

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1503 Session of 2011

INTRODUCED BY SAYLOR, PAYNE, EVANKOVICH, AUMENT, BOYD, DUNBAR, HARRIS, MILNE, RAPP, SCAVELLO, MAJOR, BAKER, CALTAGIRONE, CHRISTIANA, CLYMER, CREIGHTON, CUTLER, DALEY, ELLIS, EVERETT, FARRY, GILLESPIE, GINGRICH, GOODMAN, GROVE, HARHAI, HARKINS, HENNESSEY, HESS, HICKERNELL, HORNAMAN, KAUFFMAN, M. K. KELLER, KILLION, KORTZ, LAWRENCE, LONGIETTI, MARSHALL, MARSICO, MILLER, OBERLANDER, PICKETT, PRESTON, PYLE, READSHAW, ROAE, ROCK, SAINATO, M. SMITH, STEVENSON, SWANGER, TALLMAN, TOOHIL, VULAKOVICH, WAGNER, GIBBONS, QUINN, BROOKS, TRUITT, COX, GEIST, MURT, BEAR, DENLINGER AND FRANKEL, MAY 10, 2011

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 26, 2011

AN ACT

1 ~~Amending Title 12 (Commerce and Trade) of the Pennsylvania~~ ←
2 ~~Consolidated Statutes, providing for an angel investment tax~~
3 ~~credit.~~

4 AMENDING TITLE 12 (COMMERCE AND TRADE) OF THE PENNSYLVANIA ←
5 CONSOLIDATED STATUTES, PROVIDING FOR AN ANGEL INVESTMENT TAX
6 CREDIT.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Title 12 of the Pennsylvania Consolidated~~ ←
10 ~~Statutes is amended by adding a chapter to read:~~

11 CHAPTER 38

12 ANGEL INVESTMENT TAX CREDIT

13 Sec.

14 3801. Scope of chapter.

15 3802. Definitions.

~~3803. Credit for qualified angel investment.~~

~~3804. Carryover, carryback, refund and assignment.~~

~~3805. Time limitation.~~

~~3806. Limitation on angel investment tax credits.~~

~~3807. Shareholder, owner or member pass through.~~

~~3808. Reports.~~

~~3809. Termination.~~

~~3810. Regulations.~~

~~§ 3801. Scope of chapter.~~

~~This chapter relates to angel investment tax credits.~~

~~§ 3802. Definitions.~~

~~The following words and phrases, when used in this chapter, shall have the meanings given to them in this section, unless the context clearly indicates otherwise:~~

~~"Business plan." An outline of business structure and a formal statement of business goals, the reasons why the goals are believed to be attainable and the plan for reaching those goals.~~

~~"Department." The Department of Revenue of the Commonwealth.~~

~~"Pass through entity." Any of the following:~~

~~(1) A partnership, limited partnership, limited liability company, business trust or other unincorporated entity that for Federal income tax purposes is taxable as a partnership.~~

~~(2) A Pennsylvania S corporation.~~

~~"Qualified angel investment." A purchase of equity interest or any other expenditure made by an individual or a network of individuals who review new businesses or a proposed business for potential investment of an individual's money.~~

~~"Qualified business venture." A business plan that satisfies~~

~~the following:~~

~~(1) The business has its headquarters in this Commonwealth.~~

~~(2) At least 51% of the employees employed by the business are employed in this Commonwealth.~~

~~(3) The success of the business plan depends upon the development or commercialization of intellectual property for which either of the following apply:~~

~~(i) Patent protection under 35 U.S.C. (relating to patents) has been secured, is pending or will be sought.~~

~~(ii) A copyright under 17 U.S.C. (relating to copyrights) has been secured, is pending or will be sought.~~

~~(4) The business has less than 100 employees.~~

~~(5) The business has been in operation in this Commonwealth for not more than seven consecutive years.~~

~~(6) The business has not received more than \$1,000,000 in investments that have qualified tax credits under this chapter.~~

~~"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI of the Tax Reform Code of 1971. The term shall include the liability for taxes imposed under Article III of the Tax Reform Code of 1971 on an owner of a pass through entity.~~

