

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1303 Session of 2021

INTRODUCED BY ORTITAY, GROVE, RYAN, KEEFER, ROZZI AND THOMAS,
APRIL 29, 2021

REFERRED TO COMMITTEE ON FINANCE, APRIL 29, 2021

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 tax credit eligibility, further providing for
11 definitions and for eligibility and providing for application
12 and administration, for assessment, for administering agency
13 training, for broker registration, for tax credit and tax
14 benefit reports, for allocation of tax credits awarded upon
15 appeal and for guidelines; in research and development tax
16 credit, further providing for credit for research and
17 development expenses, for carryover, carryback, refund and
18 assignment of credit and for report to General Assembly; in
19 keystone innovation zones, further providing for keystone
20 innovation zone tax credits and for annual report; in
21 procedure and administration, further providing for petition
22 for reassessment, for petition procedure and for review by
23 board; and making editorial changes.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. The heading of Article XVII-A.1 of the act of
27 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971, is amended to read:

ARTICLE XVII-A.1

TAX CREDIT [ELIGIBILITY] AND TAX BENEFIT ADMINISTRATION

Section 2. The definition of "tax credit" in section 1701-A.1 of the act is amended and the section is amended by adding definitions to read:

Section 1701-A.1. Definitions.

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

"Administering agency." A department, board or commission that administers a tax benefit or tax credit as required by a law of this Commonwealth. The term includes a Keystone innovation zone coordinator under Article XIX-F.

"Applicant." A person applying to an administering agency for a tax credit or a tax benefit.

"Application." An application submitted to an administering agency by an applicant for a tax credit or tax benefit. The term includes a transfer application and supplemental documentation required to be provided by an applicant, including reports, returns and statements.

"Broker." A person registered to engage in the business of effectuating transactions in tax credits for the account of others, including assisting a taxpayer to apply for, sell, transfer, assign or purchase a tax credit. The term includes an entity and any partner, officer, director or affiliate of the entity or a person occupying a similar status or performing similar functions for the entity.

* * *

"Person." Any individual, employer, association, fiduciary, partnership, corporation, entity, estate or trust, whether a

1 resident or nonresident of this Commonwealth.

2 "Program year." The annual period in which the tax credit or
3 tax benefit operates.

4 "Recipient." A person which is sold, assigned or transferred
5 a transferrable tax credit.

6 "Tax benefit." For purposes of this article, a tax benefit
7 authorized under any of the following:

8 (1) Article XVII-A.

9 (2) Article XVIII-C.

10 (3) Article XIX-B.

11 (4) Article XIX-D.

12 (5) Article XXIX-C.

13 (6) Article XXIX-D.

14 (7) The act of October 6, 1998 (P.L.705, No.92), known
15 as the Keystone Opportunity Zone, Keystone Opportunity
16 Expansion Zone and Keystone Opportunity Improvement Zone Act.

17 "Tax credit." A tax credit authorized under any of the
18 following:

19 (1) Article XVII-B.

20 (2) Article XVII-D.

21 (3) Article XVII-E.

22 (4) Article XVII-G.

23 (5) Article XVII-H.

24 (6) Article XVII-I.

25 (7) Article XVII-J.

26 (8) Article XVII-K.

27 (8.1) Article XVII-L.

28 (9) Article XVIII.

29 (10) Article XVIII-B.

30 (11) Article XVIII-D.

1 (12) Article XVIII-E.

2 (13) Article XVIII-F.

3 (14) Article XVIII-G.

4 (14.1) Article XVIII-H.

5 (15) Article XIX-A.

6 (15.1) Article XIX-C.

7 (16) Article XIX-E.

8 (16.1) Article XIX-F.

9 (17) Section 2010.

10 (18) Article XXIX-D.

11 (19) Article XX-B of the act of March 10, 1949 (P.L.30,
12 No.14), known as the Public School Code of 1949.

13 (20) The act of December 1, 2004 (P.L.1750, No.226),
14 known as the First Class Cities Economic Development District
15 Act.

