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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 161 Session of  
2021

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INTRODUCED BY HUTCHINSON, J. WARD AND PITTMAN, FEBRUARY 4, 2021

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REFERRED TO FINANCE, FEBRUARY 4, 2021

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AN ACT

1 Providing for the establishment of affordable energy development  
2 zones and for powers and duties of the Department of  
3 Community and Economic Development and the Department of  
4 Revenue; authorizing expenditures; and providing for tax  
5 exemptions and tax credits.

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18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 CHAPTER 1

21 PRELIMINARY PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Affordable  
24 Energy Development Zones Act.

25 Section 102. Legislative findings.

26 The General Assembly finds and declares as follows:

27 (1) There exist in this Commonwealth rural areas of  
28 economic distress characterized by high unemployment, low  
29 investment of new capital, inadequate dwelling conditions,  
30 blighted conditions, underutilized, obsolete or abandoned

1 industrial, commercial and residential structures and  
2 deteriorating tax bases.

3 (2) These rural areas require coordinated efforts by  
4 private and public entities to restore prosperity and enable  
5 the rural areas to make significant contributions to economic  
6 and social conditions in this Commonwealth.

7 (3) Long-term economic viability of these rural areas  
8 requires the cooperative involvement of residents,  
9 businesses, State and local elected officials and community  
10 and economic development organizations. It is in the best  
11 interest of the Commonwealth to assist and encourage the  
12 creation of affordable energy development zones and to  
13 provide temporary relief from certain taxes within the zones  
14 to accomplish the purposes of this act.

15 (4) Rural areas with a large supply of natural gas  
16 provide an opportunity to use this energy to build a base of  
17 new businesses and expand existing businesses which would  
18 foster increased employment and investment in these areas.

19 Section 103. Definitions.

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

23 "Affordable energy development zone." A defined geographic  
24 area comprised of one or more political subdivisions or portions  
25 of political subdivisions designated by the department under  
26 Chapter 3.

27 "Business." An association, partnership, corporation, sole  
28 proprietorship, limited liability company or employer with an  
29 NAICS classification of 31, 32 or 33.

30 "Department." The Department of Community and Economic

1 Development of the Commonwealth.

2 "Domicile." The place where a person has a true and fixed  
3 home and principal establishment for an indefinite time and to  
4 which, whenever absent, that person intends to return. Domicile  
5 continues until another place of domicile is established.

6 "Employee." An individual who:

7 (1) is employed in this Commonwealth by an affordable  
8 energy development zone employer, or its predecessor, after  
9 January 1, 2022;

10 (2) is employed for at least 35 hours per week by an  
11 affordable energy development zone employer; and

12 (3) spends at least 90% of the employee's working time  
13 for the affordable energy development zone employer at the  
14 affordable energy development zone location.

15 "Full-time equivalent employee." The whole number of  
16 employees, rounded down, that equals the sum of:

17 (1) the total paid hours, including paid time off and  
18 family leave under the Family and Medical Leave Act of 1993  
19 (Public Law 103-3, 29 U.S.C. § 2601 et seq.), of all of a  
20 affordable energy development zone employer's employees  
21 classified as nonexempt during the affordable energy  
22 development zone employer's tax year divided by 2,000; and

23 (2) a total number arrived at by adding, for each  
24 affordable energy development zone employer's employee  
25 classified as exempt scheduled to work at least 35 hours per  
26 week, the fraction equal to the portion of the year the  
27 exempt employee was paid by the affordable energy development  
28 zone employer. Whether an employee shall be classified as  
29 exempt or nonexempt shall be determined under the Fair Labor  
30 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et

1 seq.).

2 "NAICS." The 2012 North American Industry Classification  
3 System developed by the Federal Office of Management and Budget  
4 and published at 76 Fed. Reg. 159 (Aug. 17, 2011).

5 "Pass-through entity." A partnership as defined in section  
6 301(n.0) of the Tax Reform Code or a Pennsylvania S corporation  
7 as defined in section 301(n.1) of the Tax Reform Code.

