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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2269 Session of  
2018

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INTRODUCED BY FREEMAN, MURT, O'BRIEN, SCHLOSSBERG, LONGIETTI,  
BARBIN, CALTAGIRONE, V. BROWN, SAINATO, MENTZER, THOMAS AND  
ROZZI, APRIL 18, 2018

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REFERRED TO COMMITTEE ON FINANCE, APRIL 18, 2018

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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," providing for tax credits for rehabilitation and  
11 reconstruction of certain factory and mill buildings and for  
12 a business tax credit.

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

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

18 ARTICLE XVII-L

19 FACTORY OR MILL BUILDING

20 ECONOMIC REVITALIZATION

21 Section 1701-L. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Certifiable building." A factory or mill complex or a  
4 building the use of which conforms to the comprehensive plan and  
5 local land use management ordinances of the municipality in  
6 which the factory or mill complex or building is located and  
7 that:

8 (1) was constructed prior to January 1, 1960;

9 (2) has at least one floor, excluding a basement;

10 (3) has been, is or will be used primarily for  
11 manufacturing, processing, wholesale trade and other  
12 commercial purposes;

13 (4) is proposed for substantial rehabilitation;

14 (5) has been at a minimum 75% vacant for a minimum of 24  
15 months at the time of submission by the municipality;

16 (6) is designated by the municipality for consideration  
17 as a certifiable building as provided in this article; and

18 (7) meets any other requirement established by the  
19 department.

20 "Certified building." A building with respect to which the  
21 Department of Community and Economic Development has issued a  
22 written notice of final designation as a certified building in  
23 accordance with section 1703-L.

24 "Certified building owner." An individual, partnership,  
25 corporation, limited liability company or other entity which is  
26 the owner of record of a certified building and may include one  
27 or more successors in title to the owner of the building at the  
28 time the building received written notice of final designation  
29 as a certified building in accordance with section 1703-L. The  
30 term includes the owner of a leasehold interest with a minimum

1 term of 30 years, with respect to which a memorandum of lease  
2 has been recorded in the office of the recorder of deeds of the  
3 county.

4 "Department." The Department of Community and Economic  
5 Development of the Commonwealth.

6 "Eligible business." Any business, corporation, sole  
7 proprietorship, partnership, limited partnership or limited  
8 liability company or other entity that:

9 (1) is located in a certified building after the  
10 building has undergone substantial rehabilitation;

11 (2) is engaged principally in manufacturing, processing,  
12 wholesale trade or other commercial business activities;

13 (3) has total Pennsylvania salaries and wages that  
14 exceed the total Pennsylvania salaries and wages paid to its  
15 employees in the prior calendar year;

16 (4) has received certification from the department in  
17 accordance with rules and regulations of the department; and

18 (5) as part of its annual certification:

19 (i) obtains certificates of good standing from the  
20 Department of Revenue, the Corporation Bureau of the  
21 Department of State and the appropriate municipal  
22 authority;

23 (ii) provides the department an affidavit stating  
24 under oath that the entity seeking certification as a  
25 qualified business has not within the preceding 12 months  
26 from the date of application for certification changed  
27 its legal status or location solely for the purpose of  
28 gaining favorable treatment under this article; and

29 (iii) meets any other requirement as may be set  
30 forth by the department.

1 "Factory or mill complex." One or more factory or mill  
2 buildings, located on the same or contiguous parcels of land,  
3 each of which, at one time, had the same owner or owners.

4 "Municipality." A city, borough, incorporated town or  
5 township.

6 "Qualified employee." A full-time employee of an eligible  
7 business whose business activity originates and terminates from  
8 within the eligible business and certified building on a daily  
9 basis, who is employed by the eligible business at the end of  
10 the calendar year and who is a resident of this Commonwealth.

11 "Qualified tax liability." Tax liability imposed on a  
12 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,  
13 excluding any tax withheld by an employer under Article III.

14 "Rehabilitation and reconstruction costs." As follows:

15 (1) Only those amounts incurred and paid by the  
16 certified building owner, after issuance of the notice of  
17 final designation of the building, solely and exclusively for  
18 the rehabilitation of the certified building and which are  
19 incurred and paid by the certified building owner to acquire  
20 tangible personal property and structural components of the  
21 certified building which:

22 (i) are depreciated under section 167 of the  
23 Internal Revenue Code of 1986 (Public Law 99-514, 26  
24 U.S.C. § 167);

25 (ii) have a useful life of three years or more as  
26 evidenced by the tax depreciation method taken and shown  
27 on the Federal tax return of the certified building  
28 owner; and

29 (iii) are acquired by purchase as defined in section  
30 179(d) of the Internal Revenue Code of 1986 (26 U.S.C. §

1           179(d)).

2           (2) The term does not include amounts incurred or paid  
3 with respect to tangible personal property and structural  
4 components of the certified building which the certified  
5 building owner leases from any other person or corporation.  
6 For purposes of this paragraph, any contract or agreement to  
7 lease or rent or for a license to use the property shall be  
8 considered a lease unless the contract or agreement is  
9 treated for Federal income tax purposes of the certified  
10 building owner as an installment purchase rather than a  
11 lease.

