

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JULY 7, 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 SALES AND USE TAX, FOR REFUND OF SALES TAX ATTRIBUTED TO BAD
15 DEBT; IN PERSONAL INCOME TAX, FOR OPERATIONAL PROVISIONS; IN <—
16 CAPITAL STOCK FRANCHISE TAX, FOR THE DEFINITION OF "CAPITAL
17 STOCK VALUE" AND, IN BANK AND TRUST COMPANY SHARES TAX, FOR
18 ASCERTAINMENT OF TAXABLE AMOUNT AND EXCLUSION OF UNITED
19 STATES OBLIGATIONS; PROVIDING FOR A FILM PRODUCTION TAX
20 CREDIT AND CONFERRING POWERS AND IMPOSING DUTIES UPON THE
21 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT AND FOR A <—
22 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT; FURTHER
23 PROVIDING, IN NEIGHBORHOOD ASSISTANCE TAX CREDIT, FOR
24 DEFINITIONS, FOR TAX CREDIT AND FOR GRANT OF TAX CREDIT; AND
25 PROVIDING FOR PASS-THROUGH ~~ENTITY. ENTITIES AND POWDERED~~ <—
26 METALLURGY PARTS.

27 The General Assembly of the Commonwealth of Pennsylvania
28 hereby enacts as follows:

1 Section 1. ~~Section 701.1 of the act of March 4, 1971 (P.L.6, <—~~
2 ~~No.2), known as the Tax Reform Code of 1971, amended June 16,~~
3 ~~1994 (P.L.279, No.48), is amended to read:~~

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

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

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

~~26 (c) For purposes of this section:~~

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

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

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

15 ~~Section 3. This act shall take effect in 60 days or December~~
16 ~~31, 2007, whichever is sooner.~~

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

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

25 * * *

26 (C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING,
27 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
28 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY TANGIBLE PERSONAL
29 PROPERTY IN A FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT
30 IN WHICH IT IS ACQUIRED WHETHER FOR SALE OR USE BY THE

1 MANUFACTURER, AND SHALL INCLUDE, BUT NOT BE LIMITED TO--

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

19 (2) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES AND OTHER
20 PERIODICALS AND PRINTING.

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

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

1 (5) RESEARCH HAVING AS ITS OBJECTIVE THE PRODUCTION OF A NEW
2 OR AN IMPROVED (I) PRODUCT OR UTILITY SERVICE, OR (II) METHOD OF
3 PRODUCING A PRODUCT OR UTILITY SERVICE, BUT IN EITHER CASE NOT
4 INCLUDING MARKET RESEARCH OR RESEARCH HAVING AS ITS OBJECTIVE
5 THE IMPROVEMENT OF ADMINISTRATIVE EFFICIENCY.

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

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

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

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

30 (III) "OTHER DEFENSE-RELATED VEHICLES" MEANS TRUCKS, TRUCK-

1 TRACTORS, TRAILERS, JEEPS AND OTHER UTILITY VEHICLES, INCLUDING
2 ANY UNMANNED VEHICLES.

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

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

14 * * *

15 SECTION 1.1. SECTION 247.1 OF THE ACT, AMENDED JUNE 22, 2001 ←
16 (P.L.353, NO.23) AND OCTOBER 18, 2006 (P.L.1149, NO.119), IS
17 AMENDED TO READ:

18 SECTION 247.1. REFUND OF SALES TAX ATTRIBUTED TO BAD DEBT.--

19 (A) A VENDOR MAY FILE A PETITION FOR REFUND OF SALES TAX PAID
20 TO THE DEPARTMENT THAT IS ATTRIBUTED TO A BAD DEBT IF ALL OF THE
21 FOLLOWING APPLY:

22 (1) THE PURCHASER FAILS TO PAY [THE VENDOR] THE TOTAL
23 PURCHASE PRICE.

24 (2) THE PURCHASE PRICE IS WRITTEN OFF, EITHER IN WHOLE OR IN
25 PART, AS A BAD DEBT ON THE [VENDOR'S] BOOKS AND RECORDS OF THE
26 VENDOR OR AN AFFILIATE OF THE VENDOR.

27 (3) THE [BAD] DEBT HAS BEEN DEDUCTED FOR FEDERAL INCOME TAX
28 PURPOSES UNDER SECTION 166 OF THE INTERNAL REVENUE CODE OF 1986
29 (PUBLIC LAW 99-514, 26 U.S.C. § 166).

30 [THE PETITION SHALL BE FILED WITH THE DEPARTMENT UNDER ARTICLE

1 XXVII WITHIN THE TIME LIMITATIONS PRESCRIBED BY SECTION 3003.1
2 OF THIS ACT.]

3 (A.1) A PETITION FOR REFUND WHICH IS AUTHORIZED BY THIS
4 SECTION MUST BE FILED WITH THE DEPARTMENT WITHIN THE TIME
5 LIMITATIONS PRESCRIBED BY SECTION 3003.1(A).

6 (A.2) IN THE CASE OF PRIVATE LABEL CREDIT CARD ACCOUNTS NOT
7 QUALIFYING UNDER SUBSECTION (A), A VENDOR OR LENDER THAT MAKES
8 AN ELECTION PURSUANT TO SUBSECTION (A.3) SHALL BE ENTITLED TO
9 FILE A PETITION FOR REFUND OF SALES TAX THAT THE VENDOR HAS
10 PREVIOUSLY REPORTED AND PAID TO THE DEPARTMENT IF ALL OF THE
11 FOLLOWING CONDITIONS ARE MET:

12 (1) NO REFUND WAS PREVIOUSLY ALLOWED WITH RESPECT TO THE
13 PORTION OF THE ACCOUNT WRITTEN OFF AS A BAD DEBT.

14 (2) THE ACCOUNT HAS BEEN FOUND WORTHLESS AND WRITTEN OFF,
15 EITHER IN WHOLE OR IN PART, AS BAD DEBT ON THE BOOKS AND RECORDS
16 OF THE LENDER OR AN AFFILIATE OF THE LENDER.

17 (3) THE ACCOUNT HAS BEEN DEDUCTED FOR FEDERAL INCOME TAX
18 PURPOSES UNDER SECTION 166 OF THE INTERNAL REVENUE CODE OF 1986
19 (PUBLIC LAW 99-514, 26 U.S.C. § 166) BY THE LENDER OR AN
20 AFFILIATE OF THE LENDER.

21 (A.3) IN ORDER TO BE ELIGIBLE FOR A REFUND UNDER SUBSECTION
22 (A.2), THE LENDER AND THE VENDOR MUST EXECUTE AND FILE WITH THE
23 DEPARTMENT A JOINT ELECTION, SIGNED BY BOTH PARTIES, DESIGNATING
24 WHICH PARTY IS ENTITLED TO CLAIM THE REFUND. THIS ELECTION MAY
25 NOT BE REVOKED UNLESS A WRITTEN NOTICE IS SIGNED BY THE PARTY
26 THAT SIGNED THE ELECTION BEING REVOKED AND IS FILED WITH THE
27 DEPARTMENT.

28 (B) THE REFUND AUTHORIZED BY THIS SECTION SHALL BE LIMITED
29 TO THE SALES TAX PAID TO THE DEPARTMENT THAT IS ATTRIBUTED TO
30 THE BAD DEBT, LESS ANY DISCOUNT UNDER SECTION 227 OF THIS ACT.

1 PARTIAL PAYMENTS BY THE PURCHASER [TO THE VENDOR] SHALL BE
2 PRORATED BETWEEN THE ORIGINAL PURCHASE PRICE AND THE SALES TAX
3 DUE ON THE SALE. PAYMENTS MADE [TO A VENDOR] ON ANY TRANSACTION
4 WHICH INCLUDES BOTH TAXABLE AND NONTAXABLE COMPONENTS SHALL BE
5 ALLOCATED PROPORTIONALLY BETWEEN THE TAXABLE AND NONTAXABLE
6 COMPONENTS.

7 (C) A VENDOR OR A LENDER MAY ASSIGN ITS RIGHT TO PETITION
8 AND RECEIVE A REFUND OF SALES TAX ATTRIBUTED TO A BAD DEBT TO AN
9 [AFFILIATED ENTITY. A VENDOR MAY NOT ASSIGN ITS RIGHT TO
10 PETITION AND RECEIVE A REFUND OF SALES TAX ATTRIBUTED TO A BAD
11 DEBT TO ANY OTHER PERSON] AFFILIATE.

12 (D) NO REFUND SHALL BE GRANTED UNDER THIS SECTION FOR ANY OF
13 THE FOLLOWING:

14 (I) INTEREST.

15 (II) FINANCE CHARGES.

16 (III) EXPENSES INCURRED IN ATTEMPTING TO COLLECT ANY AMOUNT
17 RECEIVABLE.

18 (E) [THE DOCUMENTATION, PROCEDURES AND METHODS FOR CLAIMING
19 AND CALCULATING THE REFUND ALLOWED UNDER THIS SECTION SHALL BE
20 IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.] DOCUMENTATION
21 REQUIREMENTS ARE AS FOLLOWS:

22 (1) ANY PERSON CLAIMING A REFUND UNDER THIS SECTION MUST, ON
23 REQUEST, MAKE AVAILABLE ADEQUATE BOOKS, RECORDS OR OTHER
24 DOCUMENTATION SUPPORTING THE CLAIMED REFUND, INCLUDING:

25 (I) DATE OF ORIGINAL SALE AND NAME AND PENNSYLVANIA SALES
26 TAX LICENSE NUMBER OF THE RETAILER.

27 (II) NAME AND ADDRESS OF PURCHASER.

28 (III) AMOUNT THAT THE PURCHASER PAID OR AGREED TO PAY.

29 (IV) TAXABLE AND NONTAXABLE CHARGES.

30 (V) AMOUNT ON WHICH THE RETAILER REPORTED AND PAID SALES

1 TAX.

2 (VI) ALL PAYMENTS OR OTHER CREDITS APPLIED TO THE ACCOUNT OF
3 THE PURCHASER.

4 (VII) EVIDENCE THAT THE UNCOLLECTED AMOUNT HAS BEEN
5 DESIGNATED AS A BAD DEBT IN THE BOOKS AND RECORDS OF THE VENDOR
6 OR LENDER, AS APPROPRIATE, AND THAT THE AMOUNT HAS BEEN CLAIMED
7 AS A BAD DEBT DEDUCTION FOR FEDERAL INCOME TAX PURPOSES.

8 (VIII) THE COUNTY IN WHICH ANY LOCAL SALES TAX WAS INCURRED.

9 (IX) THE UNPAID PORTION OF THE SALES PRICE.

10 (X) A CERTIFICATION, UNDER PENALTY OR PERJURY, THAT NO
11 PERSON HAS COLLECTED MONEY ON THE BAD DEBT FOR WHICH THE REFUND
12 IS CLAIMED.

