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Section 38. The act is amended by adding a section to read:  
Section 2703.1. Board.

(a) Membership.--Notwithstanding any other law to the contrary, the Board of Finance and Revenue shall consist of the the following members:

(1) the State Treasurer or the State Treasurer's designee; and

(2) two members nominated by the Governor and approved by the Senate.

The State Treasurer or the State Treasurer's designee shall have one vote on the board, and the other two members shall each have one vote on the board.

(b) Terms.--Members nominated by the Governor and approved by the Senate shall serve an initial term of four and six years respectively as designated by the Governor at the time of nomination and until their successors have qualified. After the initial terms, members nominated by the Governor and approved by the Senate shall serve for a term of six years and until a successor has qualified.

(c) Member qualifications.--Each member nominated by the Governor and each member who is a designee of the State Treasurer must satisfy and maintain the following criteria:

(1) Be a citizen of the United States.

(2) Be a resident of the Commonwealth of Pennsylvania.

(3) Be an attorney in good standing before the Supreme Court of Pennsylvania or be a certified public accountant in good standing before the State Board of Accountancy.

(4) Have at least ten years of experience in a position requiring substantial knowledge of Pennsylvania tax law.

(5) Devote full time to the duties of the office and, while a member, may not engage in any other gainful employment or business nor hold another office or position of profit in a government of this Commonwealth, any other state or the United States. Nothing in this section may be interpreted to prohibit members of the board from serving in the National Guard and the reserves of the armed forces of the United States while a member of the board.

(d) Initial term.--The initial term of the members nominated by the Governor and approved by the Senate shall begin January 1, 2014.

(e) Nomination and approval.--The Governor may nominate and the Senate may approve the two board members referred to in subsection (a)(2) as of the effective date of this section.

(f) Renomination.--A member may be renominated upon the expiration of the member's term.

(g) Vacancies.--Any vacancy shall be filled for the unexpired term in the same manner as set forth in this section.

(h) Salary.--Each of the members of the board who are nominated by the Governor and approved by the Senate shall receive an annual salary to be determined by the executive board commensurate with the annual salary received by other boards and commissions.

(i) Operation of board.--Two members of the board shall constitute a quorum. The board shall elect a secretary, who need not be a member of the board. The State Treasurer shall be the chairman of the board and shall, in consultation with the other members, select and appoint the counsel, clerks and other employees as may be necessary to administer the responsibilities of the board and for the proper conduct of its work.

(j) Oath of office.--Before entering upon the duties of office, a member shall take and subscribe to an oath or affirmation to faithfully discharge the duties of the office.

(k) Actions of board.--The board may take any action that is necessary to properly exercise the duties, functions and powers given the board upon the effective date of this section.

(l) Need for majority.--The powers and duties vested in and imposed upon the board shall in all cases be exercised or performed by a majority of the board.

(m) Powers.--The board is authorized to promulgate and adopt all rules, regulations and forms as may be necessary or appropriate.

Section 39. Section 2704 of the act, added October 18, 2006 (P.L.1149, No.119), is amended to read:  
Section 2704. Review by board.

(a) Petition for review of a decision and order.--Within 90 days after the mailing date of the department's notice of decision and order on a petition filed with it, a taxpayer may petition the board to review the decision and order of the department.

(b) Petition for review of denial by department's failure to act.--A petition for review may be filed with the board within 90 days after the mailing date of the department's notice to the petitioner of its failure to dispose of the petition within the time periods prescribed by section 2703(d) or (e).

(c) Contents of petition.--

(1) A petition for review of the department's decision and order on a petition for reassessment shall state all of the following:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously assessed.

(iii) The basis upon which the taxpayer claims that the assessment is erroneous.

(2) A petition for review of the department's decision and order on a petition for refund shall state all of the following:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been overpaid.

(iii) The basis of the taxpayer's claims for refund.

**(2.1) All petitions for review shall identify a mailing address to which all correspondence and decisions can be mailed and received and, if so desired, an e-mail address to which all correspondence and decisions can be electronically sent. The board shall be permitted to rely upon the accuracy of the address provided by the taxpayer, and it shall be the**

duty of the taxpayer to notify the board if there is any change in an address provided to the board.

