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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1237 Session of  
2011

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INTRODUCED BY PILEGGI, TOMLINSON, BROWNE, ERICKSON, STACK,  
FONTANA, GREENLEAF, FARNESE, RAFFERTY, WAUGH, COSTA, MENSCH,  
BOSCOLA, SOLOBAY, BLAKE AND FERLO, SEPTEMBER 7, 2011

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JANUARY 25, 2012

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AN ACT

1 Amending the act of October 6, 1998 (P.L.705, No.92), entitled,  
2 as amended, "An act providing for the creation of keystone  
3 opportunity zones and keystone opportunity expansion zones to  
4 foster economic opportunities in this Commonwealth, to  
5 facilitate economic development, stimulate industrial,  
6 commercial and residential improvements and prevent physical  
7 and infrastructure deterioration of geographic areas within  
8 this Commonwealth; authorizing expenditures; providing tax  
9 exemptions, tax deductions, tax abatements and tax credits;  
10 creating additional obligations of the Commonwealth and local  
11 governmental units; and prescribing powers and duties of  
12 certain State and local departments, agencies and officials,"  
13 in keystone opportunity zones, further providing for  
14 extension for unoccupied parcels and for additional expansion  
15 zones; providing for expansion for new job creation; further  
16 providing for application, FOR QUALIFIED BUSINESSES, for ←  
17 corporate net income tax and for capital stock franchise tax;  
18 and, in tax administration, further providing for application ←  
19 time; ~~and~~ providing for monitoring data; AND REPEALING  
20 EXPIRATION PROVISION.

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 Section 1. Sections 301.3 and 301.4 of the act of October 6,  
24 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone,  
25 Keystone Opportunity Expansion Zone and Keystone Opportunity

1 Improvement Zone Act, added July 10, 2008 (P.L.1014, No.79), are  
2 amended to read:

3 Section 301.3. Extension for unoccupied parcels.

4 (a) Extension.--The department may approve an application to  
5 extend the exemptions, deductions, abatements and credits under  
6 this act as follows:

7 (1) One of the following:

8 (i) For a parcel in a keystone opportunity zone,  
9 keystone opportunity expansion zone or keystone  
10 opportunity improvement zone that is an unoccupied parcel  
11 on the effective date of this section, for a period of  
12 seven years from the expiration date of the zone.

13 (ii) For a parcel in a keystone opportunity zone or  
14 keystone opportunity expansion zone that is an unoccupied  
15 parcel on the effective date of this section, for a  
16 period of ten years from the date of occupancy, provided  
17 that the parcel is occupied on or before December 31,  
18 2015.

19 (iii) For a parcel in a keystone opportunity zone,  
20 keystone opportunity expansion zone or keystone  
21 opportunity improvement zone or subzone that expires in  
22 2013 or any year thereafter, for an additional period of  
23 NO LESS THAN SEVEN YEARS BUT NO MORE THAN ten years from ←  
24 the date of occupancy OR FROM THE EXPIRATION DATE OF THE ←  
25 ZONE AS DETERMINED BY THE DEPARTMENT. For a zone that  
26 expires in 2013, the extension shall apply to parcels  
27 that are unoccupied on the effective date of this  
28 subparagraph. For a zone that expires after 2013, the  
29 extension shall apply to parcels that are unoccupied on a  
30 date determined by the department.

1           (2) The extension of exemptions, deductions, abatements  
2 or credits authorized under this section, except exemptions  
3 for sales and use tax under section 511(a) or 705(a), shall  
4 take effect only upon occupancy.

5           (b) Real estate tax abatement.--The owner of an unoccupied  
6 parcel in a keystone opportunity zone, keystone opportunity  
7 expansion zone or keystone opportunity improvement zone that has  
8 expired but that receives an extension of tax abatement  
9 eligibility following the original expiration date of the  
10 keystone opportunity zone, keystone opportunity expansion zone  
11 or keystone opportunity improvement zone under subsection (a)  
12 shall not receive an abatement of real property tax until the  
13 parcel becomes occupied or developed.

