

CHAPTER 72
FORMERLY
SENATE BILL NO. 91

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO THE BANK FRANCHISE TAX.

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

Section 1. Amend § 1101A of Title 5 of the Delaware Code by deleting paragraph (d)(2) thereof in its entirety and substituting in lieu thereof the following:

"(2) The location benefit tax liability shall be \$1,600,000, plus 0.012% of the value of assets not in excess of \$5,000,000,000; 0.008% of the value of assets in excess of \$5,000,000,000 but not in excess of \$20,000,000,000; 0.004% of the value of assets in excess of \$20,000,000,000 but not in excess of \$90,000,000,000."

Section 2. Amend § 1105(f)(1) of Title 5 of the Delaware Code by deleting the words and punctuation "subsections (b), (c), (d) and (e)" therein and inserting in lieu thereof the words and punctuation "subsections (b), (c), (d), (e), (h) and (i)".

Section 3. Amend § 1105(f)(2) of Title 5 of the Delaware Code by deleting the words "subsection (d)" and inserting in lieu thereof the words "subsections (d) or (h)".

Section 4. Amend § 1105 of Title 5 of the Delaware Code by adding the following new subsections (h) and (i) at the end of that section:

"(h) For taxable years beginning after December 31, 2011, and ending before January 1, 2022, there shall be allowed as a credit against the tax imposed under subsection (a) of this section or § 1101A of this title an amount equal to \$1,250 for each new qualified employee above the number of employees employed by the banking organization or trust company in full time employment during the base year; provided, however, that the credit provided pursuant to this subsection shall be available only for taxable years in which the banking organization or trust company has at least 200 new qualified employees above the number of employees employed by the banking organization or trust company in full time employment during the base year. For purposes of this subsection and subsection (i) of this section, the base year shall be the period after December 31, 2010, and before January 1, 2012.

(i) The following conditions apply in determining the credit under subsection (h) of this section:

(1) No credit may be claimed until the taxpayer has made new investments of at least \$15,000 per qualified employee in excess of the number of employees employed by the banking organization or trust company in full time employment during the base year. "New investment," for purposes of this subsection, shall include only the cost of land and improvements to land, machinery and equipment; provided, that such new investment is placed in service within this State after December 2011 and was not used by any person at any time within the 1-year period ending on the date the taxpayer placed such property in service in the conduct of the business of a banking organization or trust company. For purposes of this subsection, if the new investment is leased or subleased by the taxpayer, the amount of new investment shall be deemed to be 8 times the net annual rent paid or incurred by the taxpayer for such investment. The net annual rent shall be the gross rent paid or incurred by the taxpayer during the taxable year, less any gross rental income received by the taxpayer from sublessees of any portion of such facility during such taxable year; and

(2) In determining the number of qualified employees, there shall be considered only employees:

a. Who are employed within this State on a regular and full time basis. "Full time employment" shall have the meaning ascribed to that term in § 2010(14) of Title 30;

b. For whom the banking organization or trust company provides health care benefits as defined in § 2010(15) of Title 30; and

c. Who have been employed in this State by the taxpayer for a continuous period of at least 6 months, verifiable by documentary evidence, and who were not employed at the same facility in substantially the same capacity by a different employer during all or a part of the base year."

Section 5. Sections 1, 2 and 3 of this Act shall take effect on January 1, 2012 and shall be effective for tax years beginning after December 31, 2011. Section 4 of this Act shall take effect on January 1, 2012 and shall be effective for tax years beginning after December 31, 2011 and ending before January 1, 2022.

Approved July 01, 2011