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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 244 Session of  
2015

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INTRODUCED BY HUGHES, FARNESE, FONTANA, TARTAGLIONE, YUDICHAK,  
BREWSTER, COSTA, SCHWANK, BOSCOLA AND BLAKE,  
SEPTEMBER 25, 2015

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REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
SEPTEMBER 25, 2015

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AN ACT

1 Providing for the sale of Build Pennsylvania Bonds; and  
2 conferring powers and imposing duties on the Commonwealth  
3 Financing Authority and the Department of Revenue.

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

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Build  
10 Pennsylvania Bond and Tax Credit Act.

11 Section 102. Definitions.

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

15 "Authority." The Commonwealth Financing Authority.

16 "Build Pennsylvania Bonds." Build Pennsylvania Bonds  
17 authorized under section 301 that entitle the beneficial owners

1 of the Build Pennsylvania Bonds to tax credits authorized under  
2 this act.

3 "Qualified tax liability." The liability for taxes imposed  
4 under Article III, IV, VII, VIII, IX or XV of the Tax Reform  
5 Code. The term does not include amounts withheld or required to  
6 be withheld from employees under Article III of the Tax Reform  
7 Code.

8 "Tax credit." The tax credit established under section 501.

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

11 CHAPTER 3

12 BONDS

13 Section 301. Issuance of Build Pennsylvania Bonds.

14 (a) Limit.--The authority may incur indebtedness under this  
15 section in an amount up to \$1,000,000,000 plus the payment of  
16 all reasonable costs and expenses related to the issuance of  
17 indebtedness in accordance with 64 Pa.C.S. Ch. 15 (relating to  
18 Commonwealth Financing Authority) for up to 30 years. The total  
19 principal amount of bond proceeds authorized to be issued under  
20 this act shall be limited to \$200,000,000 per year for a period  
21 of five years beginning in fiscal year 2015-2016.

22 (b) Use.--Proceeds of Build Pennsylvania Bonds issued under  
23 this section shall be used for the purposes under section 302.

24 (c) Future use.--Any portion of the authorization under  
25 subsection (a) not used in a fiscal year may be used in a future  
26 fiscal year if, prior to the issuance of the Build Pennsylvania  
27 Bonds, the authority determines that the aggregate amount of tax  
28 credits for which taxpayers would be eligible based on the  
29 issuance does not exceed the maximum amount of tax credits  
30 authorized in that fiscal year under section 501(c).

1 (d) Final maturity.--Build Pennsylvania Bonds may not have a  
2 final maturity in excess of 30 years from the date of issuance.  
3 The principal of each series of Build Pennsylvania Bonds must be  
4 structured on an approximately level debt service basis, taking  
5 into account the annual tax credits and any supplemental  
6 interest payable by the authority.

7 Section 302. Use of bond proceeds.

8 Funds received from the issuance of Build Pennsylvania Bonds  
9 shall be used by the authority as follows:

10 (1) No more than \$500,000,000 over five years may be  
11 used by the authority to fund eligible projects under the act  
12 of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act.  
13 The prohibition on grants for projects located in a city or  
14 county of the first class or second class under section 301  
15 of the H2O PA Act shall not apply to funds distributed for  
16 H2O PA projects under this paragraph.

17 (2) No more than \$500,000,000 over five years may be  
18 transferred to the Pennsylvania Infrastructure Investment  
19 Authority to be used for eligible projects under the act of  
20 March 1, 1988 (P.L.82, No.16), known as the Pennsylvania  
21 Infrastructure Investment Authority Act.

22 Section 303. Debt service.

23 Payments on the principal of bond funds received by the  
24 authority shall be paid from funds received by the authority or  
25 by the Pennsylvania Infrastructure Investment Authority under 58  
26 Pa.C.S. § 2315(a.1)(4) (relating to Statewide initiatives).

27 Section 304. Transfers from Pennsylvania Infrastructure  
28 Investment Authority.

29 Notwithstanding any other provision of law, all funds  
30 received by the Pennsylvania Infrastructure Investment Authority

1 under 58 Pa.C.S. § 2315(a.1)(4) (relating to Statewide  
2 initiatives) shall be transferred to the authority and used for  
3 the payment of debt service under this act.

4 Section 305. Debt or liability of Commonwealth or political  
5 subdivision.

6 (a) Commonwealth.--Build Pennsylvania Bonds issued under  
7 this act shall not be a debt or liability of the Commonwealth  
8 and shall not create or constitute any indebtedness, liability  
9 or obligation of the Commonwealth.

