

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2297 Session of
2008

INTRODUCED BY PARKER, DALEY, HESS, BISHOP, CALTAGIRONE, CAUSER,
DENLINGER, FRANKEL, JAMES, McCALL, M. O'BRIEN, PETRARCA,
PYLE, SAINATO, SANTONI, SIPTROTH, SOLOBAY, STURLA, YOUNGBLOOD
AND YUDICHAK, MARCH 10, 2008

REFERRED TO COMMITTEE ON COMMERCE, MARCH 10, 2008

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 providing for extension for unoccupied parcels, for
14 additional subzones authorized and for substitution of
15 parcels; and further providing for sales and use tax and for
16 corporate net income tax.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The act of October 6, 1998 (P.L.705, No.92),
20 known as the Keystone Opportunity Zone, Keystone Opportunity
21 Expansion Zone and Keystone Opportunity Improvement Zone Act, is
22 amended by adding sections to read:

23 Section 301.3. Extension for unoccupied parcels.

24 (a) Requests.--Notwithstanding any other provisions of this

1 act, the department may, as provided in this section, grant
2 requests for the extension of all deductions, abatements or
3 credits for any subzones or keystone opportunity improvement
4 zones previously certified under this act.

5 (b) Requirements.--Extensions of deductions, abatements or
6 credits under this section shall apply only to properties which
7 are unoccupied and which qualify as deteriorated on a basis
8 other than being underutilized.

9 (c) Applications.--Applications under this section shall be
10 made to the department no later than May 31, 2009. Applications
11 must include all ordinances, resolutions or other required
12 action of all affected political subdivisions approving the
13 extension of deductions, abatements or credits set forth under
14 this act. The department shall certify the extensions by June
15 30, 2009.

16 (d) Expiration.--For subzones or keystone opportunity
17 improvement zones that expire December 31, 2008, an application
18 may be submitted to the department to temporarily delay the
19 expiration of the deductions, abatements and credits under the
20 existing subzone until June 30, 2009. The application shall
21 include all ordinances, resolutions or other required action of
22 all affected political subdivisions approving the requested
23 delay in the expiration of the subzone or keystone opportunity
24 improvement zone and shall be submitted to the department by
25 November 30, 2008. The department shall certify the delay in the
26 expiration by December 31, 2008. Subzones or keystone
27 opportunity improvement zones whose expiration is delayed under
28 this subsection may apply for an extension under subsection (c)
29 and an extension granted under this section shall be deemed to
30 have begun January 1, 2009.

1 (e) Duration of extension.--The department may approve an
2 application for extension of the deductions, abatements and
3 credits under subsection (c) for:

4 (1) seven years, provided that the deductions,
5 abatements and credits, for the extended period shall
6 commence only upon occupancy and terminate seven years from
7 the termination date of the existing subzone or keystone
8 opportunity improvement zone; or

9 (2) ten years from the date of occupancy, provided that
10 the property shall become occupied after the effective date
11 of this subsection but before seven years from the
12 termination date of the existing subzone or keystone
13 opportunity improvement zone.

14 Section 301.4. Additional subzones authorized.

15 (a) Designation.--Notwithstanding any provision of this act,
16 the department may designate additional subzones in any county
17 which does not, as of the effective date of this subsection,
18 have any subzones within its political boundaries.

19 (b) Requirements.--Subzones designated under this
20 subsection:

21 (1) may not, in the aggregate, exceed 300 acres in each
22 county;

23 (2) shall be comprised only of parcels which are
24 unoccupied as of the effective date of this subsection and
25 that qualify as deteriorated on a basis other than being
26 underutilized.

27 (c) Application and approval.--Application for a subzone
28 under this section shall be made to the department in accordance
29 with the provisions of section 302(a)(1), (2), (3), (5) and (6)
30 no later than May 31, 2009, and shall be certified by the

1 department on or before June 30, 2009.

2 (d) Duration of subzones.--Subzones designated under this
3 section shall be entitled to all tax exemptions, deductions,
4 abatements and credits set forth in this act for a period not to
5 exceed ten years, beginning January 1, 2009, and ending December
6 31, 2018.

7 Section 301.5. Substitution of parcels within a subzone.

8 (a) Approval.--In the event of a decertification and removal
9 of the designation of a deteriorated property as part of a
10 subzone under section 309, the department may approve a
11 substitution of other parcels within the zone or subzone
12 containing no more than the aggregate acreage being decertified.

