
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **886** Session of
2015

INTRODUCED BY HUTCHINSON, SCARNATI, BARTOLOTTA, MENSCH,
SCAVELLO, STEFANO, VULAKOVICH, WHITE, YAW AND YUDICHAK,
JULY 10, 2015

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
JULY 10, 2015

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.

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

22 CHAPTER 1

23 PRELIMINARY PROVISIONS

24 Section 101. Short title.

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

27 Section 102. Legislative findings.

28 The General Assembly finds and declares as follows:

29 (1) There exist in this Commonwealth rural areas of
30 economic distress characterized by high unemployment, low

1 investment of new capital, inadequate dwelling conditions,
2 blighted conditions, underutilized, obsolete or abandoned
3 industrial, commercial and residential structures and
4 deteriorating tax bases.

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

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

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

21 Section 103. Definitions.

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

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

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

30 "Domicile." The place where a person has a true and fixed

1 home and principal establishment for an indefinite time and to
2 which, whenever absent, that person intends to return. Domicile
3 continues until another place of domicile is established.

4 "Employee." An individual who:

5 (1) is employed in this Commonwealth by a Pennsylvania
6 affordable energy development zone employer, or its
7 predecessor, after January 1, 2016;

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

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

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

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

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

1 U.S.C. § 201 et 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), or its
5 successor revision.

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

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

13 "Person." A natural person.

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

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

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

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

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

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

14 CHAPTER 3

15 PENNSYLVANIA AFFORDABLE ENERGY DEVELOPMENT ZONES

16 Section 301. Pennsylvania affordable energy development zones.

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

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

24 (1) The department shall authorize Pennsylvania
25 affordable energy development zones in this Commonwealth.
26 Qualified businesses established within an authorized
27 Pennsylvania affordable energy development zone that are
28 qualified under this act shall be entitled to all tax
29 exemptions or credits set forth in this act.

30 (2) No portion of an authorized Pennsylvania affordable

1 energy development zone shall be used as a licensed facility
2 as defined in 4 Pa.C.S. § 1103 (relating to definitions) or
3 any other similar type of facility authorized under the laws
4 of this Commonwealth.

5 (c) Term of authorization.--Qualified businesses within an
6 authorized Pennsylvania affordable energy development zone that
7 are qualified under this act shall be entitled to all tax
8 exemptions or credits set forth in this act for a period not to
9 exceed 10 years beginning on the date of approval by the
10 department or January 1, 2016, whichever occurs later.

11 Section 302. Qualified businesses.

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

19 (1) Hire and employ a minimum of 10 new full-time
20 equivalent employees within the first three years of full
21 operation within the Pennsylvania affordable energy
22 development zone.

23 (2) Invest \$500,000 in new capital investment in the
24 property located in the Pennsylvania affordable energy
25 development zone within the first three years of full
26 operation.

27 CHAPTER 5

28 STATE TAXES

29 SUBCHAPTER A

30 GENERAL PROVISIONS

1 Section 501. State taxes.

2 (a) General rule.--A qualified business under section 302
3 shall receive the exemptions or credits as provided in this
4 chapter for the duration of the Pennsylvania affordable energy
5 development zone authorization. Exemptions or credits shall
6 expire on the date of expiration of the Pennsylvania affordable
7 energy development zone authorization.

8 (b) Construction.--The Department of Revenue shall
9 administer, construe and enforce the provisions of this chapter
10 in conjunction with Articles II, III, IV and VI of the Tax
11 Reform Code.

12 SUBCHAPTER B

13 PARTICULAR STATE TAXES

14 Section 511. Sales and use tax.

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

25 (b) Construction contracts.--For any construction contract
26 performed in a Pennsylvania affordable energy development zone,
27 the exemption provided in subsection (a) shall only apply to the
28 sale at retail or use of building machinery and equipment to a
29 qualified business, or to a construction contractor pursuant to
30 a construction contract with a qualified business, for the

1 exclusive use, consumption and utilization by the qualified
2 business at its facility in a Pennsylvania affordable energy
3 development zone.

4 Section 512. Personal income tax.

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

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

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

1 merchandise or inventory or any operational assets unless the
2 transfer is in connection with the sale, exchange or other
3 disposition of all of the assets in complete liquidation of a
4 qualified business located in a Pennsylvania affordable
5 energy development zone. This paragraph shall apply to
6 intangible personal property employed in a trade, profession
7 or business in a Pennsylvania affordable energy development
8 zone by a qualified business but only when transferred in
9 connection with a sale, exchange or other disposition of all
10 of the assets in complete liquidation of the qualified
11 business in the Pennsylvania affordable energy development
12 zone.