13 (XI) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

14 (2) A PERSON CLAIMING A REFUND UNDER THIS SECTION MAY
15 PROVIDE ALTERNATIVE FORMS OF DOCUMENTATION ACCEPTABLE TO THE
16 DEPARTMENT IF APPROPRIATE IN LIGHT OF THE VOLUME AND CHARACTER
17 OF UNCOLLECTIBLE ACCOUNTS. THIS INCLUDES THE FOLLOWING:

18 (I) IF A VENDOR REMITS SALES OR USE TAX TO THE COMMONWEALTH
19 AND TO ANOTHER STATE, THE ENTITY CLAIMING A REFUND UNDER THIS
20 SECTION MAY USE AN APPORTIONMENT METHOD TO SUBSTANTIATE THE
21 AMOUNT OF PENNSYLVANIA TAX INCLUDED IN THE BAD DEBTS TO WHICH
22 THE REFUND APPLIES.

23 (II) THE APPORTIONMENT METHOD MUST USE THE VENDOR'S
24 PENNSYLVANIA AND NON-PENNSYLVANIA SALES, THE VENDOR'S TAXABLE
25 AND NONTAXABLE SALES AND THE AMOUNT OF TAX THE VENDOR REMITTED
26 TO PENNSYLVANIA.

27 (F) THE FOLLOWING APPLY:

28 (1) IF THE PURCHASE PRICE THAT IS ATTRIBUTED TO A PRIOR BAD
29 DEBT REFUND IS THEREAFTER COLLECTED, IN WHOLE OR IN PART[,] BY
30 THE VENDOR OR [AFFILIATED] LENDER, OR AN AFFILIATE OF THE VENDOR

1 OR LENDER, THE ENTITY CLAIMING THE REFUND SHALL REMIT THE
2 PROPORTIONAL TAX TO THE DEPARTMENT WITH THE FIRST RETURN FILED
3 AFTER THE COLLECTION. IF THE ENTITY IS NOT REQUIRED TO FILE
4 PERIODIC RETURNS, THE ENTITY SHALL REMIT THE PROPORTIONAL TAX TO
5 THE DEPARTMENT WITH ANOTHER RETURN PURSUANT TO SECTION 217(C).

6 (2) ANY CONSIDERATION RECEIVED FOR THE ASSIGNMENT, SALE OR
7 OTHER TRANSFER OF A BAD DEBT WITH RESPECT TO WHICH A REFUND HAS
8 BEEN GRANTED SHALL BE DEEMED TO BE A COLLECTION OF A PRIOR BAD
9 DEBT. THIS PARAGRAPH SHALL NOT APPLY TO A TRANSFER TO AN ENTITY
10 THAT IS PART OF THE SAME AFFILIATED GROUP, AS DEFINED BY SECTION
11 1504 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26
12 U.S.C. § 1504).

13 (3) A PERSON THAT COLLECTS, IN WHOLE OR IN PART, THE
14 PURCHASE PRICE ATTRIBUTED TO A PRIOR BAD DEBT REFUND IS REQUIRED
15 TO MAINTAIN ADEQUATE BOOKS, RECORDS OR OTHER DOCUMENTATION TO
16 ALLOW THE DEPARTMENT TO DETERMINE WHETHER THE PURCHASE PRICE
17 ATTRIBUTED TO A PRIOR BAD DEBT REFUND HAS BEEN COLLECTED.
18 INFORMATION UNDER THIS PARAGRAPH INCLUDES THE PERTINENT FACTS
19 REQUIRED BY SUBSECTION (E).

20 (4) IF IT IS DETERMINED BY THE DEPARTMENT THAT A PRIOR BAD
21 DEBT HAS BEEN COLLECTED, IN WHOLE OR IN PART, AND THE
22 PROPORTIONAL TAX HAS NOT BEEN PROPERLY REPORTED AND PAID TO THE
23 DEPARTMENT, THE PERSON THAT CLAIMED THE REFUND ON THE
24 TRANSACTION SHALL REPORT AND PAY THE PROPORTIONAL TAX TO THE
25 DEPARTMENT PLUS APPLICABLE INTEREST AND PENALTY UNDER THIS
26 ARTICLE.

27 (G) NOTWITHSTANDING THE PROVISIONS OF SECTION 806.1 OF THE
28 ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL
29 CODE," NO INTEREST SHALL BE PAID BY THE COMMONWEALTH ON REFUNDS
30 OF SALES TAX ATTRIBUTED TO BAD DEBT UNDER THIS SECTION.

1 (H) NO REFUND OR CREDIT OF SALES TAX SHALL BE MADE FOR ANY
2 UNCOLLECTED PURCHASE PRICE OR BAD DEBT EXCEPT AS AUTHORIZED BY
3 THIS SECTION. NO DEDUCTION OR CREDIT FOR BAD DEBT MAY BE TAKEN
4 ON ANY RETURN FILED WITH THE DEPARTMENT. THIS SECTION SHALL
5 PROVIDE THE EXCLUSIVE PROCEDURE FOR CLAIMING A REFUND OR CREDIT
6 OF SALES TAX ATTRIBUTED TO UNCOLLECTED PURCHASE PRICE OR BAD
7 DEBT.

8 (I) [FOR PURPOSES OF THIS SECTION, THE TERM "AFFILIATED
9 ENTITY" SHALL MEAN ANY CORPORATION THAT IS PART OF THE SAME
10 AFFILIATED GROUP AS THE VENDOR AS DEFINED BY] AS USED IN THIS
11 SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS
12 GIVEN TO THEM IN THIS SUBSECTION:

13 (1) "AFFILIATE." A PERSON THAT IS:

14 (I) AN AFFILIATED ENTITY, UNDER SECTION 1504[(A)(1)] OF THE
15 INTERNAL REVENUE CODE OF 1986[.], OF A VENDOR; OR

16 (II) A PERSON DESCRIBED IN PARAGRAPH (2)(I) OR (II) THAT
17 WOULD BE AN AFFILIATED ENTITY, UNDER SECTION SECTION 1504 OF THE
18 INTERNAL REVENUE CODE OF 1986, OF A VENDOR BUT FOR THE FACT THE
19 PERSON IS NOT A CORPORATION, AN ASSIGNEE OR ANOTHER TRANSFEREE
20 OF A PERSON DESCRIBED IN PARAGRAPH (2) (I) OR (II).

21 (2) "LENDER." ANY OF THE FOLLOWING:

22 (I) A PERSON THAT OWNS OR HAS OWNED A PRIVATE LABEL CREDIT
23 CARD ACCOUNT PURCHASED DIRECTLY FROM A VENDOR THAT REPORTED THE
24 TAX UNDER THIS ARTICLE.

25 (II) A PERSON THAT OWNS OR HAS OWNED A PRIVATE LABEL CREDIT
26 CARD ACCOUNT PURSUANT TO A CONTRACT DIRECTLY WITH THE VENDOR
27 THAT REPORTED THE TAX UNDER THIS ARTICLE.

28 (III) A PERSON THAT IS:

29 (A) AN AFFILIATE OF A PERSON DESCRIBED IN SUBPARAGRAPH (I)
30 OR (II); OR

1 (B) AN ASSIGNEE OR OTHER TRANSFEREE OF A PERSON DESCRIBED IN
2 SUBPARAGRAPH (I) OR (II).

3 (3) "PRIVATE LABEL CREDIT CARD." ANY CHARGE CARD, CREDIT
4 CARD OR OTHER INSTRUMENT SERVING SIMILAR PURPOSE WHICH CARRIES,
5 REFERS TO OR IS BRANDED WITH THE NAME OR LOGO OF A VENDOR AND
6 WHICH CAN BE USED FOR PURCHASES FROM THE VENDOR. THE TERM DOES
7 NOT INCLUDE A CARD OR INSTRUMENT WHICH MAY ALSO BE USED TO MAKE
8 PURCHASES FROM PERSONS OTHER THAN THE VENDOR WHOSE NAME OR LOGO
9 APPEARS ON THE CARD OR INSTRUMENT OR THAT VENDOR'S AFFILIATES.
10 NOTHING IN THIS PARAGRAPH AUTHORIZES A REFUND WITH RESPECT TO
11 BAD DEBTS ATTRIBUTABLE TO SALES BY UNRELATED PERSONS REFERRED TO
12 IN THIS PARAGRAPH.

13 SECTION 1.2. SECTION 315.9 OF THE ACT, ADDED JULY 7, 2005
14 (P.L.149, NO.40), IS AMENDED TO READ:

15 SECTION 315.9. OPERATIONAL PROVISIONS.--(A) EXCEPT FOR THE
16 CHECKOFF ESTABLISHED UNDER SECTIONS 315.2, 315.6 AND 315.7 AND
17 EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (B), THE CHECKOFFS
18 ESTABLISHED UNDER THIS PART SHALL APPLY THROUGH TAXABLE YEARS
19 ENDING DECEMBER 31, 2007.

20 (B) ANY CHECKOFF ESTABLISHED UNDER THIS PART AND APPLICABLE
21 FOR THE FIRST TIME IN A TAXABLE YEAR BEGINNING AFTER DECEMBER
22 31, 2003, SHALL EXPIRE FOUR YEARS AFTER THE BEGINNING OF SUCH
23 FIRST TAXABLE YEAR.

24 (C) SECTIONS [315.2,] 315.3 AND 315.4 SHALL EXPIRE JANUARY
25 1, 2008.

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

29 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
30 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE

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

3 * * *

4 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
5 FOLLOWING FORMULA: THE PRODUCT OF ONE-HALF TIMES THE SUM OF THE
6 AVERAGE NET INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF
7 PER CENT PLUS SEVENTY-FIVE PER CENT OF NET WORTH, FROM WHICH
8 PRODUCT SHALL BE SUBTRACTED [ONE HUNDRED FIFTY THOUSAND DOLLARS
9 (\$150,000)] ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS
10 (\$175,000), THE ALGEBRAIC EQUIVALENT OF WHICH IS

11
$$(.5 \times (\text{AVERAGE NET INCOME} / .095 + (.75)$$

12
$$(\text{NET WORTH})) - [\$150,000] \underline{\$175,000}$$

13 * * *

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

16 SECTION 701.1. ASCERTAINMENT OF TAXABLE AMOUNT; EXCLUSION OF
17 UNITED STATES OBLIGATIONS.--(A) THE TAXABLE AMOUNT OF SHARES
18 SHALL BE ASCERTAINED AND FIXED BY ADDING TOGETHER THE VALUE
19 DETERMINED UNDER SUBSECTION (B) FOR THE CURRENT AND PRECEDING
20 FIVE YEARS AND DIVIDING THE RESULTING SUM BY SIX. IF AN
21 INSTITUTION HAS NOT BEEN IN EXISTENCE FOR A PERIOD OF SIX YEARS,
22 THE TAXABLE AMOUNT OF SHARES SHALL BE ASCERTAINED AND FIXED BY
23 ADDING TOGETHER THE VALUES DETERMINED UNDER SUBSECTION (B) FOR
24 THE NUMBER OF YEARS THE INSTITUTION HAS BEEN IN EXISTENCE AND
25 DIVIDING THE RESULTING SUM BY SUCH NUMBER OF YEARS.