~~"Secretary." The Secretary of Revenue of the Commonwealth.~~

~~"Tax credit." The angel investment tax credit authorized under this chapter.~~

~~"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~"Taxpayer." An entity subject to tax under Article III, IV~~

~~or VI of the Tax Reform Code of 1971. The term shall include the shareholder, owner or member of a pass through entity that receives a tax credit.~~

~~§ 3803. Credit for qualified angel investment.~~

~~(a) Application. A taxpayer with qualified angel investment in a taxable year may apply for an angel investment tax credit as provided under this chapter. The department shall establish appropriate filing deadlines for angel investment tax credits in a manner that allows for the expeditious utilization of the angel investment tax credit by the taxpayer.~~

~~(b) Amount. A taxpayer that is qualified under subsection (a) shall receive an angel investment tax credit for the taxable year in the amount of 25% of the taxpayer's qualified angel investment in a qualified business venture. The Department of Community and Economic Development shall certify that entities meet the requirements of a qualified business venture.~~

~~(c) Notification. By December 16 of the calendar year following the close of the taxable year during which the qualified angel investment was made, the department shall notify the taxpayer of the amount of the taxpayer's angel investment tax credit approved by the department.~~

~~§ 3804. Carryover, carryback, refund and assignment.~~

~~(a) Carryover. If the taxpayer cannot use the entire amount of the angel investment tax credit for the taxable year in which the angel investment tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the angel investment tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the~~

~~immediately preceding taxable year. The angel investment tax credit may be carried over and applied to succeeding taxable years for no more than seven taxable years following the first taxable year for which the taxpayer was entitled to claim the angel investment tax credit.~~

~~(b) Application. An angel investment tax credit approved by the department for a qualified angel investment in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the angel investment tax credit was approved before the angel investment tax credit is applied against any tax liability under subsection (a).~~

~~(c) Carryback or refund. A taxpayer is not entitled to carry back or obtain a refund of an unused angel investment tax credit.~~

~~§ 3805. Time limitation.~~

~~A taxpayer shall not be entitled to an angel investment tax credit for qualified angel investments incurred in taxable years ending after December 31, 2021.~~

~~§ 3806. Limitation on angel investment tax credits.~~

~~(a) Total amount. The total amount of angel investment tax credits approved by the department in a fiscal year shall be equal to the greater of:~~

~~(1) \$3,000,000; or~~

~~(2) The difference between \$25,000,000 and the total amount of keystone innovation zone tax credits issued under section 3706 (relating to keystone innovation zone tax credits) through December 15th of the fiscal year.~~

~~(b) Sale or assignment. A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in~~

~~part, an angel investment tax credit granted to the taxpayer under this chapter. The department shall establish guidelines for the approval of applications under this subsection.~~

~~§ 3807. Shareholder, owner or member pass through.~~

~~(a) Shareholder entitlement. If a Pennsylvania S corporation does not have an eligible tax liability against which the angel investment tax credit may be applied, a shareholder of the Pennsylvania S corporation shall be entitled to an angel investment tax credit equal to the angel investment tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.~~

~~(b) Pass through entity entitlement. If a pass through entity other than a Pennsylvania S corporation does not have an eligible tax liability against which the angel investment tax credit may be applied, an owner or member of the pass through entity is entitled to an angel investment tax credit equal to the angel investment tax credit determined for the pass through entity for the taxable year multiplied by the percentage of the pass through entities' distributive income to which the owner or member is entitled.~~

~~(c) Additional credit.~~

~~(1) Except as provided under paragraph (2), the angel investment tax credit provided under subsections (a) or (b) shall be in addition to any tax credit to which a shareholder, owner or member of a pass through entity is otherwise entitled under this chapter.~~

~~(2) A pass through entity and a shareholder, owner or member of a pass through entity may not claim an angel~~

~~investment tax credit under this chapter for the same
qualified angel investment.~~

~~§ 3808. Reports.~~

~~(a) Report to General Assembly. The secretary shall submit
an annual report to the General Assembly indicating the
effectiveness of the angel investment tax credit provided under
this chapter no later than March 15 following the year in which
the angel investment tax credits were approved. The report shall
include the names of all taxpayers utilizing the angel
investment tax credit as of the date of the report and the
amount of the angel investment tax credits approved and utilized
by each taxpayer. Notwithstanding any law providing for the
confidentiality of tax records, the information contained in the
report shall be public information. The report may also include
any recommendations for changes in the calculation or
administration of the angel investment tax credit.~~

