
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **151** Session of
2017

INTRODUCED BY CUTLER, DOWLING, LONGIETTI, WHEELAND, BAKER,
MILLARD, A. HARRIS, MENTZER, D. COSTA, MILNE AND JOZWIAK,
JANUARY 23, 2017

SENATOR SCAVELLO, COMMUNITY, ECONOMIC AND RECREATIONAL
DEVELOPMENT, IN SENATE, AS AMENDED, APRIL 26, 2017

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, in Small Business First, further
3 providing for definitions; in machinery and equipment loans,
4 further providing for definitions and for reporting and
5 inspection; ~~and,~~ in Pennsylvania Industrial Development <--
6 Program, further providing for definitions; ~~PROVIDING FOR~~ <--
7 ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM; AND MAKING A
8 RELATED REPEAL.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 2302 and 2902 of Title 12 of the
12 Pennsylvania Consolidated Statutes are amended by adding
13 definitions to read:

14 § 2302. Definitions.

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

18 "Agent." The term includes the Department of Community and
19 Economic Development.

1 * * *

2 § 2902. Definitions.

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

6 "Agent." The term includes the Department of Community and
7 Economic Development.

8 * * *

9 Section 2. Section 2908(a) of Title 12 is amended to read:

10 § 2908. Reporting and inspection.

11 (a) Inspection.--Each business enterprise which applies for
12 or receives assistance under this chapter[, upon reasonable
13 request of the authority, shall permit duly authorized employees
14 of the department or the authority] shall, upon request, permit
15 authorized employees of the authority or its agent to inspect
16 the plant, books and records of the business enterprise.

17 * * *

18 Section 3. Section 3002 of Title 12 is amended by adding a
19 definition to read:

20 § 3002. Definitions.

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

24 "Agent." The term includes the Department of Community and
25 Economic Development.

26 * * *

27 ~~Section 4. This act shall take effect immediately.~~ <--

28 SECTION 4. CHAPTER 33 OF TITLE 12 IS AMENDED TO READ: <--

29 CHAPTER 33

30 [ECONOMIC ENHANCEMENT

(RESERVED)]

ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM

SEC.

3301. SCOPE OF CHAPTER.

3302. DEFINITIONS.

3303. PROCEDURE.

3304. CLAIM.

3305. CARRYOVER, CARRYBACK AND ASSIGNMENT OF TAX CREDIT.

3306. DETERMINATION OF PENNSYLVANIA REHEARSAL AND TOUR

EXPENSES.

3307. LIMITATIONS.

3308. PENALTY.

3309. PASS-THROUGH ENTITY.

3310. DEPARTMENT GUIDELINES AND REGULATIONS.

3311. REPORT TO GENERAL ASSEMBLY.

§ 3301. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO THE ENTERTAINMENT ECONOMIC
ENHANCEMENT PROGRAM.

§ 3302. 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:

"APPLICANT." A CONCERT TOUR PROMOTION COMPANY, CONCERT TOUR
MANAGEMENT COMPANY OR OTHER CONCERT MANAGEMENT COMPANY SUBJECT
TO TAX UNDER ARTICLE III, IV OR VI OF THE TAX REFORM CODE. THE
TERM DOES NOT INCLUDE CONTRACTORS OR SUBCONTRACTORS OF A CONCERT
TOUR PROMOTION COMPANY, CONCERT TOUR MANAGEMENT OR OTHER CONCERT
MANAGEMENT COMPANY.

"CLASS 1 VENUE." A STADIUM, ARENA, OTHER STRUCTURE OR
PROPERTY OWNED BY A MUNICIPALITY OR AN AUTHORITY FORMED UNDER

1 ARTICLE XXV-A OF THE ACT OF JULY 28, 1953 (P.L.723, NO.230),
2 KNOWN AS THE SECOND CLASS COUNTY CODE, AT WHICH CONCERTS ARE
3 PERFORMED AND WHICH IS ALL OF THE FOLLOWING:

4 (1) LOCATED IN A CITY OF THE FIRST CLASS OR A COUNTY OF
5 THE SECOND CLASS.

6 (2) IS CONSTRUCTED IN A MANNER IN WHICH THE VENUE HAS A
7 SEATING CAPACITY OF AT LEAST 14,000.

8 "CLASS 2 VENUE." A STADIUM, ARENA OR OTHER STRUCTURE AT
9 WHICH CONCERTS ARE PERFORMED AND WHICH IS ALL OF THE FOLLOWING:

10 (1) LOCATED OUTSIDE THE GEOGRAPHIC BOUNDARIES OF A CITY
11 OF THE FIRST CLASS OR A COUNTY OF THE SECOND CLASS.

12 (2) IS CONSTRUCTED IN A MANNER IN WHICH THE VENUE HAS A
13 SEATING CAPACITY OF AT LEAST 6,000.

14 "CLASS 3 VENUE." A STADIUM, ARENA OR OTHER STRUCTURE WHICH
15 IS ANY OF THE FOLLOWING:

16 (1) LOCATED WITHIN A NEIGHBORHOOD IMPROVEMENT ZONE, AS
17 DEFINED IN SECTION 1902-B OF THE TAX REFORM CODE.

18 (2) OWNED BY OR AFFILIATED WITH A STATE-RELATED
19 INSTITUTION AS DEFINED IN 62 PA.C.S. § 103 (RELATING TO
20 DEFINITIONS).

21 (3) OWNED BY THE COMMONWEALTH AND AFFILIATED WITH THE
22 STATE SYSTEM OF HIGHER EDUCATION.

