
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 34 Session of
2017

INTRODUCED BY HUTCHINSON, SCARNATI, BARTOLOTTA, SCAVELLO AND
YUDICHAK, JANUARY 12, 2017

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
JANUARY 12, 2017

AN ACT

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

6 TABLE OF CONTENTS

7 Chapter 1. Preliminary Provisions
8 Section 101. Short title.
9 Section 102. Legislative findings.
10 Section 103. Definitions.
11 Chapter 3. Pennsylvania Affordable Energy Development Zones
12 Section 301. Pennsylvania affordable energy development zones.
13 Section 302. Qualified businesses.
14 Chapter 5. State Taxes
15 Subchapter A. General Provisions
16 Section 501. State taxes.
17 Subchapter B. Particular State Taxes
18 Section 511. Sales and use tax.
19 Section 512. Personal income tax.

1 Section 513. Nonresidency considerations.
2 Section 514. Corporate net income tax.
3 Section 515. Capital stock and franchise tax.
4 Chapter 7. Administration of Tax Provisions
5 Section 701. Transferability and use of tax exemptions and
6 credits.
7 Section 702. Carryover, carryback and assignment of credit.
8 Section 703. Pass-through entity.
9 Section 704. Recapture.
10 Section 705. Delinquent or deficient State or local taxes.
11 Section 706. Appeals.
12 Section 707. Notice requirements and State and local
13 authorities.
14 Section 708. Application time.
15 Chapter 9. Administration of Well Information
16 Section 901. Well information.
17 Chapter 21. Miscellaneous Provisions
18 Section 2101. Effective date.

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

21 CHAPTER 1

22 PRELIMINARY PROVISIONS

23 Section 101. Short title.

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

26 Section 102. Legislative findings.

27 The General Assembly finds and declares as follows:

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

1 blighted conditions, underutilized, obsolete or abandoned
2 industrial, commercial and residential structures and
3 deteriorating tax bases.

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

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

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

20 Section 103. Definitions.

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

24 "Business." An association, partnership, corporation, sole
25 proprietorship, limited liability company or employer with an
26 NAICS classification of 31, 32 or 33.

27 "Department." The Department of Community and Economic
28 Development of the Commonwealth.

29 "Domicile." The place where a person has a true and fixed
30 home and principal establishment for an indefinite time and to

1 which, whenever absent, that person intends to return. Domicile
2 continues until another place of domicile is established.

3 "Employee." An individual who:

4 (1) is employed in this Commonwealth by a Pennsylvania
5 affordable energy development zone employer, or its
6 predecessor, after January 1, 2018;

7 (2) is employed for at least 35 hours per week by a
8 Pennsylvania affordable energy development zone employer; and

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

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

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

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

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

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 "Pennsylvania affordable energy development zone." A defined
9 geographic area comprised of one or more political subdivisions
10 or portions of political subdivisions designated by the
11 department under Chapter 3.

12 "Person." A natural person.

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

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

24 "Resident." A person who is domiciled and resides in a
25 Pennsylvania affordable energy development zone for a period of
26 184 consecutive days, which may begin on the date of
27 authorization by the department or on the date the person first
28 resides within the Pennsylvania affordable energy development
29 zone.

30 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),

1 known as the Tax Reform Code of 1971.

2 "Unconventional formation." A geological shale formation
3 existing below the base of the Elk Sandstone or its geologic
4 equivalent stratigraphic interval where natural gas generally
5 cannot be produced at economic flow rates or in economic volumes
6 except by vertical or horizontal well bores stimulated by
7 hydraulic fracture treatments or by using multilateral well
8 bores or other techniques to expose more of the formation to the
9 well bore.

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

13 CHAPTER 3

14 PENNSYLVANIA AFFORDABLE ENERGY DEVELOPMENT ZONES

15 Section 301. Pennsylvania affordable energy development zones.

16 (a) Establishment.--A program providing for Pennsylvania
17 affordable energy development zones is established within the
18 department. A Pennsylvania affordable energy development zone
19 shall be comprised of property located in one or more political
20 subdivisions in which unconventional gas wells are located.

21 (b) Pennsylvania affordable energy development zone
22 authorization.--

23 (1) The department shall authorize Pennsylvania
24 affordable energy development zones in this Commonwealth.