~~(b) Report to Secretary of the Senate and the Chief Clerk of
the House of Representatives. The department shall submit a
report to the Secretary of the Senate and the Chief Clerk of the
House of Representatives indicating the effectiveness of the
angel investment tax credit by December 31, 2013 and by December
31, 2016. Notwithstanding any law providing for the
confidentiality of tax records, the report shall include the
names of all taxpayers awarded the angel investment tax credits,
all taxpayers utilizing the angel investment tax credits, the
amount of angel investment tax credits approved and utilized by
each taxpayer and the locations of the keystone innovation zone
companies as defined in section 3702 (relating to definitions)
awarded the angel investment tax credits. The report shall be
considered a public record under section 102 of the act of~~

~~February 14, 2008 (P.L.6, No.3), known as the Right to Know Law.~~

~~§ 3809. Termination.~~

~~The department shall not approve an angel investment tax credit for taxable years ending after December 31, 2021.~~

~~§ 3810. Regulations.~~

~~The secretary shall promulgate regulations necessary for the implementation and administration of this chapter.~~

~~Section 2. This act shall take effect immediately.~~

SECTION 1. TITLE 12 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 38

ANGEL INVESTMENT TAX CREDIT

SEC.

3801. SCOPE OF CHAPTER.

3802. DEFINITIONS.

3803. ESTABLISHMENT.

3804. QUALIFIED BUSINESS PLANS.

3805. CREDIT FOR QUALIFIED INVESTMENT.

3806. CARRYOVER, APPLICATION OF TAX CREDIT, CARRYBACK, REFUND AND ASSIGNMENT.

3807. TIME LIMITATION.

3808. LIMITATION ON TAX CREDITS.

3809. SHAREHOLDER, OWNER OR MEMBER PASS-THROUGH.

3810. REPAYMENT AND PENALTY.

3811. REPORTS.

3812. TERMINATION.

3813. REGULATIONS.

§ 3801. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO ANGEL INVESTMENT TAX CREDITS.

§ 3802. DEFINITIONS.

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

4 "ACCREDITED INVESTOR." ANY OF THE FOLLOWING:

5 (1) AN INDIVIDUAL WHOSE NET WORTH OR JOINT NET WORTH
6 WITH THE INDIVIDUAL'S SPOUSE EXCEEDS \$1,000,000.

7 (2) AN INDIVIDUAL WHO HAD INDIVIDUAL INCOME IN EXCESS OF
8 \$200,000 IN EACH OF THE TWO MOST RECENT YEARS OR JOINT INCOME
9 WITH THAT INDIVIDUAL'S SPOUSE IN EXCESS OF \$300,000 IN EACH
10 OF THOSE YEARS AND HAS A REASONABLE EXPECTATION OF REACHING
11 THE SAME INCOME LEVEL IN THE CURRENT YEAR.

12 (3) ANY ENTITY IN WHICH ALL OF THE EQUITY OWNERS MEET
13 PARAGRAPH (1) OR (2).

14 "BUSINESS PLAN." AN OUTLINE OF BUSINESS STRUCTURE AND A
15 FORMAL STATEMENT OF BUSINESS GOALS, INCLUDING AN EXPLANATION OF
16 HOW THE GOALS ARE ANTICIPATED TO BE ACHIEVED.

17 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
18 DEVELOPMENT OF THE COMMONWEALTH.

19 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
20 301(N.O) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE
21 TAX REFORM CODE OF 1971, OR A PENNSYLVANIA S CORPORATION AS
22 DEFINED IN SECTION 301(N.1) OF THE TAX REFORM CODE OF 1971.

23 "QUALIFIED BUSINESS VENTURE." A BUSINESS THAT IS ALL OF THE
24 FOLLOWING:

25 (1) HEADQUARTERED OR THAT WILL ESTABLISH ITS
26 HEADQUARTERS IN THIS COMMONWEALTH PRIOR TO THE TIME THE
27 TAXPAYER IS ELIGIBLE TO APPLY FOR THE TAX CREDIT.

