

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 97

Session of
2007

INTRODUCED BY D. WHITE, ARMSTRONG, CORMAN, EARLL, PUNT,
RAFFERTY, BRUBAKER, WOZNIAK, PIPPY, BROWNE, STACK, REGOLA AND
WONDERLING, FEBRUARY 15, 2007

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JULY 3, 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," ~~further providing, in bank and trust company~~ <—
11 ~~shares tax, for ascertainment of taxable amount and exclusion~~
12 ~~of United States obligations. PENALTIES,"~~ IN SALES AND USE <—
13 TAX, FURTHER DEFINING "MANUFACTURE"; FURTHER PROVIDING, IN
14 CAPITAL STOCK FRANCHISE TAX, FOR THE DEFINITION OF "CAPITAL
15 STOCK VALUE" AND, IN BANK AND TRUST COMPANY SHARES TAX, FOR
16 ASCERTAINMENT OF TAXABLE AMOUNT AND EXCLUSION OF UNITED
17 STATES OBLIGATIONS; PROVIDING FOR A FILM PRODUCTION TAX
18 CREDIT AND CONFERRING POWERS AND IMPOSING DUTIES UPON THE
19 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; FURTHER
20 PROVIDING, IN NEIGHBORHOOD ASSISTANCE TAX CREDIT, FOR
21 DEFINITIONS, FOR TAX CREDIT AND FOR GRANT OF TAX CREDIT; AND
22 PROVIDING FOR PASS-THROUGH ENTITY.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 ~~Section 1. Section 701.1 of the act of March 4, 1971 (P.L.6,~~ <—
26 ~~No.2), known as the Tax Reform Code of 1971, amended June 16,~~

1 ~~1994 (P.L.279, No.48), is amended to read:~~

2 ~~Section 701.1. Ascertainment of Taxable Amount; Exclusion of~~
3 ~~United States Obligations. (a) The taxable amount of shares~~
4 ~~shall be ascertained and fixed by adding together the value~~
5 ~~determined under subsection (b) for the current and preceding~~
6 ~~five years and dividing the resulting sum by six. If an~~
7 ~~institution has not been in existence for a period of six years,~~
8 ~~the taxable amount of shares shall be ascertained and fixed by~~
9 ~~adding together the values determined under subsection (b) for~~
10 ~~the number of years the institution has been in existence and~~
11 ~~dividing the resulting sum by such number of years.~~

12 ~~(b) The value for each year required by subsection (a) shall~~
13 ~~be determined by [adding together] deducting from the book value~~
14 ~~of [capital stock paid in, the book value of the surplus and the~~
15 ~~book value of undivided profits with a deduction from the total~~
16 ~~thereof of] total equity capital an amount equal to the same~~
17 ~~percentage of [such total] total equity capital as the book~~
18 ~~value of obligations of the United States bears to the book~~
19 ~~value of the total assets[.], except that for the value of~~
20 ~~shares reported on tax returns due on March 15, 2008, and~~
21 ~~thereafter, any goodwill recorded as a result of the use of~~
22 ~~purchase accounting for an acquisition or combination as~~
23 ~~described in this section and occurring after June 30, 2001, may~~
24 ~~be subtracted from the book value of total equity capital and~~
25 ~~disregarded in determining the deduction provided for~~
26 ~~obligations of the United States for the six year period~~
27 ~~described in subsection (a). For purposes of this subsection,~~
28 ~~book values and deductions for United States obligations for~~
29 ~~each year shall be determined by the Reports of Condition for~~
30 ~~each calendar quarter of the preceding calendar year in~~

1 ~~accordance with the requirements of the Board of Governors of~~
2 ~~the Federal Reserve System, the Comptroller of the Currency, the~~
3 ~~Federal Deposit Insurance Corporation or other applicable~~
4 ~~regulatory authority; and book values shall be averaged as~~
5 ~~calculated by averaging book values as determined by such~~
6 ~~Reports of Condition. For purposes of this article, United~~
7 ~~States obligations shall be obligations coming within the scope~~
8 ~~of 31 U.S.C. § 3124. For any year in which an institution does~~
9 ~~not file four quarterly Reports of Condition, book values and~~
10 ~~deductions for United States obligations shall be determined by~~
11 ~~adding together the book values and deductions for United States~~
12 ~~obligations from each quarterly Reports of Condition filed for~~
13 ~~such year and dividing the resulting sums by the number of such~~
14 ~~Reports of Condition. In the case of institutions which do not~~
15 ~~file such Reports of Condition, book values shall be determined~~
16 ~~by generally accepted accounting principles as of the end of~~
17 ~~each calendar quarter. For any year in which an institution~~
18 ~~which does not file Reports of Condition is not in existence for~~
19 ~~four quarters, the book value for that year shall be determined~~
20 ~~by adding together the book values for each quarter in which the~~
21 ~~institution was in existence and dividing by that number of~~
22 ~~quarters. For purposes of this section, a partial year shall be~~
23 ~~treated as a full year.~~

24 ~~(c) For purposes of this section:~~

25 ~~(1) a mere change in identity, form or place of organization~~
26 ~~of one institution, however effected, shall be treated as if a~~
27 ~~single institution had been in existence prior to as well as~~
28 ~~after such change; and~~

29 ~~(2) the combination of two or more institutions into one~~
30 ~~shall be treated as if the constituent institutions had been a~~

1 ~~single institution in existence prior to as well as after the~~
2 ~~combination and the book values and deductions for United States~~
3 ~~obligations from the Reports of Condition of the constituent~~
4 ~~institutions shall be combined. For purposes of [the preceding~~
5 ~~sentence] this section, a combination shall include any~~
6 ~~acquisition required to be accounted for [by the surviving~~
7 ~~institution under the pooling of interest method] by using the~~
8 ~~purchase method in accordance with generally accepted accounting~~
9 ~~principles or a statutory merger or consolidation.~~

10 ~~Section 2. The amendment of section 701.1 of the act is not~~
11 ~~intended to reverse or modify the ruling of First Union National~~
12 ~~Bank v. Commonwealth, 867 A.2d 711 (Pa. Cmwlth. 2005).~~