25 (2) No portion of an authorized Pennsylvania affordable
26 energy development zone shall be used as a licensed facility
27 as defined in 4 Pa.C.S. § 1103 (relating to definitions) or
28 any other similar type of facility authorized under the laws
29 of this Commonwealth.

30 (c) Term of authorization.--Qualified businesses established

1 within an authorized Pennsylvania affordable energy development
2 zone that are eligible under this act shall be entitled to all
3 tax exemptions or credits set forth in this act for a period not
4 to exceed 10 years beginning on the date of approval by the
5 department or January 1, 2018, whichever occurs later.

6 Section 302. Qualified businesses.

7 In order to qualify for tax exemptions or credits under this
8 act, a business must own or lease real property in a
9 Pennsylvania affordable energy development zone on which the
10 business actively conducts a trade, business or profession
11 involving energy or manufacturing, or a related activity, that
12 uses natural gas from an unconventional formation and must meet
13 one of the following criteria:

14 (1) Hires and employs a minimum of 10 new full-time
15 equivalent employees within the first three years of full
16 operation within the Pennsylvania affordable energy
17 development zone.

18 (2) Invests \$500,000 in new capital investment in the
19 property located in the Pennsylvania affordable energy
20 development zone within the first three years of full
21 operation.

22 CHAPTER 5

23 STATE TAXES

24 SUBCHAPTER A

25 GENERAL PROVISIONS

26 Section 501. State taxes.

27 (a) General rule.--A qualified business shall receive the
28 exemptions or credits as provided in this chapter for the
29 duration of the Pennsylvania affordable energy development zone
30 authorization. Exemptions or credits shall expire on the date of

1 expiration of the Pennsylvania affordable energy development
2 zone authorization.

3 (b) Construction.--The Department of Revenue shall
4 administer, construe and enforce the provisions of this chapter
5 in conjunction with Articles II, III, IV and VI of the Tax
6 Reform Code.

7 SUBCHAPTER B

8 PARTICULAR STATE TAXES

9 Section 511. Sales and use tax.

10 (a) Exemption.--Sales at retail of services or tangible
11 personal property, other than motor vehicles, to a qualified
12 business for the exclusive use, consumption and utilization of
13 the tangible personal property or service by the qualified
14 business at its facility located within a Pennsylvania
15 affordable energy development zone are exempt from the sales and
16 use tax imposed under Article II of the Tax Reform Code. No
17 qualified business shall be allowed an exemption for sales
18 conducted prior to authorization of the Pennsylvania affordable
19 energy development zone.

20 (b) Construction contracts.--For any construction contract
21 performed in a Pennsylvania affordable energy development zone,
22 the exemption provided in subsection (a) shall only apply to the
23 sale at retail or use of building machinery and equipment to a
24 qualified business, or to a construction contractor under a
25 construction contract with a qualified business, for the
26 exclusive use, consumption and utilization by the qualified
27 business at its facility in a Pennsylvania affordable energy
28 development zone.

29 Section 512. Personal income tax.

30 (a) General rule.--A person who is a partner, member or

1 shareholder of a pass-through entity shall be allowed an
2 exemption for:

3 (1) Net income from the operation of a qualified
4 business received by a resident or nonresident of a
5 Pennsylvania affordable energy development zone attributable
6 to business activity conducted within a Pennsylvania
7 affordable energy development zone, except that any business
8 that operates both within and outside this Commonwealth,
9 before computing its Pennsylvania affordable energy
10 development zone exemption, shall first determine its
11 Pennsylvania activity over its activity everywhere by
12 applying the three-factor apportionment formula as set forth
13 in Department of Revenue personal income tax regulations
14 applicable to income apportionment in connection with a
15 business, trade or profession carried on both within and
16 outside this Commonwealth.

17 (2) Net gains or income, less net losses, derived by a
18 resident or nonresident of a Pennsylvania affordable energy
19 development zone from the sale, exchange or other disposition
20 of real or tangible personal property used by a qualified
21 business and located in a Pennsylvania affordable energy
22 development zone and as determined in accordance with
23 accepted accounting principles and practices. The exemption
24 provided in this paragraph shall not apply to the sale,
25 exchange or other disposition of any stock of goods,
26 merchandise or inventory or any operational assets unless the
27 transfer is in connection with the sale, exchange or other
28 disposition of all of the assets in complete liquidation of a
29 qualified business located in a Pennsylvania affordable
30 energy development zone. This paragraph shall apply to

1 intangible personal property employed in a trade, profession
2 or business in a Pennsylvania affordable energy development
3 zone by a qualified business but only when transferred in
4 connection with a sale, exchange or other disposition of all
5 of the assets in complete liquidation of the qualified
6 business in the Pennsylvania affordable energy development
7 zone.