28 (2) MAINTAINS ITS HEADQUARTERS IN THIS COMMONWEALTH FOR
29 AT LEAST FIVE YEARS AFTER THE TAXPAYER APPLIED FOR THE TAX
30 CREDIT.

1 (3) WHERE AT LEAST 51% OF ITS EMPLOYEES ARE EMPLOYED IN
2 THIS COMMONWEALTH AT THE TIME THE TAXPAYER APPLIES FOR THE
3 TAX CREDIT.

4 (4) HAS FEWER THAN 100 EMPLOYEES AT THE TIME THE
5 TAXPAYER APPLIES FOR THE TAX CREDIT.

6 (5) HAS BEEN IN OPERATION IN THIS COMMONWEALTH FOR NOT
7 MORE THAN FIVE CONSECUTIVE YEARS AT THE TIME THE TAXPAYER
8 APPLIES FOR THE TAX CREDIT.

9 (6) HAS NOT RECEIVED MORE THAN \$5,000,000, IN THE
10 AGGREGATE, IN PRIVATE EQUITY INVESTMENTS.

11 "QUALIFIED INVESTMENT." A PAYMENT OF MONEY OR ITS EQUIVALENT
12 FOR A PRIVATE EQUITY INTEREST IN A QUALIFIED BUSINESS VENTURE.

13 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
14 UNDER ARTICLE III, IV OR VI OF THE ACT OF MARCH 4, 1971 (P.L.6,
15 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971. THE TERM SHALL
16 INCLUDE THE LIABILITY FOR TAXES IMPOSED UNDER ARTICLE III OF THE
17 TAX REFORM CODE OF 1971 ON AN OWNER OF A PASS-THROUGH ENTITY.

18 "SECRETARY." THE SECRETARY OF COMMUNITY AND ECONOMIC
19 DEVELOPMENT OF THE COMMONWEALTH.

20 "TAX CREDIT." THE ANGEL INVESTMENT TAX CREDIT AUTHORIZED
21 UNDER THIS CHAPTER.

22 "TAXPAYER." A PERSON SUBJECT TO TAX UNDER ARTICLE III, IV OR
23 VI OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
24 REFORM CODE OF 1971. THE TERM SHALL INCLUDE THE SHAREHOLDER,
25 OWNER OR MEMBER OF A PASS-THROUGH ENTITY THAT RECEIVES AN ANGEL
26 INVESTMENT TAX CREDIT.

27 § 3803. ESTABLISHMENT.

28 THERE IS ESTABLISHED A TAX CREDIT PROGRAM TO BE KNOWN AS THE
29 ANGEL INVESTMENT TAX CREDIT. THE PROGRAM SHALL:

30 (1) CREATE A BUSINESS ENVIRONMENT THAT ATTRACTS AND

1 ENCOURAGES EARLY-STAGE FINANCING FOR BUSINESSES WITH THE
2 POTENTIAL FOR HIGH GROWTH.

3 (2) INCREASE CAPITAL INVESTMENT.

4 (3) ENCOURAGE JOB CREATION.

5 § 3804. QUALIFIED BUSINESS PLANS.

6 IN ORDER FOR A BUSINESS PLAN TO BE QUALIFIED, THE BUSINESS
7 PLAN SHALL:

8 (1) INDICATE THE POTENTIAL FOR INCREASING JOBS IN THIS
9 COMMONWEALTH.

10 (2) INDICATE THE POTENTIAL FOR INCREASING CAPITAL
11 INVESTMENT IN THIS COMMONWEALTH.

12 (3) SPECIFY THAT THE PLAN IS BASED UPON THE DEVELOPMENT
13 OR COMMERCIALIZATION OF INTELLECTUAL PROPERTY FOR WHICH
14 EITHER OF THE FOLLOWING APPLY:

15 (I) PATENT PROTECTION UNDER 35 U.S.C. (RELATING TO
16 PATENTS) HAS BEEN SECURED OR IS PENDING; OR

17 (II) A COPYRIGHT UNDER 17 U.S.C. (RELATING TO
18 COPYRIGHTS) HAS BEEN SECURED OR IS PENDING.

19 § 3805. CREDIT FOR QUALIFIED INVESTMENT.