13 ~~Section 3. This act shall take effect in 60 days or December~~
14 ~~31, 2007, whichever is sooner.~~

15 SECTION 1. THE DEFINITION OF "MANUFACTURE" IN SECTION 201(C) <—
16 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
17 REFORM CODE OF 1971, AMENDED JULY 12, 2006 (P.L.1137, NO.116),
18 IS AMENDED TO READ:

19 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
20 PHRASES WHEN USED IN THIS ARTICLE II SHALL HAVE THE MEANING
21 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
22 CLEARLY INDICATES A DIFFERENT MEANING:

23 * * *

24 (C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING,
25 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
26 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY TANGIBLE PERSONAL
27 PROPERTY IN A FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT
28 IN WHICH IT IS ACQUIRED WHETHER FOR SALE OR USE BY THE
29 MANUFACTURER, AND SHALL INCLUDE, BUT NOT BE LIMITED TO--

30 (1) EVERY OPERATION COMMENCING WITH THE FIRST PRODUCTION

1 STAGE AND ENDING WITH THE COMPLETION OF TANGIBLE PERSONAL
2 PROPERTY HAVING THE PHYSICAL QUALITIES (INCLUDING PACKAGING, IF
3 ANY, PASSING TO THE ULTIMATE CONSUMER) WHICH IT HAS WHEN
4 TRANSFERRED BY THE MANUFACTURER TO ANOTHER. FOR PURPOSES OF THIS
5 CLAUSE, "OPERATION" SHALL INCLUDE CLEAN ROOMS AND THEIR
6 COMPONENT SYSTEMS, INCLUDING: ENVIRONMENTAL CONTROL SYSTEMS,
7 ANTISTATIC VERTICAL WALLS AND MANUFACTURING PLATFORMS AND
8 FLOORS, WHICH ARE INDEPENDENT OF THE REAL ESTATE; PROCESS PIPING
9 SYSTEMS; SPECIALIZED LIGHTING SYSTEMS; DEIONIZED WATER SYSTEMS;
10 PROCESS VACUUM AND COMPRESSED AIR SYSTEMS; PROCESS AND SPECIALTY
11 GASES; AND ALARM OR WARNING DEVICES SPECIFICALLY DESIGNED TO
12 WARN OF THREATS TO THE INTEGRITY OF THE PRODUCT OR PEOPLE. FOR
13 PURPOSES OF THIS CLAUSE, A "CLEAN ROOM" IS A LOCATION WITH A
14 SELF-CONTAINED, SEALED ENVIRONMENT WITH A CONTROLLED, CLOSED AIR
15 SYSTEM INDEPENDENT FROM THE FACILITY'S GENERAL ENVIRONMENTAL
16 CONTROL SYSTEM.

17 (2) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES AND OTHER
18 PERIODICALS AND PRINTING.

19 (3) REFINING, BLASTING, EXPLORING, MINING AND QUARRYING FOR,
20 OR OTHERWISE EXTRACTING FROM THE EARTH OR FROM WASTE OR STOCK
21 PILES OR FROM PITS OR BANKS ANY NATURAL RESOURCES, MINERALS AND
22 MINERAL AGGREGATES INCLUDING BLAST FURNACE SLAG.

23 (4) BUILDING, REBUILDING, REPAIRING AND MAKING ADDITIONS TO,
24 OR REPLACEMENTS IN OR UPON VESSELS DESIGNED FOR COMMERCIAL USE
25 OF REGISTERED TONNAGE OF FIFTY TONS OR MORE WHEN PRODUCED UPON
26 SPECIAL ORDER OF THE PURCHASER, OR WHEN REBUILT, REPAIRED OR
27 ENLARGED, OR WHEN REPLACEMENTS ARE MADE UPON ORDER OF, OR FOR
28 THE ACCOUNT OF THE OWNER.

29 (5) RESEARCH HAVING AS ITS OBJECTIVE THE PRODUCTION OF A NEW
30 OR AN IMPROVED (I) PRODUCT OR UTILITY SERVICE, OR (II) METHOD OF

1 PRODUCING A PRODUCT OR UTILITY SERVICE, BUT IN EITHER CASE NOT
2 INCLUDING MARKET RESEARCH OR RESEARCH HAVING AS ITS OBJECTIVE
3 THE IMPROVEMENT OF ADMINISTRATIVE EFFICIENCY.

4 (6) REMANUFACTURE FOR WHOLESALE DISTRIBUTION BY A
5 REMANUFACTURER OF MOTOR VEHICLE PARTS FROM USED PARTS ACQUIRED
6 IN BULK BY THE REMANUFACTURER USING AN ASSEMBLY LINE PROCESS
7 WHICH INVOLVES THE COMPLETE DISASSEMBLY OF SUCH PARTS AND
8 INTEGRATION OF THE COMPONENTS OF SUCH PARTS WITH OTHER USED OR
9 NEW COMPONENTS OF PARTS, INCLUDING THE SALVAGING, RECYCLING OR
10 RECLAIMING OF USED PARTS BY THE REMANUFACTURER.

11 (7) REMANUFACTURE OR RETROFIT BY A MANUFACTURER OR
12 REMANUFACTURER OF AIRCRAFT, ARMORED VEHICLES, OTHER DEFENSE-
13 RELATED VEHICLES HAVING A FINISHED VALUE OF AT LEAST FIFTY
14 THOUSAND DOLLARS (\$50,000). REMANUFACTURE OR RETROFIT INVOLVES
15 THE DISASSEMBLY OF SUCH AIRCRAFT, VEHICLES, PARTS OR COMPONENTS,
16 INCLUDING ELECTRIC OR ELECTRONIC COMPONENTS, THE INTEGRATION OF
17 THOSE PARTS AND COMPONENTS WITH OTHER USED OR NEW PARTS OR
18 COMPONENTS, INCLUDING THE SALVAGING, RECYCLING OR RECLAIMING OF
19 THE USED PARTS OR COMPONENTS AND THE ASSEMBLY OF THE NEW OR USED
20 AIRCRAFT, VEHICLES, PARTS OR COMPONENTS. FOR PURPOSES OF THIS
21 CLAUSE, THE FOLLOWING TERMS OR PHRASES HAVE THE FOLLOWING
22 MEANINGS:

23 (I) "AIRCRAFT" MEANS FIXED-WING AIRCRAFT, HELICOPTERS,
24 POWERED AIRCRAFT, TILT-ROTOR OR TILT-WING AIRCRAFT, UNMANNED
25 AIRCRAFT AND GLIDERS;

26 (II) "ARMORED VEHICLES" MEANS TANKS, ARMED PERSONNEL
27 CARRIERS AND ALL OTHER ARMED TRACK OR SEMITRACK VEHICLES; OR

28 (III) "OTHER DEFENSE-RELATED VEHICLES" MEANS TRUCKS, TRUCK-
29 TRACTORS, TRAILERS, JEEPS AND OTHER UTILITY VEHICLES, INCLUDING
30 ANY UNMANNED VEHICLES.

1 (8) REMANUFACTURE BY A REMANUFACTURER OF LOCOMOTIVE PARTS
2 FROM USED PARTS ACQUIRED IN BULK BY THE REMANUFACTURER USING AN
3 ASSEMBLY LINE PROCESS WHICH INVOLVES THE COMPLETE DISASSEMBLY OF
4 SUCH PARTS AND INTEGRATION OF THE COMPONENTS OF SUCH PARTS WITH
5 OTHER USED OR NEW COMPONENTS OF PARTS, INCLUDING THE SALVAGING,
6 RECYCLING OR RECLAIMING OF USED PARTS BY THE REMANUFACTURER.

7 THE TERM "MANUFACTURE" SHALL NOT INCLUDE CONSTRUCTING,
8 ALTERING, SERVICING, REPAIRING OR IMPROVING REAL ESTATE OR
9 REPAIRING, SERVICING OR INSTALLING TANGIBLE PERSONAL PROPERTY,
10 NOR THE COOKING, FREEZING OR BAKING OF FRUITS, VEGETABLES,
11 MUSHROOMS, FISH, SEAFOOD, MEATS, POULTRY OR BAKERY PRODUCTS.

12 * * *

13 SECTION 2. THE DEFINITION OF "CAPITAL STOCK VALUE" IN
14 SECTION 601(A) OF THE ACT, AMENDED JULY 6, 2006 (P.L.319,
15 NO.67), IS AMENDED TO READ:

16 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
17 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
18 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
19 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

20 * * *

21 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
22 FOLLOWING FORMULA: THE PRODUCT OF ONE-HALF TIMES THE SUM OF THE
23 AVERAGE NET INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF
24 PER CENT PLUS SEVENTY-FIVE PER CENT OF NET WORTH, FROM WHICH
25 PRODUCT SHALL BE SUBTRACTED [ONE HUNDRED FIFTY THOUSAND DOLLARS
26 (\$150,000)] ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS
27 (\$175,000), THE ALGEBRAIC EQUIVALENT OF WHICH IS

28 (.5 X (AVERAGE NET INCOME/.095 + (.75)
29 (NET WORTH))) - [\$150,000] \$175,000

30 * * *

1 SECTION 3. SECTION 701.1 OF THE ACT, AMENDED JUNE 16, 1994
2 (P.L.279, NO.48), IS AMENDED TO READ:

3 SECTION 701.1. ASCERTAINMENT OF TAXABLE AMOUNT; EXCLUSION OF
4 UNITED STATES OBLIGATIONS.--(A) THE TAXABLE AMOUNT OF SHARES
5 SHALL BE ASCERTAINED AND FIXED BY ADDING TOGETHER THE VALUE
6 DETERMINED UNDER SUBSECTION (B) FOR THE CURRENT AND PRECEDING
7 FIVE YEARS AND DIVIDING THE RESULTING SUM BY SIX. IF AN
8 INSTITUTION HAS NOT BEEN IN EXISTENCE FOR A PERIOD OF SIX YEARS,
9 THE TAXABLE AMOUNT OF SHARES SHALL BE ASCERTAINED AND FIXED BY
10 ADDING TOGETHER THE VALUES DETERMINED UNDER SUBSECTION (B) FOR
11 THE NUMBER OF YEARS THE INSTITUTION HAS BEEN IN EXISTENCE AND
12 DIVIDING THE RESULTING SUM BY SUCH NUMBER OF YEARS.

13 (B) THE VALUE FOR EACH YEAR REQUIRED BY SUBSECTION (A) SHALL
14 BE DETERMINED BY [ADDING TOGETHER] DEDUCTING FROM THE BOOK VALUE
15 OF [CAPITAL STOCK PAID IN, THE BOOK VALUE OF THE SURPLUS AND THE
16 BOOK VALUE OF UNDIVIDED PROFITS WITH A DEDUCTION FROM THE TOTAL
17 THEREOF OF] TOTAL EQUITY CAPITAL AN AMOUNT EQUAL TO THE SAME
18 PERCENTAGE OF [SUCH TOTAL] TOTAL EQUITY CAPITAL AS THE BOOK
19 VALUE OF OBLIGATIONS OF THE UNITED STATES BEARS TO THE BOOK
20 VALUE OF THE TOTAL ASSETS[.], EXCEPT THAT FOR THE VALUE OF
21 SHARES REPORTED ON TAX RETURNS DUE ON MARCH 15, 2008, AND
22 THEREAFTER, ANY GOODWILL RECORDED AS A RESULT OF THE USE OF
23 PURCHASE ACCOUNTING FOR AN ACQUISITION OR COMBINATION AS
24 DESCRIBED IN THIS SECTION AND OCCURRING AFTER JUNE 30, 2001, MAY
25 BE SUBTRACTED FROM THE BOOK VALUE OF TOTAL EQUITY CAPITAL AND
26 DISREGARDED IN DETERMINING THE DEDUCTION PROVIDED FOR
27 OBLIGATIONS OF THE UNITED STATES FOR THE SIX-YEAR PERIOD
28 DESCRIBED IN SUBSECTION (A). FOR PURPOSES OF THIS SUBSECTION,
29 BOOK VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS FOR
30 EACH YEAR SHALL BE DETERMINED BY THE REPORTS OF CONDITION FOR