8 "Person." A natural person.

9 "Political subdivision." A county, city, borough, township,  
10 town or school district with taxing jurisdiction in a defined  
11 geographic area within this Commonwealth.

12 "Qualified business." A business authorized to do business  
13 in this Commonwealth which is located or partially located  
14 within a affordable energy development zone and is engaged in a  
15 trade, business or profession involving energy or manufacturing,  
16 or a related activity, in accordance with the requirements of  
17 section 302 for the taxable year. An agent, broker or  
18 representative of a business is not engaged in manufacturing.

19 "Resident." A person who is domiciled and resides in an  
20 affordable energy development zone for a period of 184  
21 consecutive days, which may begin on the date of authorization  
22 by the department or on the date the person first resides within  
23 the affordable energy development zone.

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

26 "Unconventional formation." A geological shale formation  
27 existing below the base of the Elk Sandstone or its geologic  
28 equivalent stratigraphic interval where natural gas generally  
29 cannot be produced at economic flow rates or in economic volumes  
30 except by vertical or horizontal well bores stimulated by

1 hydraulic fracture treatments or by using multilateral well  
2 bores or other techniques to expose more of the formation to the  
3 well bore.

4 "Unconventional gas well." A bore hole drilled or being  
5 drilled for the purpose of or to be used for the production of  
6 natural gas from an unconventional formation.

### 7 CHAPTER 3

#### 8 AFFORDABLE ENERGY DEVELOPMENT ZONES

9 Section 301. Affordable energy development zones.

10 (a) Establishment.--A program providing for affordable  
11 energy development zones is established within the department.  
12 An affordable energy development zone shall be comprised of  
13 property located in one or more political subdivisions in which  
14 unconventional gas wells are located.

15 (b) Affordable energy development zone authorization.--

16 (1) The department shall authorize affordable energy  
17 development zones in this Commonwealth.

18 (2) No portion of an authorized affordable energy  
19 development zone shall be used as a licensed facility as  
20 defined in 4 Pa.C.S. § 1103 (relating to definitions) or any  
21 other similar type of facility authorized under the laws of  
22 this Commonwealth.

23 (c) Term of authorization.--Qualified businesses established  
24 within an authorized affordable energy development zone that are  
25 eligible under this act shall be entitled to all tax exemptions  
26 or credits set forth in this act for a period not to exceed 10  
27 years beginning on the date of approval by the department or  
28 January 1, 2022, whichever occurs later.

29 Section 302. Qualified businesses.

30 In order to qualify for tax exemptions or credits under this

1 act, a business must own or lease real property in an affordable  
2 energy development zone on which the business actively conducts  
3 a trade, business or profession involving energy or  
4 manufacturing, or a related activity, that uses natural gas from  
5 an unconventional formation and must meet one of the following  
6 criteria:

7 (1) Hires and employs a minimum of 10 new full-time  
8 equivalent employees within the first three years of full  
9 operation within the affordable energy development zone.

10 (2) Invests \$500,000 in new capital investment in the  
11 property located in the affordable energy development zone  
12 within the first three years of full operation.

13 CHAPTER 5

14 STATE TAXES

15 SUBCHAPTER A

16 GENERAL PROVISIONS

17 Section 501. State taxes.

18 (a) General rule.--A qualified business shall receive the  
19 exemptions or credits as provided in this chapter for the  
20 duration of the affordable energy development zone  
21 authorization. Exemptions or credits shall expire on the date of  
22 expiration of the affordable energy development zone  
23 authorization.

24 (b) Construction.--The Department of Revenue shall  
25 administer, construe and enforce the provisions of this chapter  
26 in conjunction with Articles II, III, IV and VI of the Tax  
27 Reform Code.