23 "CONCERT." A LIVE PERFORMANCE OF MUSIC IN THE PRESENCE OF
24 INDIVIDUALS WHO VIEW THE PERFORMANCE.

25 "CONCERT TOUR EQUIPMENT." INCLUDES STAGE, SET, SCENERY,
26 DESIGN ELEMENTS, AUTOMATION, RIGGING, TRUSSES, SPOTLIGHTS,
27 LIGHTING, SOUND EQUIPMENT, VIDEO EQUIPMENT, SPECIAL EFFECTS,
28 CASES, COMMUNICATION DEVICES, POWER DISTRIBUTION EQUIPMENT,
29 BACKLINE AND OTHER MISCELLANEOUS EQUIPMENT OR SUPPLIES USED
30 DURING A CONCERT OR REHEARSAL.

1 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
2 DEVELOPMENT OF THE COMMONWEALTH.

3 "MAINTAINED A PLACE OF BUSINESS" OR "MAINTAINING A PLACE OF
4 BUSINESS." ALL OF THE FOLLOWING:

5 (1) HAVING, MAINTAINING OR USING WITHIN THIS
6 COMMONWEALTH AN OFFICE, WAREHOUSE OR OTHER PLACE OF BUSINESS.

7 (2) REGULARLY ENGAGING IN AN ACTIVITY AS A BUSINESS
8 WITHIN THIS COMMONWEALTH IN CONNECTION WITH THE LEASE, SALE
9 OR DELIVERY OF TANGIBLE PERSONAL PROPERTY OR THE PERFORMANCE
10 OF A SERVICE FOR RESIDENTS OF THIS COMMONWEALTH.

11 "MINIMUM REHEARSAL AND TOUR REQUIREMENTS." DURING A TOUR,
12 ALL OF THE FOLLOWING MUST OCCUR:

13 (1) THE PURCHASE OR RENTAL OF CONCERT TOUR EQUIPMENT
14 DELIVERED TO A LOCATION IN THIS COMMONWEALTH, IN AN AMOUNT OF
15 AT LEAST \$3,000,000, FROM COMPANIES LOCATED AND MAINTAINING A
16 PLACE OF BUSINESS IN THIS COMMONWEALTH FOR USE ON THE TOUR.

17 (2) A REHEARSAL AT A QUALIFIED REHEARSAL FACILITY FOR A
18 MINIMUM OF 10 DAYS.

19 (3) AT LEAST ONE CONCERT PERFORMED AT A CLASS 1 VENUE.

20 (4) AT LEAST ONE CONCERT PERFORMED AT A VENUE WHICH IS
21 LOCATED IN A MUNICIPALITY OTHER THAN THE MUNICIPALITY IN
22 WHICH THE CLASS 1 VENUE UNDER PARAGRAPH (3) IS LOCATED.

23 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

24 (1) A PARTNERSHIP AS DEFINED IN SECTION 301(N.0) OF THE
25 TAX REFORM CODE.

26 (2) A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
27 301(N.1) OF THE TAX REFORM CODE.

28 (3) AN UNINCORPORATED ENTITY SUBJECT TO SECTION 307.21
29 OF THE TAX REFORM CODE.

30 "PENNSYLVANIA REHEARSAL AND TOUR EXPENSES." THE SUM OF

1 PENNSYLVANIA REHEARSAL EXPENSES AND TOUR EXPENSES. THE TERM
2 INCLUDES PENNSYLVANIA REHEARSAL EXPENSES AND TOUR EXPENSES PAID
3 PRIOR TO OR DURING A REHEARSAL OR TOUR.

4 "PENNSYLVANIA REHEARSAL EXPENSE." A REHEARSAL EXPENSE WHICH
5 IS INCURRED OR WILL BE INCURRED WITHIN THIS COMMONWEALTH. THE
6 TERM INCLUDES:

7 (1) A PAYMENT WHICH IS MADE OR WILL BE MADE BY A
8 RECIPIENT TO A PERSON UPON WHICH WITHHOLDING WILL BE MADE ON
9 THE PAYMENT BY THE RECIPIENT AS REQUIRED UNDER PART VII OF
10 ARTICLE III OF THE TAX REFORM CODE OR A PAYMENT WHICH IS MADE
11 OR WILL BE MADE TO A PERSON WHO IS REQUIRED TO MAKE ESTIMATED
12 PAYMENTS UNDER PART VIII OF ARTICLE III OF THE TAX REFORM
13 CODE.

14 (2) A PAYMENT WHICH IS MADE OR WILL BE MADE TO A
15 PERSONAL SERVICE CORPORATION REPRESENTING INDIVIDUAL TALENT
16 IF THE TAX IMPOSED BY ARTICLE IV OF THE TAX REFORM CODE WILL
17 BE PAID OR ACCRUED ON THE NET INCOME OF THE CORPORATION FOR
18 THE TAXABLE YEAR.

19 (3) A PAYMENT WHICH IS MADE OR WILL BE MADE TO A PASS-
20 THROUGH ENTITY REPRESENTING INDIVIDUAL TALENT FOR WHICH
21 WITHHOLDING WILL BE MADE BY THE PASS-THROUGH ENTITY ON THE
22 PAYMENT AS REQUIRED UNDER PART VII OR VII-A OF ARTICLE III OF
23 THE TAX REFORM CODE.