20 (A) APPLICATION.--A TAXPAYER THAT MADE A QUALIFIED
21 INVESTMENT IN A TAXABLE YEAR MAY APPLY FOR A TAX CREDIT. THE
22 APPLICATION MUST BE ON A FORM REQUIRED BY THE DEPARTMENT AND
23 SHALL INCLUDE ALL OF THE FOLLOWING:

24 (1) THE NAME AND ADDRESS OF THE APPLICANT.

25 (2) THE NAME AND ADDRESS OF THE BUSINESS IN WHICH THE
26 TAXPAYER HAS INVESTED.

27 (3) A CERTIFIED COPY OF THE QUALIFIED BUSINESS PLAN.

28 (4) DOCUMENTATION THAT THE APPLICANT IS AN ACCREDITED
29 INVESTOR.

30 (5) DOCUMENTATION THAT THE BUSINESS IN WHICH THE

1 TAXPAYER HAS INVESTED IS A QUALIFIED BUSINESS VENTURE.

2 (6) DOCUMENTATION THAT THE QUALIFIED INVESTMENT HAS BEEN
3 MADE BY THE APPLICANT.

4 (7) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

5 (B) REVIEW.--THE DEPARTMENT, IN CONJUNCTION WITH THE
6 DEPARTMENT OF REVENUE, SHALL REVIEW THE APPLICATION AND
7 DETERMINE IF:

8 (1) ALL REQUIREMENTS ESTABLISHED UNDER THIS CHAPTER HAVE
9 BEEN MET.

10 (2) THE APPLICANT HAS FILED ALL REQUIRED STATE TAX
11 REPORTS AND RETURNS FOR ALL APPLICABLE TAXABLE YEARS AND PAID
12 ANY BALANCE OF STATE TAX DUE AS DETERMINED AT SETTLEMENT,
13 ASSESSMENT OR DETERMINATION BY THE DEPARTMENT OF REVENUE.

14 (C) APPROVAL.--UPON BEING SATISFIED UNDER SUBSECTION (B),
15 THE DEPARTMENT SHALL APPROVE THE APPLICATION AND AWARD THE
16 TAXPAYER A TAX CREDIT FOR THE TAXABLE YEAR IN THE AMOUNT EQUAL
17 TO 25% OF THE TAXPAYER'S QUALIFIED INVESTMENT MADE DURING THE
18 TAXABLE YEAR.

19 (D) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY THE TAXPAYER
20 OF THE AMOUNT OF THE TAXPAYER'S TAX CREDIT WITHIN 30 DAYS AFTER
21 APPROVAL BY THE DEPARTMENT.

22 § 3806. CARRYOVER, APPLICATION OF TAX CREDIT, CARRYBACK, REFUND
23 AND ASSIGNMENT.

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

1 CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE TAX
2 CREDIT MAY BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE
3 YEARS FOR NO MORE THAN SEVEN TAXABLE YEARS FOLLOWING THE FIRST
4 TAXABLE YEAR FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE
5 TAX CREDIT.

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

12 (C) CARRYBACK OR REFUND.--A TAXPAYER IS NOT ENTITLED TO
13 CARRY BACK OR OBTAIN A REFUND OF AN UNUSED TAX CREDIT.

14 (D) SALE OR ASSIGNMENT.--A TAXPAYER, UPON APPLICATION TO AND
15 APPROVAL BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT
16 OF REVENUE, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A TAX
17 CREDIT GRANTED TO THE TAXPAYER UNDER THIS CHAPTER IF THE
18 TAXPAYER DOES NOT HAVE A QUALIFIED TAX LIABILITY AGAINST WHICH
19 THE TAX CREDIT MAY BE APPLIED IN THE CURRENT TAXABLE YEAR. THE
20 DEPARTMENT SHALL ESTABLISH GUIDELINES, IN CONSULTATION WITH THE
21 DEPARTMENT OF REVENUE, FOR THE APPROVAL OF APPLICATIONS UNDER
22 THIS SUBSECTION. BEFORE AN APPLICATION IS APPROVED, THE
23 DEPARTMENT OF REVENUE SHALL MAKE A FINDING THAT THE TAXPAYER AND
24 ITS ASSIGNEE HAVE FILED ALL REQUIRED STATE TAX REPORTS AND
25 RETURNS FOR ALL APPLICABLE TAXABLE YEARS AND PAID ANY BALANCE OF
26 STATE TAX DUE AS DETERMINED AT SETTLEMENT, ASSESSMENT OR
27 DETERMINATION BY THE DEPARTMENT OF REVENUE.

