruction costs incurred with respect to the certified  
15 building within five years from the date of final designation of  
16 the certified building under section 1703-M.

17 (c) Amount.--The tax credit shall be 25% of the  
18 rehabilitation and reconstruction costs of the certified  
19 building. The tax credit shall be allowable in the year the  
20 substantially rehabilitated certified building is first placed  
21 into service, which is the year in which, under the taxpayer's  
22 depreciation practice, the period for depreciation with respect  
23 to the property begins or the year in which the property is  
24 placed in a condition or state of readiness and availability for  
25 its specifically assigned function, whichever is earlier.

26 (d) Limitations.--Amounts of unused tax credit may be  
27 carried over and offset against the taxpayer's qualified tax  
28 liability for a period not to exceed the following seven taxable  
29 years. A taxpayer is not entitled to carry back, obtain a refund  
30 for, sell or assign an unused tax credit.



1 Section 1706-M. Business tax credit.

2 A taxpayer who owns and operates an eligible business within  
3 a certified building that has been substantially rehabilitated  
4 is allowed a tax credit against the qualified tax liability of  
5 the taxpayer as follows:

6 (1) A tax credit equal to 100% of the total amount of  
7 Pennsylvania salaries and wages as are paid to qualified  
8 employees in excess of Pennsylvania salaries and wages paid  
9 to the same employees in the prior calendar year. The maximum  
10 tax credit allowable per taxable year under the provisions of  
11 this paragraph is \$7,000 per qualified employee.

12 (2) A tax credit provided in paragraph (1) shall not  
13 offset any tax liability in years other than the year in  
14 which the taxpayer qualifies for the tax credit. A taxpayer  
15 is not entitled to carry back, obtain a refund of, sell or  
16 assign an unused tax credit.

17 (3) In the case of multiple business owners, the tax  
18 credit provided in paragraph (1) is apportioned according to  
19 the ownership interests of the eligible business.

20 Section 1707-M. Interest income.

21 (a) Loans to eligible businesses.--A taxpayer is allowed a  
22 tax credit of 15% of the qualified tax liability of the taxpayer  
23 for interest earned and paid on loans made to eligible  
24 businesses, solely and exclusively for expenditures within the  
25 certified building.

26 (b) Loans for substantial rehabilitation.--The taxpayer is  
27 further allowed a tax credit of 100% of the qualified tax  
28 liability of the taxpayer for interest earned on loans made  
29 solely and exclusively for the purpose of substantial  
30 rehabilitation.

1 (c) Limitation.--A tax credit under this section shall not  
2 offset any tax liability in taxable years other than the year in  
3 which the taxpayer qualifies for the tax credit. A taxpayer is  
4 not entitled to carry back, obtain a refund of, sell or assign  
5 an unused tax credit.

6 (d) Amount.--The taxpayer is allowed a maximum tax credit of  
7 \$12,000 per taxable year under subsection (a). The taxpayer is  
8 allowed a maximum tax credit of \$25,000 per taxable year under  
9 subsection (b).

10 Section 1708-M. Revocation of certification.

11 The department may revoke the certification of any building  
12 certified under section 1703-M, and may revoke the eligibility  
13 of any business defined as an eligible business, for  
14 noncompliance with the provisions of this article.

15 Section 1709-M. Limitation.

16 The total aggregate amount of tax credits approved under this  
17 article shall not exceed \$13,000,000 in a fiscal year.

18 Section 1710-M. Penalties.

19 (a) Failure to maintain operations.--A certified building  
20 owner that receives a tax credit and fails to substantially  
21 maintain existing operations in the certified building for which  
22 the tax credit is claimed for a period of five years from the  
23 date the tax credit is first allowable shall be required to  
24 refund to the Commonwealth the total amount of credit or credits  
25 granted.

26 (b) Waiver.--The department may waive the penalty outlined  
27 in subsection (a) if it is determined that a certified building  
28 owner's operations were not maintained because of circumstances  
29 beyond the owner's control, which circumstances include natural  
30 disasters, unforeseen industry trends or a loss of a major

1 supplier or market.

2 Section 1711-M. Regulations.

3 The department shall promulgate regulations as may be  
4 necessary to administer this article.

5 Section 1712-M. Report to General Assembly.

6 (a) Report.--No later than June 1, 2024, and September 1 of  
7 each year thereafter, the Secretary of Community and Economic  
8 Development shall submit a report to the General Assembly  
9 summarizing the effectiveness of the tax credits provided by  
10 this article. The report shall include the names of all  
11 taxpayers utilizing any tax credit under this article as of the  
12 date of the report and the amount of credit approved for and  
13 utilized by each taxpayer. The report may also include any  
14 recommendations for changes in the calculation or administration  
15 of the tax credits. The report shall be submitted to the  
16 chairperson and minority chairperson of the Appropriations  
17 Committee of the Senate, the chairperson and minority  
18 chairperson of the Appropriations Committee of the House of  
19 Representatives, the chairperson and minority chairperson of the  
20 Finance Committee of the Senate and the chairperson and minority  
21 chairperson of the Finance Committee of the House of  
22 Representatives.

23 (b) Public information.--Notwithstanding any law providing  
24 for the confidentiality of tax records, the information in the  
25 report shall be public information, and all report information  
26 shall be posted on the department's publicly accessible Internet  
27 website.

28 Section 2. The addition of Article XVII-M of the act applies  
29 to tax years beginning after December 31, 2023.

30 Section 3. This act shall take effect immediately.