24 "QUALIFIED REHEARSAL AND TOUR EXPENSE." ALL PENNSYLVANIA
25 REHEARSAL AND TOUR EXPENSES IF PENNSYLVANIA REHEARSAL EXPENSES
26 COMPRISE OR WILL COMPRISE AT LEAST 60% OF THE TOTAL REHEARSAL
27 EXPENSES. THE TERM SHALL NOT INCLUDE MORE THAN \$2,000,000 IN THE
28 AGGREGATE OF COMPENSATION PAID OR TO BE PAID TO INDIVIDUALS OR
29 PAYMENT MADE OR TO BE MADE TO ENTITIES REPRESENTING AN
30 INDIVIDUAL FOR SERVICES PROVIDED IN THE TOUR.

1 "QUALIFIED REHEARSAL FACILITY." A REHEARSAL FACILITY WHICH
2 MEETS AT LEAST SIX OF THE FOLLOWING CRITERIA:

3 (1) HAS HAD A MINIMUM OF \$8,000,000 INVESTED IN THE
4 REHEARSAL FACILITY IN LAND OR STRUCTURE, OR A COMBINATION OF
5 LAND AND STRUCTURE.

6 (2) HAS A PERMANENT GRID SYSTEM WITH A CAPACITY OF
7 1,000,000 POUNDS.

8 (3) HAS A BUILT-IN POWER SUPPLY SYSTEM AVAILABLE AT A
9 MINIMUM OF 3,200 AMPS WITHOUT THE NEED FOR SUPPLEMENTAL
10 GENERATORS.

11 (4) HAS A HEIGHT FROM FLOOR TO PERMANENT GRID OF A
12 MINIMUM OF 80 FEET.

13 (5) HAS AT LEAST TWO SLIDING OR ROLL-UP ACCESS DOORS
14 WITH A MINIMUM HEIGHT OF 14 FEET.

15 (6) HAS A PERIMETER SECURITY SYSTEM WHICH INCLUDES 24-
16 HOUR, SEVEN-DAYS-A-WEEK SECURITY CAMERAS AND THE USE OF
17 ACCESS CONTROL IDENTIFICATION BADGES.

18 (7) HAS A SERVICE AREA WITH PRODUCTION OFFICES, CATERING
19 AND DRESSING ROOMS WITH A MINIMUM OF 5,000 SQUARE FEET.

20 (8) IS LOCATED WITHIN ONE MILE OF A MINIMUM OF TWO
21 COMPANIES WHICH PROVIDE CONCERT TOUR EQUIPMENT FOR USE ON A
22 TOUR.

23 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
24 UNDER ARTICLE III, IV, VI, VII OR IX OF THE TAX REFORM CODE. THE
25 TERM DOES NOT INCLUDE TAX WITHHELD BY AN EMPLOYER FROM AN
26 EMPLOYEE UNDER ARTICLE III OF THE TAX REFORM CODE.

27 "RECIPIENT." AN APPLICANT THAT HAS BEEN AWARDED A TAX CREDIT
28 UNDER SECTION 3303(E) (RELATING TO PROCEDURE).

29 "REHEARSAL." AN EVENT OR SERIES OF EVENTS WHICH OCCUR IN
30 PREPARATION FOR A TOUR PRIOR TO THE START OF THE TOUR OR DURING

1 A TOUR WHEN ADDITIONAL PREPARATION MAY BE NEEDED.

2 "REHEARSAL EXPENSE." ALL OF THE FOLLOWING WHEN INCURRED OR
3 WILL BE INCURRED DURING A REHEARSAL:

4 (1) COMPENSATION PAID OR TO BE PAID TO AN INDIVIDUAL
5 EMPLOYED IN THE REHEARSAL OF THE PERFORMANCE.

6 (2) PAYMENT TO A PERSONAL SERVICE CORPORATION
7 REPRESENTING INDIVIDUAL TALENT.

8 (3) PAYMENT TO A PASS-THROUGH ENTITY REPRESENTING
9 INDIVIDUAL TALENT.

10 (4) THE COSTS OF CONSTRUCTION, OPERATIONS, EDITING,
11 PHOTOGRAPHY, STAGING, LIGHTING, WARDROBE AND ACCESSORIES.

12 (5) THE COST OF LEASING VEHICLES.

13 (6) THE COST OF TRANSPORTATION OF PEOPLE OR CONCERT TOUR
14 EQUIPMENT TO OR FROM A TRAIN STATION, BUS DEPOT, AIRPORT OR
15 OTHER TRANSPORTATION FACILITY OR DIRECTLY FROM A RESIDENCE OR
16 BUSINESS ENTITY.

17 (7) THE COST OF INSURANCE COVERAGE.

18 (8) THE COST OF FOOD AND LODGING.

19 (9) THE COST OF PURCHASE OR RENTAL OF CONCERT TOUR
20 EQUIPMENT.

21 (10) THE COST OF RENTING A REHEARSAL FACILITY.

22 (11) THE COST OF EMERGENCY OR MEDICAL SUPPORT SERVICES
23 REQUIRED TO CONDUCT A REHEARSAL.

24 "REHEARSAL FACILITY." AS FOLLOWS:

25 (1) A FACILITY PRIMARILY USED FOR REHEARSALS WHICH IS
26 ALL OF THE FOLLOWING:

27 (I) LOCATED WITHIN THIS COMMONWEALTH.

28 (II) HAS A MINIMUM OF 25,000 SQUARE FEET OF COLUMN-
29 FREE, UNOBSTRUCTED FLOOR SPACE.

