

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2241 Session of 2014

INTRODUCED BY KILLION, DAY, KOTIK, GODSHALL, SCHLOSSBERG, WATSON, MICOZZIE, FRANKEL, HARKINS, ELLIS, TAYLOR, BIZZARRO, GOODMAN, HARPER, MOLCHANY, O'BRIEN, M. DALEY, PARKER, DeLUCA, STURLA, HARHART, GAINNEY, READSHAW, TOOHL, GINGRICH, QUINN, BISHOP, SCHREIBER, KIRKLAND, HARHAI, DeLISSIO, THOMAS, LONGIETTI, EVERETT, BAKER, SCAVELLO, BRADFORD, SIMMONS, J. HARRIS, WHITE, COHEN, DEAN, KIM, McGEEHAN, MURT, DAVIS, PETRI AND DIGIROLAMO, MAY 19, 2014

REFERRED TO COMMITTEE ON FINANCE, MAY 19, 2014

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in neighborhood assistance tax credit, further
11 providing for definitions, for tax credit and for grant of
12 tax credit.

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

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

19 Section 1902-A. Definitions.--The following words, terms and
20 phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

"Affordable home." A home available to a household at or below eighty percent of the area median household income whose total cost, including cost of utilities, does not exceed thirty percent of a household's income.

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

(1) increases the number of affordable homes available to low-income households by new construction, rehabilitation or manufacture;

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

(3) provides for sustained affordability; or

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

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

"Agency." The Pennsylvania Housing Finance Agency.

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

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

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

4 "Comprehensive service plan." A strategy developed jointly
5 by a neighborhood organization and a sponsoring business firm or
6 private company for the stabilization and improvement of an
7 impoverished area within an urban neighborhood or rural
8 community.

9 "Comprehensive service project." Any activity conducted
10 jointly by a neighborhood organization and a sponsoring business
11 firm which implements a comprehensive service plan.

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

14 "Department." The Department of Community and Economic
15 Development of the Commonwealth.

16 "Education." Any type of scholastic instruction or
17 scholarship assistance to an individual who resides in an
18 impoverished area that enables that individual to prepare for
19 better life opportunities.

20 "Enterprise zones." Specific locations with identifiable
21 boundaries within impoverished areas which are designated as
22 enterprise zones by the Secretary of Community and Economic
23 Development.

24 "Impoverished area." Any area in this Commonwealth which is
25 certified as such by the Department of Community and Economic
26 Development and the certification is approved by the Governor.
27 Such certification shall be made on the basis of Federal census
28 studies and current indices of social and economic conditions.

29 "Intermediary." A multicounty or Statewide organization that
30 meets all of the following:

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

6 (2) Is approved by the Department of Community and Economic
7 Development.

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

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

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

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

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

24 "Neighborhood organization." Any organization performing
25 community services, offering neighborhood assistance or
26 providing job training, education, legal services or crime
27 prevention in an impoverished area, or providing housing
28 assistance to vulnerable populations, or developing affordable
29 homes holding a ruling from the Internal Revenue Service of the
30 United States Department of the Treasury that the organization

1 is exempt from income taxation under the provisions of the
2 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1
3 et seq.) and approved by the Department of [Community Affairs]
4 Community and Economic Development.

5 "Pass-through entity." A partnership as defined under
6 section 301(n.0) or a Pennsylvania S corporation as defined
7 under section 301(n.1).

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

15 "Qualified investments." Any investments made by a private
16 company which promote community economic development pursuant to
17 a plan which has been developed in cooperation with and approved
18 by a neighborhood organization operating pursuant to a plan for
19 the administration of tax credits approved by the Department of
20 Community and Economic Development.

21 "Secretary." The Secretary of Community and Economic
22 Development of the Commonwealth.

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

29 Section 2. Section 1904-A of the act, amended July 25, 2007
30 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), is amended

1 to read:

2 Section 1904-A. Tax Credit.--(a) [Any business firm which
3 engages or contributes to a neighborhood organization which
4 engages in the activities of providing neighborhood assistance,
5 comprehensive service projects, job training or education for
6 individuals, community services or crime prevention in an
7 impoverished area or private company which makes qualified
8 investment to rehabilitate, expand or improve buildings or land
9 located within portions of impoverished areas which have been
10 designated as enterprise zones shall receive a tax credit as
11 provided in section 1905-A if the secretary annually approves
12 the proposal of such business firm or private company. The
13 proposal shall set forth the program to be conducted, the
14 impoverished area selected, the estimated amount to be invested
15 in the program and the plans for implementing the program.]

16 (1) The following shall be eligible for a tax credit
17 provided under section 1905-A if the secretary approves the
18 proposal of the business firm or private company:

19 (i) A business firm which engages or contributes to any of
20 the following:

21 (A) An intermediary or neighborhood organization, which
22 engages in the activities of providing:

23 (I) neighborhood assistance, a comprehensive service
24 project, job training or education for individuals, community
25 services or crime prevention in an impoverished area; or

26 (II) housing assistance to a vulnerable population.

27 (B) An affordable housing developer for the purposes of an
28 affordable housing development.

29 (ii) A private company which makes a qualified investment to
30 rehabilitate, expand or improve a building or land located

1 within a portion of an impoverished area which has been
2 designated as an enterprise zone.

3 (2) A proposal under paragraph (1) must include the
4 following:

5 (i) The program conducted.

6 (ii) The impoverished area selected, if any.

