

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1412** Session of
2008

INTRODUCED BY PIPPY, A. WILLIAMS, PUNT, PILEGGI, O'PAKE, HUGHES,
RAFFERTY, KITCHEN, GORDNER, ORIE, COSTA, D. WHITE, ERICKSON,
ROBBINS, C. WILLIAMS AND REGOLA, MAY 14, 2008

AS AMENDED ON THIRD CONSIDERATION, JUNE 27, 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 defining "unoccupied parcel"; providing for extensions for
14 unoccupied parcels, for additional keystone opportunity
15 expansion zones, for substitution of parcels outside a
16 subzone and for payments; prohibiting illegal alien labor in
17 zones; and further providing for sales and use tax, for
18 corporate net income tax and for local earned income net
19 profits taxes, LOCAL SALES AND USE TAX and business privilege ←
20 taxes.

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 Section 1. Section 103 of the act of October 6, 1998
24 (P.L.705, No.92), known as the Keystone Opportunity Zone,
25 Keystone Opportunity Expansion Zone and Keystone Opportunity
26 Improvement Zone Act, is amended by adding a definition to read:

1 Section 103. Definitions.

2 The following words and phrases when used in this act shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 * * *

6 "Unoccupied parcel." A parcel that is not occupied on the
7 effective date of this definition. Construction activity on a
8 parcel shall not constitute occupation of the zone PARCEL. <—

9 Section 2. The act is amended by adding sections to read:
10 Section 301.3. Extension for unoccupied parcels.

11 (a) Extension.--The department may approve an application
12 for extension of TO EXTEND the exemptions, deductions, <—
13 abatements and credits under this section ACT as follows: <—

14 (1) One of the following:

15 (i) For a parcel in a keystone opportunity zone,
16 keystone opportunity expansion zone or keystone
17 opportunity improvement zone that is an unoccupied parcel
18 on the effective date of this section, for a period of
19 seven years from the expiration date of the zone. The <—
20 extension may not be approved for a parcel that is
21 certified solely on the basis of being underutilized.

22 (ii) For a parcel in a keystone opportunity zone or
23 keystone opportunity expansion zone that is an unoccupied
24 parcel on the effective date of this section, for a
25 period of ten years from the date of occupancy, provided
26 that the parcel is occupied on or before December 31,
27 2015. The extension may not be approved for a parcel that <—
28 is certified solely on the basis of being underutilized.

29 (2) The extension of exemptions, deductions, abatements
30 or credits authorized under this section, EXCEPT EXEMPTIONS <—

1 FOR SALES AND USE TAX UNDER SECTION 511(A) OR 705(A), shall
2 take effect only upon occupancy.

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

12 (c) Application.--~~In~~ EXCEPT AS PROVIDED IN SUBSECTION (D), <—
13 IN order to extend the tax benefits for unoccupied parcels under
14 subsection (a), the department must receive an application from
15 a political subdivision or its designee no later than July 31, <—
16 JUNE 30, 2009. The application must contain the information <—
17 required under section 302(a)(1), (2), (3), (5) and (6). The
18 application must include all ordinances, resolutions or other
19 required action adopted by all political subdivisions in which
20 the unoccupied parcel is located adopting the extension of all
21 tax exemptions, deductions, abatements and credits authorized
22 under Chapter 7. The department, in consultation with the
23 Department of Revenue, shall review the application and, if
24 approved, issue a certification of all tax exemptions,
25 deductions, abatements or credits under this part for the
26 unoccupied parcel within three months of receipt of the
27 application. The certification shall be effective on the day
28 following the expiration date of the existing subzone.

29 (c.1) Application for licensed facilities within cities of
30 first class.--No person shall be eligible to apply for any tax

1 exemption, deduction, abatement, credit or other tax benefit
2 under this act or the act of December 1, 1977 (P.L.237, No.76),
3 known as the Local Economic Revitalization Tax Assistance Act,
4 for any parcel within a city of the first class that is
5 contiguous with a navigable waterway, if the parcel is to be
6 used in whole or in part for a licensed facility as defined in 4
7 Pa.C.S. § 1103 (relating to definitions) unless the following
8 conditions have been satisfied:

9 (1) the applicant has obtained an easement, right-of-
10 way, license or lease pursuant to an act of the General
11 Assembly, enacted following the effective date of this
12 subsection, for the use, occupancy or development of the
13 contiguous submerged lands; and

14 (2) the applicant has made payment to the Commonwealth
15 for the use, occupancy or development of the contiguous
16 submerged lands in an amount established by the General
17 Assembly.

