

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1653 Session of  
2007

INTRODUCED BY MUSTIO, ADOLPH, BARRAR, BOYD, CREIGHTON,  
DENLINGER, DePASQUALE, J. EVANS, FREEMAN, GEIST, GINGRICH,  
GODSHALL, HERSHEY, KILLION, KOTIK, MOYER, MYERS, PETRARCA,  
PYLE, RAPP, READSHAW, REED, REICHLEY, ROSS, SAYLOR, THOMAS,  
VULAKOVICH, WATSON, YOUNGBLOOD, SCHRODER, JAMES AND BASTIAN,  
JUNE 28, 2007

REFERRED TO COMMITTEE ON FINANCE, JUNE 28, 2007

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," authorizing the Neighborhood Energy Assistance  
11 Tax Credit.

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

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

17 ARTICLE XIX-B

18 NEIGHBORHOOD ENERGY ASSISTANCE TAX CREDIT

19 Section 1901-B. Scope.

20 This article authorizes the Neighborhood Energy Assistance

1 Tax Credit.

2 Section 1902-B. Definitions.

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

6 "Business firm." Any business entity authorized to do  
7 business in this Commonwealth and subject to taxes imposed by  
8 Article III, IV, VI, VII or VIII. This term includes an electric  
9 generation or distribution company or natural gas supplier or  
10 distribution company as defined in 66 Pa.C.S. § 2803 (relating  
11 to definitions).

12 "Commission." The Pennsylvania Public Utility Commission.

13 "Comprehensive energy services plan." A strategy developed  
14 jointly by a neighborhood energy organization and a sponsoring  
15 business firm for the provision of energy assistance services  
16 within an urban neighborhood, suburban community or rural  
17 community.

18 "Comprehensive energy services project." Any activity  
19 conducted jointly by a neighborhood or community-based  
20 organization and a sponsoring business firm that implements a  
21 comprehensive energy service plan.

22 "Energy assistance services." Any type of counseling and  
23 advice or the provision of direct services to reduce the energy  
24 usage and costs to individuals or groups throughout a  
25 geographical area, which counseling, advice or services are in  
26 addition to those services or programs required by Federal or  
27 State statute or regulation or by an ordinance or regulation of  
28 a local government. This term includes, but is not limited to,  
29 the following activities: energy conservation education; home  
30 weatherization services that include the provision of measures

1 that affect either heating or cooling costs or both in an  
2 individual residence or within a building owned or operated by a  
3 nonprofit organization providing a community service; and  
4 administration of the Low Income Bill Payment Assistance  
5 Program. An individual residence includes either a premises  
6 owned and occupied by an individual or a premises rented by an  
7 individual.

8 "Neighborhood energy assistance." Financial assistance,  
9 labor, material and technical advice to aid in the physical  
10 improvement of any part or all of an individual residence that  
11 will result in the more efficient use of energy and a reduction  
12 in the energy costs within the individual residence.

13 "Neighborhood energy organization." A private, nonprofit  
14 organization that provides energy assistance services to  
15 residents in an urban neighborhood, suburban community or rural  
16 community and that has obtained a ruling from the Internal  
17 Revenue Service that the organization is exempt from income  
18 taxation under the provisions of the Internal Revenue Code of  
19 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) and approved by  
20 the Department of Community and Economic Development. This term  
21 includes the sustainable energy funds established under the  
22 restructuring plans required under 66 Pa.C.S. Ch. 28 (relating  
23 to restructuring of electric utility industry) and pursuant to  
24 Pennsylvania Public Utility Commission Docket Nos. R-00973981,  
25 R-00974008, R-00974009, R-00973953 and R-00973954.

26 "Qualified investment." Any investment made by a business  
27 firm that promotes the efficient use of energy and a reduction  
28 in energy costs pursuant to a plan that has been developed in  
29 cooperation with and approved by a neighborhood or community-  
30 based energy organization operating pursuant to a plan for the

1 administration of tax credits approved by the Department of  
2 Community and Economic Development and the Pennsylvania Public  
3 Utility Commission.

4 "Qualified tax liability." The liability for taxes imposed  
5 under Article III, IV, VI, VII or VIII. The term does not  
6 include any tax withheld by an employer from an employee under  
7 Article III.

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

10 Section 1903-B. Tax credit.

11 (a) General rule.--A business firm that engages in or  
12 contributes to a neighborhood energy organization that engages  
13 in the activities of providing neighborhood energy assistance to  
14 low-income and moderate-income individuals or to nonprofit  
15 organizations in an urban neighborhood, suburban community or  
16 rural community shall receive a tax credit as provided in  
17 section 1904-B if the secretary and the commission annually  
18 approve the proposal of the business firm or private company.  
19 The proposal shall set forth the program to be conducted, the  
20 urban neighborhood, suburban community or rural community  
21 selected, the estimated amount to be invested in the program and  
22 the plan for implementing the program.

23 (b) Regulations.--The secretary, in cooperation with the  
24 commission, shall promulgate rules and regulations for the  
25 approval or disapproval of such proposals by business firms or  
26 private companies and provide a listing of all applications  
27 received and their disposition in each fiscal year to the  
28 General Assembly by October 1 of the following fiscal year.