26 (B) THE VALUE FOR EACH YEAR REQUIRED BY SUBSECTION (A) SHALL
27 BE DETERMINED BY [ADDING TOGETHER] DEDUCTING FROM THE BOOK VALUE
28 OF [CAPITAL STOCK PAID IN, THE BOOK VALUE OF THE SURPLUS AND THE
29 BOOK VALUE OF UNDIVIDED PROFITS WITH A DEDUCTION FROM THE TOTAL
30 THEREOF OF] TOTAL EQUITY CAPITAL AN AMOUNT EQUAL TO THE SAME

1 PERCENTAGE OF [SUCH TOTAL] TOTAL EQUITY CAPITAL AS THE BOOK
2 VALUE OF OBLIGATIONS OF THE UNITED STATES BEARS TO THE BOOK
3 VALUE OF THE TOTAL ASSETS[.], EXCEPT THAT FOR THE VALUE OF
4 SHARES REPORTED ON TAX RETURNS DUE ON MARCH 15, 2008, AND
5 THEREAFTER, ANY GOODWILL RECORDED AS A RESULT OF THE USE OF
6 PURCHASE ACCOUNTING FOR AN ACQUISITION OR COMBINATION AS
7 DESCRIBED IN THIS SECTION AND OCCURRING AFTER JUNE 30, 2001, MAY
8 BE SUBTRACTED FROM THE BOOK VALUE OF TOTAL EQUITY CAPITAL AND
9 DISREGARDED IN DETERMINING THE DEDUCTION PROVIDED FOR
10 OBLIGATIONS OF THE UNITED STATES FOR THE SIX-YEAR PERIOD
11 DESCRIBED IN SUBSECTION (A). FOR PURPOSES OF THIS SUBSECTION,
12 BOOK VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS FOR
13 EACH YEAR SHALL BE DETERMINED BY THE REPORTS OF CONDITION FOR
14 EACH CALENDAR QUARTER OF THE PRECEDING CALENDAR YEAR IN
15 ACCORDANCE WITH THE REQUIREMENTS OF THE BOARD OF GOVERNORS OF
16 THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE
17 FEDERAL DEPOSIT INSURANCE CORPORATION OR OTHER APPLICABLE
18 REGULATORY AUTHORITY; AND BOOK VALUES SHALL BE AVERAGED AS
19 CALCULATED BY AVERAGING BOOK VALUES AS DETERMINED BY SUCH
20 REPORTS OF CONDITION. FOR PURPOSES OF THIS ARTICLE, UNITED
21 STATES OBLIGATIONS SHALL BE OBLIGATIONS COMING WITHIN THE SCOPE
22 OF 31 U.S.C. § 3124. FOR ANY YEAR IN WHICH AN INSTITUTION DOES
23 NOT FILE FOUR QUARTERLY REPORTS OF CONDITION, BOOK VALUES AND
24 DEDUCTIONS FOR UNITED STATES OBLIGATIONS SHALL BE DETERMINED BY
25 ADDING TOGETHER THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
26 OBLIGATIONS FROM EACH QUARTERLY REPORTS OF CONDITION FILED FOR
27 SUCH YEAR AND DIVIDING THE RESULTING SUMS BY THE NUMBER OF SUCH
28 REPORTS OF CONDITION. IN THE CASE OF INSTITUTIONS WHICH DO NOT
29 FILE SUCH REPORTS OF CONDITION, BOOK VALUES SHALL BE DETERMINED
30 BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS OF THE END OF

1 EACH CALENDAR QUARTER. FOR ANY YEAR IN WHICH AN INSTITUTION
2 WHICH DOES NOT FILE REPORTS OF CONDITION IS NOT IN EXISTENCE FOR
3 FOUR QUARTERS, THE BOOK VALUE FOR THAT YEAR SHALL BE DETERMINED
4 BY ADDING TOGETHER THE BOOK VALUES FOR EACH QUARTER IN WHICH THE
5 INSTITUTION WAS IN EXISTENCE AND DIVIDING BY THAT NUMBER OF
6 QUARTERS. FOR PURPOSES OF THIS SECTION, A PARTIAL YEAR SHALL BE
7 TREATED AS A FULL YEAR.

8 (C) FOR PURPOSES OF THIS SECTION:

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

13 (2) THE COMBINATION OF TWO OR MORE INSTITUTIONS INTO ONE
14 SHALL BE TREATED AS IF THE CONSTITUENT INSTITUTIONS HAD BEEN A
15 SINGLE INSTITUTION IN EXISTENCE PRIOR TO AS WELL AS AFTER THE
16 COMBINATION AND THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
17 OBLIGATIONS FROM THE REPORTS OF CONDITION OF THE CONSTITUENT
18 INSTITUTIONS SHALL BE COMBINED. FOR PURPOSES OF [THE PRECEDING
19 SENTENCE] THIS SECTION, A COMBINATION SHALL INCLUDE ANY
20 ACQUISITION REQUIRED TO BE ACCOUNTED FOR [BY THE SURVIVING
21 INSTITUTION UNDER THE POOLING OF INTEREST METHOD] BY USING THE
22 PURCHASE METHOD IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
23 PRINCIPLES OR A STATUTORY MERGER OR CONSOLIDATION.

24 SECTION 4. THE ACT IS AMENDED BY ADDING ~~AN ARTICLE~~ ARTICLES <—
25 TO READ:

26 ARTICLE XVII-D

27 FILM PRODUCTION TAX CREDIT

28 SECTION 1701-D. SCOPE OF ARTICLE.

29 THIS ARTICLE RELATES TO FILM PRODUCTION TAX CREDITS.

30 SECTION 1702-D. DEFINITIONS.

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

4 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
5 DEVELOPMENT OF THE COMMONWEALTH.

6 "FILM." A FEATURE FILM, A TELEVISION FILM, A TELEVISION TALK
7 OR GAME SHOW SERIES, A TELEVISION COMMERCIAL OR A TELEVISION
8 PILOT OR EACH EPISODE OF A TELEVISION SERIES WHICH IS INTENDED
9 AS PROGRAMMING FOR A NATIONAL OR REGIONAL AUDIENCE. THE TERM
10 DOES NOT INCLUDE A PRODUCTION FEATURING NEWS, CURRENT EVENTS,
11 WEATHER AND MARKET REPORTS, OR PUBLIC PROGRAMMING, SPORTS EVENT,
12 AWARDS SHOW OR OTHER GALA EVENT, A PRODUCTION THAT SOLICITS
13 FUNDS, A PRODUCTION CONTAINING OBSCENE MATERIAL OR PERFORMANCES
14 AS DEFINED IN 18 PA.C.S. § 5903(B) (RELATING TO OBSCENE AND
15 OTHER SEXUAL MATERIALS AND PERFORMANCES) OR A PRODUCTION
16 PRIMARILY FOR PRIVATE, POLITICAL, INDUSTRIAL, CORPORATE OR
17 INSTITUTIONAL PURPOSES.

18 "FILM PRODUCTION TAX CREDIT." THE CREDIT PROVIDED UNDER THIS
19 ARTICLE.

20 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
21 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
22 301(N.1).

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

27 "PRODUCTION EXPENSE." AN EXPENSE INCURRED IN THE PRODUCTION
28 OF A FILM. THE TERM INCLUDES THE AGGREGATE AMOUNT OF WAGES AND
29 SALARIES OF INDIVIDUALS EACH OF WHOM RECEIVE LESS THAN
30 \$1,000,000 AND ARE EMPLOYED IN THE PRODUCTION OF THE FILM; THE

1 COSTS OF CONSTRUCTION, OPERATIONS, EDITING, PHOTOGRAPHY, SOUND
2 SYNCHRONIZATION, LIGHTING, WARDROBE AND ACCESSORIES; THE COST OF
3 LEASING VEHICLES; THE COST OF TRANSPORTATION TO OR FROM A
4 PENNSYLVANIA TRAIN STATION, BUS DEPOT OR AIRPORT; THE COST OF
5 INSURANCE COVERAGE IF THE INSURANCE IS PURCHASED THROUGH A
6 PENNSYLVANIA-BASED INSURANCE AGENT; THE COSTS OF FOOD AND
7 LODGING; THE PURCHASE OF MUSIC OR STORY RIGHTS IF THE RIGHTS ARE
8 PURCHASED FROM A PENNSYLVANIA RESIDENT OR AN ENTITY SUBJECT TO
9 TAXATION IN THIS COMMONWEALTH AND THE TRANSACTION IS SUBJECT TO
10 TAXATION UNDER ARTICLE III, IV OR VI; AND THE COST OF RENTAL OF
11 FACILITIES AND EQUIPMENT, IF RENTED FROM OR THROUGH A
12 PENNSYLVANIA RESIDENT OR AN ENTITY SUBJECT TO TAXATION IN THIS
13 COMMONWEALTH. THE TERM DOES NOT INCLUDE:

14 (1) DEFERRED, LEVERAGED OR PROFIT PARTICIPATION PAID OR
15 TO BE PAID TO INDIVIDUALS EMPLOYED IN THE PRODUCTION OF THE
16 FILM;

17 (2) DEVELOPMENT COSTS; OR

18 (3) EXPENSES INCURRED IN MARKETING OR ADVERTISING A
19 FILM.

20 "QUALIFIED FILM PRODUCTION EXPENSE." A PENNSYLVANIA
21 PRODUCTION EXPENSE IF AT LEAST 60% OF THE TOTAL EXPENSES ARE
22 PENNSYLVANIA PRODUCTION EXPENSES.

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

26 "START DATE." THE FIRST DAY OF PRINCIPAL PHOTOGRAPHY IN THIS
27 COMMONWEALTH.

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

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

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

5 (B) REVIEW AND APPROVAL.--THE DEPARTMENT SHALL REVIEW THE
6 APPLICATION. UPON DETERMINING THE QUALIFIED FILM PRODUCTION
7 EXPENSE AMOUNT FOR THE TAXPAYER, THE DEPARTMENT MAY APPROVE THE
8 TAXPAYER FOR A FILM PRODUCTION TAX CREDIT.

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

12 (1) AN ITEMIZED LIST OF PRODUCTION EXPENSES INCURRED OR
13 TO BE INCURRED.

14 (2) AN ITEMIZED LIST OF PENNSYLVANIA PRODUCTION EXPENSES
15 INCURRED OR TO BE INCURRED.

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

19 (4) THE START DATE.

20 (5) ANY OTHER INFORMATION THE DEPARTMENT DEEMS
21 APPROPRIATE.

22 (D) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED BY
23 SUBSECTION (C), THE DEPARTMENT SHALL AWARD THE TAXPAYER A FILM
24 PRODUCTION TAX CREDIT AND ISSUE THE TAXPAYER A FILM PRODUCTION
25 TAX CREDIT CERTIFICATE.

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

27 (1) THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX CREDITS
28 AWARDED BY THE DEPARTMENT UNDER SUBSECTION (D) TO A TAXPAYER
29 FOR A FILM MAY NOT EXCEED 25% OF THE QUALIFIED FILM
30 PRODUCTION EXPENSES TO BE INCURRED.