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

21 (b) Pass-through entities.--The exemptions provided for in
22 subsection (a) (1) and (2) shall apply to all of the following:

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

28 (2) The income or gain of a Pennsylvania S corporation.
29 The shareholder shall be entitled to the exemptions under
30 this section for the shareholder's pro rata share, whether or

1 not distributed, of the income or gain received by the
2 corporation for its taxable year ending within or with the
3 shareholder's taxable year.

4 (c) Limitation.--A partnership, association, Subchapter S
5 corporation, resident or nonresident may not apply an exemption
6 from income under this act for any class of income against any
7 other classes of income or gain. A partnership, association,
8 Subchapter S corporation, resident or nonresident may not carry
9 back or carry forward any exemption under this act from year to
10 year. The exemption allowed under this section shall not exceed
11 the tax liability of the taxpayer under Article III of the Tax
12 Reform Code for the tax year.

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

21 Section 513. Nonresidency considerations.

22 If a nonresident realizes income attributable to business
23 activity or property within a Pennsylvania affordable energy
24 development zone on or before the end of the tax year, the
25 person may claim the exemptions from income for the items for
26 that portion of the tax year that the person was a resident or
27 for that portion of the tax year during which the area is
28 designated as a Pennsylvania affordable energy development zone.

29 Section 514. Corporate net income tax.

30 (a) Credits.--For the tax years that begin on or after

1 January 1, 2016, a corporation that is a qualified business
2 under this act may claim a credit against the tax imposed by
3 Article IV of the Tax Reform Code for tax liability attributable
4 to business activity conducted within the Pennsylvania
5 affordable energy development zone in the taxable year. No
6 credit may be claimed for activities conducted prior to
7 authorization of the Pennsylvania affordable energy development
8 zone. The business activity must be conducted directly by a
9 corporation in the Pennsylvania affordable energy development
10 zone in order for the corporation to claim the tax credit.

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

19 (c) Determinations of attributable tax liability.--Tax
20 liability attributable to business activity conducted within a
21 Pennsylvania affordable energy development zone shall be
22 computed, construed, administered and enforced in conformity
23 with Article IV of the Tax Reform Code and with specific
24 reference to the following:

25 (1) If the entire business of the corporation in this
26 Commonwealth is transacted wholly within the Pennsylvania
27 affordable energy development zone, the taxable income
28 attributable to business activity within a Pennsylvania
29 affordable energy development zone shall consist of the
30 Pennsylvania taxable income as determined under Article IV of

1 the Tax Reform Code.

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

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

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

1 (2) The payroll factor is a fraction, the numerator of
2 which is the total amount paid in the Pennsylvania affordable
3 energy development zone during the tax period by the
4 corporation for compensation and the denominator of which is
5 the total compensation paid in this Commonwealth during the
6 tax period. Compensation is paid in the Pennsylvania
7 affordable energy development zone if:

8 (i) the person's service is performed entirely
9 within the Pennsylvania affordable energy development
10 zone;

11 (ii) the person's service is performed both within
12 and without the Pennsylvania affordable energy
13 development zone, but the service performed without the
14 Pennsylvania affordable energy development zone is
15 incidental to the person's service within the
16 Pennsylvania affordable energy development zone; or

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

27 (3) The sales factor is a fraction, the numerator of
28 which is the total sales of the corporation in the
29 Pennsylvania affordable energy development zone during the
30 tax period and the denominator of which is the total sales of

1 the corporation in this Commonwealth during the tax period.

2 The following apply:

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

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

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

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

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

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

1 of the Tax Reform Code shall not be used to calculate a credit
2 under this section.

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

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

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

21 Section 515. Capital stock and franchise tax.

22 (a) Credits.--For tax years that begin on or after January
23 1, 2016, a corporation that is a qualified business under this
24 act may claim a credit against the tax imposed by Article VI of
25 the Tax Reform Code for tax liability attributable to the
26 capital employed within the Pennsylvania affordable energy
27 development zone in the taxable year. No credit may be claimed
28 for capital employed prior to authorization of the real property
29 as part of a Pennsylvania affordable energy development zone.
30 The business activity must be conducted directly by a

1 corporation in the Pennsylvania affordable energy development
2 zone in order for the corporation to claim the tax credit.