16 (21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and
17 Facilities Improvement Program).

18 (22) Any other program established by a law of this
19 Commonwealth in which a person applies for and receives a
20 credit against a tax. This paragraph shall not apply to a
21 credit against a tax liability as a result of an overpayment.

22 "Taxpayer." A person which was approved for a tax credit or
23 tax benefit or which otherwise received a tax credit.

24 "Transfer application." An application submitted to the
25 department or the administering agency by an applicant or a
26 recipient as part of the sale, assignment or transfer of a
27 transferrable tax credit to a recipient.

28 "Transferrable tax credit." A tax credit which may be sold,
29 assigned or transferred from an applicant to a different
30 taxpayer. The term includes a tax credit which may be

1 transferred to a shareholder, member or partner of an applicant.

2 Section 3. Section 1702-A.1 of the act is amended to read:

3 Section 1702-A.1. [Eligibility.] Determination of eligibility
4 and method of submission.

5 (a) Tax reports and returns.--Except as otherwise provided
6 by law, before a tax credit [can] or tax benefit may be awarded,
7 the department [may] or administering agency, as applicable,
8 shall make a finding that [the taxpayer] an applicant or a
9 recipient has filed all required State tax reports and returns
10 for all applicable taxable years and paid any balance of State
11 tax due as determined at settlement or assessment by the
12 department, unless the tax due is [currently] under appeal at
13 the time the finding was made by the department or administering
14 agency.

15 (b) [(Reserved).] Electronic applications.--The department
16 or administering agency, as applicable, may require an
17 application for a tax benefit or tax credit to be filed
18 electronically.

19 Section 4. The act is amended by adding sections to read:
20 Section 1703-A.1. Application and administration.

21 (a) Insufficient application.--If an administering agency
22 finds that an application is insufficient, the department, in
23 consultation with the administering agency, may do all of the
24 following:

25 (1) Require the submission of additional documentation
26 or verification which verifies material in the application.
27 Additional documentation or verification required under this
28 paragraph may include any of the following:

29 (i) A copy of the photo identification of the
30 applicant's or recipient's chief executive officer and

1 authorized representative responsible for submitting the
2 application. A copy of photo identification under this
3 subparagraph shall include the individual's name and
4 address.

5 (ii) Bank account statements relating to the
6 business.

7 (iii) Business records, including receipts and
8 expenditures.

9 (iv) Business origination documents, including
10 articles of incorporation, partnership or reference to
11 documents under this subparagraph in records of the
12 Department of State or similar entity in another
13 jurisdiction.

14 (v) Any other information required by the department
15 or administering agency to validate the application.

16 (2) For an applicant which is not an individual, require
17 that the applicant or recipient meet for a virtual or in-
18 person interview with representatives or agents of the
19 department or the administering agency to verify the
20 application.

21 (3) For an applicant which is not an individual, require
22 the applicant or recipient to agree to submit to scheduled or
23 unscheduled site inspections by the department, the
24 administering agency or representatives or agents of the
25 department or administering agency. If the site is located in
26 an area where unscheduled site visits are not feasible, the
27 department or administering agency shall provide sufficient
28 notice prior to the visit.

29 (b) Risk criteria.--The department, in consultation with an
30 administering agency, may develop risk scoring criteria to

1 determine when an applicant or recipient may be required to do
2 any of the following:

3 (1) As a condition of approval of the application, to
4 hire an independent auditor to prepare audited financial
5 statements. The independent auditor under this paragraph
6 shall be a certified public accountant.

7 (2) Provide information which shall be included in the
8 audited financial statements under paragraph (1).

9 (3) Require the audited financial statements under
10 paragraph (1) to be submitted to the department.

11 (c) Reports.--An applicant which is approved for a tax
12 credit or tax benefit shall file an annual report with the
13 department or administering agency detailing all of the
14 following:

15 (1) For a transferrable tax credit, all of the
16 following:

17 (i) Whether the applicant used, sold, assigned or
18 transferred a portion or all of the tax credit in the
19 prior program year.