18 (d) Applications for certain zones.--For a keystone
19 opportunity zone that expires December 31, 2008, an application
20 may be submitted to the department to temporarily delay the
21 expiration of the exemptions, deductions, abatements and credits
22 for the zone until June 30, 2009. The application must be
23 submitted by November 30, 2008, and include all ordinances,
24 resolutions or other required action from all affected political
25 subdivisions approving the requested delay in the expiration of
26 the keystone opportunity zone. THE DEPARTMENT SHALL CERTIFY THE <—
27 DELAY IN THE EXPIRATION BY DECEMBER 31, 2008. If the expiration
28 of a keystone opportunity zone is delayed under this subsection,
29 a political subdivision or its designee may apply for an
30 extension under subsection (a) PURSUANT TO SUBSECTION (C), <—

1 PROVIDED THAT THE APPLICATION SHALL BE SUBMITTED BY MAY 1, 2009,
2 AND APPROVED BY THE DEPARTMENT NO LATER THAN JUNE 30, 2009. If
3 an extension is granted under subsection ~~(a)~~ (C), the extension ←
4 shall be deemed to be effective January 1, 2009.

5 (e) Expiration.--All extensions of an unoccupied parcel
6 certified under subsection (a)(1)(i) shall expire no later than
7 seven years following the expiration date of the existing
8 keystone opportunity zone, keystone opportunity expansion zone
9 or keystone opportunity improvement zone. All extensions of an
10 unoccupied parcel certified under subsection (a)(1)(ii) shall
11 expire no later than ten years following the date of occupancy
12 of the unoccupied parcel under ~~subsection (e).~~ ←

13 Section 301.4. Additional keystone opportunity expansion zones.

14 (a) Establishment.--

15 (1) In addition to any designations under section 301.1,
16 the department may, ~~by December 31, 2009,~~ designate up to 15 ←
17 additional keystone opportunity expansion zones in accordance
18 with this section. Each additional keystone opportunity
19 expansion zone shall:

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

22 (ii) Not exceed, in the aggregate, a total of 350
23 acres.

24 (iii) Be comprised of parcels that meet any of the
25 following criteria:

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

28 (B) Are occupied by a business that:

29 (I) Creates or retains at least 1,400 full-
30 time jobs in this Commonwealth within three years

1 of the designation of the keystone opportunity
2 expansion zone; and

3 (II) Makes a capital investment of at least
4 \$750,000,000 in the additional keystone
5 opportunity enhancement zone within three years
6 of the designation of the keystone opportunity
7 expansion zone.

8 (2) The department shall immediately notify political
9 subdivisions located within the area designated.

10 (b) Authorization.--Persons and businesses within an
11 additional keystone opportunity expansion zone authorized under
12 subsection (a) shall be entitled to all tax exemptions,
13 deductions, abatements or credits set forth under this part ACT, <—
14 EXCEPT EXEMPTIONS FOR SALES AND USE TAX UNDER SECTION 511(A) OR
15 705(A), for a period of ten years beginning January 1, 2010 and
16 ending on December 31, 2020. EXEMPTIONS FOR SALES AND USE TAXES <—
17 UNDER SECTIONS 511 AND 705 SHALL COMMENCE UPON DESIGNATION OF
18 THE ZONE BY THE DEPARTMENT.

19 (c) Application.--In order to receive a designation under
20 subsection (a), the department must receive an application from
21 a political subdivision or its designee no later than May 1,
22 2009. The application must contain the information required
23 under section 302(a)(1), ~~(2), (3), (5)~~ (2)(I) AND (IX) and (6). <—
24 The application must include all ordinances, resolutions or
25 other required action adopted by all political subdivisions in
26 which the keystone opportunity expansion zone is located
27 ~~adopting the extension of all~~ PROVIDING THE tax exemptions, <—
28 deductions, abatements and credits authorized under Chapter 7.
29 The department, in consultation with the Department of Revenue,
30 shall review the application and, if approved, issue a

1 certification of all tax exemptions, deductions, abatements or
2 credits under this part for the additional keystone opportunity
3 expansion zone within three months of receipt of the
4 application. The department shall act on an application under
5 this subsection by June 30, 2009.