28 SUBCHAPTER B

29 PARTICULAR STATE TAXES

30 Section 511. Sales and use tax.

1 (a) Exemption.--Sales at retail of services or tangible  
2 personal property, other than motor vehicles, to a qualified  
3 business for the exclusive use, consumption and utilization of  
4 the tangible personal property or service by the qualified  
5 business at its facility located within an affordable energy  
6 development zone are exempt from the sales and use tax imposed  
7 under Article II of the Tax Reform Code. No qualified business  
8 shall be allowed an exemption for sales conducted prior to  
9 authorization of the affordable energy development zone.

10 (b) Construction contracts.--For any construction contract  
11 performed in an affordable energy development zone, the  
12 exemption provided in subsection (a) shall only apply to the  
13 sale at retail or use of building machinery and equipment to a  
14 qualified business, or to a construction contractor under a  
15 construction contract with a qualified business, for the  
16 exclusive use, consumption and utilization by the qualified  
17 business at its facility in an affordable energy development  
18 zone.

19 Section 512. Personal income tax.

20 (a) General rule.--A person who is a partner, member or  
21 shareholder of a pass-through entity shall be allowed an  
22 exemption for:

23 (1) Net income from the operation of a qualified  
24 business received by a resident or nonresident of an  
25 affordable energy development zone attributable to business  
26 activity conducted within an affordable energy development  
27 zone, except that a business that operates both within and  
28 outside this Commonwealth, before computing its affordable  
29 energy development zone exemption, shall first determine its  
30 Pennsylvania activity over its activity everywhere by



1 applying the three-factor apportionment formula as provided  
2 in Department of Revenue personal income tax regulations  
3 applicable to income apportionment in connection with a  
4 business, trade or profession carried on both within and  
5 outside this Commonwealth.

6 (2) Net gains or income, less net losses, derived by a  
7 resident or nonresident of an affordable energy development  
8 zone from the sale, exchange or other disposition of real or  
9 tangible personal property used by a qualified business and  
10 located in an affordable energy development zone and as  
11 determined in accordance with accepted accounting principles  
12 and practices. The exemption provided in this paragraph shall  
13 not apply to the sale, exchange or other disposition of any  
14 stock of goods, merchandise or inventory or any operational  
15 assets unless the transfer is in connection with the sale,  
16 exchange or other disposition of all of the assets in  
17 complete liquidation of a qualified business located in N  
18 affordable energy development zone. This paragraph shall  
19 apply to intangible personal property employed in a trade,  
20 profession or business in an affordable energy development  
21 zone by a qualified business but only when transferred in  
22 connection with a sale, exchange or other disposition of all  
23 of the assets in complete liquidation of the qualified  
24 business in the affordable energy development zone.

25 (3) In the case of gains, less net losses, in paragraph  
26 (2), the exemption shall be prorated based on the percentage  
27 of time, based on calendar days, the property located in an  
28 affordable energy development zone was held by a resident or  
29 nonresident of the affordable energy development zone during  
30 the time period the affordable energy development zone was in

1 effect in relation to the total time the property was held.

2 (b) Applicability of exemption.--The exemptions provided for  
3 in subsection (a) (1) and (2) shall apply to all of the  
4 following:

5 (1) The income or gain of a partnership or association.  
6 The partner or member shall be entitled to the exemptions  
7 under this section for the partner's or member's share,  
8 whether or not distributed, of the income or gain received by  
9 the partnership or association for its taxable year.

10 (2) The income or gain of a Pennsylvania S corporation.  
11 The shareholder shall be entitled to the exemptions under  
12 this section for the shareholder's pro rata share, whether or  
13 not distributed, of the income or gain received by the  
14 corporation for its taxable year ending within or with the  
15 shareholder's taxable year.

16 (c) Limitation.--A pass-through entity may not apply an  
17 exemption from income under this act for any class of income  
18 against any other classes of income or gain. A pass-through  
19 entity may not carry back or carry forward any exemption under  
20 this act from year to year. The exemption allowed under this  
21 section shall not exceed the tax liability of the taxpayer under  
22 Article III of the Tax Reform Code for the tax year.