20 (ii) Whether the tax credit was sold, assigned or
21 transferred for consideration in the prior program year
22 and the name of the recipient.

23 (iii) If the tax credit was sold, assigned or
24 transferred for consideration, the amount of the
25 consideration.

26 (iv) If the tax credit was sold, assigned or
27 transferred for consideration, whether the sale,
28 assignment or transfer was conducted with the assistance
29 of a broker and the name and registration number of the
30 broker.

1 (2) If applicable, an itemization of expenses, income
2 and jobs generated as a result of the receipt of the tax
3 credit or tax benefit.

4 (3) Any other information that the department or
5 administering agency deems necessary.

6 (d) Submission of data.--The department or administering
7 agency shall provide the information submitted under subsection
8 (c)(2) to the Independent Fiscal Office for use in preparing a
9 tax credit report under section 5 of the act of October 30, 2017
10 (P.L.797, No.48), known as the Performance-Based Budgeting and
11 Tax Credit Efficiency Act.

12 Section 1704-A.1. Assessment.

13 (a) Authorization.--The department may issue an assessment
14 against a taxpayer if the department determines that a tax
15 credit or tax benefit was improperly issued or the benefits of
16 the tax credit or tax benefit were improperly conferred.

17 (b) Liability for assessment.--If a tax credit is sold,
18 transferred or assigned to a bona fide purchaser for
19 consideration, the department may only issue an assessment under
20 subsection (a) against the person selling the tax credit and the
21 broker which signed the certification required by section 1706-
22 A.1(g). A seller and broker under this subsection shall be
23 jointly and severally liable for the amount due.

24 (c) Procedures.--The procedures, collection, enforcement and
25 appeals of an assessment made under subsection (a) shall be
26 subject to Part X of Article III, except that the limitations on
27 assessment and collection under section 348 shall not apply.

28 (d) Limitations.--

29 (1) Except as provided under paragraph (2), the
30 department must issue an assessment under subsection (a)

1 within three years of the date the tax credit is awarded or
2 within three years of the date the tax credit is sold,
3 transferred or assigned, whichever is later.

4 (2) If a taxpayer obtains a tax credit by fraud, the
5 department may issue an assessment under subsection (a) at
6 any time.

7 Section 1705-A.1. Administering agency training.

8 (a) Training.--An administering agency shall provide agency
9 employees and representatives and agents of the administering
10 agency who assist applicants with applications with training on
11 all of the following:

12 (1) The requirements for a tax credit or tax benefit.

13 (2) Advising an applicant that has been issued a tax
14 credit or tax benefit of the duty of the business to file
15 reports concerning use of the tax credit or tax benefit as
16 required by the laws of this Commonwealth.

17 (3) Conducting onsite visits to verify compliance with
18 the requirements relating to application for and issuance of
19 a tax credit or tax benefit.

20 (4) Conducting scheduled and unscheduled visits to the
21 site of a taxpayer to ensure compliance with the requirements
22 of the tax credit or tax benefit.

23 (b) (Reserved).

24 Section 1706-A.1. Broker registration.

25 (a) Registration required.--A broker shall be registered
26 with the department under this section. An agent or other party
27 representing a broker or assisting a broker on behalf of an
28 applicant executing an application for, purchase of or sale of a
29 tax credit or tax benefit shall register under this section.

30 (b) Guidelines.--The department, in consultation with the

1 Department of Community and Economic Development, shall
2 establish guidelines providing for the application and
3 registration of a broker under this section. The guidelines
4 shall require all of the following:

5 (1) The name and address of the broker showing that the
6 broker resides in this Commonwealth.

7 (2) The name and address of the business with which the
8 broker is employed or otherwise associated that is located in
9 this Commonwealth.

10 (3) That the broker be at least 18 years of age.