1 ~~(2) A TAXPAYER WITH A BUDGET FOR A FILM THAT IS LESS~~ <—
2 ~~THAN \$2,000,000 SHALL NOT BE ELIGIBLE TO APPLY FOR A FILM~~
3 ~~PRODUCTION TAX CREDIT UNDER THIS ARTICLE FOR THAT FILM,~~
4 ~~UNLESS THE TAXPAYER RECEIVES A WRITTEN WAIVER OF THIS~~
5 ~~REQUIREMENT FROM THE DEPARTMENT.~~

6 ~~(3) (2) A TAXPAYER HAS RECEIVED A GRANT UNDER 12 PA.C.S.~~ <—
7 ~~§ 4106 (RELATING TO APPROVAL) SHALL NOT BE ELIGIBLE FOR A~~
8 ~~FILM PRODUCTION TAX CREDIT UNDER THIS ACT FOR THE SAME FILM.~~

9 ~~(4) (3) THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX~~ <—
10 ~~CREDITS CLAIMED BY A TAXPAYER UNDER SECTION 1704-D MAY NOT~~
11 ~~EXCEED THE AMOUNT AWARDED FOR THE DEPARTMENT UNDER THIS~~
12 ~~SECTION FOR THE TAXPAYER FOR THAT TAXABLE YEAR.~~

13 ~~SECTION 1704-D. FILM PRODUCTION TAX CREDITS.~~

14 ~~A TAXPAYER MAY CLAIM A FILM PRODUCTION TAX CREDIT AGAINST THE~~
15 ~~QUALIFIED TAX LIABILITY OF THE TAXPAYER IF THE TAXPAYER MAKES A~~ <—
16 ~~CONTRIBUTION IN THE AMOUNT OF AT LEAST 10% OF THE AMOUNT OF THE~~
17 ~~CREDIT CLAIMED TO AN ORGANIZATION WHICH IS LOCATED IN THIS~~
18 ~~COMMONWEALTH AND IS REGISTERED UNDER SECTION 5 OF THE ACT OF~~
19 ~~DECEMBER 19, 1990 (P.L.1200, NO.202), KNOWN AS THE SOLICITATION~~
20 ~~OF FUNDS FOR CHARITABLE PURPOSES ACT.~~

21 ~~SECTION 1705-D. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT OF~~
22 ~~CREDIT.~~

23 ~~(A) GENERAL RULE.--IF THE TAXPAYER CANNOT USE THE ENTIRE~~
24 ~~AMOUNT OF THE FILM PRODUCTION TAX CREDIT FOR THE TAXABLE YEAR IN~~
25 ~~WHICH THE FILM PRODUCTION TAX CREDIT IS FIRST APPROVED, THEN THE~~
26 ~~EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED~~
27 ~~AS A CREDIT AGAINST THE QUALIFIED TAX LIABILITY OF THE TAXPAYER~~
28 ~~FOR THOSE TAXABLE YEARS. EACH TIME THE FILM PRODUCTION TAX~~
29 ~~CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE YEAR, IT SHALL BE~~
30 ~~REDUCED BY THE AMOUNT THAT WAS USED AS A CREDIT DURING THE~~

1 IMMEDIATELY PRECEDING TAXABLE YEAR. THE FILM PRODUCTION TAX
2 CREDIT PROVIDED BY THIS ARTICLE MAY BE CARRIED OVER AND APPLIED
3 TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN THREE TAXABLE YEARS
4 FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE TAXPAYER WAS
5 ENTITLED TO CLAIM THE CREDIT.

6 (B) APPLICATION.--A FILM PRODUCTION TAX CREDIT APPROVED BY
7 THE DEPARTMENT IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST
8 THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE
9 YEAR AS OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
10 FILM PRODUCTION TAX CREDIT CAN BE APPLIED AGAINST ANY TAX
11 LIABILITY UNDER SUBSECTION (A).

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

15 (D) (RESERVED)

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

17 (1) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
18 DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A FILM
19 PRODUCTION TAX CREDIT GRANTED TO THE TAXPAYER UNDER THIS
20 ARTICLE TO ANOTHER TAXPAYER UNDER THIS ARTICLE.

21 (2) THE DEPARTMENT AND THE DEPARTMENT OF REVENUE SHALL
22 JOINTLY PROMULGATE REGULATIONS FOR THE APPROVAL OF
23 APPLICATIONS UNDER THIS SUBSECTION.

24 (3) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF
25 REVENUE MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL
26 REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE
27 TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS
28 DETERMINED AT SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE
29 DEPARTMENT OF REVENUE.

30 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE

1 DEPARTMENT OF REVENUE SHALL SETTLE, ASSESS OR DETERMINE THE
2 TAX OF AN APPLICANT UNDER THIS SUBSECTION WITHIN 90 DAYS OF
3 THE FILING OF ALL REQUIRED FINAL RETURNS OR REPORTS IN
4 ACCORDANCE WITH SECTION 806.1(A)(5) OF THE ACT OF APRIL 9,
5 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

6 (F) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF
7 ALL OR A PORTION OF A FILM PRODUCTION TAX CREDIT UNDER
8 SUBSECTION (E) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
9 YEAR IN WHICH THE PURCHASE OR ASSIGNMENT IS MADE. THE AMOUNT OF
10 THE FILM PRODUCTION CREDIT THAT A PURCHASER OR ASSIGNEE MAY USE
11 AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY NOT EXCEED 50% OF
12 SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR. THE PURCHASER
13 OR ASSIGNEE MAY NOT CARRY BACK OR OBTAIN A REFUND OF THE FILM
14 PRODUCTION TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY
15 THE DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE FILM
16 PRODUCTION TAX CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY
17 THE DEPARTMENT OF REVENUE.

18 SECTION 1706-D. DETERMINATION OF QUALIFIED FILM PRODUCTION
19 EXPENSES.

20 IN PRESCRIBING STANDARDS FOR DETERMINING WHICH PRODUCTION
21 EXPENSES ARE CONSIDERED QUALIFIED FILM PRODUCTION EXPENSES FOR
22 PURPOSES OF COMPUTING THE CREDIT PROVIDED BY THIS ARTICLE, THE
23 DEPARTMENT SHALL CONSIDER:

- 24 (1) THE LOCATION WHERE SERVICES ARE PERFORMED.
- 25 (2) THE RESIDENCE OR BUSINESS LOCATION OF THE PERSON OR
26 PERSONS PERFORMING THE SERVICE.
- 27 (3) THE LOCATION WHERE SUPPLIES ARE CONSUMED.
- 28 (4) OTHER FACTORS THE DEPARTMENT DETERMINES ARE
29 RELEVANT.

30 SECTION 1707-D. LIMITATION.

1 IN NO CASE SHALL THE AGGREGATE AMOUNT OF TAX CREDITS AWARDED
2 IN ANY FISCAL YEAR UNDER THIS ARTICLE EXCEED \$50,000,000.
3 SECTION 1708-D. PENALTY.

4 A TAXPAYER WHICH CLAIMS A FILM PRODUCTION TAX CREDIT AND
5 FAILS TO INCUR THE AMOUNT OF QUALIFIED FILM PRODUCTION EXPENSES
6 AGREED TO IN SECTION 1703-D(C)(3) FOR A FILM IN THAT TAXABLE
7 YEAR SHALL REPAY TO THE COMMONWEALTH THE AMOUNT OF THE FILM
8 PRODUCTION TAX CREDIT CLAIMED UNDER THIS ARTICLE FOR THE FILM,
9 INCLUDING ANY SUMS REFUNDED TO THE TAXPAYER UNDER SECTION 1705-
10 D(D).

11 SECTION 1709-D. PASS-THROUGH ENTITY.

12 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
13 TAX CREDIT UNDER SECTION 1705-D, IT MAY ELECT IN WRITING,
14 ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
15 REVENUE, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
16 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
17 DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER
18 IS ENTITLED.

19 (B) LIMITATION.--THE CREDIT PROVIDED UNDER SUBSECTION (A)
20 CANNOT BE CLAIMED UNDER THIS ARTICLE FOR THE SAME QUALIFIED FILM
21 PRODUCTION EXPENSE BY PASS-THROUGH ENTITY AND A SHAREHOLDER,
22 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY.

23 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
24 PASS-THROUGH ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER
25 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
26 YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
27 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
28 SELL OR ASSIGN THE CREDIT.

29 SECTION 1710-D. DEPARTMENT GUIDELINES.

30 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE

1 IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE.

2 SECTION 1711-D. REPORT TO GENERAL ASSEMBLY.

3 THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL
4 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY INDICATING THE
5 EFFECTIVENESS OF THE CREDIT PROVIDED BY THIS ARTICLE NO LATER
6 THAN MARCH 15 FOLLOWING THE YEAR IN WHICH THE CREDITS WERE
7 APPROVED. THE REPORT SHALL INCLUDE THE NAMES OF ALL TAXPAYERS
8 UTILIZING THE CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT
9 OF CREDITS APPROVED AND UTILIZED BY EACH TAXPAYER.
10 NOTWITHSTANDING ANY LAW PROVIDING FOR THE CONFIDENTIALITY OF TAX
11 RECORDS, THE INFORMATION CONTAINED IN THE REPORT SHALL BE PUBLIC
12 INFORMATION. THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR
13 CHANGES IN THE CALCULATION OR ADMINISTRATION OF THE CREDIT.

14 ARTICLE XVII-E ←

15 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDITS

16 SECTION 1701-E. SCOPE OF ARTICLE.

17 THIS ARTICLE RELATES TO RESOURCE ENHANCEMENT AND PROTECTION
18 TAX CREDITS.

19 SECTION 1702-E. LEGISLATIVE FINDINGS.

20 THE GENERAL ASSEMBLY DETERMINES, FINDS AND DECLARES THAT:

21 (1) BEST MANAGEMENT PRACTICES INSTALLED ON AGRICULTURAL
22 LANDS AND RIPARIAN FOREST BUFFERS ARE AMONG THE MOST
23 EFFECTIVE TOOLS TO REDUCE NUTRIENTS, SEDIMENT AND OTHER
24 POLLUTANTS CARRIED BY STORM WATER.

25 (2) STATEWIDE, 13,400 MILES OF STREAMS DO NOT MEET WATER
26 QUALITY STANDARDS.

27 (3) FINANCIAL ASSISTANCE TO SUPPORT THE ADOPTION OF
28 CONSERVATION PRACTICES MUST BE INCREASED SUBSTANTIALLY TO
29 ACHIEVE ACCEPTABLE WATER QUALITY IN THIS COMMONWEALTH. WITHIN
30 THE PENNSYLVANIA PORTION OF THE CHESAPEAKE BAY WATERSHED IT

1 IS ESTIMATED THAT AN INCREASE OF \$175 MILLION PER YEAR IN
2 CONSERVATION FUNDING IS NEEDED TO ACHIEVE NUTRIENT AND
3 SEDIMENT POLLUTION REDUCTION GOALS UNDER THE CHESAPEAKE 2000
4 AGREEMENT.

5 (4) AS PENNSYLVANIA DEVELOPS TOTAL MAXIMUM DAILY LOADS
6 FOR IMPAIRED WATERS REQUIRED BY THE FEDERAL WATER POLLUTION
7 CONTROL ACT (62 STAT. 1155, 33 U.S.C. § 1251 ET SEQ.),
8 HUNDREDS OF MILLIONS OF DOLLARS WILL BE NECESSARY TO
9 IMPLEMENT THE NONPOINT SOURCE COMPONENTS.