23 (d) Section not applicable to certain entities.--Any portion  
24 of net income or gain that is attributable to operation of a  
25 railroad, truck, bus or airline company, pipeline or natural gas  
26 company, water transportation company or entity which would  
27 qualify as a regulated investment company under Article IV of  
28 the Tax Reform Code or would qualify as a holding company under  
29 Article VI of the Tax Reform Code shall not be used to calculate  
30 an exemption under this section.

1 Section 513. Nonresidency considerations.

2 If a nonresident realizes income attributable to business  
3 activity or property within an affordable energy development  
4 zone on or before the end of the tax year, the person may claim  
5 the exemptions from income for the items for that portion of the  
6 tax year that the person was a resident or for that portion of  
7 the tax year during which the area is designated as an  
8 affordable energy development zone.

9 Section 514. Corporate net income tax.

10 (a) Credits.--For the tax years that begin on or after  
11 January 1, 2022, a corporation that is a qualified business may  
12 claim a credit against the tax imposed by Article IV of the Tax  
13 Reform Code for tax liability attributable to business activity  
14 conducted within the affordable energy development zone in the  
15 taxable year. No credit may be claimed for activities conducted  
16 prior to authorization of the affordable energy development  
17 zone. The business activity must be conducted directly by a  
18 corporation in the affordable energy development zone in order  
19 for the corporation to claim the tax credit.

20 (b) Tax liability determinations.--The corporate net income  
21 tax liability attributable to business activity conducted within  
22 an affordable energy development zone shall be determined by  
23 multiplying the corporation's taxable income that is  
24 attributable to business activity conducted within the  
25 affordable energy development zone by the rate of tax imposed  
26 under Article IV of the Tax Reform Code for the taxable year.

27 (c) Determinations of attributable tax liability.--Tax  
28 liability attributable to business activity conducted within an  
29 affordable energy development zone shall be computed, construed,  
30 administered and enforced in conformity with Article IV of the

1 Tax Reform Code and with specific reference to the following:

2 (1) If the entire business of the corporation in this  
3 Commonwealth is transacted wholly within the affordable  
4 energy development zone, the taxable income attributable to  
5 business activity within an affordable energy development  
6 zone shall consist of the Pennsylvania taxable income as  
7 determined under Article IV of the Tax Reform Code.

8 (2) If the entire business of the corporation in this  
9 Commonwealth is not transacted wholly within the affordable  
10 energy development zone, the taxable income of a corporation  
11 in an affordable energy development zone shall be determined  
12 upon the portion of the Pennsylvania taxable income of the  
13 corporation attributable to business activity conducted  
14 within the affordable energy development zone and apportioned  
15 in accordance with subsection (d).

16 (d) Income apportionment.--The taxable income of a  
17 corporation that is a qualified business shall be apportioned to  
18 the affordable energy development zone by multiplying the  
19 Pennsylvania taxable income by a fraction, the numerator of  
20 which is the property factor plus the payroll factor plus the  
21 sales factor and the denominator of which is three, in  
22 accordance with the following:

23 (1) The property factor is a fraction, the numerator of  
24 which is the average value of the corporation's real and  
25 tangible personal property owned or rented and used in the  
26 affordable energy development zone during the tax period and  
27 the denominator of which is the average value of all the  
28 corporation's real and tangible personal property owned or  
29 rented and used in this Commonwealth during the tax period  
30 but shall not include the security interest of any

1 corporation as seller or lessor in personal property sold or  
2 leased under a conditional sale, bailment lease, chattel  
3 mortgage or other contract providing for the retention of a  
4 lien or title as security for the sales price of the  
5 property.