11 (4) The minimum educational requirements, qualifications
12 and experience necessary for the issuance of a registration
13 under this section.

14 (5) A criminal background check prepared by the
15 Pennsylvania State Police that demonstrates the broker has
16 not been convicted of a felony offense or an offense that
17 involved fraud or misrepresentation in this Commonwealth or
18 any other jurisdiction.

19 (6) A list of each professional license that has been
20 issued to the broker and whether the broker is in good
21 standing with the licensing authority.

22 (7) Verification that the application is submitted in
23 accordance with 18 Pa.C.S. §§ 4903 (relating to false
24 swearing) and 4904 (relating to unsworn falsification to
25 authorities).

26 (8) Payment of any required application, licensing and
27 registration fees.

28 (9) Tax clearance showing satisfaction of all State and
29 local taxes.

30 (c) Applications.--A broker shall obtain an initial or

1 renewed registration by filing an application with the
2 department, providing information and documentation and paying
3 all fees as required by the department.

4 (d) Duration of registration.--A registration under this
5 section shall be valid for a period of two years from the date
6 of issuance.

7 (e) Registration number.--A registration under this section
8 shall include a unique registration number for the registrant. A
9 registration under this section may be suspended or revoked by
10 the department for good cause.

11 (f) Appeals.--A broker who is denied a registration under
12 this section, or whose registration is suspended or revoked, may
13 appeal the department's determination in the same manner as
14 provided by Article XXVII.

15 (g) Attachment of certification.--A broker executing the
16 sale of a tax credit or tax benefit or assisting an applicant or
17 a taxpayer to apply for or purchase a tax credit or tax benefit
18 shall attach a certification to the application that the
19 statements and representations made in the application are true
20 and correct and subject to the penalties as set forth in 18
21 Pa.C.S. § 4903 or 4904. The broker shall include the broker's
22 unique registration number issued by the department in the
23 certification under this subsection.

24 (h) Fees.--The department may require the payment of an
25 application fee to review and process a registration under this
26 section.

27 (i) Penalties.--A person who violates the requirements
28 specified under this section shall pay a civil fine of \$25,000
29 for the first offense and \$50,000 for each additional offense to
30 the department.

1 (j) Bond required.--A broker registered under this section
2 shall post a bond of \$50,000 with the department.

3 Section 1707-A.1. Tax credit and tax benefit reports.

4 (a) Reports.--Beginning with the first program year which
5 begins after the effective date of this section and each program
6 year thereafter, the administering agency shall publish a report
7 for each tax credit or tax benefit, which shall include the
8 following information:

9 (1) The name of each applicant which received a tax
10 credit or tax benefit in the prior program year. For a tax
11 credit, the amount of tax credit awarded to each applicant.

12 (2) For a tax credit, whether an applicant under
13 paragraph (1) sold, assigned or transferred a tax credit in
14 the prior program year.

15 (3) If applicable, a summary of the data submitted under
16 section 1703-A.1(c) (2).

17 (4) If available, all of the following:

18 (i) The name of the recipient to which the tax
19 credit under paragraph (2) was sold, assigned or
20 transferred in the prior program year. The name of an
21 individual receiving a tax credit without consideration
22 from a pass-through entity in which the individual is a
23 shareholder, member or partner shall not be published.

24 (ii) The amount of tax credit under paragraph (2)
25 that was sold, assigned or transferred in the prior
26 program year.

27 (iii) The price for which a tax credit under
28 paragraph (2) was sold, assigned or transferred.

29 (b) Publication.--

30 (1) Except as provided under paragraph (2), an

1 administering agency shall publish a report under subsection
2 (a) on the administering agency's publicly available Internet
3 website no later than 45 days after the end of a program
4 year.

5 (2) If an administering agency is required by a law of
6 this Commonwealth to prepare an annual report on the tax
7 credit or tax benefit, the information under subsection (a)
8 shall be included in the annual report required by the law of
9 this Commonwealth.