(3) A petition may satisfy the requirements of paragraphs (1)(iii) or (2)(iii) by incorporating by reference the petition filed with the department in which the basis of the taxpayer's claim is specifically stated.

(d) Affidavit.--A petition shall be supported by an affidavit by the petitioner or the petitioner's authorized representative that the petition is not made for the purpose of delay and that the facts set forth in the petition are true.

(d.1) Representation.--

(1) Appearances in tax appeal proceedings conducted by the board may be by the taxpayer or by an attorney, accountant or other representative provided the representation does not constitute the unauthorized practice of law as administered by the Pennsylvania Supreme Court.

(2) The department shall have the right to be represented in all tax appeal proceedings before the board. The secretary or the secretary's designee shall notify the board as to whom copies of all communications, notices and decisions should be sent on behalf of the department. Communications with the department's appointed representative shall be by electronic means.

(d.2) Evidence.--The petitioner and the department shall be entitled to present oral and documentary evidence in support of their positions. The petitioner and the department will be provided the opportunity to comment upon any submitted evidence and provide written and oral argument to support their positions.

(d.3) Ex parte communications.--The members or staff of the board shall not participate in any ex parte communications with the petitioner or the department or their representatives regarding the merits of any tax appeal pending before the board. Any information or documentation provided to the members or staff of the board by the petitioner or the department or their representatives in a communication regarding the merits of any appeal pending before the board shall also be promptly provided to the other party.

(d.4) Access to department's database.--The board shall be provided access to the department's records relating to a petition before the board.

(d.5) Request for hearing.--Upon written request of the petitioner or the department or when deemed necessary by the board, the board shall schedule a hearing to review a petition. The petitioner and the department shall be notified by the board of the date, time and place where the hearing will be held.

(d.6) Hearing practice.--Hearings shall be open to the public and shall be conducted in accordance with such rules of practice and procedure as the board may adopt and promulgate. On request of either party or on its own accord, the board may conduct part or all of the hearing as an executive session to the extent that if held in public it would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law.

(d.7) Compromise settlement.--The board shall establish procedures to facilitate the compromise settlement of issues on appeal. A compromise settlement shall be ordered by the board only with the agreement of both the petitioner and the department. The provisions of section 2707(c) shall be applicable to compromise settlements under this section.

(e) Decision and order.--The board shall issue a decision and order **in writing** disposing of a petition on any basis as it deems to be in accordance with law and equity. **A decision and order shall include the conclusions reached and the facts on which the decision was based.** The decision and order shall be approved by a majority of the board. A copy of the decision and order and any dissenting opinion shall be sent to the petitioner utilizing the method identified by the petitioner and by electronic means to the department.

(f) Time limit for decision and order.--

(1) Except as provided in [paragraph] **paragraphs (2) and (3)**, the board shall issue a decision and order disposing of a petition within six months after receipt of the petition. **Upon the request of the petitioner or the department, the board may extend the time period for the board to dispose of the petition for one additional six-month period.**

(2) If at the time of the filing of a petition proceedings are pending in a court of competent jurisdiction in which any claim made in the petition may be established, the board, upon the written request of the petitioner, may defer consideration of the petition until the final judgment determining the question or questions involved in the petition has been decided. If consideration of the petition is deferred, the board shall issue a decision and order disposing of the petition within six months after the final judgment.

(3) If a matter pending before the board would be materially affected by an audit or other proceeding before the Internal Revenue Service or by an audit or other proceeding conducted by another state, the board, upon the written request of the petitioner, may defer consideration of the petition until such time as the other audit or proceeding is completed. If consideration of the petition is deferred,

the board shall issue a decision and order disposing of the petition within six months after the audit or other proceeding is final.

(g) Failure of board to take action.--The failure of the board to dispose of the petition within the time period provided for by subsection (f) shall act as a denial of the petition. Notice of the board's failure to take action and the denial of the petition shall be issued to the petitioner **and the department**. The mailing date of the notice shall begin the time for filing any appeal.

