

CHAPTER 75
FORMERLY
HOUSE BILL NO. 129

AN ACT TO AMEND TITLES 29 AND 30 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITY TAX RATES AND THE USE OF THE PROCEEDS THEREOF.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5502(b)(1), Title 30 of the Delaware Code, by striking the figure "5.00%" as it appears in said section and substituting in lieu thereof the figure "4.25%".

Section 2. Amend § 5502(b), Title 30 of the Delaware Code, by striking the figure "2.35%" as it appears in said section and substituting in lieu thereof the figure "2.00%".

Section 3. On or before January 1, 2012, each distributor subject to the public utility tax imposed by § 5502(b), Title 30 of the Delaware Code and not subject to the regulation of the Public Service Commission shall report to the Controller General of the General Assembly on how it has adjusted its tariffs so that the distributor's earnings are neither increased nor decreased by this Act.

Section 4. Amend § 5502, Title 30 of the Delaware Code, by adding a new subsection (f) to read as follows:

"(f) The State shall transfer in each fiscal year the first \$5,000,000 in tax receipts received under this chapter that would otherwise be deposited to the General Fund to the Energy Efficiency Investment Fund maintained by the Department of Natural Resources and Environmental Control pursuant to Chapter 80 of Title 29."

Section 5. Amend Chapter 80, Title 29 of the Delaware Code by adding a new section as follows:

"§ 8030. Energy Efficiency Investment Fund.

The Department of Natural Resources and Environmental Control shall manage the Energy Efficiency Investment Fund. The Fund shall be used to incentivize investments in energy efficiency by consumers or users of gas or electricity whose purchase of those commodities from a distributor is subject to the public utility tax on gas or electricity imposed by Chapter 55 of Title 30. The Department shall support implementation of projects that reduce the use of gas, electricity, or other sources through the issuance of competitive grants, low-interest loans, or other financing support from the Fund. The Department shall establish the contents and deadline for applications for financing from the Fund and shall give preference to those applications proposing projects that are anticipated to produce the greatest reduction in energy consumption per Fund dollar invested, improve environmental performance, spur capital construction and facility modernization, encourage job retention and creation, and are likely to be substantially complete no later than one year following the issuance of financing from the Fund. In no event shall the Fund provide grant funding for more than thirty percent of the costs of any proposed project or support projects already receiving support from the Green Energy Fund under this Chapter or the Strategic Fund under Chapter 50 of this Title. The Fund shall be administered in consultation with the Sustainable Energy Utility and the Delaware Economic Development Office. The Department shall make an annual report on the use of the Energy Efficiency Investment Fund and the value of energy savings resulting therefrom to the Governor's Energy Advisory Council and the General Assembly not later than August 30 of each year after 2011. The Department shall retain no more than four percent of the Fund for expenses to administer this section. All terms used herein that are defined in Chapter 55 of Title 30 shall have the same definition used in that chapter."

Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

Section 7. Sections 1, 2 and 3 of this Act shall be effective for tax periods beginning after July 31, 2011. Sections 4 and 5 of this Act shall be effective for fiscal years commencing after June 30, 2011.

Approved July 01, 2011