10 Section 1708-A.1. Allocation of tax credits awarded upon
11 appeal.

12 (a) Appeal.--If an administering agency denies an
13 applicant's application for a tax credit or tax benefit program,
14 the applicant may appeal the administering agency's
15 determination in the same manner as provided by Article XXVII.

16 (b) Awarding of tax credit or tax benefit upon appeal.--The
17 following shall apply to an allocation of tax credits awarded
18 upon the final resolution of an appeal:

19 (1) If an applicant is awarded a tax credit which is
20 subject to a total annual limitation, upon the final
21 resolution of an appeal after the full allocation of credits
22 available for a fiscal year is completely expended, the
23 administering agency shall include the awarded tax credit
24 within the distribution of tax credits in the next program
25 year after the resolution of the appeal for which an amount
26 for allocation is available.

27 (2) When awarding a tax credit to an applicant under
28 paragraph (1), the administering agency shall apply any
29 reduction in the awarded tax credit amount as was applied in
30 the program year for which the credit was denied if the

1 reduction was applied due to the total credits applied for
2 exceeding the amount of credits allocated for the program
3 year.

4 (3) When awarding a tax credit to an applicant under
5 paragraph (1), the administering agency shall reduce the
6 total amount of credits available for allocation in the next
7 program year by the amount of credits awarded.

8 (4) The awarded tax credits under paragraph (1) shall
9 apply for the program year in which the credit was denied.

10 Section 1709-A.1. Guidelines.

11 The department shall develop written guidelines for the
12 implementation of this article.

13 Section 5. Sections 1703-B(a) and (c), 1704-B(a) and (b),
14 1711, 1906(b) and 1908-F of the act are amended to read:

15 Section 1703-B. Credit for Research and Development
16 Expenses.--(a) A taxpayer who incurs Pennsylvania qualified
17 research and development expense in a taxable year may apply for
18 a research and development tax credit as provided in this
19 article. By [September 15] November 1, a taxpayer must submit an
20 application to the department for Pennsylvania qualified
21 research and development expense incurred in the taxable year
22 that ended in the prior calendar year.

23 * * *

24 (c) By [December 15 of the] May 1 of the second calendar
25 year following the close of the taxable year during which the
26 Pennsylvania qualified research and development expense was
27 incurred, the department shall notify the taxpayer of the amount
28 of the taxpayer's research and development tax credit approved
29 by the department.

30 Section 1704-B. Carryover, Carryback, Refund and Assignment

1 of Credit.--(a) If the taxpayer cannot use the entire amount of
2 the research and development tax credit for the first taxable
3 year in which the taxpayer applied for a research and
4 development tax credit [is first approved], then the excess may
5 be carried over to succeeding taxable years and used as a credit
6 against the qualified tax liability of the taxpayer for those
7 taxable years. Each time that the research and development tax
8 credit is carried over to a succeeding taxable year, it is to be
9 reduced by the amount that was used as a credit during the
10 immediately preceding taxable year. The research and development
11 tax credit provided by this article may be carried over and
12 applied to succeeding taxable years for no more than fifteen
13 taxable years following the first taxable year for which the
14 taxpayer was entitled to claim the credit.

15 (b) A research and development tax credit approved by the
16 department for Pennsylvania qualified research and development
17 expense in a taxable year first shall be applied against the
18 taxpayer's qualified tax liability for the current taxable year
19 as of the date on which the [credit was approved] taxpayer
20 applied for the credit before the research and development tax
21 credit is applied against any tax liability under subsection
22 (a).

23 * * *

24 Section 1711-B. Report to General Assembly.--The secretary
25 shall submit an annual report to the General Assembly indicating
26 the effectiveness of the credit provided by this article no
27 later than [March 15 following the] October 1 following the
28 calendar year in which the credits were approved. The report
29 shall include the names of all taxpayers utilizing the credit as
30 of the date of the report and the amount of credits approved and

1 utilized by each taxpayer. Notwithstanding any law providing for
2 the confidentiality of tax records, the information contained in
3 the report shall be public information. The report may also
4 include any recommendations for changes in the calculation or
5 administration of the credit.