8 (3) In the case of gains, less net losses, in paragraph
9 (2), the exemption shall be prorated based on the percentage
10 of time, based on calendar days, the property located in a
11 Pennsylvania affordable energy development zone was held by a
12 resident or nonresident of the Pennsylvania affordable energy
13 development zone during the time period the Pennsylvania
14 affordable energy development zone was in effect in relation
15 to the total time the property was held.

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

19 (1) The income or gain of a partnership or association.
20 The partner or member shall be entitled to the exemptions
21 under this section for the partner's or member's share,
22 whether or not distributed, of the income or gain received by
23 the partnership or association for its taxable year.

24 (2) The income or gain of a Pennsylvania S corporation.
25 The shareholder shall be entitled to the exemptions under
26 this section for the shareholder's pro rata share, whether or
27 not distributed, of the income or gain received by the
28 corporation for its taxable year ending within or with the
29 shareholder's taxable year.

30 (c) Limitation.--A pass-through entity may not apply an

1 exemption from income under this act for any class of income
2 against any other classes of income or gain. A pass-through
3 entity may not carry back or carry forward any exemption under
4 this act from year to year. The exemption allowed under this
5 section shall not exceed the tax liability of the taxpayer under
6 Article III of the Tax Reform Code for the tax year.

7 (d) Section not applicable to certain entities.--Any portion
8 of net income or gain that is attributable to operation of a
9 railroad, truck, bus or airline company, pipeline or natural gas
10 company, water transportation company or entity which would
11 qualify as a regulated investment company under Article IV of
12 the Tax Reform Code or would qualify as a holding company under
13 Article VI of the Tax Reform Code shall not be used to calculate
14 an exemption under this section.

15 Section 513. Nonresidency considerations.

16 If a nonresident realizes income attributable to business
17 activity or property within a Pennsylvania affordable energy
18 development zone on or before the end of the tax year, the
19 person may claim the exemptions from income for the items for
20 that portion of the tax year that the person was a resident or
21 for that portion of the tax year during which the area is
22 designated as a Pennsylvania affordable energy development zone.

23 Section 514. Corporate net income tax.

24 (a) Credits.--For the tax years that begin on or after
25 January 1, 2018, a corporation that is a qualified business may
26 claim a credit against the tax imposed by Article IV of the Tax
27 Reform Code for tax liability attributable to business activity
28 conducted within the Pennsylvania affordable energy development
29 zone in the taxable year. No credit may be claimed for
30 activities conducted prior to authorization of the Pennsylvania

1 affordable energy development zone. The business activity must
2 be conducted directly by a corporation in the Pennsylvania
3 affordable energy development zone in order for the corporation
4 to claim the tax credit.

5 (b) Tax liability determinations.--The corporate net income
6 tax liability attributable to business activity conducted within
7 a Pennsylvania affordable energy development zone shall be
8 determined by multiplying the corporation's taxable income that
9 is attributable to business activity conducted within the
10 Pennsylvania affordable energy development zone by the rate of
11 tax imposed under Article IV of the Tax Reform Code for the
12 taxable year.

13 (c) Determinations of attributable tax liability.--Tax
14 liability attributable to business activity conducted within a
15 Pennsylvania affordable energy development zone shall be
16 computed, construed, administered and enforced in conformity
17 with Article IV of the Tax Reform Code and with specific
18 reference to the following:

19 (1) If the entire business of the corporation in this
20 Commonwealth is transacted wholly within the Pennsylvania
21 affordable energy development zone, the taxable income
22 attributable to business activity within a Pennsylvania
23 affordable energy development zone shall consist of the
24 Pennsylvania taxable income as determined under Article IV of
25 the Tax Reform Code.

26 (2) If the entire business of the corporation in this
27 Commonwealth is not transacted wholly within the Pennsylvania
28 affordable energy development zone, the taxable income of a
29 corporation in a Pennsylvania affordable energy development
30 zone shall be determined upon the portion of the Pennsylvania

1 taxable income of the corporation attributable to business
2 activity conducted within the Pennsylvania affordable energy
3 development zone and apportioned in accordance with
4 subsection (d).

