

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," in neighborhood assistance tax credit, further
11 providing for definitions, for tax credit and for grant of
12 tax credit.

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

15 Section 1. Section 1902-A of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
17 7, 1997 (P.L.85, No.7), July 25, 2007 (P.L.373, No.55) and July
18 2, 2012 (P.L.751, No.85), is amended to read:

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

1 "Affordable housing development." A development approved by
2 the department, including a rental home, home for sale,
3 supportive or special needs housing, cooperative, community land
4 trust and resident or nonprofit-owned manufactured home
5 community, that:

6 (1) increases the number of homes affordable to very low
7 income households by new construction, rehabilitation or
8 manufacture;

9 (2) preserves affordable homes which would otherwise be
10 converted to higher priced homes or demolished;

11 (3) provides for sustained affordability; or

12 (4) is partially funded through a program of the agency.

13 "Affordable housing developer." A business firm or
14 neighborhood organization responsible for developing an
15 affordable housing development.

16 "Agency." The Pennsylvania Housing Finance Agency.

17 "Business firm." Any business entity authorized to do
18 business in this Commonwealth and subject to taxes imposed by
19 Article III, IV, VI, VII, VIII, IX or XV of this act. The term
20 shall include a pass-through entity.

21 "Charitable food program." An emergency food provider or a
22 regional food bank as defined in section 2 of the act of
23 December 11, 1992 (P.L.807, No.129), known as the "State Food
24 Purchase Program Act."

25 "Community services." Any type of counseling and advice,
26 legal services, emergency assistance, food assistance or medical
27 care furnished to individuals or groups in an impoverished area.

28 "Comprehensive service plan." A strategy developed jointly
29 by a neighborhood organization and a sponsoring business firm or
30 private company for the stabilization and improvement of an

1 impoverished area within an urban neighborhood or rural
2 community.

3 "Comprehensive service project." Any activity conducted
4 jointly by a neighborhood organization and a sponsoring business
5 firm which implements a comprehensive service plan.

6 "Crime prevention." Any activity which aids in the reduction
7 of crime in an impoverished area.

8 "Department." The Department of Community and Economic
9 Development of the Commonwealth.

10 "Education." Any type of scholastic instruction or
11 scholarship assistance to an individual who resides in an
12 impoverished area that enables that individual to prepare for
13 better life opportunities.

14 "Enterprise zones." Specific locations with identifiable
15 boundaries within impoverished areas which are designated as
16 enterprise zones by the Secretary of Community and Economic
17 Development.

18 "Impoverished area." Any area in this Commonwealth which is
19 certified as such by the Department of Community and Economic
20 Development and the certification is approved by the Governor.
21 Such certification shall be made on the basis of Federal census
22 studies and current indices of social and economic conditions.

23 "Intermediary." A multicounty or Statewide organization that
24 meets all of the following:

25 (1) Holds a ruling from the Internal Revenue Service of the
26 United States Department of the Treasury that the organization
27 is exempt from income taxation under the provisions of the
28 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1
29 et seq.).

30 (2) Is approved by the Department of Community and Economic

1 Development.

2 (3) Solicits contributions under this act and distributes
3 the funds as appropriate to a neighborhood organization in this
4 Commonwealth, if the following apply:

5 (i) At least sixty per cent of the funds go to a
6 neighborhood organization in an area that has underutilized
7 neighborhood assistance tax credits on average over the
8 preceding three years.

9 (ii) The intermediary retains not more than ten per cent of
10 the contributions received to administer the program.

11 "Job training." Any type of instruction to an individual who
12 resides in an impoverished area that enables that individual to
13 acquire vocational skills so that the individual can become
14 employable or be able to seek a higher grade of employment.

15 "Neighborhood assistance." Furnishing financial assistance,
16 labor, material and technical advice to aid in the physical
17 improvement of any part or all of an impoverished area.

18 "Neighborhood organization." Any organization performing
19 community services, offering neighborhood assistance or
20 providing job training, education, legal services or crime
21 prevention in an impoverished area, or providing housing
22 assistance to vulnerable populations, holding a ruling from the
23 Internal Revenue Service of the United States Department of the
24 Treasury that the organization is exempt from income taxation
25 under the provisions of the Internal Revenue Code of 1986
26 (Public Law 99-514, 26 U.S.C. § 1 et seq.) and approved by the
27 Department of [Community Affairs] of Community and Economic
28 Development.

29 "Pass-through entity." A partnership as defined under
30 section 301(n.0) or a Pennsylvania S corporation as defined

1 under section 301(n.1) .

2 "Private company." Any agricultural, industrial,
3 manufacturing or research and development enterprise as defined
4 in section 3 of the act of May 17, 1956 (1955 P.L.1609, No.537),
5 known as the "Pennsylvania Industrial Development Authority
6 Act," or any commercial enterprise as defined in section 3 of
7 the act of August 23, 1967 (P.L.251, No.102), known as the
8 "Economic Development Financing Law."

9 "Qualified investments." Any investments made by a private
10 company which promote community economic development pursuant to
11 a plan which has been developed in cooperation with and approved
12 by a neighborhood organization operating pursuant to a plan for
13 the administration of tax credits approved by the Department of
14 [Community and Economic Development] of Community and Economic
15 Development.