6 Section 1906-F. Keystone innovation zone tax credits.

7 * * *

8 (b) Application for tax credit.--A KIZ company may file an
9 application for a tax credit with the department. An application
10 under this subsection must be filed by [September 15 of each
11 year for the prior taxable year, beginning September 15, 2006]
12 November 1 for the prior tax year. The application must be
13 submitted on a form required by the department and must be
14 accompanied by a certification from the KIZ coordinator that the
15 KIZ company falls within a targeted industry segment identified
16 in the strategic plan adopted by the KIZ partnership, and meet
17 any other requirements specified by the department. The
18 department shall review the application and, upon being
19 satisfied that all requirements have been met, the department
20 shall issue a tax credit certificate to the KIZ company. All
21 certificates shall be awarded by [December 15 of each year] May
22 1 of each year following the calendar year of application.

23 * * *

24 (d) Application of tax credit and election.--A tax credit
25 approved under this section must be first applied against the
26 KIZ company's tax liability under Article III, IV or VI, for the
27 taxable year [during] in which the taxpayer applied for the tax
28 credit [is approved]. If the amount of tax liability owed by the
29 KIZ company is less than the amount of the tax credit, the KIZ
30 company may elect to carry forward the amount of the remaining

1 tax credit for a period not to exceed four additional taxable
2 years and to apply the credit against tax liability incurred
3 during those tax years; or the KIZ company may elect to sell or
4 assign a portion of the tax credit in accordance with the
5 provisions of subsection (f). A KIZ company may not carry back
6 or obtain a refund of an unused keystone innovation zone tax
7 credit.

8 (e) Pennsylvania S corporation shareholder pass-through.--

9 (1) If a Pennsylvania S corporation does not have an
10 eligible tax liability against which the tax credit may be
11 applied, a shareholder of the Pennsylvania S corporation is
12 entitled to a tax credit equal to the product of:

13 (i) the tax credit determined for the Pennsylvania S
14 corporation for the taxable year; and

15 (ii) the percentage of the Pennsylvania S
16 corporation's distributive income to which the
17 shareholder is entitled.

18 (2) The credit provided under paragraph (1) is in
19 addition to any tax credit to which a shareholder of the
20 Pennsylvania S corporation is otherwise entitled. However, a
21 Pennsylvania S corporation and a shareholder of the
22 Pennsylvania S corporation may not claim a tax credit under
23 this section for the same activity.

24 (f) Sale or assignment of tax credit.--

25 (1) Upon application to and approval by the department,
26 a KIZ company which has been awarded a tax credit may sell or
27 assign, in whole or in part, the tax credit granted to the
28 KIZ company. The application must be on the form required by
29 the department and must include or demonstrate all of the
30 following:

- 1 (i) The applicant's name and address.
- 2 (ii) A copy of the tax credit certificate previously
3 issued by the department.
- 4 (iii) A statement as to whether any part of the tax
5 credit has been applied to tax liability of the applicant
6 and the amount so applied.
- 7 (iv) Any other information required by the
8 department.

9 (2) The department shall review the application and,
10 upon being satisfied that all requirements have been met, the
11 department may approve the application and shall notify the
12 Department of Revenue.

13 (g) Use of sold or assigned tax credit.--The purchaser or
14 assignee of all or a portion of a keystone innovation zone tax
15 credit under this section shall claim the credit in the taxable
16 year in which the purchase or assignment is made. The purchaser
17 or assignee of a tax credit may use the tax credit against any
18 tax liability of the purchaser or assignee under Article III,
19 IV, VI, VII, VIII, IX or XV. The amount of the tax credit used
20 may not exceed 75% of the purchaser's or assignee's tax
21 liability for the taxable year. The purchaser or assignee may
22 not carry over, carry back, obtain a refund of or assign the
23 keystone innovation zone tax credit. The purchaser or assignee
24 shall notify the department and the Department of Revenue of the
25 seller or assignor of the keystone innovation zone tax credit in
26 compliance with procedures specified by the department.