6 (2) The payroll factor is a fraction, the numerator of  
7 which is the total amount paid in the affordable energy  
8 development zone during the tax period by the corporation for  
9 compensation and the denominator of which is the total  
10 compensation paid in this Commonwealth during the tax period.  
11 Compensation is paid in the affordable energy development  
12 zone if:

13 (i) the person's service is performed entirely  
14 within the affordable energy development zone;

15 (ii) the person's service is performed both within  
16 and without the affordable energy development zone, but  
17 the service performed without the affordable energy  
18 development zone is incidental to the person's service  
19 within the affordable energy development zone; or

20 (iii) some of the service is performed in the  
21 affordable energy development zone and the base of  
22 operations or, if there is no base of operations, the  
23 place from which the service is directed or controlled is  
24 in the affordable energy development zone, or the base of  
25 operations or the place from which the service is  
26 directed or controlled is not in any location in which  
27 some part of the service is performed, but the person's  
28 residence is in the affordable energy development zone.

29 (3) The sales factor is a fraction, the numerator of  
30 which is the total sales of the corporation in the affordable

1 energy development zone during the tax period and the  
2 denominator of which is the total sales of the corporation in  
3 this Commonwealth during the tax period. The following apply:

4 (i) Sales of tangible personal property are in the  
5 affordable energy development zone if the property is  
6 delivered or shipped to a purchaser that takes possession  
7 within the affordable energy development zone regardless  
8 of the F.O.B. point or other conditions of the sale.

9 (ii) Sales other than sales of tangible personal  
10 property are in the affordable energy development zone  
11 if:

12 (A) the income-producing activity is performed  
13 within the affordable energy development zone; or

14 (B) the income-producing activity is performed  
15 both within and without the affordable energy  
16 development zone and a greater proportion of the  
17 income-producing activity is performed in the  
18 affordable energy development zone than in any other  
19 location, based on costs of performance.

20 (e) Computation.--A corporation shall compute its  
21 Commonwealth taxable income in conformity with Article IV of the  
22 Tax Reform Code with no adjustments or subtractions for  
23 affordable energy development zone taxable income.

24 (f) Credit not available.--Any portion of the taxpayer's  
25 taxable income that is attributable to the operation of a  
26 railroad, truck, bus or airline company, pipeline or natural gas  
27 company, water transportation company, a corporation that  
28 qualifies as a regulated investment company under Article IV of  
29 the Tax Reform Code or holding company as defined in Article VI  
30 of the Tax Reform Code shall not be used to calculate a credit

1 under this section.

2 (g) Section not applicable to certain businesses or  
3 qualified businesses.--

4 (1) A business that relocates from a location in a  
5 political subdivision in this Commonwealth that is not in an  
6 affordable energy development zone to a location in an  
7 affordable energy development zone may not apply for a credit  
8 for an existing job that is transferred, discontinued or lost  
9 in this Commonwealth which is attributable to the relocation.

10 (2) A business that has relocated under paragraph (1)  
11 and becomes a qualified business may apply for an affordable  
12 energy development zone job creation tax credit for a new  
13 full-time job that is created in the affordable energy  
14 development zone. A new full-time job is created with a  
15 qualified business if the average monthly employment for that  
16 qualified business has increased from the prior 12-month  
17 calendar year in the affordable energy development zone.

18 Section 515. Capital stock and franchise tax.

19 (a) Credits.--For tax years that begin on or after January  
20 1, 2020, a corporation that is a qualified business may claim a  
21 credit against the tax imposed by Article VI of the Tax Reform  
22 Code for tax liability attributable to the capital employed  
23 within the affordable energy development zone in the taxable  
24 year. No credit may be claimed for capital employed prior to  
25 authorization of the real property as part of an affordable  
26 energy development zone. The business activity must be conducted  
27 directly by a corporation in the affordable energy development  
28 zone in order for the corporation to claim the tax credit.

29 (b) Tax liability.--The corporation's tax liability  
30 attributable to capital employed within an affordable energy

1 development zone shall be determined by multiplying the  
2 corporation's taxable value attributable to capital employed  
3 within the affordable energy development zone by the rate of tax  
4 imposed under Article VI of the Tax Reform Code for the taxable  
5 year. The corporation shall compute its Pennsylvania taxable  
6 value in conformity with Article VI of the Tax Reform Code with  
7 no adjustments or subtractions for the capital employed in the  
8 affordable energy development zone.