16 "Secretary." The Secretary of Community and Economic
17 Development of the Commonwealth.

18 "Sustained affordability." A legally binding assurance that
19 a home will continue to be rented or resold for prices
20 affordable to a household at or below eighty per cent of the
21 area household median income, adjusted for number of bedrooms
22 and appropriate household size, for at least fifty years after
23 the initial occupancy of the affordable housing development.

24 Section 2. Section 1904-A of the act, amended July 25, 2007
25 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), is amended
26 to read:

27 Section 1904-A. Tax Credit.--(a) The following shall apply:

28 (1) Any business firm which engages or contributes to [a
29 neighborhood organization which engages in the activities of
30 providing neighborhood assistance, comprehensive service

1 projects, job training or education for individuals, community
2 services or crime prevention in an impoverished area or private
3 company which makes qualified investment to rehabilitate, expand
4 or improve buildings or land located within portions of
5 impoverished areas which have been designated as enterprise
6 zones] any of the following shall receive a tax credit as
7 provided in section 1905-A if the secretary annually approves
8 the proposal of such business firm or private company[.]:

9 (i) An intermediary or a neighborhood organization, which
10 engages in the activities of providing:

11 (A) neighborhood assistance, a comprehensive service
12 project, job training or education for an individual, community
13 service or crime prevention in an impoverished area; or

14 (B) housing assistance to a vulnerable population.

15 (ii) An affordable housing developer for the purposes of an
16 affordable housing development.

17 (iii) A private company which makes qualified investment to
18 rehabilitate, expand or improve a building or land located
19 within a portion of impoverished areas which have been
20 designated as an enterprise zone.

21 (2) The proposal under paragraph (1) shall set forth the
22 program to be conducted, the impoverished area selected, the
23 estimated amount to be invested in the program and the plans for
24 implementing the program.

25 (b) The secretary is hereby authorized to promulgate rules
26 and regulations for the approval or disapproval of such
27 proposals by business firms or private companies. The secretary
28 shall provide a report listing [of] all applications received
29 and their disposition in each fiscal year to the General
30 Assembly by October 1 of the following fiscal year. The

1 secretary's report shall include all taxpayers utilizing the
2 credit [and], the amount of credits approved, sold or assigned,
3 the recipient organization, if any, the name of the project and
4 a brief description of the project. Notwithstanding any law
5 providing for the confidentiality of tax records, the
6 information in the report shall be public information, and all
7 report information shall be posted on the secretary's Internet
8 website.

9 (b.1) The secretary shall take into special consideration,
10 when approving applications for neighborhood assistance tax
11 credits, applications which involve:

12 (1) multiple projects in various markets throughout this
13 Commonwealth; [and]

14 (2) charitable food programs[.]; and

15 (3) programs to provide housing assistance to vulnerable
16 populations.

17 (b.2) The secretary, in cooperation with the Department of
18 Agriculture, shall promulgate guidelines for the approval or
19 disapproval of applications for tax credits by business firms
20 that contribute food or money to charitable food programs.

21 (b.3) The secretary, in cooperation with the Department of
22 Military and Veterans Affairs, shall promulgate guidelines for
23 the approval or disapproval of applications for tax credits by
24 business firms that contribute to programs to provide housing
25 assistance to vulnerable populations.

26 (c) The total amount of tax credit granted for programs
27 approved under this act shall not exceed [eighteen million
28 dollars (\$18,000,000)] thirty-six million dollars (\$36,000,000)
29 of tax credit in any fiscal year.

30 (d) A taxpayer, upon application to and approval by the

1 [Department of Community and Economic Development] department,
2 may sell or assign, in whole or in part, a neighborhood
3 assistance tax credit granted to the business firm under this
4 article if no claim for allowance of the credit is filed within
5 one year from the date the credit is granted by the Department
6 of Revenue under section 1905-A. The [Department of Community
7 and Economic Development] department and the Department of
8 Revenue shall jointly promulgate guidelines for the approval of
9 applications under this subsection.

10 (e) The purchaser or assignee of a neighborhood assistance
11 tax credit under subsection (d) shall immediately claim the
12 credit in the taxable year in which the purchase or assignment
13 is made. The purchaser or assignee may not carry over, carry
14 back, obtain a refund of or sell or assign the neighborhood
15 assistance tax credit. The purchaser or assignee shall notify
16 the Department of Revenue of the seller or assignor of the
17 neighborhood assistance tax credit in compliance with procedures
18 specified by the Department of Revenue.

19 (f) The neighborhood assistance tax credit approved by the
20 [Department of Community and Economic Development] department
21 shall be applied against the business firm's tax liability for
22 the taxes under section 1905-A for the current taxable year as
23 of the date on which the credit was approved before the
24 neighborhood assistance tax credit may be carried over, sold or
25 assigned.