(h) Publication of decisions.--

(1) The board shall publish each decision, along with any dissenting opinion, which grants or denies in whole or in part a petition for review or a petition for refund.

(2) Prior to publication of a decision, the board shall edit the decision to redact the following:

(i) Information identified by the petitioner as and that meets the definition of a trade secret or confidential proprietary information as defined in section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) An individual's Social Security number, home address, driver's license number, personal financial information as defined in section 102 of the Right-to-Know Law, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number and a record identifying the name, home address or date of birth of a child 17 years of age or younger.

(iii) Specific dollar amounts of tax.

(iv) Information pursuant to the Right-to-Know Law.

(3) The disclosure of any remaining information, including the name of the taxpayer and the nature of the taxpayer's business, shall be deemed not to violate any provision of law to the contrary, including:

(i) Sections 274, 353 and 408.

(ii) 18 Pa.C.S. § 7326 (relating to disclosure of confidential tax information).

(iii) Section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(4) Decisions shall be indexed and published on a publicly accessible Internet website maintained by the board.

(i) Appeals.--An appeal from a decision of the board shall be to the Commonwealth Court and shall be de novo.

Section 40. (Reserved).

Section 41. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment or repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act.

(2) Section 1104.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is repealed.

(3) Sections 207 and 302 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, are repealed insofar as they are inconsistent with the addition of section 2703.1 of the act.

(4) The General Assembly declares that the repeal under paragraph (5) is necessary to effectuate the addition of section 2704(h) of the act.

(5) Section 503.1 of The Fiscal Code is repealed.

(6) The General Assembly declares that the repeal under paragraph (7) is necessary to effectuate the addition of section 2703.1 of the act.

(7) Section 405 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(8) The General Assembly declares that the repeal under paragraph (9) is necessary to effectuate the addition of Article XIX-B of the act.

(9) Article XVI-B of The Fiscal Code is repealed.

(10) The General Assembly declares that the repeal under paragraph (11) is necessary to effectuate the addition of Article XIX-C of the act.

(11) Article XVI-F of The Fiscal Code is repealed.  
Section 42. The following shall apply:

(1) A tax credit may not be granted under section 206(b) of the act after June 30, 2013.

(1.1) The amendment of sections 1702-D and 1703-D of the act shall apply to tax credits awarded after June 30, 2013.

(2) The amendment or addition of the following provisions of the act shall apply to tax years beginning after December 31, 2013:

(i) Section 301(d.2), (n.2), (o.4) and (t).

(ii) Section 303(a)(2) and (a.8).

(iii) Section 306.

(iv) Section 306.1.

(v) Section 306.2.

(vi) Section 307.8(a) and (f).

(vii) Section 314(a).

(viii) Section 315.10.

(ix) Section 315.11.

(x) Section 324.

(xi) Section 330.1.

(xii) Section 335.

(xiii) Section 401(3)2(a)(16.1) and (17) and (e).

(xiv) Section 403(d).

(2.1) The amendment of sections 701, 701.1, 701.4 and 701.5 of the act shall apply to the calendar year beginning on January 1, 2014, and to each calendar year thereafter.

(3) The addition of section 1102-C.3(23) of the act shall apply to transactions occurring on or after November 1, 2011.

(4) The addition of section 2111(t) of the act shall apply to the estates of decedents who die on or after July 1, 2013.

(5) The amendment of sections 2701 and 2704 of the act shall apply to:

(i) All petitions filed with the Board of Finance and Revenue and all other business of the Board of Finance and Revenue on or after April 1, 2014.

(ii) All petitions filed with the Board of Finance and Revenue prior to April 1, 2014, that have not been the subject of a final and irrevocable decision by the Board of Finance and Revenue as of April 1, 2014.

(5.1) The repeal of section 2702(b) of the act and section 1104.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, shall apply to a petition for reassessment filed with the Department of Revenue on or after the effective date of this paragraph.