14           (c) Application.--Except as provided in subsection (d), in  
15 order to extend the tax benefits for unoccupied parcels under  
16 subsection (a), the department must receive an application from  
17 a political subdivision or its designee no later than June 30,  
18 2009. The application must contain the information required  
19 under section 302(a)(1), (2), (3), (5) and (6). The application  
20 must include all ordinances, resolutions or other required  
21 action adopted by all political subdivisions in which the  
22 unoccupied parcel is located adopting the extension of all tax  
23 exemptions, deductions, abatements and credits authorized under  
24 Chapter 7. The department, in consultation with the Department  
25 of Revenue, shall review the application and, if approved, issue  
26 a certification of all tax exemptions, deductions, abatements or  
27 credits under this part for the unoccupied parcel within three  
28 months of receipt of the application. The certification shall be  
29 effective on the day following the expiration date of the  
30 existing subzone. For a keystone opportunity zone, keystone

1 opportunity expansion zone or keystone opportunity improvement  
2 zone or subzone that expires in 2013 or any year thereafter, in  
3 order to extend the tax benefits under subsection (a)(1)(iii),  
4 the department must receive an application no later than three  
5 months prior to the expiration date of the zone.

6 (d) Applications for certain zones.--For a keystone  
7 opportunity zone that expires December 31, 2008, an application  
8 may be submitted to the department to temporarily delay the  
9 expiration of the exemptions, deductions, abatements and credits  
10 for the zone until June 30, 2009. The application must be  
11 submitted by November 30, 2008, and include all ordinances,  
12 resolutions or other required action from all affected political  
13 subdivisions approving the requested delay in the expiration of  
14 the keystone opportunity zone. The department shall certify the  
15 delay in the expiration by December 31, 2008. If the expiration  
16 of a keystone opportunity zone is delayed under this subsection,  
17 a political subdivision or its designee may apply for an  
18 extension pursuant to subsection (c), provided that the  
19 application shall be submitted by May 1, 2009, and approved by  
20 the department no later than June 30, 2009. If an extension is  
21 granted under subsection (c), the extension shall be deemed to  
22 be effective January 1, 2009.

23 (e) Expiration.--All extensions of an unoccupied parcel  
24 certified under subsection (a)(1)(i) shall expire no later than  
25 seven years following the expiration date of the existing  
26 keystone opportunity zone, keystone opportunity expansion zone  
27 or keystone opportunity improvement zone. All extensions of an  
28 unoccupied parcel certified under subsection (a)(1)(ii) shall  
29 expire no later than ten years following the date of occupancy  
30 of the unoccupied parcel. All extensions of tax benefits under

1 subsection (a)(1)(iii) for a zone that expires on January 1,  
2 2013, shall expire no later than ten years following the  
3 approval of the extension of the existing keystone opportunity  
4 zone, keystone opportunity expansion zone or keystone  
5 opportunity improvement zone or subzone. An extension of tax  
6 benefits under subsection (a)(1)(iii) shall expire no sooner  
7 than seven years but no later than ten years following approval  
8 of the extension OR THE EXPIRATION DATE OF THE ZONE as ←  
9 determined by the department.

10 Section 301.4. Additional keystone opportunity expansion zones.

11 (a) Establishment.--

12 (1) In addition to any designations under section 301.1,  
13 the department may designate up to 15 additional keystone  
14 opportunity expansion zones in accordance with this section.  
15 Each additional keystone opportunity expansion zone shall:

16 (i) Not be less than ten acres in size, unless  
17 contiguous to an existing zone.

18 (ii) Not exceed, in the aggregate, a total of 350  
19 acres.

20 (iii) Be comprised of parcels that meet any of the  
21 following criteria:

22 (A) Are deteriorated, underutilized or  
23 unoccupied on the effective date of this clause.

24 (B) Are occupied by a business that:

25 (I) Creates or retains at least 1,400 full-  
26 time jobs in this Commonwealth within three years  
27 of the designation of the keystone opportunity  
28 expansion zone; and

29 (II) Makes a capital investment of at least  
30 \$750,000,000 in the additional keystone

1 opportunity enhancement zone within three years  
2 of the designation of the keystone opportunity  
3 expansion zone.