12           "Salaries and wages." Salaries, wages, tips and other  
13 compensation as defined in section 61 of the Internal Revenue  
14 Code of 1986 (Public Law 99-514, 26 U.S.C. § 61).

15           "Substantial rehabilitation." Rehabilitation or  
16 reconstruction costs of a certified building in a dollar amount  
17 that equals or exceeds 20% of the market value of the certified  
18 building prior to rehabilitation or reconstruction, as the prior  
19 market value is determined by a Commonwealth licensed and  
20 certified appraiser who is independent of the certified building  
21 owner or owners and their affiliated corporations and any  
22 tenants of the certified building and their affiliated  
23 corporations.

24 Section 1702-L. Building certification process.

25           (a) Initial consideration.--A municipality shall submit to  
26 the department a list of industrial factory or mill structures  
27 located within the municipality for consideration by the  
28 department as to whether any of these structures qualify as  
29 certifiable buildings. The department shall notify the  
30 municipality as to which structures qualify as certifiable

1 buildings.

2 (b) Designation.--Eighteen months following the effective  
3 date of this section, any building designated by the department  
4 as a certifiable building may be submitted by the municipality  
5 to the department for preliminary designation as a certified  
6 building if the municipality has given notice to the department:

7 (1) that within six months of the designation, the  
8 municipality agrees to adopt an ordinance to:

9 (i) expedite the building permit review and approval  
10 process required in the municipality for the  
11 rehabilitation of certified buildings;

12 (ii) waive all building permit fees of the  
13 municipality for the rehabilitation of certified  
14 buildings;

15 (iii) provide design standards in the municipality  
16 which encourage historic preservation of certified  
17 buildings and that conform to rehabilitation design  
18 standards developed and recommended by the Pennsylvania  
19 Historical and Museum Commission and the United States  
20 Secretary of the Interior's Standards for the Treatment  
21 of Historic Properties; and

22 (iv) require the review and approval by the  
23 Pennsylvania Historical and Museum Commission be obtained  
24 for the rehabilitation of any certified building in the  
25 municipality;

26 (2) that within six months of the designation, the  
27 municipality agrees to establish a program for eligible  
28 businesses which coordinates the economic development  
29 activities of State and local business assistance programs  
30 and agencies; and

1 (3) that the building has been determined eligible for  
2 listing on the National Register of Historic Places or is  
3 already listed on the National Register of Historic Places.

4 (c) Treatment as separate building.--A portion of a building  
5 may be treated as a separate building for purposes of this  
6 article if:

7 (1) it consists of a clearly identifiable part of a  
8 certifiable building, including, without limitation, one or  
9 more wings, stories or other separable portions of a  
10 certifiable building;

11 (2) it is held by a single owner, whether in fee or as a  
12 condominium, cooperative or leasehold interest; and

13 (3) at least one eligible business reasonably could be  
14 operated within the confines of the portion of the building.

15 Section 1703-L. Notice of final designation of certified  
16 building.

17 Upon notice to the department that the municipality has  
18 satisfied the requirements of section 1702-L(b) (1) and (2), the  
19 department shall provide to the municipality and to the  
20 certified building owner a written notice of final designation,  
21 which notice shall include a statement that an independent  
22 appraisal is required in order to document substantial  
23 rehabilitation.

24 Section 1704-L. Certified building rehabilitation.

25 (a) General rule.--A certified building shall be treated as  
26 having been substantially rehabilitated only if the  
27 reconstruction and rehabilitation expenditures incurred during  
28 the 24-month period selected by the certified building owner and  
29 ending with or within the taxable year in which the  
30 rehabilitated certified building is first placed in service by

1 the certified building owner meet the definition of "substantial  
2 rehabilitation." For purposes of determining whether the  
3 certified building has been substantially rehabilitated, the  
4 market value of the certified building shall be determined at  
5 the beginning of the first day of the 24-month period.

6 (b) Special rule for phased rehabilitation.--In the case of  
7 any rehabilitation which may reasonably be expected to be  
8 completed in phases set forth in architectural, engineering and  
9 relevant historic preservation plans, documentation and  
10 specifications completed before the rehabilitation begins,  
11 subsection (a) shall be applied by substituting a 60-month  
12 period for the 24-month period.

13 Section 1705-L. Tax credit.

14 (a) General rule.--A certified building owner may be allowed  
15 a tax credit against the qualified tax liability of the owner.

16 (b) Eligible costs.--The taxpayer may claim a tax credit for  
17 the rehabilitation and reconstruction costs of a certified  
18 building which has been substantially rehabilitated. Once  
19 substantial rehabilitation is established by the taxpayer, the  
20 taxpayer may claim a tax credit for all rehabilitation and  
21 reconstruction costs incurred with respect to the certified  
22 building within five years from the date of final designation of  
23 the certified building under section 1703-L.