9 (c) Determination of attributable tax liability.--The  
10 determination of the corporation's taxable value attributable to  
11 the capital employed within an affordable energy development  
12 zone shall be determined with specific reference to the  
13 following:

14 (1) If the entire business of the corporation in this  
15 Commonwealth is transacted wholly within an affordable energy  
16 development zone, the taxable value attributable to the  
17 capital employed within an affordable energy development zone  
18 shall consist of the Pennsylvania taxable value as determined  
19 under Article VI of the Tax Reform Code.

20 (2) If the entire business of the corporation in this  
21 Commonwealth is not wholly transacted within an affordable  
22 energy development zone, the taxable value of a corporation  
23 in an affordable energy development zone shall be determined  
24 upon the portion of the Pennsylvania taxable value  
25 attributable to the capital employed within the affordable  
26 energy development zone by employing the apportionment  
27 factors set forth in section 514(d).

28 (d) Credit not available.--Any portion of the taxpayer's tax  
29 liability that is attributable to the capital employed in the  
30 operation of a railroad, truck, bus or airline company, pipeline



1 or natural gas company, water transportation company, a  
2 corporation that qualifies as a regulated investment company  
3 under Article IV of the Tax Reform Code or holding company as  
4 defined in Article VI of the Tax Reform Code shall not be used  
5 to calculate a credit under this section.

6 (e) Section not applicable to certain businesses or  
7 qualified businesses.--

8 (1) A business that relocates from a location in a  
9 political subdivision in this Commonwealth that is not in an  
10 affordable energy development zone to a location in an  
11 affordable energy development zone may not apply for a credit  
12 for an existing job that is transferred, discontinued or lost  
13 in this Commonwealth which is attributable to the relocation.

14 (2) A business that has relocated under paragraph (1)  
15 and becomes a qualified business may apply for an affordable  
16 energy development zone job creation tax credit for a new  
17 full-time job that is created in the affordable energy  
18 development zone. A new full-time job is created with a  
19 qualified business if the average monthly employment for that  
20 qualified business has increased from the prior 12-month  
21 calendar year in the affordable energy development zone.

22 CHAPTER 7

23 ADMINISTRATION OF TAX PROVISIONS

24 Section 701. Transferability and use of tax exemptions and  
25 credits.

26 (a) Exemptions.--Any exemption provided to any person or  
27 qualified business under Chapter 5 is nontransferable and cannot  
28 be applied, used or assigned to any other person, business or  
29 tax account.

30 (b) Credits.--Prior to sale or assignment of a tax credit

1 under section 702(d), the taxpayer granted the credit under  
2 Chapter 5 must first use the credit against the liability of the  
3 taxpayer for taxes imposed under Article IV or VI of the Tax  
4 Reform Code for the taxable year in which the credit is  
5 approved.

6 Section 702. Carryover, carryback and assignment of credit.

7 (a) General rule.--If the taxpayer cannot use the entire  
8 amount of the tax credit under section 514 or 515 for the  
9 taxable year in which the credit is first approved, then the  
10 excess may be carried over to succeeding taxable years and used  
11 as a credit against the liability of the taxpayer for taxes  
12 imposed under Article IV or VI of the Tax Reform Code for those  
13 taxable years. Each time the tax credit is carried over to a  
14 succeeding taxable year, it shall be reduced by the amount that  
15 was used as a credit during the immediately preceding taxable  
16 year. The tax credit provided by section 514 or 515 may be  
17 carried over and applied to succeeding taxable years for no more  
18 than three taxable years following the first taxable year for  
19 which the taxpayer was entitled to claim the credit.

20 (b) Application.--A tax credit approved by the department in  
21 a taxable year first shall be applied against the taxpayer's tax  
22 liability for the current taxable year as of the date on which  
23 the credit was approved before the credit can be applied against  
24 any tax liability under subsection (a).