4 (2) [The department shall immediately notify political  
5 subdivisions located within the area designated.] In addition  
6 to any designations under section 301.1 and paragraph (1),  
7 the department may designate up to 15 additional keystone  
8 opportunity expansion zones in accordance with this  
9 subsection. Each additional keystone opportunity expansion  
10 zone shall:

11 (i) Not be less than ten acres in size unless  
12 contiguous to an existing zone.

13 (ii) Not exceed, in the aggregate, a total of 350  
14 acres.

15 (iii) Be comprised of parcels that meet any of the  
16 following criteria:

17 (A) Are deteriorated, underutilized or  
18 unoccupied on the effective date of this clause.

19 (B) Are occupied by a QUALIFIED business that: ←

20 (I) creates or retains at least 1,000 full-  
21 time jobs in this Commonwealth within three years  
22 of the designation of the keystone opportunity  
23 EXPANSION zone; and ←

24 (II) makes a capital investment of at least  
25 \$500,000,000 in the additional keystone  
26 opportunity expansion zone within three years of  
27 the designation of the keystone opportunity  
28 expansion zone.

29 (3) If a QUALIFIED business in a keystone opportunity ←  
30 expansion zone designated under paragraph (2) makes an

1 investment of at least \$1,000,000,000 and ~~creates~~ THE ←  
2 BUSINESS AND ITS AFFILIATES, AS DETERMINED BY THE DEPARTMENT,  
3 CREATE at least 400 new permanent full-time jobs IN ONE OR ←  
4 MORE ZONES within seven years of the date of designation by  
5 the department, the department shall grant TO THE BUSINESS ←  
6 AND ITS AFFILIATES IN EACH OF THE DESIGNATED ZONES  
7 exemptions, deductions, abatements and credits under this act  
8 for a period of 15 years from the date of occupancy. If the  
9 QUALIFIED business ~~fails~~ AND ITS AFFILIATES FAIL to comply ←  
10 with the provisions of this paragraph, the period of the zone  
11 shall revert to ten years.

12 (b) Authorization.--Persons and businesses within an  
13 additional keystone opportunity expansion zone authorized under  
14 subsection [(a)] (a)(1) or (2) shall be entitled to all tax  
15 exemptions, deductions, abatements or credits set forth under  
16 this act, except exemptions for sales and use tax under section  
17 511(a) or 705(a), for a period of ten years, ~~beginning on~~ ←  
18 ~~January~~ [BEGINNING JANUARY 1, 2010, and ending on December 31, ←  
19 2020]. For a keystone opportunity expansion zone established ←  
20 under subsection (a)(1), the ten-year period shall begin on  
21 January 1, 2010, and end on December 31, 2019 2020. For a ←  
22 keystone opportunity expansion zone established under subsection  
23 (a)(2), the ten-year period shall begin on January 1, 2013 2014, ←  
24 and end on December 31, 2022 2023. Exemptions for sales and use ←  
25 taxes under sections 511 and 705 shall commence upon designation  
26 of the zone by the department.

27 (c) Application.--In order to receive a designation under  
28 subsection [(a)] (a)(1), the department must receive an  
29 application from a political subdivision or its designee no  
30 later than May 1, 2009, and no later than October 1, 2013, for a