1 EACH CALENDAR QUARTER OF THE PRECEDING CALENDAR YEAR IN
2 ACCORDANCE WITH THE REQUIREMENTS OF THE BOARD OF GOVERNORS OF
3 THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE
4 FEDERAL DEPOSIT INSURANCE CORPORATION OR OTHER APPLICABLE
5 REGULATORY AUTHORITY; AND BOOK VALUES SHALL BE AVERAGED AS
6 CALCULATED BY AVERAGING BOOK VALUES AS DETERMINED BY SUCH
7 REPORTS OF CONDITION. FOR PURPOSES OF THIS ARTICLE, UNITED
8 STATES OBLIGATIONS SHALL BE OBLIGATIONS COMING WITHIN THE SCOPE
9 OF 31 U.S.C. § 3124. FOR ANY YEAR IN WHICH AN INSTITUTION DOES
10 NOT FILE FOUR QUARTERLY REPORTS OF CONDITION, BOOK VALUES AND
11 DEDUCTIONS FOR UNITED STATES OBLIGATIONS SHALL BE DETERMINED BY
12 ADDING TOGETHER THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
13 OBLIGATIONS FROM EACH QUARTERLY REPORTS OF CONDITION FILED FOR
14 SUCH YEAR AND DIVIDING THE RESULTING SUMS BY THE NUMBER OF SUCH
15 REPORTS OF CONDITION. IN THE CASE OF INSTITUTIONS WHICH DO NOT
16 FILE SUCH REPORTS OF CONDITION, BOOK VALUES SHALL BE DETERMINED
17 BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS OF THE END OF
18 EACH CALENDAR QUARTER. FOR ANY YEAR IN WHICH AN INSTITUTION
19 WHICH DOES NOT FILE REPORTS OF CONDITION IS NOT IN EXISTENCE FOR
20 FOUR QUARTERS, THE BOOK VALUE FOR THAT YEAR SHALL BE DETERMINED
21 BY ADDING TOGETHER THE BOOK VALUES FOR EACH QUARTER IN WHICH THE
22 INSTITUTION WAS IN EXISTENCE AND DIVIDING BY THAT NUMBER OF
23 QUARTERS. FOR PURPOSES OF THIS SECTION, A PARTIAL YEAR SHALL BE
24 TREATED AS A FULL YEAR.

25 (C) FOR PURPOSES OF THIS SECTION:

26 (1) A MERE CHANGE IN IDENTITY, FORM OR PLACE OF ORGANIZATION
27 OF ONE INSTITUTION, HOWEVER EFFECTED, SHALL BE TREATED AS IF A
28 SINGLE INSTITUTION HAD BEEN IN EXISTENCE PRIOR TO AS WELL AS
29 AFTER SUCH CHANGE; AND

30 (2) THE COMBINATION OF TWO OR MORE INSTITUTIONS INTO ONE

1 SHALL BE TREATED AS IF THE CONSTITUENT INSTITUTIONS HAD BEEN A
2 SINGLE INSTITUTION IN EXISTENCE PRIOR TO AS WELL AS AFTER THE
3 COMBINATION AND THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
4 OBLIGATIONS FROM THE REPORTS OF CONDITION OF THE CONSTITUENT
5 INSTITUTIONS SHALL BE COMBINED. FOR PURPOSES OF [THE PRECEDING
6 SENTENCE] THIS SECTION, A COMBINATION SHALL INCLUDE ANY
7 ACQUISITION REQUIRED TO BE ACCOUNTED FOR [BY THE SURVIVING
8 INSTITUTION UNDER THE POOLING OF INTEREST METHOD] BY USING THE
9 PURCHASE METHOD IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
10 PRINCIPLES OR A STATUTORY MERGER OR CONSOLIDATION.

11 SECTION 4. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

12 ARTICLE XVII-D

13 FILM PRODUCTION TAX CREDIT

14 SECTION 1701-D. SCOPE OF ARTICLE.

15 THIS ARTICLE RELATES TO FILM PRODUCTION TAX CREDITS.

16 SECTION 1702-D. DEFINITIONS.

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

20 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
21 DEVELOPMENT OF THE COMMONWEALTH.

22 "FILM." A FEATURE FILM, A TELEVISION FILM, A TELEVISION TALK
23 OR GAME SHOW SERIES, A TELEVISION COMMERCIAL OR A TELEVISION
24 PILOT OR EACH EPISODE OF A TELEVISION SERIES WHICH IS INTENDED
25 AS PROGRAMMING FOR A NATIONAL OR REGIONAL AUDIENCE. THE TERM
26 DOES NOT INCLUDE A PRODUCTION FEATURING NEWS, CURRENT EVENTS,
27 WEATHER AND MARKET REPORTS, OR PUBLIC PROGRAMMING, SPORTS EVENT,
28 AWARDS SHOW OR OTHER GALA EVENT, A PRODUCTION THAT SOLICITS
29 FUNDS, A PRODUCTION CONTAINING OBSCENE MATERIAL OR PERFORMANCES
30 AS DEFINED IN 18 PA.C.S. § 5903(B) (RELATING TO OBSCENE AND

1 OTHER SEXUAL MATERIALS AND PERFORMANCES) OR A PRODUCTION
2 PRIMARILY FOR PRIVATE, POLITICAL, INDUSTRIAL, CORPORATE OR
3 INSTITUTIONAL PURPOSES.

4 "FILM PRODUCTION TAX CREDIT." THE CREDIT PROVIDED UNDER THIS
5 ARTICLE.

6 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
7 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
8 301(N.1).

9 "PENNSYLVANIA PRODUCTION EXPENSE." A PRODUCTION EXPENSE
10 INCURRED IN THIS COMMONWEALTH. AS APPLIED TO WAGES AND SALARIES,
11 THE TERM INCLUDES ONLY WAGES AND SALARIES ON WHICH THE TAXES
12 IMPOSED BY ARTICLE III OR IV WILL BE PAID OR ACCRUED.