25 (c) No carryback or refund.--A taxpayer is not entitled to  
26 carry back or obtain a refund of all or any portion of an unused  
27 tax credit granted to the taxpayer under section 514 or 515.

28 (d) Sale or assignment.--The following shall apply:

29 (1) A taxpayer, upon application to and approval by the  
30 department, may sell or assign, in whole or in part, a tax

1 credit granted to the taxpayer under section 514 or 515.

2 (2) The department and the Department of Revenue shall  
3 jointly promulgate regulations for the approval of  
4 applications under this subsection.

5 (3) Before an application is approved, the Department of  
6 Revenue must make a finding that the applicant has filed all  
7 required State tax reports and returns for all applicable  
8 taxable years and paid any balance of State tax due as  
9 determined at settlement, assessment or determination by the  
10 Department of Revenue.

11 (4) Notwithstanding any other provision of law, the  
12 Department of Revenue shall settle, assess or determine the  
13 tax of an applicant under this subsection within 90 days of  
14 the filing of all required final returns or reports in  
15 accordance with section 806.1(a)(5) of the act of April 9,  
16 1929 (P.L.343, No.176), known as The Fiscal Code.

17 (e) Purchasers and assignees.--The following apply:

18 (1) The purchaser or assignee of all or a portion of a  
19 tax credit under subsection (d) shall immediately claim the  
20 credit in the taxable year in which the purchase or  
21 assignment is made.

22 (2) The amount of the tax credit that a purchaser or  
23 assignee may use against any one liability of the taxpayer  
24 for taxes imposed under Article IV or VI of the Tax Reform  
25 Code may not exceed 50% of the liability of the taxpayer for  
26 taxes imposed under Article IV or VI of the Tax Reform Code  
27 for the taxable year.

28 (3) The purchaser or assignee may not carry forward,  
29 carry back or obtain a refund of or sell or assign the tax  
30 credit.

1           (4) The purchaser or assignee shall notify the  
2 Department of Revenue of the seller or assignor of the tax  
3 credit in compliance with procedures specified by the  
4 Department of Revenue.

5 Section 703. Pass-through entity.

6           (a) General rule.--If a pass-through entity has any unused  
7 tax credit under section 702, it may elect in writing, according  
8 to procedures established by the Department of Revenue, to  
9 transfer all or a portion of the credit to shareholders, members  
10 or partners in proportion to the share of the entity's  
11 distributive income to which the shareholder, member or partner  
12 is entitled.

13           (b) Limitation.--A pass-through entity and a shareholder,  
14 member or partner of a pass-through entity shall not claim the  
15 tax credit under subsection (a) for the same business activity  
16 conducted within the affordable energy development zone in the  
17 taxable year or for the same capital employed within the  
18 affordable energy development zone in the taxable year.

19           (c) Application.--A shareholder, member or partner of a  
20 pass-through entity to whom a tax credit is transferred under  
21 subsection (a) shall immediately claim the credit in the taxable  
22 year in which the transfer is made. The shareholder, member or  
23 partner may not carry forward, carry back, obtain a refund of or  
24 sell or assign the credit.

25 Section 704. Recapture.

26           (a) General rule.--If any qualified business located within  
27 an affordable energy development zone has received an exemption  
28 or credit under this act and subsequently relocates outside the  
29 affordable energy development zone within the first five years  
30 of locating in an affordable energy development zone, that

1 business shall refund to the Commonwealth, which granted the  
2 exemption or credit received, in accordance with the following:

3 (1) If a qualified business relocates within three years  
4 from the date of first locating in an affordable energy  
5 development zone, 66% of all the exemptions or credits  
6 attributed to that qualified business's participation in the  
7 affordable energy development zone shall be refunded to the  
8 Commonwealth.