30 (2) THE TERM DOES NOT INCLUDE A FACILITY AT WHICH

1 CONCERTS ARE CAPABLE OF BEING HELD.

2 "START DATE." THE DATE THE FIRST SET OF CONCERT TOUR
3 EQUIPMENT ARRIVES OR IS EXPECTED TO ARRIVE AT A QUALIFIED
4 REHEARSAL FACILITY.

5 "TAX CREDIT." THE CONCERT REHEARSAL AND TOUR TAX CREDIT AS
6 PROVIDED UNDER THIS CHAPTER.

7 "TAX REFORM CODE." THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
8 KNOWN AS THE TAX REFORM CODE OF 1971.

9 "TOUR." A SERIES OF CONCERTS PERFORMED OR TO BE PERFORMED BY
10 A MUSICAL PERFORMER IN MORE THAN ONE LOCATION. THE TERM INCLUDES
11 AT LEAST ONE REHEARSAL.

12 "TOUR EXPENSE." AS FOLLOWS:

13 (1) COSTS INCURRED OR WHICH WILL BE INCURRED DURING A
14 TOUR FOR VENUES LOCATED IN THIS COMMONWEALTH. THE TERM
15 INCLUDES ALL OF THE FOLLOWING:

16 (I) A PAYMENT WHICH IS MADE OR WILL BE MADE BY A
17 RECIPIENT TO A PERSON UPON WHICH WITHHOLDING WILL BE MADE
18 ON THE PAYMENT BY THE RECIPIENT AS REQUIRED UNDER PART
19 VII OF ARTICLE III OF THE TAX REFORM CODE OR A PAYMENT
20 WHICH IS MADE OR WILL BE MADE TO A PERSON WHO IS REQUIRED
21 TO MAKE ESTIMATED PAYMENTS UNDER PART VIII OF ARTICLE III
22 OF THE TAX REFORM CODE.

23 (II) THE COST OF TRANSPORTATION OF PEOPLE OR CONCERT
24 TOURING EQUIPMENT WHICH IS INCURRED OR WILL BE INCURRED
25 WHILE TRANSPORTING TO OR FROM A TRAIN STATION, BUS DEPOT,
26 AIRPORT OR OTHER TRANSPORTATION FACILITY OR WHILE
27 TRANSPORTING DIRECTLY FROM A RESIDENCE OR BUSINESS ENTITY
28 LOCATED IN THIS COMMONWEALTH, OR WHICH IS INCURRED OR
29 WILL BE INCURRED FOR TRANSPORTATION PROVIDED BY A COMPANY
30 WHICH IS SUBJECT TO THE TAX IMPOSED UNDER ARTICLE III OR

1 IV OF THE TAX REFORM CODE.

2 (III) THE COST OF LEASING VEHICLES UPON WHICH THE
3 TAX IMPOSED BY ARTICLE II OF THE TAX REFORM CODE WILL BE
4 PAID OR ACCRUED.

5 (IV) THE COST OF INSURANCE COVERAGE WHICH IS
6 PURCHASED OR WILL BE PURCHASED THROUGH AN INSURANCE AGENT
7 BASED IN THIS COMMONWEALTH.

8 (V) THE COST OF PURCHASING OR RENTING FACILITIES AND
9 EQUIPMENT FROM OR THROUGH A RESIDENT OF THIS COMMONWEALTH
10 OR AN ENTITY SUBJECT TO TAXATION IN THIS COMMONWEALTH.

11 (VI) THE COST OF FOOD AND LODGING WHICH IS INCURRED
12 OR WILL BE INCURRED FROM A FACILITY LOCATED IN THIS
13 COMMONWEALTH.

14 (VII) EXPENSES WHICH ARE INCURRED OR WILL BE
15 INCURRED IN MARKETING OR ADVERTISING A TOUR AT VENUES
16 LOCATED WITHIN THIS COMMONWEALTH.

17 (VIII) THE COST OF MERCHANDISE WHICH IS PURCHASED OR
18 WILL BE PURCHASED FROM A COMPANY LOCATED WITHIN THIS
19 COMMONWEALTH AND USED ON THE TOUR.

20 (IX) A PAYMENT WHICH IS MADE OR WILL BE MADE TO A
21 PERSONAL SERVICE CORPORATION REPRESENTING INDIVIDUAL
22 TALENT IF THE TAX IMPOSED BY ARTICLE IV OF THE TAX REFORM
23 CODE WILL BE PAID OR ACCRUED ON THE NET INCOME OF THE
24 CORPORATION FOR THE TAXABLE YEAR.

25 (X) A PAYMENT WHICH IS MADE OR WILL BE MADE TO A
26 PASS-THROUGH ENTITY REPRESENTING INDIVIDUAL TALENT FOR
27 WHICH WITHHOLDING WILL BE MADE BY THE PASS-THROUGH ENTITY
28 ON THE PAYMENT AS REQUIRED UNDER PART VII OR VII-A OF
29 ARTICLE III OF THE TAX REFORM CODE.

30 (2) THE TERM DOES NOT INCLUDE DEVELOPMENT COST,

1 INCLUDING THE WRITING OF MUSIC OR LYRICS.

2 "VENUE." A CLASS 1, CLASS 2 OR CLASS 3 VENUE.

3 § 3303. PROCEDURE.

4 (A) APPLICATION.--AN APPLICANT MAY APPLY TO THE DEPARTMENT
5 FOR A TAX CREDIT UNDER THIS SECTION. THE APPLICATION SHALL BE ON
6 THE FORM REQUIRED BY THE DEPARTMENT.