13 "PRODUCTION EXPENSE." AN EXPENSE INCURRED IN THE PRODUCTION
14 OF A FILM. THE TERM INCLUDES THE AGGREGATE AMOUNT OF WAGES AND
15 SALARIES OF INDIVIDUALS EACH OF WHOM RECEIVE LESS THAN
16 \$1,000,000 AND ARE EMPLOYED IN THE PRODUCTION OF THE FILM; THE
17 COSTS OF CONSTRUCTION, OPERATIONS, EDITING, PHOTOGRAPHY, SOUND
18 SYNCHRONIZATION, LIGHTING, WARDROBE AND ACCESSORIES; THE COST OF
19 LEASING VEHICLES; THE COST OF TRANSPORTATION TO OR FROM A
20 PENNSYLVANIA TRAIN STATION, BUS DEPOT OR AIRPORT; THE COST OF
21 INSURANCE COVERAGE IF THE INSURANCE IS PURCHASED THROUGH A
22 PENNSYLVANIA-BASED INSURANCE AGENT; THE COSTS OF FOOD AND
23 LODGING; THE PURCHASE OF MUSIC OR STORY RIGHTS IF THE RIGHTS ARE
24 PURCHASED FROM A PENNSYLVANIA RESIDENT OR AN ENTITY SUBJECT TO
25 TAXATION IN THIS COMMONWEALTH AND THE TRANSACTION IS SUBJECT TO
26 TAXATION UNDER ARTICLE III, IV OR VI; AND THE COST OF RENTAL OF
27 FACILITIES AND EQUIPMENT, IF RENTED FROM OR THROUGH A
28 PENNSYLVANIA RESIDENT OR AN ENTITY SUBJECT TO TAXATION IN THIS
29 COMMONWEALTH. THE TERM DOES NOT INCLUDE:

30 (1) DEFERRED, LEVERAGED OR PROFIT PARTICIPATION PAID OR

1 TO BE PAID TO INDIVIDUALS EMPLOYED IN THE PRODUCTION OF THE
2 FILM;

3 (2) DEVELOPMENT COSTS; OR

4 (3) EXPENSES INCURRED IN MARKETING OR ADVERTISING A
5 FILM.

6 "QUALIFIED FILM PRODUCTION EXPENSE." A PENNSYLVANIA
7 PRODUCTION EXPENSE IF AT LEAST 60% OF THE TOTAL EXPENSES ARE
8 PENNSYLVANIA PRODUCTION EXPENSES.

9 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
10 UNDER ARTICLE III, IV OR VI. THE TERM SHALL NOT INCLUDE ANY TAX
11 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

12 "START DATE." THE FIRST DAY OF PRINCIPAL PHOTOGRAPHY IN THIS
13 COMMONWEALTH.

14 "TAXPAYER." A FILM PRODUCTION COMPANY SUBJECT TO TAX UNDER
15 ARTICLE III, IV OR VI. THE TERM DOES NOT INCLUDE CONTRACTORS OR
16 SUBCONTRACTORS OF A FILM PRODUCTION COMPANY.

17 SECTION 1703-D. CREDIT FOR QUALIFIED FILM PRODUCTION EXPENSES.

18 (A) APPLICATION.--A TAXPAYER MAY APPLY TO THE DEPARTMENT FOR
19 A FILM PRODUCTION TAX CREDIT UNDER THIS SECTION. THE APPLICATION
20 SHALL BE ON THE FORM REQUIRED BY THE DEPARTMENT.

21 (B) REVIEW AND APPROVAL.--THE DEPARTMENT SHALL REVIEW THE
22 APPLICATION. UPON DETERMINING THE QUALIFIED FILM PRODUCTION
23 EXPENSE AMOUNT FOR THE TAXPAYER, THE DEPARTMENT MAY APPROVE THE
24 TAXPAYER FOR A FILM PRODUCTION TAX CREDIT.

25 (C) CONTRACT.--IF THE DEPARTMENT APPROVES THE TAXPAYER'S
26 APPLICATION UNDER SUBSECTION (B), THE DEPARTMENT AND THE
27 TAXPAYER SHALL ENTER INTO A CONTRACT CONTAINING THE FOLLOWING:

28 (1) AN ITEMIZED LIST OF PRODUCTION EXPENSES INCURRED OR
29 TO BE INCURRED.

30 (2) AN ITEMIZED LIST OF PENNSYLVANIA PRODUCTION EXPENSES

1 INCURRED OR TO BE INCURRED.

2 (3) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
3 COMPLETION OF PRODUCTION, A COMMITMENT BY THE TAXPAYER TO
4 INCUR THE QUALIFIED FILM PRODUCTION EXPENSES AS ITEMIZED.

5 (4) THE START DATE.

6 (5) ANY OTHER INFORMATION THE DEPARTMENT DEEMS
7 APPROPRIATE.

8 (D) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED BY
9 SUBSECTION (C), THE DEPARTMENT SHALL AWARD THE TAXPAYER A FILM
10 PRODUCTION TAX CREDIT AND ISSUE THE TAXPAYER A FILM PRODUCTION
11 TAX CREDIT CERTIFICATE.

12 (E) LIMITATIONS.--THE FOLLOWING LIMITATIONS SHALL APPLY:

13 (1) THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX CREDITS
14 AWARDED BY THE DEPARTMENT UNDER SUBSECTION (D) TO A TAXPAYER
15 FOR A FILM MAY NOT EXCEED 25% OF THE QUALIFIED FILM
16 PRODUCTION EXPENSES TO BE INCURRED.

17 (2) A TAXPAYER WITH A BUDGET FOR A FILM THAT IS LESS
18 THAN \$2,000,000 SHALL NOT BE ELIGIBLE TO APPLY FOR A FILM
19 PRODUCTION TAX CREDIT UNDER THIS ARTICLE FOR THAT FILM,
20 UNLESS THE TAXPAYER RECEIVES A WRITTEN WAIVER OF THIS
21 REQUIREMENT FROM THE DEPARTMENT.