9 (2) If a qualified business relocates within three to  
10 five years from the date of first locating in an affordable  
11 energy development zone, 33% of all exemptions or credits  
12 attributed to that qualified business's participation in the  
13 affordable energy development zone shall be refunded to the  
14 Commonwealth.

15 (b) Waiver.--The department may waive or modify recapture  
16 requirements under this section if the department determines  
17 that the business relocation was due to circumstances beyond the  
18 control of the business, including:

- 19 (1) natural disaster;  
20 (2) unforeseen industry trends; or  
21 (3) loss of a major supplier or market.

22 Section 705. Delinquent or deficient State or local taxes.

23 (a) Person.--No person may claim or receive an exemption or  
24 credit under this act unless that person is in full compliance  
25 with all State and local tax laws, ordinances and resolutions.

26 (b) Qualified business.--

27 (1) No qualified business may claim or receive an  
28 exemption or credit under this act unless that qualified  
29 business is in full compliance with all State and local tax  
30 laws, ordinances and resolutions.

1           (2) No qualified business may claim or receive an  
2 exemption or credit under this act if any person or business  
3 with a 20% or greater interest in that qualified business is  
4 not in full compliance with all State and local tax laws,  
5 ordinances and resolutions.

6           (c) Later compliance and eligibility.--Any person or  
7 qualified business that is not eligible to claim an exemption or  
8 credit due to noncompliance with any State or local tax law may  
9 become eligible if that person or qualified business  
10 subsequently comes into full compliance with all State and local  
11 tax laws to the satisfaction of the Department of Revenue or the  
12 political subdivision within the calendar year in which the  
13 noncompliance first occurred. If full compliance is not attained  
14 by February 5 of the calendar year following the calendar year  
15 during which noncompliance first occurred, then that person or  
16 qualified business is precluded from claiming any exemption or  
17 credit for that calendar year, whether or not full compliance is  
18 achieved subsequently.

19 Section 706. Appeals.

20           A person or qualified business shall be deemed to be in  
21 compliance with any State or local tax for purposes of this  
22 chapter if that person or qualified business had made a timely  
23 administrative or judicial appeal for that particular tax or has  
24 entered into and is in compliance with a duly authorized  
25 deferred payment plan with the Department of Revenue or  
26 political subdivision for that particular tax.

27 Section 707. Notice requirements and State and local  
28 authorities.

29           (a) Requirement.--After compliance reviews have been  
30 conducted by appropriate Commonwealth and local authorities, the

1 department shall notify each affordable energy development zone  
2 applicant by regular mail each year of the department's approval  
3 or denial of the affordable energy development zone application.  
4 No affordable energy development zone applicant is entitled to  
5 any tax benefits unless it receives approval from the  
6 department.

7 (b) Notice.--The department shall provide a one-time  
8 notification to every current affordable energy development zone  
9 property owner within 15 days of authorization. Failure to  
10 receive departmental notification under this section shall not  
11 extend nor restrict any benefits or rights real property owners  
12 possess under this act.

13 (c) Transmittal.--The department or its designated official  
14 shall, within 15 business days of receipt of an affordable  
15 energy development zone application made under this act, forward  
16 a copy of the application to appropriate Commonwealth and local  
17 authorities for review and processing.

18 Section 708. Application time.

19 An applicant must file an application in a manner prescribed  
20 by the department by December 31 of each calendar year for which  
21 the applicant claims any exemption or credit under this act. No  
22 exemption or credit may be claimed or received for that calendar  
23 year until approval has been granted by the department.

## 24 CHAPTER 9

### 25 ADMINISTRATION OF WELL INFORMATION

26 Section 901. Well information.

27 Within 30 days of the effective date of this section, the  
28 Department of Environmental Protection shall provide the  
29 department with a list of all unconventional gas wells  
30 categorized by location within political subdivisions in this

1 Commonwealth.

2

CHAPTER 21

3

MISCELLANEOUS PROVISIONS

4 Section 2101. Effective date.

5 This act shall take effect in 60 days.