29 Section 1904-B. Grant of tax credit.

30 (a) Authorization.--The Department of Revenue shall grant a

1 tax credit against any tax due under Article III, IV, VI, VII or  
2 VIII. The total amount of tax credit granted for programs  
3 approved under this article shall not exceed \$20,000,000 of tax  
4 credit in any fiscal year, subject to the following:

5 (1) A business firm that incurs a Pennsylvania qualified  
6 neighborhood energy assistance expense in a taxable year may  
7 apply for a neighborhood energy assistance tax credit as  
8 provided in this article. By September 15, a business firm  
9 must submit an application to the Department of Revenue for  
10 Pennsylvania neighborhood energy assistance expenses incurred  
11 in the taxable year that ended in the prior calendar year.

12 (2) A business firm that is qualified under section  
13 1903-B and incurs an expense that supports a program of  
14 energy education, counseling or advice or that does not show  
15 a direct energy savings or cost reduction shall receive a  
16 neighborhood energy assistance tax credit for the taxable  
17 year in the amount of 50% of the excess of the business  
18 firm's total Pennsylvania qualified neighborhood energy  
19 assistance expense for the taxable year.

20 (3) A business firm that is qualified under section  
21 1903-B and incurs an expense that supports a program  
22 providing direct energy services that include the  
23 installation of actual energy efficiency measures, including  
24 solar water heating and solar photovoltaic systems, that  
25 demonstrate a direct energy savings or cost reduction, or  
26 that administer low income bill payment assistance programs  
27 shall receive a neighborhood assistance tax credit for the  
28 taxable year in the amount of 70% of the excess of the  
29 business firm's total Pennsylvania qualified neighborhood or  
30 community-based energy assistance expense for the taxable

1 year.

2 (b) Notification of approved tax credits.--By December 15 of  
3 the calendar year following the close of the taxable year during  
4 which the Pennsylvania qualified neighborhood energy assistance  
5 expense was incurred, the Department of Revenue shall notify the  
6 business firm of the amount of the business firm's neighborhood  
7 energy assistance tax credit approved by the Department of  
8 Revenue.

9 (c) Carryover, carryback, refund and assignment of credit.--

10 (1) If the business firm cannot use the entire amount of  
11 the tax credit for the taxable year in which the tax credit  
12 is first approved, then the excess may be carried over to  
13 succeeding taxable years and used as a credit against the  
14 qualified tax liability of the business firm for those  
15 taxable years. Each time that the tax credit is carried over  
16 to a succeeding taxable year, it shall be reduced by the  
17 amount that was used as a credit during the immediately  
18 preceding taxable year. The tax credit provided by this  
19 article may be carried over and applied to succeeding taxable  
20 years for no more than 15 taxable years following the first  
21 taxable year for which the business firm was entitled to  
22 claim the credit.

23 (2) A tax credit approved by the Department of Revenue  
24 for a neighborhood energy assistance tax credit expense in a  
25 calendar year first shall be applied against the business  
26 firm's qualified tax liability for the current taxable year  
27 as of the date on which the credit was approved before the  
28 tax credit is applied against any tax liability under section  
29 1903-B.

30 (3) A business firm may not carry back or obtain a

1 refund of an unused tax credit.

2 (4) Tax credits under this article shall be provided on  
3 a first-come-first-served basis until all annual available  
4 credits have been allocated.

5 (d) Pass-through entity.--

6 (1) If a pass-through entity has any unused tax credit  
7 under section 1903-B, the entity may elect, in writing,  
8 according to the Department of Revenue's procedures, to  
9 transfer all or a portion of the credit to shareholders,  
10 members or partners in proportion to the shares of the  
11 entity's distributive income to which the shareholder, member  
12 or partner is entitled.

13 (2) The tax credit provided under section 1903-B is in  
14 addition to any tax credit to which a shareholder, member or  
15 partner of a pass-through entity is otherwise entitled under  
16 this article. However, a pass-through entity and a  
17 shareholder, member or partner of a pass-through entity may  
18 not claim a credit under this article or the same qualified  
19 expense.

20 (3) A shareholder, member or partner of a pass-through  
21 entity to whom credit is transferred under section 1903-B  
22 must immediately claim the credit in the taxable year in  
23 which the transfer is made. The shareholder, member or  
24 partner may not carry forward, carry back, obtain a refund or  
25 sell or assign the credit.

26 Section 1905-B. Report.

27 The Department of Revenue shall annually make a report to the  
28 Environmental Resources and Energy Committee of the Senate and  
29 Environmental Resources and Energy Committee of the House of  
30 Representatives on the activities undertaken pursuant to this

1 article, including, but not limited to:

2 (1) The number and amount of tax credits provided.

3 (2) The number and description of the neighborhood or  
4 community-based energy organizations receiving the tax  
5 credits.

6 (3) The type of programs receiving support and the  
7 amount of investment on which the tax credits were provided  
8 against.

9 Section 1906-B. Regulations.

10 The Department of Revenue, the Department of Community and  
11 Economic Development and the commission shall promulgate  
12 regulations necessary for the implementation and administration  
13 of this article.

14 Section 1907-B. Decision in writing.

15 The decision of the secretary to approve or disapprove a  
16 proposal pursuant to section 1903-B shall be in writing and, if  
17 it approves the proposal, it shall state the maximum credit  
18 allowable to the business firm. A copy of the decision of the  
19 secretary shall be transmitted to the Governor and to the  
20 Secretary of Revenue.

21 Section 2. This act shall take effect in 60 days.