7 (B) REVIEW AND APPROVAL.--

8 (1) THE DEPARTMENT SHALL ESTABLISH APPLICATION PERIODS
9 NOT TO EXCEED 30 DAYS. ALL APPLICATIONS RECEIVED DURING AN
10 APPLICATION PERIOD SHALL BE REVIEWED AND EVALUATED BY THE
11 DEPARTMENT BASED ON THE FOLLOWING CRITERIA:

12 (I) THE ANTICIPATED NUMBER OF REHEARSAL DAYS IN A
13 QUALIFIED REHEARSAL FACILITY.

14 (II) THE ANTICIPATED NUMBER OF CONCERTS AT CLASS 1
15 VENUES.

16 (III) THE ANTICIPATED NUMBER OF CONCERTS AT CLASS 2
17 VENUES.

18 (IV) THE ANTICIPATED NUMBER OF CONCERTS AT CLASS 3
19 VENUES.

20 (V) THE ANTICIPATED AMOUNT OF PENNSYLVANIA REHEARSAL
21 EXPENSES IN COMPARISON TO THE ANTICIPATED AGGREGATE
22 AMOUNT OF REHEARSAL EXPENSES.

23 (VI) THE ANTICIPATED AMOUNT OF THE TOUR EXPENSES.

24 (VII) THE ANTICIPATED AMOUNT OF THE CONCERT TOUR
25 EQUIPMENT EXPENSES WHICH ARE OR WILL BE PURCHASED OR
26 RENTED FROM A COMPANY LOCATED AND MAINTAINING A PLACE OF
27 BUSINESS IN THIS COMMONWEALTH AND WHICH WILL BE USED ON
28 THE TOUR.

29 (VIII) THE ANTICIPATED NUMBER OF DAYS SPENT IN
30 COMMONWEALTH HOTELS.

1 (IX) OTHER CRITERIA THAT THE DEPARTMENT DEEMS
2 APPROPRIATE TO ENSURE MAXIMUM EMPLOYMENT OPPORTUNITIES
3 AND ENTERTAINMENT BENEFITS FOR THE RESIDENTS OF THIS
4 COMMONWEALTH.

5 (2) EXCEPT AS PROVIDED IN SUBSECTION (C) AND UPON
6 DETERMINING THAT THE APPLICANT HAS PAID THE APPLICABLE
7 APPLICATION FEE NOT TO EXCEED \$300, HAS MET OR WILL MEET THE
8 MINIMUM REHEARSAL AND TOUR REQUIREMENTS AND HAS INCURRED OR
9 WILL INCUR QUALIFIED REHEARSAL AND TOUR EXPENSES, THE
10 DEPARTMENT MAY APPROVE THE APPLICANT FOR A TAX CREDIT.
11 APPLICATIONS NOT APPROVED MAY BE REVIEWED AND CONSIDERED IN
12 SUBSEQUENT APPLICATION PERIODS. THE DEPARTMENT MAY APPROVE AN
13 APPLICANT FOR A TAX CREDIT BASED ON ITS EVALUATION OF THE
14 CRITERIA UNDER THIS SUBSECTION.

15 (C) RESTRICTION.--THE DEPARTMENT MAY ONLY CONSIDER
16 REHEARSALS HELD OR TO BE HELD, AND QUALIFIED REHEARSAL AND TOUR
17 EXPENSES INCURRED OR TO BE INCURRED, AFTER JANUARY 1, 2017, IN
18 DETERMINING WHETHER AN APPLICANT HAS MET OR WILL MEET THE
19 MINIMUM REHEARSAL AND TOUR REQUIREMENTS.

20 (D) CONTRACT.--IF THE DEPARTMENT APPROVES THE APPLICANT'S
21 APPLICATION UNDER SUBSECTION (B), THE DEPARTMENT AND THE
22 APPLICANT SHALL ENTER INTO A CONTRACT CONTAINING THE FOLLOWING:

23 (1) AN ITEMIZED LIST OF REHEARSAL EXPENSES INCURRED OR
24 TO BE INCURRED FOR THE TOUR.

25 (2) AN ITEMIZED LIST OF PENNSYLVANIA REHEARSAL EXPENSES
26 INCURRED OR TO BE INCURRED FOR THE TOUR.

27 (3) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
28 COMPLETION OF A TOUR, A COMMITMENT BY THE APPLICANT TO INCUR
29 THE PENNSYLVANIA REHEARSAL EXPENSES AS ITEMIZED.

30 (4) AN ITEMIZED LIST OF THE QUALIFIED REHEARSAL AND TOUR

1 EXPENSES INCURRED OR TO BE INCURRED FOR THE TOUR.

2 (5) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
3 COMPLETION OF A TOUR, A COMMITMENT BY THE APPLICANT TO INCUR
4 THE QUALIFIED REHEARSAL AND TOUR EXPENSES AS ITEMIZED.

5 (6) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
6 COMPLETION OF A TOUR, A COMMITMENT BY THE APPLICANT TO HOLD
7 AT LEAST ONE CONCERT AT A CLASS 1 VENUE.

8 (7) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
9 COMPLETION OF A TOUR, A COMMITMENT BY THE APPLICANT TO HOLD
10 AT LEAST ONE CONCERT AT A VENUE LOCATED IN A MUNICIPALITY
11 OTHER THAN THE MUNICIPALITY IN WHICH THE CLASS 1 VENUE UNDER
12 PARAGRAPH (6) IS LOCATED.