1 keystone opportunity expansion zone established under subsection  
2 (a) (2). The application must contain the information required  
3 under section 302(a) (1), (2) (i) and (ix) and (6). The  
4 application must include all ordinances, resolutions or other  
5 required action adopted by all political subdivisions in which  
6 the keystone opportunity expansion zone is located providing the  
7 tax exemptions, deductions, abatements and credits authorized  
8 under Chapter 7. The department, in consultation with the  
9 Department of Revenue, shall review the application and, if  
10 approved, issue a certification of all tax exemptions,  
11 deductions, abatements or credits under this [part] act for the  
12 additional keystone opportunity expansion zone within three  
13 months of receipt of the application. The department shall act  
14 ~~on an application under this subsection by June 30, 2009.~~ ON AN ←  
15 APPLICATION FOR A DESIGNATION UNDER [THIS] SUBSECTION (A) (1) BY  
16 JUNE 30, 2009, AND ON AN APPLICATION FOR A DESIGNATION UNDER  
17 SUBSECTION (A) (2) BY NOVEMBER 30, 2013. THE DEPARTMENT MAY MAKE  
18 DESIGNATIONS UNDER THIS SECTION ON A ROLLING BASIS DURING THE  
19 APPLICATION PERIOD. THE DEPARTMENT MAY MAKE DESIGNATIONS UNDER  
20 SUBSECTION (A) (2) THAT MEET THE REQUIREMENTS OF THIS ACT  
21 PROVIDED THAT AT LEAST THREE KEYSTONE OPPORTUNITY EXPANSION  
22 ZONES ARE RESERVED FOR COUNTIES OF THE FIFTH THROUGH EIGHTH  
23 CLASS. IF THE DEPARTMENT RECEIVES LESS THAN THREE APPLICATIONS  
24 THAT MEET THE REQUIREMENTS OF THIS ACT FROM COUNTIES OF THE  
25 FIFTH THROUGH EIGHTH CLASS BY THE APPLICATION DEADLINE UNDER  
26 THIS SUBSECTION, THE NUMBER OF ZONES RESERVED UNDER THIS  
27 SUBSECTION, MINUS THE NUMBER OF SUCH APPLICATIONS FOR ZONES THE  
28 DEPARTMENT HAS APPROVED, SHALL BE AVAILABLE FOR DESIGNATION IN  
29 ANY COUNTY.  
30 (d) Unused keystone opportunity expansion zones.--



1       (1) The department may designate any of the 15 remaining  
2 keystone opportunity expansion zones established under  
3 subsection (a) (A) (1) for which there was no designation by ←  
4 the department as of the effective date of this subsection.  
5 To receive a designation of a remaining keystone opportunity  
6 expansion zone under this subsection, the department must  
7 receive an application from a political subdivision or its  
8 designee by June 1, 2012. The application must comply with  
9 subsection (c) except for the application deadline. The  
10 department, in consultation with the Department of Revenue,  
11 shall review the application and, if approved, shall issue a  
12 certification of all tax exemptions, deductions, abatements  
13 or credits under this act for the additional keystone  
14 opportunity expansion zone within three months of receipt of  
15 the application.

16       (2) Persons and QUALIFIED businesses within an ←  
17 additional keystone opportunity expansion zone authorized  
18 under paragraph (1) shall be entitled to all tax exemptions,  
19 deductions, abatements or credits set forth under this act,  
20 except exemptions for sales and use tax under section 511(a)  
21 or 705(a), for a period of ten years beginning January 1,  
22 2013, and ending December 31, 2022. Exemptions for sales and  
23 use taxes under sections 511 and 705 shall commence upon  
24 designation of the zone by the department.

25       (e) Notice.--Upon designation under this section, the  
26 department shall immediately notify political subdivisions  
27 located within the area designated.

28       Section 2. The act is amended by adding a section to read:  
29 Section 301.7. Expansion for new job creation.

30       (a) Expansion.--The department may approve an application to

1 expand the area of a keystone opportunity zone, keystone  
2 opportunity expansion zone or keystone opportunity improvement  
3 zone or subzone to include additional parcels that are  
4 deteriorated, underutilized or unoccupied on the effective date  
5 of this section and which are contiguous to the existing zone  
6 not to exceed 15 acres IF THE EXPANSION APPROVAL IS EXPECTED TO ←  
7 INCREASE JOB CREATION OR CAPITAL INVESTMENT. All exemptions,  
8 deductions, abatements and credits under this act shall be  
9 extended to the new parcels for a period of ten years following  
10 approval of the expansion of the keystone opportunity zone,  
11 keystone opportunity expansion zone or keystone opportunity  
12 improvement zone.

13 (b) Application.--The following shall apply:

14 (1) In order to extend the tax exemptions, deductions,  
15 abatements and credits under this act to additional parcels  
16 under subsection (a), the department must receive an  
17 application from a political subdivision or its designee by  
18 October 1, 2012.

19 (2) The application under paragraph (1) must:

20 (i) Contain the information required under section  
21 302(a)(1), (2), (3), (5) and (6).

22 (ii) Include all ordinances, resolutions or other  
23 required action adopted by all political subdivisions in  
24 which the unoccupied, deteriorated or underutilized  
25 parcel is located adopting the expansion of the zone and  
26 the extension of all tax exemptions, deductions,  
27 abatements and credits authorized under Chapter 7.