28 (E) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF
29 ALL OR A PORTION OF A TAX CREDIT UNDER SUBSECTION (D) SHALL
30 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE

PURCHASE OR ASSIGNMENT IS MADE, ALTHOUGH THE PURCHASER OR
ASSIGNEE MAY CARRY OVER UNUSED TAX CREDITS TO THE SUCCEEDING
TAXABLE YEAR FOR UP TO TWO YEARS. THE AMOUNT OF THE TAX CREDIT
THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED
TAX LIABILITY MAY NOT EXCEED 75% OF THE QUALIFIED TAX LIABILITY
FOR THE TAXABLE YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY
BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE TAX CREDIT. THE
PURCHASER OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT, AND THE
DEPARTMENT SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE SELLER
OR ASSIGNOR OF THE TAX CREDIT IN COMPLIANCE WITH PROCEDURES
SPECIFIED BY THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT
OF REVENUE.

§ 3807. TIME LIMITATION.

A TAXPAYER SHALL NOT BE ENTITLED TO A TAX CREDIT FOR
QUALIFIED INVESTMENTS INCURRED IN TAXABLE YEARS ENDING AFTER
DECEMBER 31, 2021.

§ 3808. LIMITATION ON TAX CREDITS.

(A) TOTAL AMOUNT.--THE TOTAL AMOUNT OF TAX CREDITS APPROVED
BY THE DEPARTMENT IN ANY CALENDAR YEAR SHALL NOT EXCEED THE
AMOUNT OF KEYSTONE INNOVATION ZONE TAX CREDITS AUTHORIZED BUT
UNISSUED UNDER SECTION 3706 (RELATING TO KEYSTONE INNOVATION
ZONE TAX CREDITS) AS OF DECEMBER 15 OF THE PRIOR CALENDAR YEAR.
ON OR BEFORE DECEMBER 20 OF EACH CALENDAR YEAR THE DEPARTMENT
SHALL POST ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE THE
AMOUNT AVAILABLE FOR THE TAX CREDIT AUTHORIZED UNDER THIS
CHAPTER.

(B) ALLOCATION.--TAX CREDITS SHALL BE ALLOCATED BY THE
DEPARTMENT ON A FIRST-COME-FIRST-SERVED BASIS.

§ 3809. SHAREHOLDER, OWNER OR MEMBER PASS-THROUGH.

(A) SHAREHOLDER ENTITLEMENT.--IF A PENNSYLVANIA S

1 CORPORATION DOES NOT HAVE AN ELIGIBLE TAX LIABILITY AGAINST
2 WHICH THE TAX CREDIT MAY BE APPLIED, A SHAREHOLDER OF THE
3 PENNSYLVANIA S CORPORATION SHALL BE ENTITLED TO A TAX CREDIT
4 EQUAL TO THE TAX CREDIT DETERMINED FOR THE PENNSYLVANIA S
5 CORPORATION FOR THE TAXABLE YEAR MULTIPLIED BY THE PERCENTAGE OF
6 THE PENNSYLVANIA S CORPORATION'S DISTRIBUTIVE INCOME TO WHICH
7 THE SHAREHOLDER IS ENTITLED.

8 (B) PASS-THROUGH ENTITY ENTITLEMENT.--IF A PASS-THROUGH
9 ENTITY OTHER THAN A PENNSYLVANIA S CORPORATION DOES NOT HAVE TAX
10 LIABILITY AGAINST WHICH THE TAX CREDIT MAY BE APPLIED, AN OWNER
11 OR MEMBER OF THE PASS-THROUGH ENTITY SHALL BE ENTITLED TO A TAX
12 CREDIT EQUAL TO THE TAX CREDIT DETERMINED FOR THE PASS-THROUGH
13 ENTITY FOR THE TAXABLE YEAR MULTIPLIED BY THE PERCENTAGE OF THE
14 PASS-THROUGH ENTITIES' DISTRIBUTIVE INCOME TO WHICH THE OWNER OR
15 MEMBER IS ENTITLED.