13 (b) Application and approval.--Applications to substitute
14 parcels under this section shall be made to the department no
15 later than May 31, 2009. Applications under this section shall
16 be made to the department in accordance with section 302(a)(1),
17 (2), (3), (5) and (6). The department shall certify the
18 substitutions by June 30, 2009.

19 (c) Subzones set to expire on December 31, 2008.--For
20 subzones that expire December 31, 2008, an application may be
21 submitted to the department to temporarily delay the expiration
22 of the deductions, abatements and credits under the existing
23 subzone until June 30, 2009. The application shall include all
24 ordinances, resolutions or other required action of all affected
25 political subdivisions approving the requested delay in the
26 expiration of the subzone and shall be submitted to the
27 department by November 30, 2008. The department shall certify
28 the delay in the expiration by December 31, 2008. Subzones whose
29 expiration are delayed under this subsection may apply for a
30 substitution of parcels under subsection (a).

1 (d) Extension of substituted parcels.--Upon approval by the
2 department of a substitution of parcels under this section, the
3 department may approve an extension of the substituted parcels
4 under section 301.3.

5 Section 2. Section 511 of the act, amended December 9, 2002
6 (P.L.1727, No.217), is amended to read:

7 Section 511. Sales and use tax.

8 (a) Exemption.--Sales at retail of services or tangible
9 personal property, other than motor vehicles, to a qualified
10 business or a construction contractor pursuant to a construction
11 contract with a qualified business, for the exclusive use,
12 consumption and utilization of the tangible personal property or
13 service by the qualified business or the construction contractor
14 at [its] the qualified business's facility located within a
15 subzone, improvement subzone or expansion subzone are exempt
16 from the sales and use tax imposed under Article II of the Tax
17 Reform Code of 1971. No person shall be allowed an exemption for
18 sales conducted prior to designation of the real property as
19 part of a subzone or expansion subzone.

20 [(b) Construction contracts.--For any construction contract
21 performed in a subzone, improvement subzone or expansion
22 subzone, the exemption provided in subsection (a) shall only
23 apply to the sale at retail or use of building machinery and
24 equipment to a qualified business, or to a construction
25 contractor pursuant to a construction contract with a qualified
26 business, for the exclusive use, consumption and utilization by
27 the qualified business at its facility in a subzone, improvement
28 subzone or expansion subzone. For the purposes of the subzone,
29 improvement subzone or expansion subzone exemption, building
30 machinery and equipment shall include distribution equipment

1 purchased for the exclusive use, consumption and utilization in
2 a subzone, improvement subzone or expansion subzone facility.]

3 Section 3. Section 515(d)(3) of the act, amended December
4 23, 2003 (P.L.360, No.51), is amended to read:

5 Section 515. Corporate net income tax.

6 * * *

7 (d) Income apportionment.--The taxable income of a
8 corporation that is a qualified business shall be apportioned to
9 the subzone, improvement subzone or expansion subzone by
10 multiplying the Pennsylvania taxable income by a fraction, the
11 numerator of which is the property factor plus the payroll
12 factor [plus the sales factor] and the denominator of which is
13 [three] two, in accordance with the following:

14 * * *

15 [(3) The sales factor is a fraction, the numerator of
16 which is the total sales of the taxpayer in the subzone,
17 improvement subzone or expansion subzone during the tax
18 period and the denominator of which is the total sales of the
19 taxpayer in this Commonwealth during the tax period.

20 (i) Sales of tangible personal property are in the
21 subzone, improvement subzone or expansion subzone if the
22 property is delivered or shipped to a purchaser that
23 takes possession within the subzone, improvement subzone
24 or expansion subzone regardless of the F.O.B. point or
25 other conditions of the sale.

26 (ii) Sales other than sales of tangible personal
27 property are in the subzone, improvement subzone or
28 expansion subzone if:

29 (A) the income-producing activity is performed
30 in the subzone, improvement subzone or expansion

1 subzone; or

2 (B) the income-producing activity is performed
3 both within and without the subzone, improvement
4 subzone or expansion subzone and a greater proportion
5 of the income-producing activity is performed in the
6 subzone, improvement subzone or expansion subzone
7 than in any other location, based on costs of
8 performance.]

9 * * *

10 Section 4. The amendment of section 515 of the act shall
11 apply to taxable years beginning after December 31, 2008.

12 Section 5. This act shall take effect immediately.