10 (5) THERE IS CONSIDERABLE UNMET DEMAND ON THE PART OF
11 AGRICULTURAL PRODUCERS FOR FINANCIAL ASSISTANCE TO SUPPORT
12 THE ADOPTION OF CONSERVATION PRACTICES, WITH \$37,500,000 OF
13 UNFUNDED CONSERVATION SUPPORT FROM THE UNITED STATES
14 DEPARTMENT OF AGRICULTURE NATURAL RESOURCE CONSERVATION
15 SERVICE REQUESTED BY PENNSYLVANIA PRODUCERS IN 2004.

16 (6) ENCOURAGING PRIVATE INVESTMENT IN THE IMPLEMENTATION
17 OF BEST MANAGEMENT PRACTICES, PLANTING OF FORESTED RIPARIAN
18 BUFFERS AND REMEDIATION OF LEGACY SEDIMENT WILL PROVIDE AN
19 EXPANDED SOURCE OF FUNDING THAT INCREASES THE PRIVATE
20 SECTOR'S INVOLVEMENT IN CLEANING UP OUR WATERWAYS.

21 (7) SECTION 27 OF ARTICLE I OF THE CONSTITUTION OF
22 PENNSYLVANIA DECLARES, "THE PEOPLE HAVE A RIGHT TO CLEAN AIR,
23 PURE WATER, AND TO THE PRESERVATION OF THE NATURAL, SCENIC,
24 HISTORIC AND ESTHETIC VALUES OF THE ENVIRONMENT.

25 PENNSYLVANIA'S PUBLIC NATURAL RESOURCES ARE THE COMMON
26 PROPERTY OF ALL THE PEOPLE, INCLUDING GENERATIONS YET TO
27 COME. AS TRUSTEE OF THESE RESOURCES, THE COMMONWEALTH SHALL
28 CONSERVE AND MAINTAIN THEM FOR THE BENEFIT OF ALL THE
29 PEOPLE."

30 (8) THE COMMONWEALTH HAS ADOPTED TAX CREDIT PROGRAMS TO

1 ENCOURAGE PRIVATE FUNDING OF EDUCATIONAL PROGRAMS AND
2 RESEARCH AND DEVELOPMENT EFFORTS WHICH ARE CRITICAL TO THE
3 FUTURE AND ECONOMIC HEALTH OF PENNSYLVANIA.

4 (9) PROVIDING TAX CREDITS FOR THE DESIGN AND
5 IMPLEMENTATION OF PRACTICES THAT ARE NECESSARY TO PROTECT AND
6 RESTORE OUR WATERWAYS IS EQUALLY CRITICAL TO THE QUALITY OF
7 LIFE IN THIS COMMONWEALTH AND ITS ECONOMIC FUTURE.

8 SECTION 1703-E. DEFINITIONS.

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

12 "AGRICULTURAL EROSION AND SEDIMENTATION CONTROL PLAN." A
13 SITE-SPECIFIC PLAN THAT:

14 (1) MEETS THE REQUIREMENTS OF THE ACT OF JUNE 22, 1937
15 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW AND 25 PA.
16 CODE CH. 102 (RELATING TO EROSION AND SEDIMENT CONTROL).

17 (2) IDENTIFIES BEST MANAGEMENT PRACTICES TO MINIMIZE
18 ACCELERATED EROSION AND SEDIMENT FROM AN AGRICULTURAL
19 OPERATION.

20 "AGRICULTURAL OPERATION." THE MANAGEMENT AND USE OF FARMING
21 RESOURCES FOR THE PRODUCTION OF CROPS, LIVESTOCK OR POULTRY OR
22 FOR EQUINE ACTIVITY.

23 "ANIMAL CONCENTRATION AREAS." AN EXTERIOR AREA OF AN
24 AGRICULTURAL OPERATION SUBJECT TO RAINFALL WHERE LIVESTOCK
25 CONGREGATE, INCLUDING A BARNYARD, A FEEDLOT, A LOAFING AREA, AN
26 EXERCISE LOT OR OTHER SIMILAR ANIMAL CONFINEMENT AREA THAT WILL
27 NOT MAINTAIN A GROWING CROP, OR WHERE DEPOSITED MANURE NUTRIENTS
28 ARE IN EXCESS OF CROP NEEDS. THE TERM DOES NOT INCLUDE AREAS
29 MANAGED AS A PASTURE OR OTHER CROPLAND AND PASTURE ACCESSWAYS IF
30 THEY DO NOT CAUSE DIRECT FLOW OF NUTRIENTS TO SURFACE WATER OR

1 GROUNDWATER.

2 "BEST MANAGEMENT PRACTICE." A PRACTICE OR COMBINATION OF
3 PRACTICES DETERMINED BY THE STATE CONSERVATION COMMISSION OR
4 UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES AND
5 CONSERVATION SERVICE TO BE EFFECTIVE AND PRACTICAL, CONSIDERING
6 TECHNOLOGICAL, ECONOMIC AND INSTITUTIONAL FACTORS, TO MANAGE
7 NUTRIENTS AND SEDIMENT TO PROTECT SURFACE WATER.

8 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
9 COMMONWEALTH AND SUBJECT TO THE TAXES IMPOSED BY ARTICLE III,
10 IV, VI, VII, VIII, IX OR XV.

11 "COMMISSION." THE STATE CONSERVATION COMMISSION.

12 "CONSERVATION DISTRICT." A COUNTY CONSERVATION DISTRICT
13 ESTABLISHED UNDER THE ACT OF MAY 15, 1945 (P.L.547, NO.217),
14 KNOWN AS THE CONSERVATION DISTRICT LAW.

15 "CONSERVATION PLAN." A PLAN, INCLUDING A SCHEDULE FOR
16 IMPLEMENTATION, THAT IDENTIFIES SITE SPECIFIC CONSERVATION BEST
17 MANAGEMENT PRACTICES ON AN AGRICULTURAL OPERATION.

18 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

19 "ELIGIBLE APPLICANTS." A BUSINESS FIRM OR AN INDIVIDUAL WHO
20 IS SUBJECT TO TAXATION UNDER ARTICLE III.

21 "EQUINE ACTIVITY." THE TERM INCLUDES THE FOLLOWING

22 ACTIVITIES:

23 (1) THE BOARDING OF EQUINES.

24 (2) THE TRAINING OF EQUINES.

25 (3) THE INSTRUCTION OF PEOPLE IN HANDLING, DRIVING OR
26 RIDING EQUINES.

27 (4) THE USE OF EQUINES FOR RIDING OR DRIVING PURPOSES.

28 (5) THE PASTURING OF EQUINES.

29 THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF
30 DECEMBER 17, 1981 (P.L.435, NO.135), KNOWN AS THE RACE HORSE

1 INDUSTRY REFORM ACT.

2 "INDIVIDUAL." A NATURAL PERSON.

3 "LEGACY SEDIMENT." SEDIMENT THAT MEETS ALL OF THE FOLLOWING
4 CONDITIONS:

5 (1) WAS ERODED FROM UPLAND AREAS AFTER THE ARRIVAL OF
6 EARLY PENNSYLVANIA SETTLERS AND DURING CENTURIES OF INTENSIVE
7 LAND USE.

8 (2) WAS DEPOSITED IN VALLEY BOTTOMS ALONG STREAM
9 CORRIDORS, BURYING PRESETTLEMENT STREAMS, FLOODPLAINS,
10 WETLANDS AND VALLEY BOTTOMS.

11 (3) WAS ALTERED AND CONTINUES TO IMPAIR THE HYDROLOGIC,
12 BIOLOGIC, AQUATIC, RIPARIAN AND WATER QUALITY FUNCTIONS OF
13 PRESETTLEMENT AND MODERN ENVIRONMENTS.

14 "NUTRIENT MANAGEMENT PLAN." AS DEFINED UNDER 3 PA.C.S. CH. 5
15 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT).

16 "NUTRIENT MANAGEMENT SPECIALIST." AS DEFINED UNDER 3 PA.C.S.
17 CH. 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT).

18 "PASS-THROUGH ENTITY." A PARTNERSHIP OR PENNSYLVANIA S
19 CORPORATION AS DEFINED IN SECTION 301(N.0) AND (S.2).

20 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
21 UPON AN ELIGIBLE APPLICANT UNDER ARTICLE III, IV, VI, VII, VIII,
22 IX OR XV.

23 "RIPARIAN FOREST BUFFER." AN AREA OF MOSTLY TREES OR SHRUBS
24 WHICH IS ADJACENT TO AND UP-GRADIENT FROM WATERCOURSES OR WATER
25 BODIES AND WHICH MEETS STANDARDS ESTABLISHED BY THE UNITED
26 STATES DEPARTMENT OF AGRICULTURE-NATURAL RESOURCES AND
27 CONSERVATION SERVICE.

28 "TECHNICAL SERVICE PROVIDER." AN INDIVIDUAL, ENTITY OR
29 PUBLIC AGENCY CERTIFIED BY THE UNITED STATES DEPARTMENT OF
30 AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE AND PLACED ON

1 THE APPROVED LIST TO PROVIDE TECHNICAL SERVICES TO PROGRAM
2 PARTICIPANTS OR TO THE UNITED STATES DEPARTMENT OF AGRICULTURE
3 PROGRAM PARTICIPANTS.

4 "USDA-NRCS." THE UNITED STATES DEPARTMENT OF AGRICULTURE
5 NATURAL RESOURCES AND CONSERVATION SERVICE.

6 SECTION 1704-E. RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT
7 PROGRAM.

8 (A) ESTABLISHMENT.--THE RESOURCE ENHANCEMENT AND PROTECTION
9 TAX CREDIT PROGRAM IS ESTABLISHED TO ENCOURAGE PRIVATE
10 INVESTMENT IN THE IMPLEMENTATION OF BEST MANAGEMENT PRACTICES ON
11 AGRICULTURAL OPERATIONS, THE PLANTING OF RIPARIAN FOREST BUFFERS
12 AND THE REMEDIATION OF LEGACY SEDIMENT.

13 (B) LIMITS.--THE FOLLOWING LIMITS SHALL APPLY:

14 (1) AN ELIGIBLE APPLICANT MAY BE GRANTED A MAXIMUM OF
15 \$150,000 IN TAX CREDITS UNDER THIS PROGRAM.

16 (2) NO MORE THAN \$150,000 IN TAX CREDITS SHALL BE
17 GRANTED TOWARD PROJECTS ON AN AGRICULTURAL OPERATION.

18 (3) AN ELIGIBLE APPLICANT MAY SUBMIT AN APPLICATION FOR
19 A SINGLE PROJECT OR MULTIPLE APPLICATIONS FOR MULTIPLE
20 PROJECTS WITHIN THE LIMITS OF THIS SECTION.

21 (4) THERE SHALL BE NO LIMIT ON THE AMOUNT OF TAX CREDITS
22 THAT MAY BE PURCHASED FROM OR BE ASSIGNED FROM AN ELIGIBLE
23 APPLICANT.

