

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1858 Session of
2009

INTRODUCED BY STURLA, JULY 15, 2009

REFERRED TO COMMITTEE ON APPROPRIATIONS, JULY 15, 2009

AN ACT

1 Authorizing counties to impose sales, use and occupancy taxes;
2 and providing for an optional sales and use tax for first
3 class cities, for the levying, assessment and collection of
4 taxes and for the powers and duties of the Department of
5 Community and Economic Development or any successor agency,
6 the Department of Revenue and the State Treasurer.

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2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 CHAPTER 1

5 GENERAL PROVISIONS

6 Section 101. Short title.

7 This act shall be known and may be cited as the County and
8 Municipal Property Tax Relief and Collaborative Services Act.

9 Section 102. Definitions.

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

13 "Board of county commissioners." Includes the successor in
14 function to the board of county commissioners in a county which
15 has adopted a home rule charter under the provisions 53 Pa.C.S.
16 Pt. III Subpt. E (relating to home rule and optional plan
17 government), but does not include the city council of a city of
18 the first class or the county council of a county of the second
19 class.

20 "County." A county-level municipality within this
21 Commonwealth. The term includes a county which has adopted a
22 home rule charter or optional plan of government under the
23 provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule
24 and optional plan government). The term does not include a
25 county of the first class or a county of the second class.

26 "Current year." The calendar year or fiscal year for which a
27 tax is levied.

28 "Department." The Department of Revenue of the Commonwealth.

29 "Domicile." As defined in section 501 of the act of December
30 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling

1 Act.

2 "Homestead." As defined in 53 Pa.C.S. § 8401 (relating to
3 definitions).

4 "Local Tax Enabling Act." The act of December 31, 1965
5 (P.L.1257, No.511), known as The Local Tax Enabling Act.

6 "Municipality." A city of the second class A, city of the
7 third class, borough, incorporated town, township of the first
8 class, township of the second class, home rule municipality,
9 optional plan municipality, optional form municipality or
10 similar general purpose unit of government which may after the
11 effective date of this section be established by statute, except
12 a city of the first class or a city of the second class. Unless
13 the context clearly indicates otherwise, for the purposes of
14 this act, a municipality located in a county shall include
15 municipalities that are located entirely or partially in the
16 county.

17 "Nonqualified municipality." A municipality that is not a
18 qualified municipality under this act.

19 "Nonresident." An individual domiciled outside a
20 municipality.

21 "Ordinance." Includes a resolution.

22 "Population." The number of individuals residing in an area
23 as determined in the most recent Federal decennial census.

24 "Preceding year." The calendar year or fiscal year before
25 the current year.

26 "Qualified municipality." A municipality that qualifies in
27 accordance with section 305(b) or 319.

28 "Succeeding year." The calendar year or fiscal year
29 following the current year.

30 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),

1 known as the Tax Reform Code of 1971.

2 "Taxpayer." An individual required under this act to file a
3 tax return or to pay a tax.

4 Section 103. Scope.

5 It is the intent of this act to confer upon each county the
6 power to levy, assess and collect taxes upon the subjects of
7 taxation specified in this act.

8 Section 104. Preemption.

9 No act of the General Assembly in effect prior to or after
10 the effective date of this section shall vacate or preempt any
11 ordinance passed or adopted under the authority of this act or
12 any other act providing authority for the imposition of a tax by
13 a county, unless the act of the General Assembly expressly
14 vacates or preempts the authority to pass or adopt the
15 ordinance.

16 Section 105. Rates of taxation in home rule counties.

17 A county which has adopted a home rule charter or optional
18 plan of government under the provisions of 53 Pa.C.S. Pt. III
19 Subpt. E (relating to home rule and optional plan government)
20 may not fix the rate of taxation for the subjects of taxation
21 authorized under Chapter 3 in excess of the rates fixed in
22 Chapter 3.

23 CHAPTER 3

24 SUBJECTS OF TAXATION

25 SUBCHAPTER A

26 TAX AUTHORIZATION

27 Section 301. General tax authorization.

28 (a) General rule.--Subject to section 303 and except as
29 provided in subsection (b), a county shall have the power and
30 may by ordinance levy and assess or provide for the levying and

1 assessment of taxes on the sale or use of tangible personal
2 property and services and the occupancy of a hotel room at a
3 rate of 1% for general revenue purposes as it shall determine on
4 any or all of the subjects of taxation set forth in this act
5 within the geographical limits of the county.

6 (b) Exclusions.--No county which levies a tax authorized by
7 this act shall have any power or authority to levy, assess or
8 collect:

9 (1) A tax based upon a flat rate or on a millage rate on
10 an assessed valuation of a particular trade, occupation or
11 profession, commonly known as an occupation tax.