6 (D) PROHIBITION.--THE DEPARTMENT SHALL BE PROHIBITED FROM ←
7 DESIGNATING ANY PARCEL OF LAND WITHIN A CITY OF THE FIRST CLASS
8 AS A KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY EXPANSION
9 ZONE, KEYSTONE OPPORTUNITY IMPROVEMENT ZONE OR A KEYSTONE
10 OPPORTUNITY INNOVATION ZONE IF ANY PROJECT INVOLVING A PARCEL,
11 WITHIN A 1,001-FOOT RADIUS AS MEASURED FROM THE CENTER OF THE
12 PROPOSED PARCEL TO BE DESIGNATED, HAS RECEIVED OR HAS BEEN
13 DESIGNATED TO RECEIVE IN EXCESS OF \$20,000,000 IN FUNDING FROM
14 THE COMMONWEALTH WITHIN THE LAST FOUR YEARS. THE DEPARTMENT
15 SHALL BE PROHIBITED FROM PROVIDING ANY STATE FINANCIAL
16 ASSISTANCE, INCLUDING LOANS, GRANTS OR ANY TAX ABATEMENTS,
17 CREDITS, DEDUCTIONS OR EXEMPTIONS PROVIDED UNDER THIS ACT OR ANY
18 OTHER STATE LAW TO A PARCEL LOCATED WITHIN THE AREA DESCRIBED IN
19 THIS SUBSECTION NOR SHALL THE DEPARTMENT OR THE GOVERNING BODY
20 OF THE CITY OF THE FIRST CLASS PROVIDE ANY TAX EXEMPTION,
21 DEDUCTION, ABATEMENT, CREDIT OR OTHER TAX BENEFIT UNDER THE ACT
22 OF DECEMBER 1, 1977 (P.L.237, NO.76), KNOWN AS THE LOCAL
23 ECONOMIC REVITALIZATION TAX ASSISTANCE ACT, FOR ANY PROJECT
24 INVOLVING A PARCEL LOCATED WITHIN THE AREA DESCRIBED IN THIS
25 SUBSECTION.

26 SECTION 301.5. EXPANSION FOR NEW PARCELS.

27 (A) EXPANSION.--A POLITICAL SUBDIVISION OR ITS DESIGNEE MAY
28 APPLY FOR AN EXPANSION TO ADD UP TO 15 ACRES OF DETERIORATED
29 PROPERTY TO AN EXISTING KEYSTONE OPPORTUNITY EXPANSION ZONE,
30 KEYSTONE OPPORTUNITY IMPROVEMENT ZONE OR A SUBZONE OF A KEYSTONE

1 OPPORTUNITY ZONE FOR PARCELS THAT ARE CONTIGUOUS TO THE EXISTING
2 ZONE OR SUBZONE.

3 (B) APPLICATION.--IN ORDER TO RECEIVE A DESIGNATION UNDER
4 THIS SECTION, THE DEPARTMENT MUST RECEIVE AN APPLICATION FROM A
5 POLITICAL SUBDIVISION OR ITS DESIGNEE NO LATER THAN DECEMBER 31,
6 2008. THE APPLICATION MUST CONTAIN THE INFORMATION REQUIRED
7 UNDER SECTION 302(A)(1), (2)(I) AND (IX), (5) AND (6). THE
8 APPLICATION MUST INCLUDE ALL ORDINANCES, RESOLUTIONS OR OTHER
9 REQUIRED ACTION ADOPTED BY ALL POLITICAL SUBDIVISIONS IN WHICH
10 THE KEYSTONE OPPORTUNITY EXPANSION ZONE, KEYSTONE OPPORTUNITY
11 IMPROVEMENT ZONE OR A SUBZONE OF A KEYSTONE OPPORTUNITY ZONE IS
12 LOCATED ADOPTING ALL TAX EXEMPTIONS, DEDUCTIONS, ABATEMENTS AND
13 CREDITS AUTHORIZED UNDER CHAPTER 7 TO THE EXPANDED AREA. THE
14 DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF REVENUE,
15 SHALL REVIEW THE APPLICATION AND, IF APPROVED, ISSUE A
16 CERTIFICATION OF ALL TAX EXEMPTIONS, DEDUCTIONS, ABATEMENTS OR
17 CREDITS UNDER THIS ACT FOR THE EXPANSION AUTHORIZED UNDER
18 SUBSECTION (A) WITHIN TWO MONTHS OF THE RECEIPT OF THE
19 APPLICATION.