24 (5) THERE SHALL BE NO LIMIT ON THE AMOUNT OF TAX CREDITS
25 GRANTED TO A SPONSOR UNDER SUBSECTION (F).

26 (C) CARRYOVER.--

27 (1) IF THE ELIGIBLE APPLICANT CANNOT USE THE ENTIRE
28 AMOUNT OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE
29 TAX CREDIT IS FIRST GRANTED, THEN THE EXCESS MAY BE CARRIED
30 OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST

1 THE QUALIFIED TAX LIABILITY OF THE ELIGIBLE APPLICANT FOR
2 THOSE TAXABLE YEARS. EACH TIME THAT THE TAX CREDIT IS CARRIED
3 OVER TO A SUCCEEDING TAXABLE YEAR, IT IS TO BE REDUCED BY THE
4 AMOUNT THAT WAS USED AS A CREDIT DURING THE IMMEDIATELY
5 PRECEDING TAXABLE YEAR. THE TAX CREDIT PROVIDED BY THIS
6 ARTICLE MAY BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE
7 YEARS FOR NO MORE THAN 15 TAXABLE YEARS FOLLOWING THE FIRST
8 TAXABLE YEAR FOR WHICH THE ELIGIBLE APPLICANT WAS ENTITLED TO
9 CLAIM THE CREDIT.

10 (2) A TAX CREDIT GRANTED BY THE DEPARTMENT SHALL BE
11 APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR
12 THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH THE CREDIT
13 WAS GRANTED BEFORE THE TAX CREDIT IS APPLIED AGAINST ANY TAX
14 LIABILITY UNDER PARAGRAPH (1).

15 (D) ASSIGNMENT OF CREDIT.--

16 (1) AN ELIGIBLE APPLICANT, UPON APPLICATION TO AND
17 APPROVAL BY THE DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR
18 IN PART, A TAX CREDIT GRANTED TO THE ELIGIBLE APPLICANT UNDER
19 THIS ARTICLE IF NO CLAIM FOR ALLOWANCE OF THE CREDIT IS FILED
20 WITHIN ONE YEAR FROM THE DATE THE CREDIT IS GRANTED BY THE
21 DEPARTMENT UNDER THIS SECTION. THE DEPARTMENT SHALL ESTABLISH
22 GUIDELINES FOR THE APPROVAL OF APPLICATIONS UNDER THIS
23 SUBSECTION.

24 (2) THE PURCHASER OR ASSIGNEE OF A PORTION OF A TAX
25 CREDIT UNDER THIS SUBSECTION SHALL IMMEDIATELY CLAIM THE
26 CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
27 ASSIGNMENT IS MADE. THE AMOUNT OF THE CREDIT THAT A PURCHASER
28 OR ASSIGNEE MAY USE AGAINST A QUALIFIED TAX LIABILITY MAY NOT
29 EXCEED 75% OF THE QUALIFIED TAX LIABILITY FOR THE TAXABLE
30 YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY OVER, CARRY

1 BACK, OBTAIN A REFUND OF OR ASSIGN THE TAX CREDIT. THE
2 PURCHASER OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT OF THE
3 SELLER OR ASSIGNOR OF THE TAX CREDIT IN COMPLIANCE WITH
4 PROCEDURES SPECIFIED BY THE DEPARTMENT.

5 (E) SPONSORSHIP.--AN ELIGIBLE APPLICANT MAY BE A SPONSOR BY
6 APPLYING FOR A TAX CREDIT FOR A PROJECT AUTHORIZED UNDER SECTION
7 1708-E IF A WRITTEN AGREEMENT BETWEEN THE ELIGIBLE APPLICANT AND
8 THE OWNER OF PROPERTY ON WHICH THE PROJECT WILL BE COMPLETED IS
9 SUBMITTED TO THE COMMISSION, CERTIFYING THAT THE PROPERTY OWNER
10 WILL COMPLY WITH ALL THE PROVISIONS OF THIS ARTICLE.

11 (F) TAX CREDITS FOR PASS-THROUGH ENTITIES.--

12 (1) IF A PASS-THROUGH ENTITY HAS ANY UNUSED TAX CREDIT,
13 IT MAY ELECT IN WRITING, ACCORDING TO PROCEDURES ESTABLISHED
14 BY THE DEPARTMENT, TO TRANSFER ALL OR A PORTION OF THE CREDIT
15 TO SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE
16 SHARE OF ITS DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
17 MEMBER OR PARTNER IS ENTITLED.

18 (2) THE CREDIT PROVIDED UNDER PARAGRAPH (1) IS IN
19 ADDITION TO ANY TAX CREDIT TO WHICH THE SHAREHOLDER, MEMBER
20 OR PARTNER IS OTHERWISE ENTITLED UNDER THIS ARTICLE.

21 (3) A PASS-THROUGH ENTITY AND ITS PARTNERS OR
22 SHAREHOLDERS SHALL NOT CLAIM A TAX CREDIT UNDER THIS ARTICLE
23 FOR THE SAME PROJECT AUTHORIZED UNDER SECTION 1708-E.

24 SECTION 1705-E. TAX CREDITS.

25 (A) GENERAL ELIGIBILITY.--PROJECTS SHALL BE ELIGIBLE FOR A
26 TAX CREDIT AS FOLLOWS:

27 (1) ONLY BEST MANAGEMENT PRACTICES COMPLETED AFTER THE
28 EFFECTIVE DATE OF THIS ARTICLE SHALL BE ELIGIBLE FOR A TAX
29 CREDIT.

30 (2) AN AGRICULTURAL OPERATION SHALL HAVE IN PLACE A

1 CURRENT CONSERVATION PLAN, A CURRENT AGRICULTURAL EROSION AND
2 SEDIMENT CONTROL PLAN IF ENGAGED IN PLOWING AND TILLING, AND
3 A CURRENT NUTRIENT MANAGEMENT PLAN IF REQUIRED, OR THE
4 DEVELOPMENT OF SUCH PLANS SHALL BE INCLUDED IN AN APPLICATION
5 FOR A TAX CREDIT.

6 (3) AN AGRICULTURAL OPERATION WITH AN ANIMAL
7 CONCENTRATION AREA SHALL HAVE IMPLEMENTED BEST MANAGEMENT
8 PRACTICES NECESSARY TO ABATE STORM WATER RUNOFF, LOSS OF
9 SEDIMENT, LOSS OF NUTRIENTS AND RUNOFF OF OTHER POLLUTANTS
10 FROM THE ANIMAL CONCENTRATION AREA, OR THE IMPLEMENTATION OF
11 SUCH BEST MANAGEMENT PRACTICES SHALL BE INCLUDED IN AN
12 APPLICATION FOR A TAX CREDIT.

13 (4) AN AGRICULTURAL OPERATION WITH AN UNCOMPLETED BEST
14 MANAGEMENT PRACTICE OF EITHER AN AGRICULTURAL EROSION AND
15 SEDIMENT CONTROL PLAN IF ENGAGED IN PLOWING AND TILLING OR A
16 NUTRIENT MANAGEMENT PLAN IF REQUIRED, SHALL FIRST INCLUDE THE
17 REMAINING BEST MANAGEMENT PRACTICES INCLUDED IN SUCH PLANS IN
18 AN APPLICATION FOR A TAX CREDIT.

19 (5) A PROJECT SHALL MEET THE DESIGN AND CONSTRUCTION
20 STANDARDS ESTABLISHED BY THE COMMISSION OR USDA-NRCS. IF
21 STANDARDS DO NOT EXIST FOR A BEST MANAGEMENT PRACTICE
22 APPROVED BY THE COMMISSION, THE COMMISSION MAY ESTABLISH OR
23 APPROVE DESIGN, CONSTRUCTION AND CERTIFICATION STANDARDS FOR
24 SUCH A BEST MANAGEMENT PRACTICE.

25 (B) AMOUNT OF TAX CREDIT.--

26 (1) A TAX CREDIT EQUAL TO 75% OF THE ELIGIBLE COSTS
27 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
28 1708-E SHALL BE GRANTED FOR ANY OF THE FOLLOWING:

29 (I) DEVELOPMENT OF A VOLUNTARY OR MANDATORY NUTRIENT
30 MANAGEMENT PLAN.

1 (II) DEVELOPMENT OF AN AGRICULTURAL EROSION AND
2 SEDIMENT CONTROL PLAN OR A CONSERVATION PLAN.

3 (III) FOR AN ANIMAL CONCENTRATION AREA, DESIGN AND
4 IMPLEMENTATION OF BEST MANAGEMENT PRACTICES NECESSARY TO
5 ABATE STORM WATER RUNOFF, LOSS OF SEDIMENT, LOSS OF
6 NUTRIENTS AND RUNOFF OF OTHER POLLUTANTS.

7 (IV) DESIGN AND IMPLEMENTATION OF BEST MANAGEMENT
8 PRACTICES NECESSARY TO RESTRICT LIVESTOCK ACCESS TO
9 STREAMS IF THERE IS ESTABLISHED AND MAINTAINED A RIPARIAN
10 FOREST BUFFER WITH A MINIMUM WIDTH OF 35 FEET.

11 (V) ESTABLISHMENT OF A RIPARIAN FOREST BUFFER WITH A
12 MINIMUM WIDTH OF 35 FEET.

13 (2) A TAX CREDIT EQUAL TO 50% OF THE ELIGIBLE COSTS
14 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
15 1708-E SHALL BE GRANTED FOR ANY OF THE FOLLOWING:

16 (I) FOR AN AGRICULTURAL OPERATION, DESIGN AND
17 IMPLEMENTATION OF AGRICULTURAL BEST MANAGEMENT PRACTICES
18 OR THE INSTALLATION AND USE OF EQUIPMENT, PROVIDED THAT
19 THE BEST MANAGEMENT PRACTICE OR EQUIPMENT IS NECESSARY TO
20 REDUCE EXISTING SEDIMENT AND NUTRIENT POLLUTION TO
21 SURFACE WATERS. SUCH BEST MANAGEMENT PRACTICES AND
22 EQUIPMENT SHALL BE IDENTIFIED BY THE COMMISSION AND MAY
23 INCLUDE MANURE STORAGE SYSTEMS, ALTERNATIVE USES FOR
24 MANURE, FILTER STRIPS, GRASSED WATERWAYS, MANAGEMENT
25 INTENSIVE GRAZING SYSTEMS AND NO-TILL PLANTING EQUIPMENT.

26 (II) DESIGN AND IMPLEMENTATION OF BEST MANAGEMENT
27 PRACTICES NECESSARY TO RESTRICT LIVESTOCK ACCESS TO
28 STREAMS THROUGH FENCING, STABILIZED CROSSINGS AND
29 IMPROVED WATERING SYSTEMS, IF THERE IS ESTABLISHED AND
30 MAINTAINED A RIPARIAN FOREST BUFFER WITH A MINIMUM WIDTH

1 OF 20 FEET.

2 (3) A TAX CREDIT EQUAL TO 25% OF THE ELIGIBLE COSTS
3 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
4 1708-E SHALL BE GRANTED FOR THE REMEDIATION OF LEGACY
5 SEDIMENT IF THE LEGACY SEDIMENT IS EXPOSED AND IS DISCHARGING
6 OR THREATENS TO DISCHARGE INTO SURFACE WATERS AS A RESULT OF
7 ACUTE STREAM BANK EROSION. THE PROJECT SHALL MEET STANDARDS
8 ESTABLISHED BY THE COMMISSION AS BEING EFFECTIVE IN
9 MITIGATING OR ELIMINATING THE HARMFUL EFFECTS OF LEGACY
10 SEDIMENT.

