

No. 1989-23

AN ACT

HB 1373

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing for employment incentive payments; imposing new bank tax credits; providing for limitations and procedures; and requiring reports and evaluations.

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

Section 1. Section 1701-A(f), (g) and (h) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added December 19, 1985 (P.L.356, No.102), are amended to read:

Section 1701-A. Employment Incentive Payments.—* * *

(f) The total amount of employment incentive payments authorized by this section shall not exceed twenty-five million dollars (\$25,000,000) in any fiscal year. To insure that credits are not claimed in excess of this amount, an employer may claim the incentive payments only upon presentation of an authorizing certificate. Certificates will be issued to the **[employee] employer** by the Department of Public Welfare upon presentation to the Department of Public Welfare of evidence of a qualifying offer of employment. **[The] *If necessary to avoid certificate issuances in excess of the maximum authorized amount for any fiscal year, the*** department shall advise the Department of Public Welfare of the total number of certificates which may be issued in each calendar quarter **[consistent with the limitation on total incentive payments. If an employe does not accept the job for which the certificate is authorized, the certificate shall be returned by the employe to the Department of Public Welfare. If an employe terminates employment for any reason prior to the expiration of three years, the employer shall return the certificate, noting the date of the employe's hiring and termination, to the department].** The Department of Public Welfare may issue certificates through the Office of Employment Security and may promulgate regulations to allocate certificates.

(g) Employment incentive payments shall not be available for employes hired after June 30, **[1989] 1993**, unless reenacted by the General Assembly. Not later than **[July 1, 1986] September 1, 1990**, and **[July] September 1** each year thereafter, the Department of Public Welfare shall report to the General Assembly on the effectiveness of incentive payments to encourage the employment of cash assistance recipients and recommend whether changes are needed in the program and whether the program should be continued. The report shall contain information, including the number of authorizing

certificates issued by the Department of Public Welfare, the number of authorizing certificates **[returned because the welfare recipient did not accept the job, the number of certificates returned because the employe left employment voluntarily, the number returned because the employe became disabled and the number returned because the employe was terminated from employment for cause. The report shall also contain the number and dollar amounts of first, second and third year tax credits claimed by employers in each tax year] accepted by the Department of Revenue from employers as evidence of *qualified hires*, the number and dollar amounts of [first, second and third year] tax credits approved by the Department of Revenue in each tax year, [the length of time employes retained their jobs, the types of jobs obtained,] the average *hourly starting* wage of employes hired and the category of assistance received previously by employes hired. The report shall also include an analysis of [the types of businesses which have been issued authorizing certificates during the tax year, and] the types of businesses *identified as either corporations or individuals or partnerships* which have had tax credits approved by the Department of Revenue [by category of business] *and the types of employment positions into which employes have been hired* as indicated by Standard [Industrial] *Occupational Classification Codes* [and by size of business as indicated by the number of employes, and a discussion of]. *The report shall describe* outreach and publicity efforts by the Department of Public Welfare. The report shall contain similar information about the day care tax credit authorized in subsection (c)(2). Credits may be claimed against taxes payable for tax years beginning January 1, [1986] 1989, and thereafter, and may be claimed for employes hired on or after January 1, [1986] 1989.**

[(h) This section shall be deemed to be a continuation of the employment incentive payment program authorized heretofore by section 491 of the "Public Welfare Code."]

Section 2. The act is amended by adding an article to read:

ARTICLE XIX
NEW BANK TAX CREDIT

Section 1901. Short Title.—This article shall be known and may be cited as the New Bank Tax Credit Law.

Section 1902. Legislative Intent.—The General Assembly of the Commonwealth of Pennsylvania hereby finds that:

(a) *Whereas, the continuing health, stability and growth of the banking industry in Pennsylvania is of great importance to the citizens of this Commonwealth; and*

(b) *Whereas, the establishment and growth of new banks will help to foster these objectives;*

(c) *Therefore, it is in the public interest to provide tax credits to new banks to help to insure the health, stability and growth of the banking industry in Pennsylvania and its attendant benefits to all citizens of this Commonwealth.*

Section 1903. Definitions.—*The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

“New bank” means:

(1) *Any bank, bank and trust company or trust company which has been chartered since January 1, 1979, and is subject to the tax imposed by Article VII or Article VIII in the year for which a credit under this article is claimed.*

(2) *For purposes of clause (1), a transferee of assets in a transaction constituting a reorganization as defined in 26 United States Code 368 (relating to definition relating to corporate reorganization) of the Internal Revenue Code or in a transfer described in 26 United States Code 351 (relating to transfer to corporation controlled by transferer) of the Internal Revenue Code shall not be a new bank if the transferor of the assets was a bank or banking business that existed prior to January 1, 1979.*

“Deposits” means deposits as defined in section 1501 of Article XV.

“Loan/deposit ratio” means a fraction, the numerator of which is the value of Pennsylvania loans of the new bank and the denominator of which is the value of Pennsylvania deposits of the new bank.

“Pennsylvania deposits” means deposits which:

(1) *are received from an individual if the individual resides in Pennsylvania;*

(2) *are received from a corporation if the corporation’s commercial domicile is in Pennsylvania;*

(3) *are received from the Commonwealth of Pennsylvania, its political subdivisions, agencies and instrumentalities;*

(4) *in any other case, if the banks treat the deposits as liabilities on the books and records of an office located in Pennsylvania.*

“Pennsylvania loans” means any of the following:

(1) *If a loan is secured primarily by real property, the predominant part of the security real property is located in Pennsylvania.*

(2) *For all other loans, if the borrower resides in Pennsylvania, the borrower has its commercial domicile in Pennsylvania or the borrower is the Commonwealth of Pennsylvania or one of its political subdivisions, agencies or instrumentalities.*

“Value of Pennsylvania deposits” means:

(1) *The average value of Pennsylvania deposits as determined by the Reports of Condition for each calendar quarter of the calendar year preceding the year for which claim is made under section 1907 in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or other applicable regulatory authority.*

(2) *For purposes of clause (1), if a new bank was not in existence for the entire preceding calendar year, average value will be determined by the number of Reports of Condition actually filed by the bank.*

“Value of Pennsylvania loans” means:

(1) *The average value of Pennsylvania loans as determined by the Reports of Condition for each calendar quarter of the calendar year preced-*

ing the year for which claim is made under section 1907 in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or other applicable regulatory authority.