10 (b) Revenue.--Build Pennsylvania Bonds shall be payable  
11 solely from revenues listed under section 303 and funds  
12 appropriated to the authority for repayment.

13 (c) Statements.--All Build Pennsylvania Bonds must contain  
14 on their faces statements to the effect that:

15 (1) The authority is obligated to pay the principal of  
16 the Build Pennsylvania Bonds only from the revenue sources  
17 under section 303 or funds appropriated to the authority for  
18 repayment.

19 (2) Interest on the Build Pennsylvania Bonds will be  
20 paid in the form of tax credits under section 501.

21 (3) Neither the Commonwealth nor any political  
22 subdivision is obligated to pay the principal or interest on  
23 the Build Pennsylvania Bonds.

24 (4) Neither the faith and credit nor the taxing power of  
25 the Commonwealth or any political subdivision is pledged to  
26 the payment of the principal of or the interest on the Build  
27 Pennsylvania Bonds.

28 Section 306. Commonwealth pledges.

29 The Commonwealth pledges to and agrees with each obligee of  
30 the authority that the Commonwealth will not limit or alter the

1 rights and powers vested in the authority or created under this  
2 act in any manner inconsistent with the obligations of the  
3 authority to its obligees until all Build Pennsylvania Bonds  
4 issued, together with the interest on the Build Pennsylvania  
5 Bonds paid through tax credits authorized under section 501, are  
6 fully paid and discharged.

7 CHAPTER 5

8 TAX CREDIT

9 Section 501. Build Pennsylvania Bond tax credit.

10 (a) Claim.--A holder of a Build Pennsylvania Bond may claim  
11 a tax credit against its qualified tax liability.

12 (b) Refund or carryover.--If the taxpayer cannot use the  
13 entire amount of the tax credit for the taxable year in which  
14 the tax credit is first approved, the taxpayer may request a  
15 refund of the excess or the excess may be carried over to  
16 succeeding taxable years and used as a credit against the  
17 qualified tax liability of the taxpayer for those taxable years  
18 if the aggregate amount of tax credits for which taxpayers would  
19 be eligible based on the issuance does not exceed the maximum  
20 amount of tax credits authorized in that fiscal year under  
21 subsection (c). Each time the tax credit is carried over to a  
22 succeeding taxable year, it shall be reduced by the amount that  
23 was used as a credit during the immediately preceding taxable  
24 year. The tax credit may be carried over and applied to  
25 succeeding taxable years for no more than five taxable years  
26 following the first taxable year for which the taxpayer was  
27 entitled to claim the credit, or until the credit has been  
28 exhausted, whichever occurs first.

29 (c) Amount.--The amount of the tax credit may not exceed any  
30 of the following:

1 (1) The greater of 5% of the face amount of the Build  
2 Pennsylvania Bonds outstanding.

3 (2) The yield required to market the Build Pennsylvania  
4 Bonds to investors at the price of par.

5 (3) Any of the following:

6 (i) For fiscal year 2015-2016, \$10,000,000.

7 (ii) For fiscal year 2016-2017, \$20,000,000.

8 (iii) For fiscal year 2017-2018, \$30,000,000.

9 (iv) For fiscal year 2018-2019, \$40,000,000.

10 (v) For fiscal year 2019-2020 through fiscal year  
11 2024-2025, \$50,000,000.

12 (vi) For fiscal year 2025-2026 through fiscal year  
13 2029-2030, \$40,000,000.

14 (vii) For fiscal year 2030-2031 through fiscal year  
15 2035-2036, \$30,000,000.

16 (viii) For fiscal year 2036-2037 through fiscal year  
17 2041-2042, \$20,000,000.

18 (ix) For fiscal year 2042-2043 through fiscal year  
19 2049-2050, \$10,000,000.

20 (d) Duties.--The authority, in consultation with the  
21 Department of Revenue, shall do all of the following:

22 (1) Certify the amount of each annual tax credit  
23 awarded.

24 (2) Issue documentation evidencing the tax credit to the  
25 registered owners of the Build Pennsylvania Bonds on each  
26 record date and request from those registered owners the  
27 names of the beneficial owners of the Build Pennsylvania  
28 Bonds on the record date, the taxpayer identification number  
29 of each beneficial owner and the amount of tax credit to  
30 which each beneficial owner is entitled.