7 (iii) The estimated amount to be invested in the program.

8 (iv) The plans for implementing for the program.

9 (b) The secretary is hereby authorized to promulgate rules
10 and regulations for the approval or disapproval of such
11 proposals by business firms or private companies. The secretary
12 shall provide a report listing [of] all applications received
13 and their disposition in each fiscal year to the General
14 Assembly by October 1 of the following fiscal year. The
15 secretary's report shall include all taxpayers utilizing the
16 credit [and], the amount of credits approved, sold or assigned,
17 the recipient organization, if any, the name of the project and
18 a brief description of the project. Notwithstanding any law
19 providing for the confidentiality of tax records, the
20 information in the report shall be public information, and all
21 report information shall be posted on the secretary's Internet
22 website.

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

26 (1) multiple projects in various markets throughout this
27 Commonwealth; [and]

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

29 (3) programs to provide housing assistance to vulnerable
30 populations.

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

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

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

14 (d) A taxpayer, upon application to and approval by the
15 [Department of Community and Economic Development] department,
16 may sell or assign, in whole or in part, a neighborhood
17 assistance tax credit granted to the business firm under this
18 article if no claim for allowance of the credit is filed within
19 one year from the date the credit is granted by the Department
20 of Revenue under section 1905-A. The [Department of Community
21 and Economic Development] department and the Department of
22 Revenue shall jointly promulgate guidelines for the approval of
23 applications under this subsection.

24 (e) The purchaser or assignee of a neighborhood assistance
25 tax credit under subsection (d) shall immediately claim the
26 credit in the taxable year in which the purchase or assignment
27 is made. The purchaser or assignee may not carry over, carry
28 back, obtain a refund of or sell or assign the neighborhood
29 assistance tax credit. The purchaser or assignee shall notify
30 the Department of Revenue of the seller or assignor of the

neighborhood assistance tax credit in compliance with procedures specified by the Department of Revenue.

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

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

Section 1905-A. Grant of Tax Credit.--[The] (a) Except as provided under subsections (b) and (c), the Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of this act, or any tax substituted in lieu thereof in an amount which shall not exceed [fifty-five] seventy-five per cent of the total amount contributed during the taxable year by a business firm or twenty-five per cent of qualified investments by a private company in programs approved pursuant to section 1904-A of this act[: Provided, That a)].

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

(c) A tax credit of up to [seventy-five] ninety per cent of

1 the total amount contributed during the taxable year by a
2 business firm in comprehensive service projects with five-year
3 commitments and up to [eighty] one hundred per cent of the total
4 amount contributed during the taxable year by a business firm in
5 comprehensive service projects with six-year or longer
6 commitments shall be granted. Such credit shall not exceed five
7 hundred thousand dollars (\$500,000) annually for contributions
8 or investments to fewer than four projects [or one million two
9 hundred fifty thousand dollars (\$1,250,000) annually for
10 contributions or investments to four or more projects], and two
11 million dollars (\$2,000,000) annually for contributions or
12 investments to four or more projects.

13 (d) No tax credit shall be granted to any bank, bank and
14 trust company, insurance company, trust company, national bank,
15 savings association, mutual savings bank or building and loan
16 association for activities that are a part of its normal course
17 of business.

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

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

24 (g) The total amount of all tax credits allowed pursuant to
25 this act shall not exceed [eighteen] thirty-six million dollars
26 [(\$18,000,000)] (\$36,000,000) in any one fiscal year. Of that
27 amount[, two]:

28 (1) Two million dollars (\$2,000,000) shall be allocated
29 exclusively for pass-through entities. However, if the total
30 amounts allocated to either the group of applicants, exclusive

1 of pass-through entities, or the group of pass-through entity
2 applicants is not approved in any fiscal year, the unused
3 portion shall become available for use by the other group of
4 qualifying taxpayers.

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

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

11 (ii) Affordable housing developers which are neighborhood
12 organizations and affordable housing developers which are
13 business developers shall share equally in the tax credit
14 allocations, except that in any year when insufficient qualified
15 applications are received during the first six (6) months of the
16 year for either neighborhood organization developments or
17 business entity developments, an unallocated tax credit shall be
18 made available to all affordable housing developments for the
19 remainder of the year.

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

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

28 (v) The secretary, in cooperation with the agency, shall
29 promulgate guidelines for the approval or disapproval of
30 applications for tax credits by business firms that contribute

1 to affordable housing developers for the purpose of affordable
2 housing developments. The approval or disapproval of an
3 application for tax credit shall be made by the department.

4 (vi) A contribution which is made to an affordable housing
5 developer for the purpose of an affordable housing development
6 may be invested in or lent to the affordable housing development
7 in a manner which maximizes private investment in the
8 development.

9 (vii) At least five million dollars (\$5,000,000) of the tax
10 credit authorized by this subsection must support an affordable
11 housing development for households at or below fifty per cent of
12 the area median household income, as determined by the most
13 recent American Community Survey for the area.

14 (viii) A tax credit under this section may not exceed one
15 million dollars (\$1,000,000) annually for each contribution to
16 an affordable housing developer for the purpose of an affordable
17 housing development.

18 (3) Three million dollars (\$3,000,000) shall be allocated
19 exclusively for programs to provide housing assistance to
20 vulnerable populations. A tax credit of ninety per cent of the
21 total amount contributed during the taxable year by a business
22 firm may be allowed for contributions under this paragraph.

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