13 (8) THE START DATE OR THE EXPECTED START DATE.

14 (9) ANY OTHER INFORMATION THE DEPARTMENT DEEMS
15 APPROPRIATE.

16 (E) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED BY
17 SUBSECTION (D), THE DEPARTMENT SHALL AWARD THE APPLICANT A
18 CONCERT REHEARSAL AND TOUR TAX CREDIT AND ISSUE THE RECIPIENT A
19 TAX CREDIT CERTIFICATE.

20 § 3304. CLAIM.

21 BEGINNING JULY 1, 2017, A RECIPIENT MAY CLAIM A CONCERT
22 REHEARSAL AND TOUR TAX CREDIT AGAINST THE QUALIFIED TAX
23 LIABILITY OF THE RECIPIENT.

24 § 3305. CARRYOVER, CARRYBACK AND ASSIGNMENT OF TAX CREDIT.

25 (A) GENERAL RULE.--IF A RECIPIENT CANNOT USE THE ENTIRE
26 AMOUNT OF A TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAX
27 CREDIT IS FIRST APPROVED, THE EXCESS MAY BE CARRIED OVER TO
28 SUCCEEDING TAXABLE YEARS AND USED AS A TAX CREDIT AGAINST THE
29 QUALIFIED TAX LIABILITY OF THE RECIPIENT FOR THOSE TAXABLE
30 YEARS. EACH TIME THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING

1 TAXABLE YEAR, THE TAX CREDIT SHALL BE REDUCED BY THE AMOUNT THAT
2 WAS USED AS A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE
3 YEAR. THE TAX CREDIT MAY BE CARRIED OVER AND APPLIED TO
4 SUCCEEDING TAXABLE YEARS FOR NO MORE THAN THREE TAXABLE YEARS
5 FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE RECIPIENT WAS
6 ENTITLED TO CLAIM THE TAX CREDIT.

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

12 (C) NO CARRYBACK OR REFUND.--A RECIPIENT SHALL NOT BE
13 ENTITLED TO CARRY BACK OR OBTAIN A REFUND OF ANY PORTION OF AN
14 UNUSED TAX CREDIT GRANTED TO THE RECIPIENT UNDER THIS CHAPTER.

15 (D) SALE OR ASSIGNMENT.--THE FOLLOWING SHALL APPLY:

16 (1) A RECIPIENT, UPON APPLICATION TO AND APPROVAL BY THE
17 DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A TAX
18 CREDIT GRANTED TO THE RECIPIENT UNDER THIS CHAPTER.

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

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

28 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
29 DEPARTMENT OF REVENUE SHALL SETTLE, ASSESS OR DETERMINE THE
30 TAX OF AN APPLICANT UNDER THIS SUBSECTION WITHIN 30 DAYS OF

1 THE FILING OF ALL REQUIRED FINAL RETURNS OR REPORTS IN
2 ACCORDANCE WITH SECTION 806.1(A) (5) OF THE ACT OF APRIL 9,
3 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

4 (E) PURCHASERS AND ASSIGNEES.--THE FOLLOWING APPLY:

5 (1) THE PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF A
6 TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY CLAIM THE
7 TAX CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
8 ASSIGNMENT IS MADE.

9 (2) THE AMOUNT OF THE TAX CREDIT THAT A PURCHASER OR
10 ASSIGNEE MAY USE AGAINST ONE QUALIFIED TAX LIABILITY MAY NOT
11 EXCEED 50% OF THE QUALIFIED TAX LIABILITY FOR THE TAXABLE
12 YEAR.

13 (3) THE PURCHASER OR ASSIGNEE MAY NOT CARRY FORWARD,
14 CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE TAX
15 CREDIT.

16 (4) THE PURCHASER OR ASSIGNEE SHALL NOTIFY THE
17 DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE TAX
18 CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY THE
19 DEPARTMENT OF REVENUE.

20 § 3306. DETERMINATION OF PENNSYLVANIA REHEARSAL AND TOUR
21 EXPENSES.

22 WHEN PRESCRIBING STANDARDS FOR DETERMINING WHICH REHEARSAL OR
23 TOUR EXPENSES ARE CONSIDERED PENNSYLVANIA REHEARSAL AND TOUR
24 EXPENSES FOR PURPOSES OF COMPUTING THE TAX CREDIT PROVIDED BY
25 THIS CHAPTER, THE DEPARTMENT SHALL CONSIDER:

26 (1) THE LOCATION WHERE SERVICES ARE PERFORMED.

27 (2) THE LOCATION WHERE CONCERT TOUR EQUIPMENT IS
28 PURCHASED, RENTED, DELIVERED AND USED.

29 (3) THE LOCATION WHERE REHEARSALS OR CONCERTS ARE HELD.

30 (4) OTHER FACTORS THE DEPARTMENT DETERMINES ARE

1 RELEVANT.

2 § 3307. LIMITATIONS.

3 (A) CAP.--EXCEPT AS PROVIDED IN THIS SUBSECTION, THE
4 DEPARTMENT MAY NOT AWARD TAX CREDITS FOR QUALIFIED REHEARSAL AND
5 TOUR EXPENSES INCURRED OR TO BE INCURRED RELATED TO MORE THAN
6 FIVE TOURS IN A FISCAL YEAR. IN A FISCAL YEAR, THE DEPARTMENT
7 MAY, IN THE DEPARTMENT'S DISCRETION, ADVANCE THE AWARD OF TAX
8 CREDITS FOR QUALIFIED REHEARSAL AND TOUR EXPENSES INCURRED OR TO
9 BE INCURRED RELATED TO A MAXIMUM OF TWO ADDITIONAL TOURS.