28 (3) The department, in consultation with the Department  
29 of Revenue, shall review the application and, if approved,  
30 issue a certification of all tax exemptions, deductions,

1 abatements or credits under this chapter for the unoccupied  
2 parcel within three months of receipt of the application.

3 (4) The certification under paragraph (3) shall be  
4 effective ten days following designation of the expansion by  
5 the department.

6 (c) Expiration.--All expansions of an unoccupied parcel  
7 certified under subsection (b) shall expire no later than ten  
8 years following the effective date of certification by the  
9 department.

10 ~~Section 2.1. Section 302(b) of the act, amended December 9,~~ ←  
11 ~~2002 (P.L.1727, No.217), is amended to read:~~

12 SECTION 3. SECTIONS 302(B), 307(A), 515(G), 516(F) AND 907 ←  
13 OF THE ACT, AMENDED DECEMBER 9, 2002 (P.L.1727, NO.217), ARE  
14 AMENDED TO READ:

15 Section 302. Application.

16 \* \* \*

17 (b) Participation limitation.--A political subdivision shall  
18 not be a part of more than one proposed keystone opportunity  
19 zone or proposed keystone opportunity expansion zone, unless the  
20 department agrees that two zones will bring additional economic  
21 benefit to the political subdivision. A proposed expansion  
22 subzone may not overlap the boundaries of a subzone.

23 \* \* \*

24 SECTION 307. QUALIFIED BUSINESSES. ←

25 (A) QUALIFICATIONS.--IN ORDER TO QUALIFY EACH YEAR FOR A TAX  
26 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT, A  
27 BUSINESS SHALL OWN OR LEASE REAL PROPERTY IN A SUBZONE,  
28 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE FROM WHICH THE BUSINESS  
29 ACTIVELY CONDUCTS A TRADE, PROFESSION OR BUSINESS. THE QUALIFIED  
30 BUSINESS SHALL RECEIVE CERTIFICATION FROM THE DEPARTMENT THAT

1 THE BUSINESS IS LOCATED AND IS IN THE ACTIVE CONDUCT OF A TRADE,  
2 PROFESSION OR BUSINESS, WITHIN THE SUBZONE, IMPROVEMENT SUBZONE  
3 OR EXPANSION SUBZONE. THE BUSINESS SHALL OBTAIN ANNUAL RENEWAL  
4 OF THE CERTIFICATION FROM THE DEPARTMENT TO CONTINUE TO QUALIFY  
5 UNDER THIS SECTION. THE CERTIFICATION FORM SHALL INCLUDE, BUT  
6 NOT BE LIMITED TO, ALL OF THE FOLLOWING:

7 (1) THE TYPE AND DURATION OF THE ZONE DESIGNATION.

8 (2) THE NUMBER OF JOBS CREATED.

9 (3) THE NUMBER OF JOBS RETAINED.

10 (4) THE AMOUNT OF CAPITAL INVESTMENT.

11 (5) ANY OTHER INFORMATION, CONDITIONS OR REQUIREMENTS  
12 REASONABLY REQUIRED BY THE DEPARTMENT.

13 \* \* \*

14 ~~Section 3. Sections 515(g) and 516(f) of the act, amended~~ ←  
15 ~~December 9, 2002 (P.L.1727, No.217), are amended to read:~~

16 Section 515. Corporate net income tax.

17 \* \* \*

18 (g) Section not applicable to certain businesses.--[Any  
19 portion of the taxpayer's taxable income that is attributable to  
20 the operation of a railroad, truck, bus or airline company,  
21 pipeline or natural gas company, water transportation company, a  
22 corporation that qualifies as a regulated investment company  
23 under Article IV of the Tax Reform Code of 1971 or holding  
24 company as defined in Article VI of the Tax Reform Code of 1971  
25 shall not be used to calculate a credit under this section.] The  
26 following shall apply:

27 (1) Any portion of the taxpayer's taxable income that is  
28 attributable to the operation of any of the following may not  
29 be used to calculate a credit under this section:

30 (i) Any of the following that are required to use

1 special apportionment under Article IV of the Tax Reform  
2 Code of 1971 or would be required to use special  
3 apportionment under Article IV of the Tax Reform Code of  
4 1971 if the taxpayer had income from business activity  
5 taxable both within and without this Commonwealth:

6 (A) A railroad, truck, bus or airline company.

