

§5219-BBB. Credit for investment in qualified professional baseball facilities in the State

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified applicant" means a qualified applicant that has received a certificate of approval from the commissioner pursuant to subsection 2. [PL 2023, c. 667, §3 (NEW).]

B. "Commissioner" means the Commissioner of Economic and Community Development. [PL 2023, c. 667, §3 (NEW).]

C. "Full-time" means an average of at least 36 hours weekly during the period of measurement. [PL 2023, c. 667, §3 (NEW).]

D. "Qualified applicant" means an applicant that, at the time the application for a certificate of approval is submitted pursuant to subsection 2, operates a qualified professional baseball facility. [PL 2023, c. 667, §3 (NEW).]

E. "Qualified investment" means an expenditure made directly by a qualified applicant between October 1, 2023 and November 30, 2026 of at least \$1,000,000 to design, permit, construct, modify, equip or expand a qualified professional baseball facility. The expenditures of a qualified applicant and other entities, whether or not incorporated, that are part of a single business enterprise must be aggregated to determine whether a qualified investment has been made. [PL 2023, c. 667, §3 (NEW).]

F. "Qualified professional baseball facility" means real and personal property in the State, including one or more structures and the equipment, machinery, fixtures and personal property located in, on, over, under and adjacent to those structures, used for the operation of a minor league baseball team that is recognized by a national organization of major or minor league baseball teams. [PL 2023, c. 667, §3 (NEW).]

[PL 2023, c. 667, §3 (NEW).]

2. Procedures for application; certificate of approval. This subsection governs the procedures for applying for and obtaining a certificate of approval.

A. An applicant may apply to the commissioner for a certificate of approval. An applicant shall submit to the commissioner information demonstrating that the applicant is a qualified applicant. Such information must include an agreement by the applicant that all employees and subcontractors of the applicant are provided fair minimum wages and benefits at a rate specified in Title 26, section 1306 or the minimum wage required by the municipality, whichever is greater. [PL 2023, c. 667, §3 (NEW).]

B. Within 30 days of receipt of an application for a certificate of approval submitted pursuant to paragraph A, the commissioner shall determine whether the applicant is a qualified applicant and shall issue either a certificate of approval as a certified applicant or a written denial indicating why the applicant is not qualified. A certificate of approval issued by the commissioner must describe the qualified investment and specify the total amount of qualified investment approved under the certificate of approval. [PL 2023, c. 667, §3 (NEW).]

C. A certified applicant shall apply to the commissioner for a certificate of completion. If the commissioner determines that the certified applicant has made a qualified investment, the commissioner shall issue a certificate of completion to the certified applicant as soon as is practicable. The certificate of completion must state the amount of qualified investment made by the certified applicant. A certified applicant and other entities, whether or not incorporated, that are part of a single business enterprise may receive only one certificate of completion pursuant to this subsection. [PL 2023, c. 667, §3 (NEW).]

D. If a certified applicant intends to transfer the qualified professional baseball facility prior to completion of the qualified investment, the certified applicant must obtain approval from the commissioner to transfer the certificate of approval or, if the certified applicant has obtained a certificate of completion, that certificate of completion to the transferee. The commissioner shall approve the transfer of the certificate of approval or the certificate of completion only if at least one of the following conditions is satisfied:

- (1) The transferee is a member of the certified applicant's unitary affiliated group at the time of the transfer; or
- (2) The commissioner finds that the transferee will, and has the capacity to, maintain operations of the qualified professional baseball facility in a manner that meets the minimum qualifications for continued eligibility for the tax credit under this section after the transfer occurs.

If the commissioner approves the transfer of the certificate of approval or the certificate of completion, the transferee, from the date of the transfer, must be treated as the certified applicant and as eligible to claim any remaining tax credit under the certificate of approval or the certificate of completion that has not been previously claimed by the original certified applicant as long as the transferee meets the same eligibility requirements and conditions for the tax credit as applied to the original certified applicant. [PL 2023, c. 667, §3 (NEW).]

[PL 2023, c. 667, §3 (NEW).]