10 (B) ADVANCE AWARD OF CREDITS.--THE ADVANCE AWARD OF TAX
11 CREDITS UNDER SUBSECTION (A) SHALL:

12 (1) COUNT AGAINST THE TOTAL NUMBER OF TOURS THAT THE
13 DEPARTMENT MAY AWARD TAX CREDITS FOR QUALIFIED REHEARSAL AND
14 TOUR EXPENSES INCURRED OR TO BE INCURRED RELATED TO A TOUR IN
15 THAT NEXT SUCCEEDING FISCAL YEAR; AND

16 (2) REDUCE THE NUMBER OF TOURS THAT THE DEPARTMENT MAY
17 AWARD TAX CREDITS FOR QUALIFIED REHEARSAL AND TOUR EXPENSES
18 INCURRED OR TO BE INCURRED RELATED TO A TOUR IN THAT NEXT
19 SUCCEEDING FISCAL YEAR.

20 (C) INDIVIDUAL LIMITATIONS.--THE FOLLOWING SHALL APPLY:

21 (1) AN APPLICANT MAY NOT BE AWARDED MORE THAN \$800,000
22 OF TAX CREDITS FOR A TOUR.

23 (2) EXCEPT AS PROVIDED UNDER PARAGRAPH (5), THE
24 AGGREGATE AMOUNT OF TAX CREDITS AWARDED BY THE DEPARTMENT
25 UNDER SECTION 3303(E) (RELATING TO PROCEDURE) TO AN APPLICANT
26 FOR A TOUR WITH CONCERTS AT TWO CLASS 1 VENUES OR A CLASS 1
27 VENUE AND A CLASS 2 VENUE MAY NOT EXCEED 25% OF THE QUALIFIED
28 REHEARSAL AND TOUR EXPENSES INCURRED OR TO BE INCURRED.

29 (3) EXCEPT AS PROVIDED UNDER PARAGRAPH (5), THE
30 AGGREGATE AMOUNT OF TAX CREDITS AWARDED BY THE DEPARTMENT

1 UNDER SECTION 3303(E) TO AN APPLICANT FOR A TOUR WITH
2 CONCERTS AT A CLASS 1 VENUE AND A CLASS 3 VENUE MAY NOT
3 EXCEED 30% OF THE QUALIFIED REHEARSAL AND TOUR EXPENSES
4 INCURRED OR TO BE INCURRED.

5 (4) EXCEPT AS PROVIDED UNDER PARAGRAPH (5), THE
6 AGGREGATE AMOUNT OF TAX CREDITS AWARDED BY THE DEPARTMENT
7 UNDER SECTION 3303(E) TO AN APPLICANT FOR A TOUR WITH
8 CONCERTS AT A CLASS 1 VENUE AND A CLASS 3 VENUE WHICH DOES
9 NOT SERVE ALCOHOL MAY NOT EXCEED 35% OF THE QUALIFIED
10 REHEARSAL AND TOUR EXPENSES INCURRED OR TO BE INCURRED.

11 (5) IN ADDITION TO THE TAX CREDITS UNDER PARAGRAPH (2),
12 (3) OR (4), AN APPLICANT IS ELIGIBLE FOR A TAX CREDIT IN THE
13 AMOUNT OF 5% OF THE QUALIFIED REHEARSAL AND TOUR EXPENSES
14 INCURRED OR TO BE INCURRED BY THE APPLICANT IF THE APPLICANT
15 HOLDS CONCERTS AT A TOTAL OF TWO OR MORE CLASS 2 VENUES OR
16 CLASS 3 VENUES.

17 (D) QUALIFIED REHEARSAL FACILITY.--TO BE CONSIDERED A
18 QUALIFIED REHEARSAL FACILITY UNDER THIS CHAPTER, THE OWNER OF A
19 REHEARSAL FACILITY SHALL PROVIDE EVIDENCE TO THE DEPARTMENT TO
20 VERIFY THE DEVELOPMENT OR FACILITY SPECIFICATIONS AND CAPITAL
21 IMPROVEMENT COSTS INCURRED FOR THE REHEARSAL FACILITY SO THAT
22 THE THRESHOLD AMOUNTS SET IN THE DEFINITION OF "QUALIFIED
23 REHEARSAL FACILITY" UNDER SECTION 3302 (RELATING TO DEFINITIONS)
24 ARE SATISFIED, AND, UPON VERIFICATION, THE REHEARSAL FACILITY
25 SHALL BE REGISTERED BY THE DEPARTMENT OFFICIALLY AS A QUALIFIED
26 REHEARSAL FACILITY.

27 (E) WAIVER.--THE DEPARTMENT MAY MAKE A DETERMINATION THAT
28 THE FINANCIAL BENEFIT TO THIS COMMONWEALTH RESULTING FROM THE
29 DIRECT INVESTMENT IN OR PAYMENTS MADE TO PENNSYLVANIA REHEARSAL
30 AND CONCERT FACILITIES OUTWEIGHS THE BENEFIT OF MAINTAINING THE

1 60% PENNSYLVANIA REHEARSAL EXPENSES REQUIREMENT CONTAINED IN THE
2 DEFINITION OF "QUALIFIED REHEARSAL AND TOUR EXPENSE" UNDER
3 SECTION 3302. IF THE DETERMINATION IS MADE, THE DEPARTMENT MAY
4 WAIVE THE REQUIREMENT THAT 60% OF A TOUR'S AGGREGATE REHEARSAL
5 EXPENSES BE COMPRISED OF PENNSYLVANIA REHEARSAL EXPENSES.
6 § 3308. PENALTY.

