
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1507 Session of
2014

INTRODUCED BY COSTA, FONTANA, FARNESE, SMITH, STACK, HUGHES,
WHITE, BREWSTER AND SOLOBAY, NOVEMBER 5, 2014

REFERRED TO FINANCE, NOVEMBER 5, 2014

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in mixed-use development tax credit, providing
11 for tax credit certificate; imposing duties on Pennsylvania
12 Housing Finance Agency; and providing for claiming the tax
13 credit, for use of tax credit, for pass-through entity and
14 for administration.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
18 the Tax Reform Code of 1971, is amended by adding an article to
19 read:

20 ARTICLE XIX-D

21 MIXED-USE DEVELOPMENT TAX CREDIT

22 Section 1901-D. Scope of article.

23 This article relates to the Mixed-Use Development Tax Credit.

24 Section 1902-D. Legislative purpose.

1 The implementation and utilization of the tax credit
2 established under this article shall be for the purposes of:

3 (1) Increasing affordable housing and commercial
4 corridor development opportunities in areas of this
5 Commonwealth where significant need and impact can be
6 identified.

7 (2) Fostering sustainable partnerships that will be
8 committed to addressing the needs over a significant period
9 of time.

10 (3) Ensuring that resources are used in an effective and
11 efficient manner to meet the needs of communities.

12 (4) Establishing an application, allocation and
13 reporting process that provides transparency to the
14 stakeholders.

15 (5) Providing strategic financing for critical projects
16 that finalize an overall strategy for revitalization of a
17 community.

18 Section 1903-D. Definitions.

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

22 "Agency." The Pennsylvania Housing Finance Agency.

23 "Business firm." A business entity authorized to do business
24 in this Commonwealth and subject to taxes imposed by Article
25 III, IV, VI, VII, VIII, IX or XV. The term includes a pass-
26 through entity.

27 "Completed project." The completion of the restoration of a
28 mixed-use structure in accordance with a qualified
29 rehabilitation plan and the receipt of an occupancy certificate
30 for the structure.

1 "Qualified expenditures." The costs and expenses incurred by
2 a business firm in the restoration of a qualified mixed-use
3 structure under a qualified plan that is consistent with
4 regulations adopted by the Pennsylvania Housing Finance Agency.

5 "Qualified tax liability." Tax liability imposed on a
6 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,
7 excluding a tax withheld by an employer under Article III.

8 "Qualified taxpayer." An individual, business firm
9 corporation, business trust, limited liability company,
10 partnership, limited liability partnership, association or
11 another form of legal business entity that:

12 (1) is subject to a tax imposed under Article III, IV,
13 VI, VII, VIII, IX, XI or XV, excluding a tax withheld by an
14 employer under Article III; and

15 (2) owns a qualified mixed-use structure.

16 "Tax credit." A tax credit granted under this article.

17 Section 1904-D. Tax credit certificate.

18 (a) Application for certificate.--The following shall apply:

19 (1) A qualified taxpayer may apply to the agency for a
20 tax credit certificate under this section.

21 (2) The application must be on the form required by the
22 agency and include a qualified rehabilitation plan.

23 (3) The application must be filed on or before February
24 1 for qualified expenditures incurred and to be incurred in
25 connection with the completed project.

26 (b) Review, recommendation and approval.--The following
27 shall apply:

28 (1) The agency shall:

29 (i) review the proposed mixed-use development plan;

30 (ii) verify that the project is a qualified mixed-

1 use structure or structures;

2 (iii) recommend approval or disapproval to the
3 agency within 30 days of receipt of the application; and

4 (iv) notify the qualified taxpayer within 15 days of
5 its determination under subparagraph (iii).

6 (2) If the agency approves the application and receives
7 notification of a completed project, the agency shall issue
8 the qualified taxpayer a tax credit certificate by April 1. A
9 tax credit certificate issued under this section may not
10 exceed 10% of the qualified expenditures that the agency
11 determines were incurred by the qualified taxpayer in
12 connection with the completed project.

13 (3) In issuing a tax credit certificate under this
14 article, the agency:

15 (i) may not grant more than \$10,000,000 in tax
16 credit certificates in a fiscal year;

17 (ii) may not grant more than \$500,000 in tax credit
18 certificates to a single qualified taxpayer in a fiscal
19 year; and

20 (iii) shall ensure the tax credits granted under
21 this article are awarded in an equitable manner to each
22 region of this Commonwealth.

23 (4) The tax credits granted under this article must be
24 made available on a first-come, first-served basis and within
25 the limitations established under paragraph (3).

26 Section 1905-D. Claiming the tax credit.

27 Upon presenting a tax credit certificate to the Department of
28 Revenue, a qualified taxpayer may claim a tax credit against the
29 qualified tax liability of the qualified taxpayer.

30 Section 1906-D. Use of tax credit.

1 (a) Carryover.--If a qualified taxpayer cannot use the
2 entire amount of the tax credit for the taxable year in which
3 the tax credit is first approved, the excess may be carried over
4 to succeeding taxable years and used as a credit against the
5 qualified tax liability of the qualified taxpayer for the
6 succeeding taxable years. When the tax credit is carried over to
7 a succeeding taxable year, the tax credit shall be reduced by
8 the amount used as a tax credit during the immediately preceding
9 taxable year. The tax credit provided under this article may be
10 carried over and applied to succeeding taxable years for not
11 more than seven taxable years following the first taxable year
12 for which the qualified taxpayer was entitled to claim the tax
13 credit.

14 (b) Application of tax credit.--A tax credit certificate
15 received by the Department of Revenue in a taxable year first
16 shall be applied against the qualified taxpayer's qualified tax
17 liability for the current taxable year as of the date of
18 issuance of the tax credit before the tax credit may be applied
19 against a qualified tax liability under subsection (a).

20 (c) No carryback or refund.--A qualified taxpayer may not
21 carry back or obtain a refund of all or a portion of the unused
22 tax credit granted to the qualified taxpayer under this article.

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

24 (1) Upon application to and approval by the agency, a
25 qualified taxpayer may sell or assign, in whole or in part, a
26 tax credit granted to the qualified taxpayer under this
27 article.

28 (2) Before an application is approved, the agency must
29 find that the applicant filed the required State tax reports
30 and returns for the applicable taxable years and paid the

1 balance of State tax due as determined at settlement,
2 assessment or determination by the agency.

3 (e) Purchasers and assignees.--The purchaser or assignee of
4 all or a portion of a tax credit granted under this article
5 shall claim the tax credit in the taxable year in which the
6 purchase or assignment is made. The purchaser or assignee may
7 not carry forward, carry back or obtain a refund of or sell or
8 assign the tax credit. The purchaser or assignee shall notify
9 the agency of the seller or assignor of the tax credit in
10 compliance with procedures specified by the agency.

11 Section 1907-D. Pass-through entity.

12 (a) Transfer of tax credit.--If a pass-through entity has an
13 unused tax credit, the pass-through entity may elect, in
14 writing, according to procedures established by the agency, to
15 transfer all or a portion of the tax credit to shareholders,
16 members or partners in proportion to the share of the entity's
17 distributive income to which the shareholder, member or partner
18 is entitled.

19 (b) Prohibition.--A pass-through entity and a shareholder,
20 member or partner of a pass-through entity may not claim the tax
21 credit under subsection (a) for the same qualified expenditures.

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

28 Section 1908-D. Administration.

29 The agency shall develop written guidelines for the
30 implementation of the provisions of this article. The guidelines

1 shall be published as a notice in the Pennsylvania Bulletin.

2 Section 2. This act shall take effect in 60 days.