16 (C) ADDITIONAL CREDIT.--

17 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE TAX
18 CREDIT PROVIDED UNDER SUBSECTIONS (A) OR (B) SHALL BE IN
19 ADDITION TO ANY OTHER TAX CREDIT TO WHICH A SHAREHOLDER,
20 OWNER OR MEMBER OF A PASS-THROUGH ENTITY IS OTHERWISE
21 ENTITLED UNDER THIS CHAPTER.

22 (2) A PASS-THROUGH ENTITY AND A SHAREHOLDER, OWNER OR
23 MEMBER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM A TAX CREDIT
24 UNDER THIS CHAPTER FOR THE SAME QUALIFIED INVESTMENT.

25 § 3810. REPAYMENT.

26 THE DEPARTMENT SHALL REQUIRE THE TAXPAYER TO REPAY ANY TAX
27 CREDIT RECEIVED AND ANY MONETARY VALUE RECEIVED FROM THE SALE OR
28 ASSIGNMENT OF A TAX CREDIT WHERE IT HAS BEEN DETERMINED THAT THE
29 RECIPIENT TAXPAYER DID NOT SATISFY THE REQUIREMENTS OF THE
30 QUALIFIED BUSINESS PLAN SUBMITTED BY THE APPLICANT OR RECEIVED

1 SUCH AS THE RESULT OF FRAUD.

2 § 3811. REPORTS.

3 THE SECRETARY SHALL SUBMIT AN ANNUAL REPORT TO THE CHAIR AND
4 MINORITY CHAIR OF THE STANDING COMMITTEES IN THE SENATE AND THE
5 CHAIR AND MINORITY CHAIR OF THE STANDING COMMITTEES IN THE HOUSE
6 OF REPRESENTATIVES WITH JURISDICTION OVER THE DEPARTMENT AND THE
7 DEPARTMENT OF REVENUE INDICATING THE EFFECTIVENESS OF THE TAX
8 CREDIT PROVIDED UNDER THIS CHAPTER NO LATER THAN MARCH 15
9 FOLLOWING THE FISCAL YEAR IN WHICH THE TAX CREDITS WERE
10 APPROVED. NOTWITHSTANDING ANY LAW PROVIDING FOR THE
11 CONFIDENTIALITY OF TAX RECORDS, THE REPORT SHALL INCLUDE THE
12 NAMES OF ALL TAXPAYERS AWARDED THE TAX CREDITS, ALL TAXPAYERS
13 UTILIZING THE TAX CREDITS, THE AMOUNT OF TAX CREDITS APPROVED
14 AND UTILIZED BY EACH TAXPAYER AND THE NAMES AND LOCATIONS OF THE
15 QUALIFIED BUSINESS VENTURES FOR WHICH THE TAX CREDITS WERE
16 AWARDED. THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR
17 CHANGES IN THE CALCULATION OR ADMINISTRATION OF THE TAX CREDIT.
18 THE REPORT AND THE INFORMATION CONTAINED IN IT SHALL BE
19 CONSIDERED A PUBLIC RECORD UNDER SECTION 102 OF THE ACT OF
20 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.
21 § 3812. TERMINATION.

22 THE DEPARTMENT SHALL NOT APPROVE A TAX CREDIT FOR QUALIFIED
23 INVESTMENTS INCURRED IN TAXABLE YEARS ENDING AFTER DECEMBER 31,
24 2021.

25 § 3813. GUIDELINES.

26 THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
27 REVENUE, SHALL DEVELOP WRITTEN GUIDELINES FOR THE IMPLEMENTATION
28 AND ADMINISTRATION OF THIS CHAPTER. THE GUIDELINES SHALL BE
29 POSTED ON THE DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE:

30 SECTION 2. THE ADDITION OF 12 PA.C.S. CH. 38 SHALL APPLY TO

1 QUALIFIED INVESTMENTS MADE IN TAXABLE YEARS BEGINNING AFTER
2 DECEMBER 31, 2011.

3 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.