7 A RECIPIENT WHICH CLAIMS A TAX CREDIT AND FAILS TO INCUR THE
8 AMOUNT OF QUALIFIED REHEARSAL AND TOUR EXPENSES AGREED TO UNDER
9 SECTION 3303(D) (4) (RELATING TO PROCEDURE) FOR A TOUR IN THAT
10 TAXABLE YEAR SHALL REPAY TO THE COMMONWEALTH AN AMOUNT EQUAL TO
11 110% OF THE DIFFERENCE BETWEEN THE AMOUNT AGREED TO UNDER
12 SECTION 3303(D) (4) AND THE AMOUNT OF QUALIFIED REHEARSAL AND
13 TOUR EXPENSES ACTUALLY INCURRED BY THE RECIPIENT. THE PENALTY
14 SHALL BE ASSESSED AND COLLECTED UNDER ARTICLE II OF THE TAX
15 REFORM CODE.

16 § 3309. PASS-THROUGH ENTITY.

17 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
18 TAX CREDITS UNDER SECTION 3305 (RELATING TO CARRYOVER, CARRYBACK
19 AND ASSIGNMENT OF TAX CREDIT), THE PASS-THROUGH ENTITY MAY ELECT
20 IN WRITING, ACCORDING TO PROCEDURES ESTABLISHED BY THE
21 DEPARTMENT OF REVENUE, TO TRANSFER ALL OR A PORTION OF THE TAX
22 CREDITS TO SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO
23 THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH EACH
24 SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED.

25 (B) LIMITATION.--A PASS-THROUGH ENTITY AND A SHAREHOLDER,
26 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY MAY NOT CLAIM THE TAX
27 CREDIT UNDER SUBSECTION (A) FOR THE SAME QUALIFIED REHEARSAL AND
28 TOUR EXPENSE.

29 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
30 PASS-THROUGH ENTITY TO WHOM A TAX CREDIT IS TRANSFERRED UNDER

1 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE TAX CREDIT IN THE
2 TAXABLE YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER,
3 MEMBER OR PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A
4 REFUND OF OR SELL OR ASSIGN THE TAX CREDIT.

5 § 3310. DEPARTMENT GUIDELINES AND REGULATIONS.

6 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE
7 IMPLEMENTATION OF THIS CHAPTER. THE GUIDELINES SHALL BE IN
8 EFFECT UNTIL THE DEPARTMENT PROMULGATES REGULATIONS FOR THE
9 IMPLEMENTATION OF THIS CHAPTER.

10 § 3311. REPORT TO GENERAL ASSEMBLY.

11 NO LATER THAN JUNE 1, 2018, AND SEPTEMBER 1 OF EACH YEAR
12 THEREAFTER, THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT
13 SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY SUMMARIZING THE
14 EFFECTIVENESS OF THE TAX CREDITS PROVIDED BY THIS CHAPTER. THE
15 REPORT SHALL INCLUDE THE NAME OF THE TOURS WHICH REHEARSED IN
16 THIS COMMONWEALTH, THE NAMES OF ALL RECIPIENTS AWARDED A TAX
17 CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT OF TAX
18 CREDITS APPROVED FOR EACH RECIPIENT. THE REPORT MAY ALSO INCLUDE
19 RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR ADMINISTRATION
20 OF THE TAX CREDITS PROVIDED UNDER THIS CHAPTER. THE REPORT SHALL
21 BE SUBMITTED TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
22 APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIRPERSON AND
23 MINORITY CHAIRPERSON OF THE FINANCE COMMITTEE OF THE SENATE, THE
24 CHAIRPERSON AND MINORITY CHAIRPERSON OF THE APPROPRIATIONS
25 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSON
26 AND MINORITY CHAIRPERSON OF THE FINANCE COMMITTEE OF THE HOUSE
27 OF REPRESENTATIVES. THE REPORT SHALL INCLUDE THE FOLLOWING
28 INFORMATION, WHICH SHALL BE SEPARATED BY GEOGRAPHIC LOCATION
29 WITHIN THIS COMMONWEALTH:

30 (1) THE AMOUNT OF TAX CREDITS CLAIMED DURING THE FISCAL

1 YEAR BY TOUR.

2 (2) THE TOTAL AMOUNT SPENT IN THIS COMMONWEALTH DURING
3 THE FISCAL YEAR BY TOURS AND CONCERT TOUR PROMOTION COMPANIES
4 FOR SERVICES AND SUPPLIES.

5 (3) THE TOTAL AMOUNT OF TAX REVENUES, BOTH DIRECTLY AND
6 INDIRECTLY, GENERATED FOR THE COMMONWEALTH DURING THE FISCAL
7 YEAR BY THE CONCERT REHEARSAL AND TOUR INDUSTRY.

8 SECTION 5. REPEALS ARE AS FOLLOWS:

9 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
10 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OF
11 CHAPTER 33 OF TITLE 12.

12 (2) SUBCHAPTER C OF ARTICLE XVII-D OF THE ACT OF MARCH
13 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971,
14 IS REPEALED.

15 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.