20 (C) APPLICATIONS FOR CERTAIN ZONES.--FOR A KEYSTONE
21 OPPORTUNITY ZONE THAT EXPIRES DECEMBER 31, 2008, BUT IS SEEKING
22 AN EXTENSION UNDER SECTION 301.3, THE APPLICATION SHALL INCLUDE
23 THE REQUEST FOR AN EXPANSION UNDER SUBSECTION (A). THE
24 APPLICATION MUST BE SUBMITTED BY DECEMBER 31, 2008, AND INCLUDE
25 ALL ORDINANCES, RESOLUTIONS OR OTHER REQUIRED ACTION FROM ALL
26 AFFECTED POLITICAL SUBDIVISIONS APPROVING THE ADDITION OF THE
27 ACREAGE. IF THE EXPIRATION OF A KEYSTONE OPPORTUNITY ZONE IS
28 DELAYED UNDER THIS SUBSECTION, A POLITICAL SUBDIVISION OR ITS
29 DESIGNEE MAY APPLY FOR AN EXTENSION UNDER 301.3 AND AN EXPANSION
30 UNDER THIS SECTION. IF AN EXTENSION IS GRANTED UNDER SECTION

1 301.3, THE EXTENSION AND THE EXPANSION SHALL BE DEEMED TO BE
2 EFFECTIVE JANUARY 1, 2009.

3 (D) AUTHORIZATION.--PERSONS OR BUSINESSES WITHIN THE
4 EXPANDED AREA SHALL BE ENTITLED TO ALL TAX EXEMPTIONS,
5 DEDUCTIONS, ABATEMENTS OR CREDITS SET FORTH UNDER THIS PART,
6 EXCEPT FOR SALES AND USE TAXES UNDER SECTION 511(A) OR 705(A),
7 FOR THE PERIOD SET FORTH IN SUBSECTION (E). EXEMPTIONS FOR SALES
8 AND USE TAXES UNDER SECTIONS 511 AND 705 SHALL COMMENCE UPON
9 APPROVAL OF THE EXPANSION BY THE DEPARTMENT.

10 (E) EXPIRATION.--ALL EXPANSIONS UNDER THIS SECTION SHALL
11 EXPIRE ON THE SAME DATE AS THE KEYSTONE OPPORTUNITY EXPANSION
12 ZONE, KEYSTONE OPPORTUNITY IMPROVEMENT ZONE OR SUBZONE OF A
13 KEYSTONE OPPORTUNITY ZONE.

14 Section ~~301.5~~ 301.6. Substitution of parcels outside a subzone. ←

15 (a) Approval.--If a portion of an existing subzone is
16 affected by a governmental prohibition of an environmental
17 nature which has a substantial adverse effect on development,
18 the department may approve a substitution of other parcels for
19 those affected acres in the existing subzone, creating a new
20 subzone if the new subzone is substantially similar in acreage
21 size and is within five miles and in the same county as the
22 original subzone.

23 (b) Application and approval.--Applications to substitute
24 parcels under this section shall be made to the department no
25 later than May 31, 2009. Applications under this section shall
26 be made to the department in accordance with section 302(a)(1),
27 (2), (3), (5) and (6). The department shall certify the
28 substitutions by June 30, 2009.

29 Section 310. Payments.

30 The following shall apply to an agreement between a business

1 and a political subdivision entered into after the effective
2 date of this section in exchange for the approval of, or
3 otherwise relating to, the establishment of a keystone
4 opportunity zone, keystone opportunity expansion zone or
5 keystone opportunity improvement zone under this act, to include
6 an extension under section 301.2:

7 (1) Except as otherwise required or authorized by law, a
8 business may not provide payments to a political subdivision
9 in exchange for the approval of, or otherwise relating to,
10 the designation or extension of a keystone opportunity zone,
11 keystone opportunity expansion zone or keystone opportunity
12 improvement zone in excess of 110% of the amount of real
13 property taxes payable to the political subdivision for the
14 tax year immediately prior to the year in which the
15 designation or extension is granted. The limitation on
16 payments set forth under this paragraph may increase by the
17 percentage increase in the payments that would occur if the
18 property was not exempt from local real property taxes.