(6) Section 2703.1 of the act shall apply on April 1, 2014, or when the two Board of Finance and Revenue members referred to in section 2703.1(a)(2) have been sworn in, whichever is later. The members of the Board of Finance and Revenue in office before April 1, 2014, shall continue their terms until at least two members of the board under section 2703.1 have been sworn in.

(7) The addition of Article XIX-B of the act is a continuation of Article XVI-B of The Fiscal Code. Except as otherwise provided in Article XIX-B of the act, all activities initiated under Article XVI-B of The Fiscal Code shall continue and remain in full force and effect and may be completed under Article XIX-B of the act. Orders, regulations, rules and decisions which were made under Article XVI-B of The Fiscal Code and which are in effect on the effective date of section 41(9) of this act shall remain in full force and effect until revoked, vacated or modified under Article XIX-B of the act. Contracts, obligations and collective bargaining agreements entered into under Article XVI-B of The Fiscal Code are not affected nor impaired by the repeal of Article XVI-B of The Fiscal Code and shall remain

in full force and effect under the terms of the contracts, obligations and collective bargaining agreements.

(8) The addition of Article XIX-C of the act is a continuation of Article XVI-F of The Fiscal Code. Except as otherwise provided in Article XIX-C of the act, all activities initiated under Article XVI-F of The Fiscal Code shall continue and remain in full force and effect and may be completed under Article XIX-C of the act. Orders, regulations, rules and decisions which were made under Article XVI-F of The Fiscal Code and which are in effect on the effective date of section 41(11) of this act shall remain in full force and effect until revoked, vacated or modified under Article XIX-C of the act. Contracts, obligations and collective bargaining agreements entered into under Article XVI-F of The Fiscal Code are not affected nor impaired by the repeal of Article XVI-F of The Fiscal Code.

Section 43. The following shall apply:

(1) Within 18 months of the effective date of this section, the Department of Revenue, working jointly with the Secretary of Banking and Securities and representatives from the banking industry in this Commonwealth, shall submit a detailed report to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives ascertaining whether the adjustment, under the amendment or repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act, to the rate of tax under Article VII of the act sufficiently addresses the significant changes in the structure and regulatory environment within the banking industry. The report shall include recommendations with regard to all of the following:

(i) An appropriate tax base on which to calculate tax liabilities, which shall include recognition of the effect of a final court decision and pending litigation on the tax base.

(ii) An appropriate rate of tax necessary to provide fair, stable and predictable tax revenues to the Commonwealth to ensure that the total amount of tax imposed on an institution subject to the tax under Article VII of the act and the rate of growth of the tax liabilities will be competitive with taxes imposed by other states, particularly those adjacent to this Commonwealth. Consideration shall be given to the adjustment to the rate of tax under the amendment or

repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act in order to determine whether future adjustments are warranted.

(iii) An appropriate methodology to allocate and apportion the tax base in instances where the entire business of a taxpayer subject to Article VII of the act is not conducted in this Commonwealth.

(iv) Proposed draft legislation concerning the implementation of recommended changes to Article VII of the act.

(2) (Reserved).

Section 44. This act shall take effect as follows:

(1) The following provisions shall take effect January 1, 2014, or immediately, whichever is later:

(i) The amendment of the definitions of "document," "real estate" and "real estate company" in section 1101-C of the act.

(ii) The amendment of sections 1102-C and 1102-C.5(a) of the act.

(2) The following provisions shall take effect April 1, 2014:

(i) The amendment of section 2701 of the act.

(ii) The addition of section 2703.1 of the act.

(iii) The amendment of section 2704 of the act.

(3) The addition of section 401(8), (9) and (10) of the act shall take effect January 1, 2015.

(4) The following provisions shall take effect in 60 days:

(i) The addition of section 278 of the act.

(ii) The addition of Article XVIII-F of the act.

(5) The addition of section 204(69) of the act shall take effect in 90 days.

(5.1) The addition of Article II-B of the act shall take effect July 1, 2014, or immediately, whichever is later.

(6) The remainder of this act shall take effect immediately.

APPROVED--The 9th day of July, A.D. 2013.

TOM CORBETT