22 (3) A TAXPAYER HAS RECEIVED A GRANT UNDER 12 PA.C.S. §
23 4106 (RELATING TO APPROVAL) SHALL NOT BE ELIGIBLE FOR A FILM
24 PRODUCTION TAX CREDIT UNDER THIS ACT FOR THE SAME FILM.

25 (4) THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX CREDITS
26 CLAIMED BY A TAXPAYER UNDER SECTION 1704-D MAY NOT EXCEED THE
27 AMOUNT AWARDED FOR THE DEPARTMENT UNDER THIS SECTION FOR THE
28 TAXPAYER FOR THAT TAXABLE YEAR.

29 SECTION 1704-D. FILM PRODUCTION TAX CREDITS.

30 A TAXPAYER MAY CLAIM A FILM PRODUCTION TAX CREDIT AGAINST THE

1 QUALIFIED TAX LIABILITY OF THE TAXPAYER.
2 SECTION 1705-D. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT OF
3 CREDIT.

4 (A) GENERAL RULE.--IF THE TAXPAYER CANNOT USE THE ENTIRE
5 AMOUNT OF THE FILM PRODUCTION TAX CREDIT FOR THE TAXABLE YEAR IN
6 WHICH THE FILM PRODUCTION TAX CREDIT IS FIRST APPROVED, THEN THE
7 EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED
8 AS A CREDIT AGAINST THE QUALIFIED TAX LIABILITY OF THE TAXPAYER
9 FOR THOSE TAXABLE YEARS. EACH TIME THE FILM PRODUCTION TAX
10 CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE YEAR, IT SHALL BE
11 REDUCED BY THE AMOUNT THAT WAS USED AS A CREDIT DURING THE
12 IMMEDIATELY PRECEDING TAXABLE YEAR. THE FILM PRODUCTION TAX
13 CREDIT PROVIDED BY THIS ARTICLE MAY BE CARRIED OVER AND APPLIED
14 TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN THREE TAXABLE YEARS
15 FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE TAXPAYER WAS
16 ENTITLED TO CLAIM THE CREDIT.

17 (B) APPLICATION.--A FILM PRODUCTION TAX CREDIT APPROVED BY
18 THE DEPARTMENT IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST
19 THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE
20 YEAR AS OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
21 FILM PRODUCTION TAX CREDIT CAN BE APPLIED AGAINST ANY TAX
22 LIABILITY UNDER SUBSECTION (A).

23 (C) NO CARRYBACK.--A TAXPAYER IS NOT ENTITLED TO CARRY BACK
24 ALL OR ANY PORTION OF AN UNUSED FILM PRODUCTION TAX CREDIT
25 GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

26 (D) (RESERVED)

27 (E) SALE OR ASSIGNMENT.--THE FOLLOWING SHALL APPLY:

28 (1) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
29 DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A FILM
30 PRODUCTION TAX CREDIT GRANTED TO THE TAXPAYER UNDER THIS

1 ARTICLE TO ANOTHER TAXPAYER UNDER THIS ARTICLE.

2 (2) THE DEPARTMENT AND THE DEPARTMENT OF REVENUE SHALL
3 JOINTLY PROMULGATE REGULATIONS FOR THE APPROVAL OF
4 APPLICATIONS UNDER THIS SUBSECTION.

5 (3) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF
6 REVENUE MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL
7 REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE
8 TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS
9 DETERMINED AT SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE
10 DEPARTMENT OF REVENUE.

11 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
12 DEPARTMENT OF REVENUE SHALL SETTLE, ASSESS OR DETERMINE THE
13 TAX OF AN APPLICANT UNDER THIS SUBSECTION WITHIN 90 DAYS OF
14 THE FILING OF ALL REQUIRED FINAL RETURNS OR REPORTS IN
15 ACCORDANCE WITH SECTION 806.1(A)(5) OF THE ACT OF APRIL 9,
16 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

17 (F) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF
18 ALL OR A PORTION OF A FILM PRODUCTION TAX CREDIT UNDER
19 SUBSECTION (E) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
20 YEAR IN WHICH THE PURCHASE OR ASSIGNMENT IS MADE. THE AMOUNT OF
21 THE FILM PRODUCTION CREDIT THAT A PURCHASER OR ASSIGNEE MAY USE
22 AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY NOT EXCEED 50% OF
23 SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR. THE PURCHASER
24 OR ASSIGNEE MAY NOT CARRY BACK OR OBTAIN A REFUND OF THE FILM
25 PRODUCTION TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY
26 THE DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE FILM
27 PRODUCTION TAX CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY
28 THE DEPARTMENT OF REVENUE.

29 SECTION 1706-D. DETERMINATION OF QUALIFIED FILM PRODUCTION
30 EXPENSES.

1 IN PRESCRIBING STANDARDS FOR DETERMINING WHICH PRODUCTION
2 EXPENSES ARE CONSIDERED QUALIFIED FILM PRODUCTION EXPENSES FOR
3 PURPOSES OF COMPUTING THE CREDIT PROVIDED BY THIS ARTICLE, THE
4 DEPARTMENT SHALL CONSIDER:

5 (1) THE LOCATION WHERE SERVICES ARE PERFORMED.

6 (2) THE RESIDENCE OR BUSINESS LOCATION OF THE PERSON OR
7 PERSONS PERFORMING THE SERVICE.

8 (3) THE LOCATION WHERE SUPPLIES ARE CONSUMED.

9 (4) OTHER FACTORS THE DEPARTMENT DETERMINES ARE
10 RELEVANT.

11 SECTION 1707-D. LIMITATION.

12 IN NO CASE SHALL THE AGGREGATE AMOUNT OF TAX CREDITS AWARDED
13 IN ANY FISCAL YEAR UNDER THIS ARTICLE EXCEED \$50,000,000.