19 (2) Except as provided under paragraph (3), payments
20 made under paragraph (1) may be increased based on a taxpayer
21 assessment appeal or as necessary to correct any errors or
22 omissions in the county's assessment records. Payments may be
23 increased following a county-wide reassessment based on
24 improvements to the property made prior to the approval of
25 the designation or expansion.

26 (3) Payments may not be increased for the duration of
27 the designation or expansion based on an increase in the
28 assessed value of property due to improvements to the
29 property made subsequent to designation.

30 (4) Any agreement to make payments under this section

1 shall be in writing and approved by a majority vote of the
2 governing body of the political subdivision at a meeting that
3 is subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

4 Section 311. Prohibition on illegal alien labor.

5 (a) General rule.--No person or business that receives a tax
6 exemption, deduction, abatement or credit under this act shall
7 knowingly permit the labor services of an illegal alien under a
8 contract to which the person or business is a party in the
9 applicable keystone opportunity zone, keystone opportunity
10 expansion zone or keystone opportunity improvement zone. A
11 person shall be deemed to have knowingly employed or knowingly
12 permitted the prohibited services if he shall have active
13 knowledge of or have reason to know that such services have been
14 provided under the contract in the applicable keystone
15 opportunity zone, keystone opportunity expansion zone or
16 keystone opportunity improvement zone.

17 (b) Reimbursement.--As a condition of the receipt of a tax
18 exemption, deduction, abatement or credit under this act, the
19 department or political subdivision that awards the tax
20 exemption, deduction, abatement or credit under this act shall
21 require full repayment of the value or amount of the tax
22 exemption, deduction, abatement or credit if subsection (c)
23 applies.

24 (c) Violations.--

25 (1) Repayment under subsection (b) is required if any of
26 the following apply:

27 (i) The person or business that received the tax
28 exemption, deduction, abatement or credit under this act
29 is sentenced under Federal law for an offense involving
30 knowing use of labor by an illegal alien under the

1 contract in the applicable keystone opportunity zone,
2 keystone opportunity expansion zone or keystone
3 improvement zone.

4 (ii) All of the following apply:

5 (A) A contractor to a person or business that
6 received the tax exemption, deduction, abatement or
7 credit under this act is sentenced under Federal law
8 for an offense involving knowing use of labor by an
9 illegal alien on the contract.

10 (B) The person knew or had reason to know of the
11 contractor's knowing use of labor by an illegal alien
12 on the contract.

13 (2) Any person who is required to repay the department
14 or political subdivision under this section shall be
15 ineligible to apply for any tax exemption, deduction,
16 abatement or credit under this act for a period of two years.

17 (3) It shall be an affirmative defense to a violation of
18 this section, if the person or business contracts with a
19 contractor to provide labor under the contract in the
20 applicable keystone opportunity zone, keystone opportunity
21 expansion zone or keystone opportunity improvement zone and
22 establishes that the person has required the contractor to
23 certify compliance with the requirements of section 274A of
24 the Immigration Reform and Control Act of 1986 (Public Law
25 99-603, 8 U.S.C. § 1324A) with respect to the hiring,
26 recruiting or referral for employment of an alien in the
27 United States and has notified the appropriate Federal
28 authority, if the person knew that the contractor used labor
29 by an illegal alien.

30 (d) Definition.--As used in this section, "illegal alien"

1 means a noncitizen of the United States who is violating Federal
2 immigration laws and is providing compensated labor within this
3 Commonwealth.

4 Section 3. Section 511 of the act, amended December 9, 2002
5 (P.L.1727, No.217), is amended to read:

6 Section 511. Sales and use tax.

7 (a) Exemption.--Sales at retail of services or tangible
8 personal property, other than motor vehicles, to a qualified
9 business or a construction contractor pursuant to a construction
10 contract with a qualified business, landowner or lessee for the
11 exclusive use, consumption and utilization of the tangible
12 personal property or service by the qualified business_z ←
13 ~~landowner or lessee or the construction contractor~~ at [its] the
14 qualified business's, landowner's or lessee's facility located
15 within a subzone, improvement subzone or expansion subzone are
16 exempt from the sales and use tax imposed under Article II of
17 the Tax Reform Code of 1971. No person shall be allowed an
18 exemption for sales conducted prior to designation of the real
19 property as 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 4. Section 515(d) introductory paragraph and (3) of
4 the act, amended December 23, 2003 (P.L.360, No.51), are amended
5 to read:

6 Section 515. Corporate net income tax.

7 * * *

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

15 * * *

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

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

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

30 (A) the income-producing activity is performed

1 in the subzone, improvement subzone or expansion
2 subzone; or

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

10 * * *

11 Section 5. Section 703 of the act is amended by adding a
12 subsection to read:

13 Section 703. Local earned income and net profits taxes;
14 business privilege taxes.

15 * * *

16 (g) Determination of exemption.--For the purposes of
17 determining an exemption under this section, a tax on or
18 measured by any of the following shall be attributed to business
19 activity conducted within a subzone, improvement zone or
20 expansion zone by applying the apportionment factors under
21 section 515(d):

22 (1) Business gross receipts.