3. Refundable tax credit allowed. Beginning with the tax year during which a certificate of completion is issued under subsection 2, paragraph C but not before a tax year beginning in 2025, and for each of the following 14 tax years, a certified applicant is allowed a credit against the tax otherwise due under this Part for the taxable year in an amount equal to 1.33% of the certified applicant's qualified investment. A credit under this section for a certified applicant may not exceed \$133,000 per year and \$1,995,000 in cumulative total. The credit allowed under this section is refundable.

[PL 2023, c. 667, §3 (NEW).]

4. Reporting required. A certified applicant, the commissioner and the assessor are required to make reports pursuant to this subsection.

A. On or before March 1st of each year, beginning in 2025, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this subsection as "the report year," containing the following information:

- (1) The incremental amount of qualified investment made by the certified applicant in the report year;
- (2) The number of full-time employees based in this State of the certified applicant on the last day of the report year;
- (3) The total number of any additional full-time employees in the State added by the certified applicant since the date a certificate of approval was issued pursuant to subsection 2, paragraph B and since the last annual report;
- (4) The average and median wages of all full-time employees of the certified applicant; and
- (5) The percentage and number of full-time employees of the certified applicant who have access to retirement benefits and health benefits.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received. [PL 2023, c. 667, §3 (NEW).]

B. On or before April 1st of each year, beginning in 2025, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on qualified investment amounts of each certified applicant for each year that the certified applicant claimed a tax credit under this section. [PL 2023, c. 667, §3 (NEW).]

C. On or before December 31st of each year, beginning in 2025, the assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the report year as a result of this section for each taxpayer claiming the tax credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the tax credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately. [PL 2023, c. 667, §3 (NEW).]

Notwithstanding any provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.
[PL 2023, c. 667, §3 (NEW).]

5. Recapture. If the qualified investment forming the basis of the credit is not used as a qualified professional baseball facility by the certified applicant or a transferee approved pursuant to subsection 2, paragraph D, the following provisions apply.

A. During the first 60 months following the receipt of the certificate of completion, if the certified applicant or transferee fails to use the qualified investment forming the basis of the credit as a qualified professional baseball facility for the entire 60-month period, the credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer. The credit must be recaptured by adding to the tax imposed on the certified applicant or transferee for the taxable year in which the qualified investment is no longer used as a qualified professional baseball facility by the certified applicant or transferee an amount equal to the total amount of credit authorized minus the amount of credit not yet taken. [PL 2023, c. 667, §3 (NEW).]

B. If the qualified investment forming the basis of the credit is not used as a qualified professional baseball facility by the certified applicant or a transferee following the first 60 months following the receipt of the certificate of completion, the certified applicant or transferee is not eligible for the credit for that tax year and the certified applicant or transferee is not eligible for the credit for any tax year thereafter that the certified applicant or transferee fails to use the qualified investment as a qualified professional baseball facility. [PL 2023, c. 667, §3 (NEW).]

[PL 2023, c. 667, §3 (NEW).]

6. Rules. The commissioner and the assessor may jointly adopt rules to implement this section, including, but not limited to, rules for determining and certifying eligibility. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 667, §3 (NEW).]

7. Evaluation. The tax credit provided under this section is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the joint legislative committee established to oversee program evaluation and government accountability matters and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. The amount of qualified investment made by each certified applicant during the period being reviewed and measures of fiscal impact; [PL 2023, c. 667, §3 (NEW).]

B. Employment measures taken by each certified applicant, including:

- (1) The number of any additional full-time employees in the State added by each certified applicant since that applicant was issued a certificate of approval pursuant to subsection 2, paragraph B;
 - (2) The average and median wages paid to full-time employees of each certified applicant; and
 - (3) The percentage and number of full-time employees of each certified applicant for whom health benefits and retirement benefits are available; and [PL 2023, c. 667, §3 (NEW).]
- C. The overall economic impact to the State and to the regions in which certified applicants are located. [PL 2023, c. 667, §3 (NEW).]
[PL 2023, c. 667, §3 (NEW).]

SECTION HISTORY

PL 2023, c. 667, §3 (NEW).

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