(2) For purposes of clause (1), if a new bank was not in existence for the entire preceding year, average value will be determined by the number of Reports of Condition actually filed by the bank.

Section 1904. Tax Credit.—(a) Any new bank shall be eligible to apply for a credit equal to the sum of the following:

(1) Based upon the number of full or partial years of operations of the new bank, the following applicable amount:

1 year	\$750,000
2 years	250,000
3 years	100,000
4 years	75,000
5 years or more	25,000

(2) One per cent of the value of its Pennsylvania deposits.

(3) Based upon the loan/deposit ratio of the new bank, the following amount:

(i) if the loan/deposit ratio is greater than seventy per cent, one and one-half per cent of the value of its Pennsylvania loans.

(ii) if the loan/deposit ratio is less than or equal to seventy per cent, one-half per cent of the value of its Pennsylvania loans.

(b) Upon review and approval, the Secretary of Revenue shall award to the new bank a credit which may be utilized in the manner provided by this article.

Section 1905. Limitations on Tax Credits.—Tax credits shall be subject to the following limits:

(1) Tax credits awarded pursuant of this article may be used to pay eighty per cent of the new bank's liability for any tax imposed by Article II, Article VII or Article VIII which is due and payable after January 1, 1989.

(2) Tax credits may not be used to pay any other liability of the new bank to the Commonwealth.

(3) Unused tax credits may be carried forward two years from the date they are awarded. If not used within this time period, the tax credits shall expire.

(4) Tax credits shall not be refundable.

(5) Tax credits shall not be transferable.

(6) In the case of a merger, consolidation or reorganization as defined under 26 United States Code § 368 (relating to definitions relating to corporate reorganization) of the Internal Revenue Code, the credits awarded to the new bank may be carried over to the surviving bank and used in accordance with the provisions of this article.

(7) If applications for credits exceed the amount available under section 1906 of this article, tax credits will be granted on a proportionate basis to all timely filed, valid applications.

Section 1906. Total Amount of Credits.—*The total amount of tax credits authorized by this article shall not exceed twelve million dollars (\$12,000,000) in 1989, two million dollars (\$2,000,000) in 1990 and one million dollars (\$1,000,000) in 1991.*

Section 1907. Procedures for Claiming Credits.—(a) *For tax credits claims in 1989 the following applies:*

(1) *The Department of Revenue shall prepare and have available forms for applying for the tax credit within thirty days of the effective date of this article.*

(2) *New banks must file the application form and any additional information requested by the Department of Revenue within sixty days of the effective date of this article.*

(3) *The Department of Revenue shall review the application forms submitted and grant tax credits to eligible new banks within ninety days of the effective date of this article.*

(b) *For tax credits claimed in 1990 and 1991, the following applies:*

(1) *The Department of Revenue shall prepare and have available forms for applying for the tax credit by January 31.*

(2) *New banks must file the application form and additional information requested by the Department of Revenue by February 28.*

(3) *The Department of Revenue shall review the application forms submitted and grant tax credits to eligible new banks by March 31.*

(c) *Applications for credits submitted after the due date specified in subsection (a) or (b) shall not be eligible to receive a credit.*

(d) *Appeals of determinations made pursuant to this article shall be made pursuant to the administrative provisions of Article IV, except that the approval of the Office of Auditor General shall not be required.*

Section 1908. Report to General Assembly.—(a) *On or before January 1, 1990, and each year thereafter, the Secretary of Revenue shall provide the General Assembly with a report showing the following information for the prior calendar year:*

(1) *the amount of tax credits approved for each new bank pursuant to this article;*

(2) *the name of each such new bank;*

(3) *the value of Pennsylvania loans and deposits of each new bank;*

(4) *the amount of tax credits utilized by each new bank pursuant to this article.*

(b) *The provisions of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," section 408(b) of this act, and any other provision of law preventing the disclosure of information required pursuant to subsection (a) of this section, shall not apply when the information is divulged for the purposes of subsection (a) of this section.*

Section 1909. Evaluation of Tax Credit.—*No later than September 30, 1992, the Secretary of Revenue, in cooperation with the Secretary of Banking, shall report to the Governor and the General Assembly concerning the impact of the tax credits provided by this article upon the growth and stability of the banking industry in the Commonwealth. The report shall discuss*

whether tax credits of the type provided by this article are an efficient and effective method of fostering the growth and stability of the banking industry and shall recommend whether this article should be reauthorized or extended.

Section 3. (a) Notwithstanding section 3002 of Article XXX of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the provisions of Article XIX are nonseverable. If any provision of article XIX or the application of any such provision to any person or circumstance is held invalid, the remaining provisions or applications of Article XIX are void. Any such invalidity shall result in the nullification of all credits granted under Article XIX and shall not be used as the basis to grant any credit to any other taxpayer.

(b) The invalidity of any provision or application of Article XIX shall not affect the validity of any other provision or article of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 4. The provisions of sections 2 and 3 of this act shall apply retroactively to years beginning on or after January 1, 1989.

Section 5. This act shall take effect immediately.

APPROVED—The 1st day of July, A. D. 1989.

ROBERT P. CASEY