26 Section 3. Section 1905-A of the act, amended July 25, 2007
27 (P.L.373, No.55), is amended to read:

28 Section 1905-A. Grant of Tax Credit.--[The] (a) Except as
29 provided under subsection (b) and (c), the Department of Revenue
30 shall grant a tax credit against any tax due under Article III,

1 IV, VI, VII, VIII, IX or XV of this act, or any tax substituted
2 in lieu thereof in an amount which shall not exceed [fifty-five]
3 seventy-five per cent of the total amount contributed during the
4 taxable year by a business firm or twenty-five per cent of
5 qualified investments by a private company in programs approved
6 pursuant to section 1904-A of this act[: Provided, That a]_.

7 (b) A tax credit of up to [seventy-five] ninety per cent of
8 the total amount contributed during the taxable year by a
9 business firm or up to thirty-five per cent of the amount of
10 qualified investments by a private company may be allowed for
11 investment in programs where activities fall within the scope of
12 special program priorities as defined with the approval of the
13 Governor in regulations promulgated by the secretary[, and
14 Provided further, That a]_.

15 (c) A tax credit of up to [seventy-five] ninety per cent of
16 the total amount contributed during the taxable year by a
17 business firm in comprehensive service projects with five-year
18 commitments and up to [eighty] one hundred per cent of the total
19 amount contributed during the taxable year by a business firm in
20 comprehensive service projects with six-year or longer
21 commitments shall be granted. Such credit shall not exceed five
22 hundred thousand dollars (\$500,000) annually for contributions
23 or investments to fewer than four projects [or one million two
24 hundred fifty thousand dollars (\$1,250,000) annually for
25 contributions or investments to four or more projects], two
26 million dollars (\$2,000,000) annually for contributions or
27 investments to four or more projects or one million dollars
28 (\$1,000,000) annually for each contribution to an affordable
29 housing developer for the purpose of an affordable housing
30 development.

1 (d) No tax credit shall be granted to any bank, bank and
2 trust company, insurance company, trust company, national bank,
3 savings association, mutual savings bank or building and loan
4 association for activities that are a part of its normal course
5 of business.

6 (e) Any tax credit not used in the period the contribution
7 or investment was made may be carried over for the next five
8 succeeding calendar or fiscal years until the full credit has
9 been allowed.

10 (f) A business firm shall not be entitled to carry back or
11 obtain a refund of an unused tax credit.

12 (g) The total amount of all tax credits allowed pursuant to
13 this act shall not exceed [eighteen] thirty-six million dollars
14 [(\$18,000,000)] (\$36,000,000) in any one fiscal year. Of that
15 amount[, two]:

16 (1) Two million dollars (\$2,000,000) shall be allocated
17 exclusively for pass-through entities. However, if the total
18 amounts allocated to either the group of applicants, exclusive
19 of pass-through entities, or the group of pass-through entity
20 applicants is not approved in any fiscal year, the unused
21 portion shall become available for use by the other group of
22 qualifying taxpayers.

23 (2) Ten million dollars (\$10,000,000) shall be allocated
24 exclusively for affordable housing developments. The following
25 shall apply:

26 (i) A tax credit of ninety per cent of the total amount
27 contributed during the taxable year by a business firm may be
28 allowed for investment in an affordable housing development.

29 (ii) Affordable housing developers which are neighborhood
30 organizations and affordable housing developers which are

1 business developers shall share equally in the tax credit
2 allocations, except that in any year when insufficient qualified
3 applications are received during the first six (6) months of the
4 year for either neighborhood organization developments or
5 business entity developments, an unallocated tax credit shall be
6 made available to all affordable housing developments for the
7 remainder of the year.

8 (iii) If qualified applications received by the department
9 by the end of the ninth month of the year are less than ten
10 million dollars (\$10,000,000) the remaining amount of tax
11 credits shall be made available for all eligible activities
12 under this act.

13 (iv) The department shall engage in outreach and work with
14 intermediaries to ensure that all areas of this Commonwealth
15 participate to the greatest extent possible.

16 (v) The secretary, in cooperation with the agency, shall
17 promulgate guidelines for the approval or disapproval of
18 applications for tax credits by business firms that contribute
19 to affordable housing developers for the purpose of affordable
20 housing developments. The approvals or disapprovals shall be
21 made jointly by the department and the agency.

22 (vi) A contribution which is made to an affordable housing
23 developer for the purpose of an affordable housing development
24 may be invested in or lent to the affordable housing development
25 in a manner which maximizes private investment in the
26 development.

27 (3) Three million dollars (\$3,000,000) shall be allocated
28 exclusively for programs to provide housing assistance to
29 vulnerable populations, if a tax credit of ninety per cent of
30 the total amount contributed during the taxable year by a

1 business has been allowed for contributions under this
2 paragraph.

3 (h) For the purposes of this section, the following terms
4 shall have the meanings given to them in this subsection:

5 "Affordable housing." A home which is affordable to a
6 household at or below eighty per cent of area median household
7 income, if at least five million dollars (\$5,000,000) of the tax
8 credit goes to support an affordable housing development for a
9 household at or below fifty percent of the area median household
10 income, as determined by the most recent American Community
11 Survey for the area.

12 "Affordable." A housing cost, including a utility, that does
13 not exceed thirty percent of a household's income.

14 Section 4. This act shall take effect in 60 days.