7 (B) A pipeline or natural gas company.

8 (C) A water transportation company.

9 (ii) A corporation that qualifies as a regulated  
10 investment company under Article IV of the Tax Reform  
11 Code of 1971.

12 (iii) A holding company as defined in Article VI of  
13 the Tax Reform Code of 1971.

14 (2) The prohibition under paragraph (1) shall not apply  
15 to the portion of a qualified business engaged in  
16 manufacturing or processing.

17 Section 516. Capital stock franchise tax.

18 \* \* \*

19 (f) Credit not available.--[Any portion of the taxpayer's  
20 tax liability that is attributable to the capital employed in  
21 the operation of a railroad, truck, bus or airline company,  
22 pipeline or natural gas company, water transportation company, a  
23 corporation that qualifies as a regulated investment company  
24 under Article IV of the Tax Reform Code of 1971 or holding  
25 company as defined in Article VI of the Tax Reform Code of 1971  
26 shall not be used to calculate a credit under this section.] The  
27 following shall apply:

28 (1) Any portion of the taxpayer's tax liability that is  
29 attributable to the capital employed in the operation of any  
30 of the following may not be used to calculate a credit under

1 this section:

2 (i) Any of the following that are required to use  
3 special apportionment under Article IV of the Tax Reform  
4 Code of 1971 or would be required to use special  
5 apportionment under Article IV of the Tax Reform Code of  
6 1971 if the taxpayer had income from business activity  
7 taxable both within and without this Commonwealth:

8 (A) A railroad, truck, bus or airline company.

9 (B) A pipeline or natural gas company.

10 (C) A water transportation company.

11 (ii) A corporation that qualifies as a regulated  
12 investment company under Article IV of the Tax Reform  
13 Code of 1971.

14 (iii) A holding company as defined in Article VI of  
15 the Tax Reform Code of 1971.

16 (2) The prohibition under paragraph (1) shall not apply  
17 to the portion of a qualified business engaged in  
18 manufacturing or processing.

19 ~~Section 4. Section 907 of the act, amended December 9, 2002~~ ←  
20 ~~(P.L.1727, No.217), is amended to read:~~

21 Section 907. Application time.

22 [An] (a) Requirement.--Except as set forth in subsection  
23 (b), an applicant must file an application in a manner  
24 prescribed by the department by December 31 of each calendar  
25 year for which the applicant claims any exemption, deduction,  
26 abatement or credit under this act.

27 (b) Extension or waiver.--Upon request of the applicant, the  
28 department may extend or waive the application deadline for good  
29 cause shown if the political subdivision does not object to the  
30 waiver or extension.

1     (c) Approval.--No exemption, deduction, abatement or credit  
2 may be claimed or received for that calendar year until approval  
3 has been granted by the department.

4     Section 5 4. The act is amended by adding a section to read: ←  
5 Section 1104. Monitoring data.

6     In addition to any other requirements of this act, the  
7 department shall monitor all of the following:

8         (1) Verifiable job creation and job retention data.

9         (2) Information on the types of jobs created and average  
10 hourly wages.

11         (3) Number of years in the program.

12         (4) Annual, unduplicated public and private capital  
13 investment amounts.

14         (5) Business type and description.

15         (6) Types and amounts of other economic development  
16 assistance received from the department.

17         (7) Documentation that proper participants identified as  
18 relocations meet the increased full-time employment,  
19 increased capital investment or lease agreement requirements  
20 of this act.

21     SECTION 5. SECTION 1309 OF THE ACT, AMENDED DECEMBER 9, 2002 ←  
22 (P.L.1727, NO.217), IS REPEALED:

23 [SECTION 1309. EXPIRATION.

24     THIS ACT AND ALL BENEFITS ASSOCIATED WITH THIS ACT SHALL  
25 TERMINATE DECEMBER 31, 2018.]

26     Section 6. The amendment of section 907 of the act shall  
27 apply retroactively to January 1, 2009.

28     Section 7. This act shall take effect immediately.