3 (b) Tax liability.--The corporation's tax liability
4 attributable to capital employed within a Pennsylvania
5 affordable energy development zone shall be determined by
6 multiplying the corporation's taxable value attributable to
7 capital employed within the Pennsylvania affordable energy
8 development zone by the rate of tax imposed under Article VI of
9 the Tax Reform Code for the taxable year. The corporation shall
10 compute its Pennsylvania taxable value in conformity with
11 Article VI of the Tax Reform Code with no adjustments or
12 subtractions for the capital employed in the Pennsylvania
13 affordable energy development zone.

14 (c) Determination of attributable tax liability.--The
15 determination of the corporation's taxable value attributable to
16 the capital employed within a Pennsylvania affordable energy
17 development zone shall be determined with specific reference to
18 the following:

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

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

1 taxable value attributable to the capital employed within the
2 Pennsylvania affordable energy development zone by employing
3 the apportionment factors set forth in section 514(d).

4 (d) Credit not available.--Any portion of the taxpayer's tax
5 liability that is attributable to the capital employed in the
6 operation of a railroad, truck, bus or airline company, pipeline
7 or natural gas company, water transportation company, a
8 corporation that qualifies as a regulated investment company
9 under Article IV of the Tax Reform Code or holding company as
10 defined in Article VI of the Tax Reform Code shall not be used
11 to calculate a credit under this section.

12 (e) Section not applicable to certain businesses or
13 qualified businesses.--

14 (1) A business that relocates from a location in a
15 political subdivision in this Commonwealth that is not in a
16 Pennsylvania affordable energy development zone to a location
17 in a Pennsylvania affordable energy development zone may not
18 apply for a credit for an existing job that is transferred,
19 discontinued or lost in this Commonwealth which is
20 attributable to the relocation.

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

30 CHAPTER 7

1 ADMINISTRATION OF TAX PROVISIONS

2 Section 701. Transferability and use of tax exemptions and
3 credits.

4 (a) Exemptions.--Any exemption provided to any person or
5 qualified business under Chapter 5 (relating to State taxes) is
6 nontransferable and cannot be applied, used or assigned to any
7 other person, business or tax account.

8 (b) Credits.--Prior to sale or assignment of a tax credit
9 under section 702(d) (relating to carryover, carryback and
10 assignment of credit), the taxpayer granted the credit under
11 Chapter 5 must first use the credit against the liability of the
12 taxpayer for taxes imposed under Article IV or VI of the Tax
13 Reform Code for the taxable year in which the credit is
14 approved.

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

16 (a) General rule.--If the taxpayer cannot use the entire
17 amount of the tax credit under section 514 (relating to
18 corporate net income tax) or 515 (relating to capital stock and
19 franchise tax) for the taxable year in which the credit is first
20 approved, then the excess may be carried over to succeeding
21 taxable years and used as a credit against the liability of the
22 taxpayer for taxes imposed under Article IV or VI of the Tax
23 Reform Code for those taxable years. Each time the tax credit is
24 carried over to a succeeding taxable year, it shall be reduced
25 by the amount that was used as a credit during the immediately
26 preceding taxable year. The tax credit provided by section 514
27 or 515 may be carried over and applied to succeeding taxable
28 years for no more than three taxable years following the first
29 taxable year for which the taxpayer was entitled to claim the
30 credit.

1 (b) Application.--A tax credit approved by the department in
2 a taxable year first shall be applied against the taxpayer's tax
3 liability for the current taxable year as of the date on which
4 the credit was approved before the credit can be applied against
5 any tax liability under subsection (a).

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

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

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

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

16 (3) Before an application is approved, the Department of
17 Revenue must make a finding that the applicant has filed all
18 required State tax reports and returns for all applicable
19 taxable years and paid any balance of State tax due as
20 determined at settlement, assessment or determination by the
21 Department of Revenue.

22 (4) Notwithstanding any other provision of law, the
23 Department of Revenue shall settle, assess or determine the
24 tax of an applicant under this subsection within 90 days of
25 the filing of all required final returns or reports in
26 accordance with section 806.1(a)(5) of the act of April 9,
27 1929 (P.L.343, No.176), known as The Fiscal Code.

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

29 (1) The purchaser or assignee of all or a portion of a
30 tax credit under subsection (d) shall immediately claim the

1 credit in the taxable year in which the purchase or
2 assignment is made.