11 (C) COSTS OF PROJECT.--

12 (1) THE FOLLOWING SHALL BE CONSIDERED ELIGIBLE COSTS OF
13 A PROJECT TO WHICH A TAX CREDIT MAY BE APPLIED:

14 (I) PROJECT DESIGN, ENGINEERING AND ASSOCIATED
15 PLANNING, INCLUDING THAT WHICH MAY BE PROVIDED BY A
16 CONSERVATION DISTRICT.

17 (II) PROJECT MANAGEMENT COSTS, INCLUDING
18 CONTRACTING, DOCUMENT PREPARATION AND APPLICATIONS.

19 (III) PROJECT CONSTRUCTION OR INSTALLATION.

20 (IV) EQUIPMENT, MATERIALS AND ALL OTHER COMPONENTS
21 OF PROJECTS ELIGIBLE UNDER SUBSECTION (A).

22 (V) POSTCONSTRUCTION INSPECTIONS.

23 (VI) INTEREST PAYMENTS ON LOANS FOR PROJECT
24 IMPLEMENTATION FOR UP TO ONE YEAR PRIOR TO THE AWARD OF
25 THE TAX CREDIT.

26 (2) A TAX CREDIT SHALL NOT BE APPLIED TO THAT PORTION OF
27 A PROJECT COST UNDER THIS SUBSECTION FOR WHICH PUBLIC FUNDING
28 WAS RECEIVED.

29 SECTION 1706-E. PROJECT CERTIFICATION.

30 A PROJECT SHALL BE CERTIFIED AS MEETING STANDARDS UNDER

1 SECTION 1705-E(A)(5) BY THE FOLLOWING:

2 (1) A BEST MANAGEMENT PRACTICE THAT CURRENTLY REQUIRES
3 REVIEW AND CERTIFICATION BY A REGISTERED PROFESSIONAL
4 ENGINEER UNDER CURRENT LAW OR APPLICABLE REGULATION:
5 REGISTERED PROFESSIONAL ENGINEER;

6 (2) RIPARIAN FOREST BUFFER: TECHNICAL SERVICE PROVIDER
7 OR STAFF FROM A CONSERVATION DISTRICT OR USDA-NRCS;

8 (3) NUTRIENT MANAGEMENT PLAN: NUTRIENT MANAGEMENT
9 SPECIALIST; AND

10 (4) AGRICULTURAL EROSION AND SEDIMENT CONTROL PLAN OR
11 CONSERVATION PLAN: ANY PERSON TRAINED AND EXPERIENCED IN
12 EROSION AND SEDIMENT CONTROL OR CONSERVATION METHODS AND
13 TECHNIQUES AND WHOSE QUALIFICATIONS ARE DETERMINED ACCEPTABLE
14 BY THE COMMISSION.

15 SECTION 1707-E. PROJECT MAINTENANCE AND LIFE EXPECTANCY.

16 (A) BEST MANAGEMENT PRACTICE.--AN AGRICULTURAL OPERATION
17 SHALL MAINTAIN A BEST MANAGEMENT PRACTICE FOR THE LIFE OF THE
18 PRACTICE AS ESTABLISHED BY THE COMMISSION OR USDA-NRCS. A
19 RIPARIAN FOREST BUFFER SHALL BE MAINTAINED FOR A MINIMUM OF 15
20 YEARS.

21 (B) FAILURE.--IF A BEST MANAGEMENT PRACTICE IS NOT
22 MAINTAINED FOR THE PERIOD REQUIRED UNDER SUBSECTION (A), THE
23 OWNER OF THE PROPERTY UPON WHICH THE PROJECT EXISTS SHALL RETURN
24 TO THE DEPARTMENT THE AMOUNT OF THE TAX CREDIT ORIGINALLY
25 GRANTED. ADDITIONAL PENALTIES MAY BE DETERMINED BY THE
26 DEPARTMENT.

27 (C) EXCEPTION.--IF THE RECIPIENT OF A TAX CREDIT PROVIDES
28 PRIOR WRITTEN NOTIFICATION TO THE DEPARTMENT THAT THE RECIPIENT
29 WILL BE UNABLE TO MAINTAIN A BEST MANAGEMENT PRACTICE DUE TO
30 SALE OF THE PROPERTY, CESSATION OF AN AGRICULTURAL OPERATION OR

1 OTHER FACTORS, THE DEPARTMENT MAY PRORATE THE AMOUNT OF THE TAX
2 CREDIT THAT SHALL BE RETURNED BASED ON THE REMAINING LIFESPAN OF
3 THE BEST MANAGEMENT PRACTICE IN QUESTION.

4 SECTION 1708-E. APPLICATION, REVIEW AND AUTHORIZATION BY
5 COMMISSION.

6 (A) APPLICATION PROCESS.--AN ELIGIBLE APPLICANT SHALL APPLY
7 TO THE COMMISSION FOR AUTHORIZATION THAT A PROJECT IS ELIGIBLE
8 FOR A TAX CREDIT UNDER THIS PROGRAM. AN APPLICATION SHALL BE
9 DEVELOPED BY THE COMMISSION AND SHALL INCLUDE:

10 (1) TYPE AND LOCATION OF PROJECT UNDER SECTION 1705-
11 E(B).

12 (2) TOTAL COST OF PROJECT AS OUTLINED IN SECTION 1705-
13 E(C).

14 (3) VERIFICATION OF ELIGIBILITY UNDER SECTION 1705-E(A).

15 (B) REVIEW, NOTIFICATION AND AUTHORIZATION.--THE COMMISSION
16 SHALL WITHIN 30 DAYS OF RECEIPT REVIEW EACH APPLICATION AND
17 NOTIFY AN ELIGIBLE APPLICANT WHETHER OR NOT THE ELIGIBLE
18 APPLICANT MEETS THE REQUIREMENTS AND IS AUTHORIZED TO RECEIVE A
19 TAX CREDIT UNDER THIS ARTICLE.

20 (C) AUTHORIZATION OF TAX CREDIT.--THE COMMISSION SHALL NOT
21 AUTHORIZE TAX CREDITS THAT EXCEED THE LIMITS UNDER SECTIONS
22 1704-E(B) AND 1710-E. THE COMMISSION SHALL AUTHORIZE TAX CREDITS
23 ON A FIRST-COME, FIRST-SERVED BASIS.

24 (D) COMPLETION OF PROJECT.--UPON COMPLETION OF A PROJECT
25 AUTHORIZED UNDER THIS SECTION, AN ELIGIBLE APPLICANT SHALL
26 SUBMIT TO THE COMMISSION WRITTEN NOTICE OF PROJECT COMPLETION.
27 SUCH NOTICE SHALL INCLUDE:

28 (1) PROOF OF CERTIFICATION AS REQUIRED BY SECTION 1706-E
29 THAT THE PROJECT IS COMPLETE.

30 (2) A MAINTENANCE PLAN AS REQUIRED BY SECTION 1707-E(A)

1 FOR EACH BEST MANAGEMENT PRACTICE, IF APPLICABLE TO THE
2 PROJECT.

3 (3) ANY OTHER DOCUMENTS AS MAY BE REQUIRED BY THE
4 COMMISSION.

5 (E) NOTIFICATION TO DEPARTMENT.--UPON DETERMINATION THAT A
6 PROJECT AUTHORIZED UNDER THIS SECTION IS COMPLETE, THE
7 COMMISSION SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT:

8 (1) THAT THE ELIGIBLE APPLICANT HAS COMPLETED A PROJECT
9 WHICH MEETS THE CRITERIA FOR A TAX CREDIT UNDER THIS ARTICLE;
10 AND

11 (2) THE AMOUNT OF TAX CREDIT FOR THE ELIGIBLE APPLICANT.

12 (F) INSPECTION.--PROJECTS AUTHORIZED UNDER THIS SECTION MAY
13 BE SUBJECT TO INSPECTION BY THE COMMISSION OR ITS DESIGNATED
14 AGENT.

15 SECTION 1709-E. GRANT OF TAX CREDIT.

16 THE DEPARTMENT SHALL GRANT A TAX CREDIT AUTHORIZED UNDER
17 SECTION 1708-E. THE DEPARTMENT SHALL WITHIN 60 DAYS OF RECEIPT
18 OF NOTICE UNDER SECTION 1708-E(E), ISSUE A NOTICE OF GRANT OF A
19 TAX CREDIT TO THE ELIGIBLE APPLICANT.

20 SECTION 1710-E. ANNUAL CAP OF TAX CREDITS.

21 TAX CREDITS SHALL BE GRANTED TO THE EXTENT THAT FUNDS ARE
22 APPROPRIATED BY THE GENERAL ASSEMBLY. THE TOTAL AMOUNT OF TAX
23 CREDITS GRANTED BY THE DEPARTMENT SHALL NOT EXCEED \$10,000,000
24 IN ANY FISCAL YEAR.

25 SECTION 1711-E. REPORT.

26 THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, SHALL
27 ANNUALLY REPORT TO THE GENERAL ASSEMBLY ON THE RESOURCE
28 ENHANCEMENT AND PROTECTION TAX CREDIT PROGRAM AS FOLLOWS:

29 (1) THE NUMBER OF TAX CREDITS GRANTED UNDER THE PROGRAM.

30 (2) THE TYPES AND LOCATIONS OF PROJECTS.

1 (3) THE ESTIMATED BENEFITS OF THE PROJECTS.

2 SECTION 5. THE DEFINITION OF "BUSINESS FIRM" IN SECTION
3 1902-A OF THE ACT, AMENDED MAY 7, 1997 (P.L.85, NO.7), IS
4 AMENDED AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO
5 READ:

6 SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
7 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
8 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
9 CLEARLY INDICATES A DIFFERENT MEANING:

10 "BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
11 BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
12 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X OR
13 XV OF THIS ACT. THE TERM SHALL INCLUDE A SHAREHOLDER OF A
14 PENNSYLVANIA S CORPORATION WHO IS LIABLE FOR TAXES IMPOSED UNDER
15 ARTICLE III.

16 * * *

17 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED UNDER
18 SECTION 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED
19 UNDER SECTION 301(N.1).

20 * * *

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

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

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

25 (B.1) THE SECRETARY SHALL TAKE INTO SPECIAL CONSIDERATION,
26 WHEN APPROVING APPLICATIONS FOR NEIGHBORHOOD ASSISTANCE TAX
27 CREDITS, APPLICATIONS WHICH INVOLVE MULTIPLE PROJECTS IN VARIOUS
28 MARKETS THROUGHOUT THIS COMMONWEALTH.