14 SECTION 1708-D. PENALTY.

15 A TAXPAYER WHICH CLAIMS A FILM PRODUCTION TAX CREDIT AND
16 FAILS TO INCUR THE AMOUNT OF QUALIFIED FILM PRODUCTION EXPENSES
17 AGREED TO IN SECTION 1703-D(C)(3) FOR A FILM IN THAT TAXABLE
18 YEAR SHALL REPAY TO THE COMMONWEALTH THE AMOUNT OF THE FILM
19 PRODUCTION TAX CREDIT CLAIMED UNDER THIS ARTICLE FOR THE FILM,
20 INCLUDING ANY SUMS REFUNDED TO THE TAXPAYER UNDER SECTION 1705-
21 D(D).

22 SECTION 1709-D. PASS-THROUGH ENTITY.

23 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
24 TAX CREDIT UNDER SECTION 1705-D, IT MAY ELECT IN WRITING,
25 ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
26 REVENUE, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
27 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
28 DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER
29 IS ENTITLED.

30 (B) LIMITATION.--THE CREDIT PROVIDED UNDER SUBSECTION (A)

1 CANNOT BE CLAIMED UNDER THIS ARTICLE FOR THE SAME QUALIFIED FILM
2 PRODUCTION EXPENSE BY PASS-THROUGH ENTITY AND A SHAREHOLDER,
3 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY.

4 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
5 PASS-THROUGH ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER
6 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
7 YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
8 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
9 SELL OR ASSIGN THE CREDIT.

10 SECTION 1710-D. DEPARTMENT GUIDELINES.

11 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE
12 IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE.

13 SECTION 1711-D. REPORT TO GENERAL ASSEMBLY.

14 THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL
15 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY INDICATING THE
16 EFFECTIVENESS OF THE CREDIT PROVIDED BY THIS ARTICLE NO LATER
17 THAN MARCH 15 FOLLOWING THE YEAR IN WHICH THE CREDITS WERE
18 APPROVED. THE REPORT SHALL INCLUDE THE NAMES OF ALL TAXPAYERS
19 UTILIZING THE CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT
20 OF CREDITS APPROVED AND UTILIZED BY EACH TAXPAYER.

21 NOTWITHSTANDING ANY LAW PROVIDING FOR THE CONFIDENTIALITY OF TAX
22 RECORDS, THE INFORMATION CONTAINED IN THE REPORT SHALL BE PUBLIC
23 INFORMATION. THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR
24 CHANGES IN THE CALCULATION OR ADMINISTRATION OF THE CREDIT.

25 SECTION 5. THE DEFINITION OF "BUSINESS FIRM" IN SECTION
26 1902-A OF THE ACT, AMENDED MAY 7, 1997 (P.L.85, NO.7), IS
27 AMENDED AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO
28 READ:

29 SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
30 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS

1 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
2 CLEARLY INDICATES A DIFFERENT MEANING:

3 "BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
4 BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
5 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X OR
6 XV OF THIS ACT. THE TERM SHALL INCLUDE A SHAREHOLDER OF A
7 PENNSYLVANIA S CORPORATION WHO IS LIABLE FOR TAXES IMPOSED UNDER
8 ARTICLE III.

9 * * *

10 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED UNDER
11 SECTION 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED
12 UNDER SECTION 301(N.1).

13 * * *

14 "SMALL BUSINESS." A PASS-THROUGH ENTITY.

15 SECTION 6. SECTION 1904-A OF THE ACT IS AMENDED BY ADDING
16 SUBSECTIONS TO READ:

17 SECTION 1904-A. TAX CREDIT.--* * *

18 (B.1) THE SECRETARY SHALL TAKE INTO SPECIAL CONSIDERATION,
19 WHEN APPROVING APPLICATIONS FOR NEIGHBORHOOD ASSISTANCE TAX
20 CREDITS, APPLICATIONS WHICH INVOLVE MULTIPLE PROJECTS IN VARIOUS
21 MARKETS THROUGHOUT THIS COMMONWEALTH.

22 * * *

23 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
24 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
25 ASSIGN, IN WHOLE OR IN PART, A NEIGHBORHOOD ASSISTANCE TAX
26 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE IF NO CLAIM
27 FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM THE
28 DATE THE CREDIT IS GRANTED BY THE DEPARTMENT OF REVENUE UNDER
29 SECTION 1905-A. THE DEPARTMENT OF COMMUNITY AND ECONOMIC
30 DEVELOPMENT AND THE DEPARTMENT OF REVENUE SHALL JOINTLY

1 PROMULGATE GUIDELINES FOR THE APPROVAL OF APPLICATIONS UNDER
2 THIS SUBSECTION.

3 (E) THE PURCHASER OR ASSIGNEE OF A PORTION OF A NEIGHBORHOOD
4 ASSISTANCE TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY
5 CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
6 ASSIGNMENT IS MADE. THE PURCHASER OR ASSIGNEE MAY NOT CARRY
7 OVER, CARRY BACK, OBTAIN A REFUND OF OR ASSIGN THE NEIGHBORHOOD
8 ASSISTANCE TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY
9 THE DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE
10 NEIGHBORHOOD ASSISTANCE TAX CREDIT IN COMPLIANCE WITH PROCEDURES
11 SPECIFIED BY THE DEPARTMENT OF REVENUE.

12 SECTION 7. SECTION 1905-A OF THE ACT, AMENDED JULY 7, 2005
13 (P.L.149, NO.40), IS AMENDED TO READ:

14 SECTION 1905-A. GRANT OF TAX CREDIT.--THE DEPARTMENT OF
15 REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER
16 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X OR
17 XV OF THIS ACT, OR ANY TAX SUBSTITUTED IN LIEU THEREOF IN AN
18 AMOUNT WHICH SHALL NOT EXCEED [FIFTY] SIXTY PER CENT OF THE
19 TOTAL AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY
20 [THE BUSINESS FIRM OR TWENTY] A BUSINESS FIRM OR TWENTY-FIVE PER
21 CENT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY IN PROGRAMS
22 APPROVED PURSUANT TO SECTION 1904-A OF THIS ACT: PROVIDED, THAT
23 A TAX CREDIT OF UP TO [SEVENTY] EIGHTY PER CENT OF THE TOTAL
24 AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY A
25 BUSINESS FIRM OR UP TO [THIRTY] THIRTY-FIVE PER CENT OF THE
26 AMOUNT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY MAY BE
27 ALLOWED FOR INVESTMENT IN PROGRAMS WHERE ACTIVITIES FALL WITHIN
28 THE SCOPE OF SPECIAL PROGRAM PRIORITIES AS DEFINED WITH THE
29 APPROVAL OF THE GOVERNOR IN REGULATIONS PROMULGATED BY THE
30 SECRETARY[.], AND PROVIDED FURTHER, THAT A TAX CREDIT OF UP TO