5 (d) Income apportionment.--The taxable income of a
6 corporation that is a qualified business shall be apportioned to
7 the Pennsylvania affordable energy development zone by
8 multiplying the Pennsylvania taxable income by a fraction, the
9 numerator of which is the property factor plus the payroll
10 factor plus the sales factor and the denominator of which is
11 three, in accordance with the following:

12 (1) The property factor is a fraction, the numerator of
13 which is the average value of the corporation's real and
14 tangible personal property owned or rented and used in the
15 Pennsylvania affordable energy development zone during the
16 tax period and the denominator of which is the average value
17 of all the corporation's real and tangible personal property
18 owned or rented and used in this Commonwealth during the tax
19 period but shall not include the security interest of any
20 corporation as seller or lessor in personal property sold or
21 leased under a conditional sale, bailment lease, chattel
22 mortgage or other contract providing for the retention of a
23 lien or title as security for the sales price of the
24 property.

25 (2) The payroll factor is a fraction, the numerator of
26 which is the total amount paid in the Pennsylvania affordable
27 energy development zone during the tax period by the
28 corporation for compensation and the denominator of which is
29 the total compensation paid in this Commonwealth during the
30 tax period. Compensation is paid in the Pennsylvania

1 affordable energy development zone if:

2 (i) the person's service is performed entirely
3 within the Pennsylvania affordable energy development
4 zone;

5 (ii) the person's service is performed both within
6 and without the Pennsylvania affordable energy
7 development zone, but the service performed without the
8 Pennsylvania affordable energy development zone is
9 incidental to the person's service within the
10 Pennsylvania affordable energy development zone; or

11 (iii) some of the service is performed in the
12 Pennsylvania affordable energy development zone and the
13 base of operations or, if there is no base of operations,
14 the place from which the service is directed or
15 controlled is in the Pennsylvania affordable energy
16 development zone, or the base of operations or the place
17 from which the service is directed or controlled is not
18 in any location in which some part of the service is
19 performed, but the person's residence is in the
20 Pennsylvania affordable energy development zone.

21 (3) The sales factor is a fraction, the numerator of
22 which is the total sales of the corporation in the
23 Pennsylvania affordable energy development zone during the
24 tax period and the denominator of which is the total sales of
25 the corporation in this Commonwealth during the tax period.
26 The following apply:

27 (i) Sales of tangible personal property are in the
28 Pennsylvania affordable energy development zone if the
29 property is delivered or shipped to a purchaser that
30 takes possession within the Pennsylvania affordable

1 energy development zone regardless of the F.O.B. point or
2 other conditions of the sale.

3 (ii) Sales other than sales of tangible personal
4 property are in the Pennsylvania affordable energy
5 development zone if:

6 (A) the income-producing activity is performed
7 in the Pennsylvania affordable energy development
8 zone; or

9 (B) the income-producing activity is performed
10 both within and without the Pennsylvania affordable
11 energy development zone and a greater proportion of
12 the income-producing activity is performed in the
13 Pennsylvania affordable energy development zone than
14 in any other location, based on costs of performance.

15 (e) Computation.--A corporation shall compute its
16 Commonwealth taxable income in conformity with Article IV of the
17 Tax Reform Code with no adjustments or subtractions for
18 Pennsylvania affordable energy development zone taxable income.

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

27 (g) Section not applicable to certain businesses or
28 qualified businesses.--

29 (1) A business that relocates from a location in a
30 political subdivision in this Commonwealth that is not in a

1 Pennsylvania affordable energy development zone to a location
2 in a Pennsylvania affordable energy development zone may not
3 apply for a credit for an existing job that is transferred,
4 discontinued or lost in this Commonwealth which is
5 attributable to the relocation.

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

15 Section 515. Capital stock and franchise tax.

16 (a) Credits.--For tax years that begin on or after January
17 1, 2018, a corporation that is a qualified business may claim a
18 credit against the tax imposed by Article VI of the Tax Reform
19 Code for tax liability attributable to the capital employed
20 within the Pennsylvania affordable energy development zone in
21 the taxable year. No credit may be claimed for capital employed
22 prior to authorization of the real property as part of a
23 Pennsylvania affordable energy development zone. The business
24 activity must be conducted directly by a corporation in the
25 Pennsylvania affordable energy development zone in order for the
26 corporation to claim the tax credit.