23 (2) Gross or net income.

24 (3) Gross or net profits.

25 ~~Section 6. The amendment of sections 515~~ <—

26 SECTION 6. SECTION 705 OF THE ACT, AMENDED DECEMBER 9, 2002 <—
27 (P.L.1727, NO.217), IS AMENDED TO READ:

28 SECTION 705. LOCAL SALES AND USE TAX.

29 (A) GENERAL RULE.--THE POLITICAL SUBDIVISION SHALL EXEMPT
30 SALES AT RETAIL OF SERVICES OR TANGIBLE PERSONAL PROPERTY,

1 EXCEPT MOTOR VEHICLES, TO A QUALIFIED BUSINESS OR A CONSTRUCTION
2 CONTRACTOR PURSUANT TO A CONSTRUCTION CONTRACT WITH A QUALIFIED
3 BUSINESS, LANDOWNER OR LESSEE FOR THE EXCLUSIVE USE, CONSUMPTION
4 AND UTILIZATION OF THE TANGIBLE PERSONAL PROPERTY OR SERVICE BY
5 THE QUALIFIED BUSINESS AT [ITS] THE QUALIFIED BUSINESS'S,
6 LANDOWNER'S OR LESSEE'S FACILITY LOCATED WITHIN A SUBZONE,
7 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE FROM A CITY OR COUNTY
8 TAX ON PURCHASE PRICE AUTHORIZED UNDER ARTICLE XXXI-B OF THE ACT
9 OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS
10 COUNTY CODE, AS AMENDED, AND THE ACT OF JUNE 5, 1991 (P.L.9,
11 NO.6), KNOWN AS THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
12 AUTHORITY ACT FOR CITIES OF THE FIRST CLASS, AS AMENDED. NO
13 EXEMPTION MAY BE GRANTED FOR SALES OCCURRING PRIOR TO
14 DESIGNATION OF THE REAL PROPERTY AS PART OF A SUBZONE OR
15 EXPANSION SUBZONE.

16 (B) [CONSTRUCTION CONTRACTS.--FOR ANY CONSTRUCTION CONTRACT
17 PERFORMED IN A SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION
18 SUBZONE, THE EXEMPTION PROVIDED IN SUBSECTION (A) SHALL ONLY
19 APPLY TO THE SALE AT RETAIL OR USE OF BUILDING MACHINERY AND
20 EQUIPMENT TO A QUALIFIED BUSINESS, OR TO A CONSTRUCTION
21 CONTRACTOR PURSUANT TO A CONSTRUCTION CONTRACT WITH A QUALIFIED
22 BUSINESS, FOR THE EXCLUSIVE USE, CONSUMPTION AND UTILIZATION BY
23 THE QUALIFIED BUSINESS AT ITS FACILITY IN A SUBZONE, IMPROVEMENT
24 SUBZONE OR EXPANSION SUBZONE. FOR THE PURPOSES OF THE SUBZONE,
25 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE EXEMPTION, BUILDING
26 MACHINERY AND EQUIPMENT SHALL INCLUDE DISTRIBUTION EQUIPMENT
27 PURCHASED FOR THE EXCLUSIVE USE, CONSUMPTION AND UTILIZATION IN
28 A SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE FACILITY.]
29 (RESERVED).

30 (C) DEFINITION.--SALES AT RETAIL OF TANGIBLE PERSONAL

1 PROPERTY AND SERVICES SHALL BE DEFINED IN ACCORDANCE WITH
2 ARTICLE II OF THE TAX REFORM CODE OF 1971.

3 SECTION 7. THE AMENDMENT OF SECTIONS 515 and 703 of the act
4 shall apply to taxable years beginning after December 31, 2008.

5 Section 7 8. This act shall take effect in 60 days.

<—