3 (2) The amount of the tax credit that a purchaser or
4 assignee may use against any one liability of the taxpayer
5 for taxes imposed under Article IV or VI of the Tax Reform
6 Code may not exceed 50% of the liability of the taxpayer for
7 taxes imposed under Article IV or VI of the Tax Reform Code
8 for the taxable year.

9 (3) The purchaser or assignee may not carry forward,
10 carry back or obtain a refund of or sell or assign the tax
11 credit.

12 (4) The purchaser or assignee shall notify the
13 Department of Revenue of the seller or assignor of the tax
14 credit in compliance with procedures specified by the
15 Department of Revenue.

16 Section 703. Pass-through entity.

17 (a) General rule.--If a pass-through entity has any unused
18 tax credit under section 702 (relating to carryover, carryback
19 and assignment of credit), it may elect in writing, according to
20 procedures established by the Department of Revenue, to transfer
21 all or a portion of the credit to shareholders, members or
22 partners in proportion to the share of the entity's distributive
23 income to which the shareholder, member or partner is entitled.

24 (b) Limitation.--A pass-through entity and a shareholder,
25 member or partner of a pass-through entity shall not claim the
26 tax credit under subsection (a) for the same business activity
27 conducted within the Pennsylvania affordable energy development
28 zone in the taxable year or for the same capital employed within
29 the Pennsylvania affordable energy development zone in the
30 taxable year.

1 (c) Application.--A shareholder, member or partner of a
2 pass-through entity to whom a tax credit is transferred under
3 subsection (a) shall immediately claim the credit in the taxable
4 year in which the transfer is made. The shareholder, member or
5 partner may not carry forward, carry back, obtain a refund of or
6 sell or assign the credit.

7 Section 704. Recapture.

8 (a) General rule.--If any qualified business located within
9 a Pennsylvania affordable energy development zone has received
10 an exemption or credit under this act and subsequently relocates
11 outside the Pennsylvania affordable energy development zone
12 within the first five years of locating in a Pennsylvania
13 affordable energy development zone, that business shall refund
14 to the Commonwealth, which granted the exemption or credit
15 received, in accordance with the following:

16 (1) If a qualified business relocates within three years
17 from the date of first locating in a Pennsylvania affordable
18 energy development zone, 66% of all the exemptions or credits
19 attributed to that qualified business's participation in the
20 Pennsylvania affordable energy development zone shall be
21 refunded to the Commonwealth.

22 (2) If a qualified business relocates within three to
23 five years from the date of first locating in a Pennsylvania
24 affordable energy development zone, 33% of all exemptions or
25 credits attributed to that qualified business's participation
26 in the Pennsylvania affordable energy development zone shall
27 be refunded to the Commonwealth.

28 (b) Waiver.--The department may waive or modify recapture
29 requirements under this section if the department determines
30 that the business relocation was due to circumstances beyond the

1 control of the business, including, but not limited to:

2 (1) natural disaster;

3 (2) unforeseen industry trends; or

4 (3) loss of a major supplier or market.

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

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

9 (b) Qualified business.--

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

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

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

1 achieved subsequently.

2 Section 706. Appeals.

3 A person or qualified business shall be deemed to be in
4 compliance with any State or local tax for purposes of this
5 chapter if that person or qualified business had made a timely
6 administrative or judicial appeal for that particular tax or has
7 entered into and is in compliance with a duly authorized
8 deferred payment plan with the Department of Revenue or
9 political subdivision for that particular tax.

10 Section 707. Notice requirements and State and local
11 authorities.

12 (a) Requirement.--After compliance reviews have been
13 conducted by appropriate Commonwealth and local authorities, the
14 department shall notify each Pennsylvania affordable energy
15 development zone applicant by regular mail each year of the
16 department's approval or denial of the Pennsylvania affordable
17 energy development zone application. No Pennsylvania affordable
18 energy development zone applicant is entitled to any tax
19 benefits unless it receives approval from the department.

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

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

1 Section 708. Application time.

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

7 CHAPTER 9

8 ADMINISTRATION OF WELL INFORMATION

9 Section 901. Well information.

10 Within 30 days of the effective date of this section, the
11 Department of Environmental Protection shall provide the
12 department with a list of all unconventional gas wells
13 categorized by location within political subdivisions in this
14 Commonwealth.

15 CHAPTER 21

16 MISCELLANEOUS PROVISIONS

17 Section 2101. Effective date.

18 This act shall take effect in 60 days.