27 (b) Tax liability.--The corporation's tax liability
28 attributable to capital employed within a Pennsylvania
29 affordable energy development zone shall be determined by
30 multiplying the corporation's taxable value attributable to

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

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

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

20 (2) If the entire business of the corporation in this
21 Commonwealth is not wholly transacted within a Pennsylvania
22 affordable energy development zone, the taxable value of a
23 corporation in a Pennsylvania affordable energy development
24 zone shall be determined upon the portion of the Pennsylvania
25 taxable value attributable to the capital employed within the
26 Pennsylvania affordable energy development zone by employing
27 the apportionment 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 a
10 Pennsylvania affordable energy development zone to a location
11 in a Pennsylvania affordable energy development zone may not
12 apply for a credit for an existing job that is transferred,
13 discontinued or lost in this Commonwealth which is
14 attributable to the relocation.

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

24 CHAPTER 7

25 ADMINISTRATION OF TAX PROVISIONS

26 Section 701. Transferability and use of tax exemptions and
27 credits.

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

1 tax account.

2 (b) Credits.--Prior to sale or assignment of a tax credit
3 under section 702(d), the taxpayer granted the credit under
4 Chapter 5 must first use the credit against the liability of the
5 taxpayer for taxes imposed under Article IV or VI of the Tax
6 Reform Code for the taxable year in which the credit is
7 approved.

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

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

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

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

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

1 (1) A taxpayer, upon application to and approval by the
2 department, may sell or assign, in whole or in part, a tax
3 credit granted to the taxpayer under section 514 or 515.

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

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

13 (4) Notwithstanding any other provision of law, the
14 Department of Revenue shall settle, assess or determine the
15 tax of an applicant under this subsection within 90 days of
16 the filing of all required final returns or reports in
17 accordance with section 806.1(a)(5) of the act of April 9,
18 1929 (P.L.343, No.176), known as The Fiscal Code.

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

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

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

30 (3) The purchaser or assignee may not carry forward,

1 carry back or obtain a refund of or sell or assign the tax
2 credit.

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

7 Section 703. Pass-through entity.

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

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

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

28 Section 704. Recapture.

29 (a) General rule.--If any qualified business located within
30 a Pennsylvania affordable energy development zone has received

1 an exemption or credit under this act and subsequently relocates
2 outside the Pennsylvania affordable energy development zone
3 within the first five years of locating in a Pennsylvania
4 affordable energy development zone, that business shall refund
5 to the Commonwealth, which granted the exemption or credit
6 received, in accordance with the following:

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

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

19 (b) Waiver.--The department may waive or modify recapture
20 requirements under this section if the department determines
21 that the business relocation was due to circumstances beyond the
22 control of the business, including, but not limited to:

- 23 (1) natural disaster;
- 24 (2) unforeseen industry trends; or
- 25 (3) loss of a major supplier or market.

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

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

30 (b) Qualified business.--

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

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

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

23 Section 706. Appeals.

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

1 Section 707. Notice requirements and State and local
2 authorities.

3 (a) Requirement.--After compliance reviews have been
4 conducted by appropriate Commonwealth and local authorities, the
5 department shall notify each Pennsylvania affordable energy
6 development zone applicant by regular mail each year of the
7 department's approval or denial of the Pennsylvania affordable
8 energy development zone application. No Pennsylvania affordable
9 energy development zone applicant is entitled to any tax
10 benefits unless it receives approval from the department.

11 (b) Notice.--The department shall provide a one-time
12 notification to every current Pennsylvania affordable energy
13 development zone property owner within 15 days of authorization.
14 Failure to receive departmental notification under this section
15 shall not extend or restrict any benefits or rights real
16 property owners possess under this act.

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

22 Section 708. Application time.

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

28 CHAPTER 9

29 ADMINISTRATION OF WELL INFORMATION

30 Section 901. Well information.

1 Within 30 days of the effective date of this section, the
2 Department of Environmental Protection shall provide the
3 department with a list of all unconventional gas wells
4 categorized by location within political subdivisions in this
5 Commonwealth.

6 CHAPTER 21

7 MISCELLANEOUS PROVISIONS

8 Section 2101. Effective date.

9 This act shall take effect in 60 days.