1 EIGHTY PER CENT OF THE TOTAL AMOUNT CONTRIBUTED DURING THE
2 TAXABLE YEAR BY A BUSINESS FIRM IN COMPREHENSIVE SERVICE
3 PROJECTS WITH FIVE-YEAR COMMITMENTS AND UP TO NINETY PER CENT OF
4 THE TOTAL AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY A
5 BUSINESS FIRM IN COMPREHENSIVE SERVICE PROJECTS WITH SIX-YEAR OR
6 LONGER COMMITMENTS SHALL BE GRANTED. SUCH CREDIT SHALL NOT
7 EXCEED [TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) ANNUALLY,
8 EXCEPT IN THE CASE OF COMPREHENSIVE SERVICE PROJECTS WHICH SHALL
9 BE ALLOWED AN ADDITIONAL CREDIT EQUAL TO SEVENTY PER CENT OF THE
10 QUALIFYING INVESTMENTS MADE IN COMPREHENSIVE SERVICE PROJECTS;
11 HOWEVER, SUCH ADDITIONAL CREDIT SHALL NOT EXCEED THREE HUNDRED
12 FIFTY THOUSAND DOLLARS (\$350,000) ANNUALLY.] FIVE HUNDRED
13 THOUSAND DOLLARS (\$500,000) ANNUALLY FOR CONTRIBUTIONS OR
14 INVESTMENTS TO A SINGLE PROJECT OR ONE MILLION TWO HUNDRED FIFTY
15 THOUSAND DOLLARS (\$1,250,000) ANNUALLY FOR CONTRIBUTIONS OR
16 INVESTMENTS TO FOUR OR MORE PROJECTS. NO TAX CREDIT SHALL BE
17 GRANTED TO ANY BANK, BANK AND TRUST COMPANY, INSURANCE COMPANY,
18 TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCIATION, MUTUAL
19 SAVINGS BANK OR BUILDING AND LOAN ASSOCIATION FOR ACTIVITIES
20 THAT ARE A PART OF ITS NORMAL COURSE OF BUSINESS. ANY TAX CREDIT
21 NOT USED IN THE PERIOD THE CONTRIBUTION OR INVESTMENT WAS MADE
22 MAY BE CARRIED OVER FOR THE NEXT FIVE SUCCEEDING CALENDAR OR
23 FISCAL YEARS UNTIL THE FULL CREDIT HAS BEEN ALLOWED. THE TOTAL
24 AMOUNT OF ALL TAX CREDITS ALLOWED PURSUANT TO THIS ACT SHALL NOT
25 EXCEED EIGHTEEN MILLION DOLLARS (\$18,000,000) IN ANY ONE FISCAL
26 YEAR. OF THAT AMOUNT, TWO MILLION DOLLARS (\$2,000,000) SHALL BE
27 ALLOCATED EXCLUSIVELY FOR SMALL BUSINESSES. HOWEVER, IF THE
28 TOTAL AMOUNTS ALLOCATED TO EITHER THE GROUP OF APPLICANTS,
29 EXCLUSIVE OF SMALL BUSINESSES, OR THE GROUP OF SMALL BUSINESS
30 APPLICANTS IS NOT APPROVED IN ANY FISCAL YEAR, THE UNUSED

1 PORTION SHALL BECOME AVAILABLE FOR USE BY THE OTHER GROUP OF
2 QUALIFYING TAXPAYERS.

3 SECTION 8. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

4 SECTION 1907-A. PASS-THROUGH ENTITY.--(A) IF A PASS-THROUGH
5 ENTITY HAS ANY UNUSED TAX CREDIT UNDER SECTION 1905-A, THE
6 ENTITY MAY ELECT, IN WRITING, ACCORDING TO THE DEPARTMENT'S
7 PROCEDURES, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
8 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
9 THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
10 MEMBER OR PARTNER IS ENTITLED.

11 (B) THE CREDIT PROVIDED UNDER SUBSECTION (A) IS IN ADDITION
12 TO ANY NEIGHBORHOOD ASSISTANCE TAX CREDIT TO WHICH A
13 SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH ENTITY IS
14 OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER, A PASS-THROUGH
15 ENTITY AND A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
16 ENTITY MAY NOT CLAIM A CREDIT UNDER THIS ARTICLE FOR THE SAME
17 QUALIFIED NEIGHBORHOOD ASSISTANCE INVESTMENT OR CONTRIBUTION.

18 (C) A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
19 ENTITY TO WHOM CREDIT IS TRANSFERRED UNDER SUBSECTION (A) MUST
20 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
21 TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT
22 CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN
23 THE CREDIT.

24 SECTION 9. THE AMENDMENT OF SECTION 701.1 OF THE ACT IS NOT
25 INTENDED TO REVERSE OR MODIFY THE RULING OF FIRST UNION NATIONAL
26 BANK V. COMMONWEALTH, 867 A.2D 711 (PA. CMWLTH. 2005).

27 SECTION 10. THE PROVISIONS OF THIS ACT SHALL APPLY AS
28 FOLLOWS:

29 (1) THE AMENDMENT OF SECTION 601 OF THE ACT SHALL APPLY
30 TO ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007.

1 (2) THE ADDITION OF ARTICLE XVII-D OF THE ACT SHALL
2 APPLY TO:

3 (I) QUALIFIED FILM PRODUCTION EXPENSES INCURRED
4 AFTER DECEMBER 31, 2006; AND

5 (II) TAXABLE YEARS COMMENCING AFTER DECEMBER 31,
6 2006.

7 SECTION 11. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.