29 * * *

30 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE

1 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
2 ASSIGN, IN WHOLE OR IN PART, A NEIGHBORHOOD ASSISTANCE TAX
3 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE IF NO CLAIM
4 FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM THE
5 DATE THE CREDIT IS GRANTED BY THE DEPARTMENT OF REVENUE UNDER
6 SECTION 1905-A. THE DEPARTMENT OF COMMUNITY AND ECONOMIC
7 DEVELOPMENT AND THE DEPARTMENT OF REVENUE SHALL JOINTLY
8 PROMULGATE GUIDELINES FOR THE APPROVAL OF APPLICATIONS UNDER
9 THIS SUBSECTION.

10 (E) THE PURCHASER OR ASSIGNEE OF A PORTION OF A NEIGHBORHOOD
11 ASSISTANCE TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY
12 CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
13 ASSIGNMENT IS MADE. THE PURCHASER OR ASSIGNEE MAY NOT CARRY
14 OVER, CARRY BACK, OBTAIN A REFUND OF 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 SECTION 7. SECTION 1905-A OF THE ACT, AMENDED JULY 7, 2005
20 (P.L.149, NO.40), IS AMENDED TO READ:

21 SECTION 1905-A. GRANT OF TAX CREDIT.--THE DEPARTMENT OF
22 REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER
23 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X OR
24 XV OF THIS ACT, OR ANY TAX SUBSTITUTED IN LIEU THEREOF IN AN
25 AMOUNT WHICH SHALL NOT EXCEED [FIFTY] SIXTY PER CENT OF THE
26 TOTAL AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY
27 [THE BUSINESS FIRM OR TWENTY] A BUSINESS FIRM OR TWENTY-FIVE PER
28 CENT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY IN PROGRAMS
29 APPROVED PURSUANT TO SECTION 1904-A OF THIS ACT: PROVIDED, THAT
30 A TAX CREDIT OF UP TO [SEVENTY] EIGHTY PER CENT OF THE TOTAL

1 AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY A
2 BUSINESS FIRM OR UP TO [THIRTY] THIRTY-FIVE PER CENT OF THE
3 AMOUNT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY MAY BE
4 ALLOWED FOR INVESTMENT IN PROGRAMS WHERE ACTIVITIES FALL WITHIN
5 THE SCOPE OF SPECIAL PROGRAM PRIORITIES AS DEFINED WITH THE
6 APPROVAL OF THE GOVERNOR IN REGULATIONS PROMULGATED BY THE
7 SECRETARY[.], AND PROVIDED FURTHER, THAT A TAX CREDIT OF UP TO
8 EIGHTY PER CENT OF THE TOTAL AMOUNT CONTRIBUTED DURING THE
9 TAXABLE YEAR BY A BUSINESS FIRM IN COMPREHENSIVE SERVICE
10 PROJECTS WITH FIVE-YEAR COMMITMENTS AND UP TO NINETY PER CENT OF
11 THE TOTAL AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY A
12 BUSINESS FIRM IN COMPREHENSIVE SERVICE PROJECTS WITH SIX-YEAR OR
13 LONGER COMMITMENTS SHALL BE GRANTED. SUCH CREDIT SHALL NOT
14 EXCEED [TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) ANNUALLY,
15 EXCEPT IN THE CASE OF COMPREHENSIVE SERVICE PROJECTS WHICH SHALL
16 BE ALLOWED AN ADDITIONAL CREDIT EQUAL TO SEVENTY PER CENT OF THE
17 QUALIFYING INVESTMENTS MADE IN COMPREHENSIVE SERVICE PROJECTS;
18 HOWEVER, SUCH ADDITIONAL CREDIT SHALL NOT EXCEED THREE HUNDRED
19 FIFTY THOUSAND DOLLARS (\$350,000) ANNUALLY.] FIVE HUNDRED
20 THOUSAND DOLLARS (\$500,000) ANNUALLY FOR CONTRIBUTIONS OR
21 INVESTMENTS TO A SINGLE PROJECT FEWER THAN FOUR PROJECTS OR ONE <—
22 MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000) ANNUALLY
23 FOR CONTRIBUTIONS OR INVESTMENTS TO FOUR OR MORE PROJECTS. NO
24 TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPANY,
25 INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS
26 ASSOCIATION, MUTUAL SAVINGS BANK OR BUILDING AND LOAN
27 ASSOCIATION FOR ACTIVITIES THAT ARE A PART OF ITS NORMAL COURSE
28 OF BUSINESS. ANY TAX CREDIT NOT USED IN THE PERIOD THE
29 CONTRIBUTION OR INVESTMENT WAS MADE MAY BE CARRIED OVER FOR THE
30 NEXT FIVE SUCCEEDING CALENDAR OR FISCAL YEARS UNTIL THE FULL

1 CREDIT HAS BEEN ALLOWED. THE TOTAL AMOUNT OF ALL TAX CREDITS
2 ALLOWED PURSUANT TO THIS ACT SHALL NOT EXCEED EIGHTEEN MILLION
3 DOLLARS (\$18,000,000) IN ANY ONE FISCAL YEAR. OF THAT AMOUNT,
4 TWO MILLION DOLLARS (\$2,000,000) SHALL BE ALLOCATED EXCLUSIVELY
5 FOR SMALL BUSINESSES. HOWEVER, IF THE TOTAL AMOUNTS ALLOCATED TO
6 EITHER THE GROUP OF APPLICANTS, EXCLUSIVE OF SMALL BUSINESSES,
7 OR THE GROUP OF SMALL BUSINESS APPLICANTS IS NOT APPROVED IN ANY
8 FISCAL YEAR, THE UNUSED PORTION SHALL BECOME AVAILABLE FOR USE
9 BY THE OTHER GROUP OF QUALIFYING TAXPAYERS.

10 SECTION 8. THE ACT IS AMENDED BY ADDING ~~A SECTION~~ SECTIONS <—
11 TO READ:

12 SECTION 1907-A. PASS-THROUGH ENTITY.--(A) IF A PASS-THROUGH
13 ENTITY HAS ANY UNUSED TAX CREDIT UNDER SECTION 1905-A, THE
14 ENTITY MAY ELECT, IN WRITING, ACCORDING TO THE DEPARTMENT'S
15 PROCEDURES, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
16 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
17 THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
18 MEMBER OR PARTNER IS ENTITLED.

19 (B) THE CREDIT PROVIDED UNDER SUBSECTION (A) IS IN ADDITION
20 TO ANY NEIGHBORHOOD ASSISTANCE TAX CREDIT TO WHICH A
21 SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH ENTITY IS
22 OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER, A PASS-THROUGH
23 ENTITY AND A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
24 ENTITY MAY NOT CLAIM A CREDIT UNDER THIS ARTICLE FOR THE SAME
25 QUALIFIED NEIGHBORHOOD ASSISTANCE INVESTMENT OR CONTRIBUTION.

26 (C) A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
27 ENTITY TO WHOM CREDIT IS TRANSFERRED UNDER SUBSECTION (A) MUST
28 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
29 TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT
30 CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN

1 THE CREDIT.

2 SECTION 3003.19. POWDERED METALLURGY PARTS.--FOR PURPOSES OF <—
3 DEFINING THE PHRASES "DOING BUSINESS IN THIS COMMONWEALTH,"
4 "CARRYING ON ACTIVITIES IN THIS COMMONWEALTH," "HAVING CAPITAL
5 OR PROPERTY EMPLOYED OR USED IN THIS COMMONWEALTH" OR "OWNING
6 PROPERTY IN THIS COMMONWEALTH" IN SECTIONS 401 AND 402 OF
7 ARTICLE IV AND SUBSTANTIALLY SIMILAR PHRASES IN SECTION 601 OF
8 ARTICLE VI, AND FOR DETERMINING ACTIVITIES WHICH ARE NOT
9 PROTECTED UNDER THE ACT OF SEPTEMBER 14, 1959 (PUBLIC LAW 86-
10 272, 15 U.S.C. § 381 ET SEQ.), THE FOLLOWING ACTIVITIES SHALL BE
11 EXCLUDED:

12 (1) OWNING OR LEASING OF INTANGIBLE AND TANGIBLE PROPERTY,
13 INCLUDING DIES, MOLDS, TOOLING AND RELATED EQUIPMENT, BY A
14 PERSON WHO HAS CONTRACTED WITH AN UNAFFILIATED MANUFACTURER OF
15 POWDER METALLURGY PRODUCTS FOR MANUFACTURING, PROVIDED THAT:

16 (I) THE PROPERTY IS FOR USE BY THE POWDER METALLURGY PRODUCT
17 MANUFACTURER;

18 (II) THE PROPERTY IS LOCATED AT THE PENNSYLVANIA PREMISES OF
19 THE POWDER METALLURGY PRODUCT MANUFACTURER; AND

20 (III) THE PRODUCTS MANUFACTURED USING SUCH PROPERTY ARE
21 INCORPORATED INTO PRODUCTS PRODUCED OUTSIDE THIS COMMONWEALTH BY
22 THE OWNER OR LESSOR OF THE PROPERTY.

23 (2) VISITS BY A PERSON'S EMPLOYEES OR AGENTS TO THE PREMISES
24 IN THIS COMMONWEALTH OF AN UNAFFILIATED POWDER METALLURGY
25 PRODUCT MANUFACTURER WITH WHOM THE PERSON HAS CONTRACTED FOR
26 MANUFACTURING IN CONNECTION WITH THE CONTRACT.

27 (3) OWNING OF MANUFACTURED POWDER METALLURGY PRODUCTS AND
28 OTHER ITEMS PACKAGED THEREWITH, BY A PERSON WHO HAS CONTRACTED
29 WITH AN UNAFFILIATED POWDER METALLURGY PRODUCTS MANUFACTURER FOR
30 MANUFACTURING OF PRODUCTS, ON THE PREMISES OF THE UNAFFILIATED

1 POWDERED METALLURGY PRODUCTS MANUFACTURER PRIOR TO DELIVERY OF
2 THE PROPERTY.

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

6 SECTION 10. THE PROVISIONS OF THIS ACT SHALL APPLY AS
7 FOLLOWS:

8 (1) THE AMENDMENT OF SECTION 247.1 OF THE ACT SHALL <—
9 APPLY TO AMOUNTS DEDUCTED AS BAD DEBTS ON FEDERAL INCOME TAX
10 RETURNS REQUIRED TO BE FILED AFTER JANUARY 1, 2008.

11 ~~(1)~~ (1.1) THE AMENDMENT OF SECTION 601 OF THE ACT SHALL <—
12 APPLY TO ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007.

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

15 (I) QUALIFIED FILM PRODUCTION EXPENSES INCURRED
16 AFTER DECEMBER 31, 2006; AND

17 (II) TAXABLE YEARS COMMENCING AFTER DECEMBER 31,
18 2006.

19 (3) THE ADDITION OF SECTION 3003.19 OF THE ACT SHALL <—
20 APPLY TO:

21 (I) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2004;
22 AND

23 (II) OTHER TAXABLE YEARS WHICH ARE NOT CLOSED ON THE
24 EFFECTIVE DATE OF THE ADDITION OF SECTION 3003.19 OF THE
25 ACT.

26 SECTION 11. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.