24 (c) Amount.--The tax credit shall be 25% of the  
25 rehabilitation and reconstruction costs of the certified  
26 building. The tax credit shall be allowable in the year the  
27 substantially rehabilitated certified building is first placed  
28 into service, which is the year in which, under the taxpayer's  
29 depreciation practice, the period for depreciation with respect  
30 to the property begins or the year in which the property is



1 placed in a condition or state of readiness and availability for  
2 its specifically assigned function, whichever is earlier.

3 (d) Limitations.--Amounts of unused tax credit may be  
4 carried over and offset against the taxpayer's qualified tax  
5 liability for a period not to exceed the following seven taxable  
6 years. A taxpayer is not entitled to carry back, obtain a refund  
7 for, sell or assign an unused tax credit.

8 Section 1706-L. Business tax credit.

9 A taxpayer who owns and operates an eligible business within  
10 a certified building that has been substantially rehabilitated  
11 is allowed a tax credit against the qualified tax liability of  
12 the taxpayer as follows:

13 (1) A tax credit equal to 100% of the total amount of  
14 Pennsylvania salaries and wages as are paid to qualified  
15 employees in excess of Pennsylvania salaries and wages paid  
16 to the same employees in the prior calendar year. The maximum  
17 tax credit allowable per taxable year under the provisions of  
18 this paragraph is \$5,000 per qualified employee.

19 (2) A tax credit provided in paragraph (1) shall not  
20 offset any tax liability in years other than the year in  
21 which the taxpayer qualifies for the tax credit. A taxpayer  
22 is not entitled to carry back, obtain a refund of, sell or  
23 assign an unused tax credit.

24 (3) In the case of multiple business owners, the tax  
25 credit provided in paragraph (1) is apportioned according to  
26 the ownership interests of the eligible business.

27 Section 1707-L. Interest income.

28 (a) Loans to eligible businesses.--A taxpayer is allowed a  
29 tax credit of 10% of the qualified tax liability of the taxpayer  
30 for interest earned and paid on loans made to eligible

1 businesses, solely and exclusively for expenditures within the  
2 certified building.

3 (b) Loans for substantial rehabilitation.--The taxpayer is  
4 further allowed a tax credit of 100% of the qualified tax  
5 liability of the taxpayer for interest earned on loans made  
6 solely and exclusively for the purpose of substantial  
7 rehabilitation.

8 (c) Limitation.--A tax credit under this section shall not  
9 offset any tax liability in taxable years other than the year in  
10 which the taxpayer qualifies for the tax credit. A taxpayer is  
11 not entitled to carry back, obtain a refund of, sell or assign  
12 an unused tax credit.

13 (d) Amount.--The taxpayer is allowed a maximum tax credit of  
14 \$10,000 per taxable year under subsection (a). The taxpayer is  
15 allowed a maximum tax credit of \$20,000 per taxable year under  
16 subsection (b).

17 Section 1708-L. Revocation of certification.

18 The department may revoke the certification of any building  
19 certified under section 1703-L, and may revoke the eligibility  
20 of any business defined as an eligible business, for  
21 noncompliance with the provisions of this article.

22 Section 1709-L. Limitation.

23 The total aggregate amount of tax credits approved under this  
24 article shall not exceed \$10,000,000 in a fiscal year.

25 Section 1710-L. Penalties.

26 (a) Failure to maintain operations.--A certified building  
27 owner that receives a tax credit and fails to substantially  
28 maintain existing operations in the certified building for which  
29 the tax credit is claimed for a period of five years from the  
30 date the tax credit is first allowable shall be required to

1 refund to the Commonwealth the total amount of credit or credits  
2 granted.

3 (b) Waiver.--The department may waive the penalty outlined  
4 in subsection (a) if it is determined that a certified building  
5 owner's operations were not maintained because of circumstances  
6 beyond the owner's control, which circumstances include natural  
7 disasters, unforeseen industry trends or a loss of a major  
8 supplier or market.

9 Section 1711-L. Regulations.

10 The department shall promulgate regulations as may be  
11 necessary to administer this article.

12 Section 1712-L. Report to General Assembly.

13 (a) Report.--No later than June 1, 2018, and September 1 of  
14 each year thereafter, the Secretary of Community and Economic  
15 Development shall submit a report to the General Assembly  
16 summarizing the effectiveness of the tax credits provided by  
17 this article. The report shall include the names of all  
18 taxpayers utilizing any tax credit under this article as of the  
19 date of the report and the amount of credit approved for and  
20 utilized by each taxpayer. The report may also include any  
21 recommendations for changes in the calculation or administration  
22 of the tax credits. The report shall be submitted to the  
23 chairperson and minority chairperson of the Appropriations  
24 Committee of the Senate, the chairperson and minority  
25 chairperson of the Finance Committee of the Senate, the  
26 chairperson and minority chairperson of the Appropriations  
27 Committee of the House of Representatives the chairperson and  
28 minority chairperson of the Finance Committee of the House of  
29 Representatives.

30 (b) Public information.--Notwithstanding any law providing

1 for the confidentiality of tax records, the information in the  
2 report shall be public information, and all report information  
3 shall be posted on the department's Internet website.

4 Section 2. The addition of Article XVII-L of the act applies  
5 to tax years beginning after December 31, 2017.

6 Section 3. This act shall take effect immediately.