27 * * *

28 Section 1908-F. Annual report.

29 The department shall submit an annual report to the Secretary
30 of the Senate and the Chief Clerk of the House of

1 Representatives indicating the effectiveness of the keystone
2 innovation zone tax credit provided by this article by [December
3 31 of each year, beginning December 31, 2007] October 1 of each
4 year following the calendar year of application. Notwithstanding
5 any law providing for the confidentiality of tax records, the
6 report shall include the names of all taxpayers awarded the
7 credits, all taxpayers utilizing the credits, the amount of
8 credits approved and utilized by each taxpayer and the locations
9 of the KIZ companies awarded the credits. The report shall be a
10 public document.

11 Section 6. Section 2702 of the act is amended by adding a
12 subsection to read:

13 Section 2702. Petition for reassessment.

14 * * *

15 (a.2) Petition for review of denial of tax credit or tax
16 benefit.--The following apply:

17 (1) A petition for reassessment under subsection (a) may
18 include a request for review of a denial of an application
19 for a tax credit or tax benefit made by an administering
20 agency.

21 (2) The administering agency shall have the right to be
22 represented in all proceedings before the department. An
23 applicant filing a petition under paragraph (1) shall provide
24 a copy of the petition to the administering agency within 30
25 days of the applicant filing the petition with the
26 department.

27 (3) The department's review of a petition filed under
28 paragraph (1) shall be limited to the administering agency's
29 denial of a tax credit or tax benefit and shall not include a
30 review of any underlying tax determinations.

1 (4) For the purposes of this subsection, the terms
2 administering agency, applicant, tax benefit and tax credit
3 shall have the same meaning as in section 1701-A.1.

4 * * *

5 Section 7. Section 2703(a) is amended by adding paragraphs
6 and the section is amended by adding a subsection to read:
7 Section 2703. Petition procedure.

8 (a) Content of petition.--

9 * * *

10 (2.2) A petition for review of tax adjustment not
11 resulting in an increase in liability shall state:

12 (i) The tax type and tax periods included within the
13 petition.

14 (ii) The amount of the tax that the taxpayer claims
15 to have been erroneously adjusted.

16 (iii) The basis upon which the taxpayer claims that
17 the adjustment is erroneous.

18 (2.3) A petition for review of denial of tax credit or
19 tax benefit shall state:

20 (i) The tax credit or tax benefit program for which
21 the applicant was denied.

22 (ii) The amount of the tax credit or tax benefit
23 that the taxpayer claims to have been erroneously denied.

24 (iii) The basis upon which the taxpayer claims that
25 the denial is erroneous.

26 * * *

27 (b.1) Participation of administering agency.--An
28 administering agency of a tax credit or tax benefit shall be
29 permitted to participate in a hearing before the department.
30 The department shall notify the administering agency of the

1 date, time and place where the hearing will be held. The
2 administering agency shall be provided the opportunity to
3 comment upon any submitted evidence and provide written and oral
4 argument to support its denial.

5 * * *

6 Section 8. Section 2704(d.1) of the act is amended by adding
7 a paragraph to read:

8 Section 2704. Review by board.

9 * * *

10 (d.1) Representation.--

11 * * *

12 (3) An administering agency of a tax credit or tax
13 benefit shall be permitted to participate in all proceedings
14 before the board. The board shall notify the administering
15 agency of the date, time and place where the hearing will be
16 held. The administering agency shall be provided the
17 opportunity to comment upon any submitted evidence and
18 provide written and oral argument to support its denial.

19 * * *

20 Section 9. This act shall take effect as follows:

21 (1) This section shall take effect immediately.

22 (2) The addition of section 1704-A.1 of the act shall
23 take effect in 180 days.

24 (3) The remainder of this act shall take effect in 30
25 days.