12 (2) A per capita, poll, residence or similar head tax.

13 (3) The intangible personal property tax under the act
14 of June 17, 1913 (P.L.507, No.335), referred to as the
15 Intangible Personal Property Tax Law.

16 Section 302. Continuity of tax.

17 A tax levied under the provisions of this act shall continue
18 in force on a calendar year basis without annual reenactment
19 unless the tax is subsequently repealed.

20 Section 303. Election to participate under act.

21 (a) General rule.--A board of county commissioners which
22 elects to participate under the provisions of this act shall do
23 so by using the procedures specified in subsection (b) and in
24 accordance with the following provisions:

25 (1) An election to participate under this act shall
26 remain in effect for a period of at least three full calendar
27 years.

28 (2) A board of county commissioners after making an
29 election to participate under this act may, after a period of
30 at least three full calendar years of participation, elect

1 under the provisions of subsection (c) to cease participation
2 under this act and levy, assess and collect the taxes
3 prohibited by section 301(b) to the extent otherwise provided
4 by law.

5 (b) Ordinance.--Subject to the notice and public hearing
6 requirements of section 316(a), a board of county commissioners
7 may elect to participate under this act by adopting an ordinance
8 imposing the tax. The ordinance must be adopted no later than
9 September 1 preceding the calendar year when the tax will be
10 initially imposed.

11 (c) Repeal.--Subject to the notice and public hearing
12 requirements of section 316(c), a board of county commissioners
13 may elect to cease participation under this act by adopting an
14 ordinance repealing the tax. The ordinance must be adopted no
15 later than September 1 preceding the calendar year when the tax
16 will be repealed.

17 Section 304. Local tax study commission.

18 (a) First-year implementation.--In considering whether to
19 levy, assess, collect or provide for the levy, assessment or
20 collection of any tax under this act, a board of county
21 commissioners may, by February 1 of the year preceding the
22 calendar year for which any such tax shall be levied, appoint a
23 local tax study commission in accordance with the following
24 provisions:

25 (1) The local tax study commission shall consist of
26 five, seven or nine members appointed by the board of county
27 commissioners. One member of the local tax study commission
28 may be a member of the board of county commissioners. No
29 member of the local tax study commission may be a relative,
30 by blood or marriage, of an official or employee of the

1 county. All members must be residents of the county.
2 Representatives on a local tax study commission should
3 reasonably reflect the socioeconomic, age and occupational
4 diversity of the county.

5 (2) The board of county commissioners shall provide
6 necessary and reasonable staff to support the local tax study
7 commission.

8 (3) The members of the local tax study commission shall
9 receive reimbursement only for necessary and reasonable
10 expenses in the discharge of their duties.

11 (4) The local tax study commission shall study the
12 existing taxes levied, assessed and collected by the county
13 and determine if and how the tax policies of the county may
14 be strengthened or made more equitable by adopting for levy,
15 assessment and collection of a sales, use and occupancy tax
16 as provided for in this act. This study shall include, but
17 not be limited to, consideration of all of the following:

18 (i) Historic rate and revenue provided by taxes
19 currently levied, assessed and collected by the county.

20 (ii) The percentage of total revenues provided by
21 taxes currently levied, assessed and collected.

22 (iii) The age, income, employment and property use
23 characteristics of the existing tax base.

24 (iv) The projected revenues of any taxes currently
25 levied, assessed and collected.

26 (v) The projected revenues of any taxes referred to
27 in this paragraph not currently levied, assessed and
28 collected by the county.

29 (5) Within 120 days of its appointment, the local tax
30 study commission shall make a nonbinding recommendation to

1 the board of county commissioners of the appropriate tax or
2 combination of taxes, identified in paragraph (4), to be
3 levied, assessed and collected commencing the next fiscal
4 year.

5 (6) Upon appointment of the commission and except as
6 provided for in paragraph (8), no tax may be levied, assessed
7 or collected for the next fiscal year until receipt of the
8 recommendation of the local tax study commission.

9 (7) No later than September 1 prior to the commencement
10 of the next fiscal year, the board of county commissioners
11 shall accept or reject the recommendation of the local tax
12 study commission or adopt any other appropriate tax or
13 combination of taxes for the county commencing the next
14 fiscal year as provided by this act and other applicable law.

15 (8) If the local tax study commission fails to make a
16 nonbinding recommendation within 120 days of its appointment,
17 the board of county commissioners shall discharge the
18 appointed local tax study commission and appoint itself as
19 the local tax study commission. No later than September 1
20 prior to the commencement of the next fiscal year, the board
21 of county commissioners shall adopt the appropriate tax or
22 combination of taxes for the county commencing the next
23 fiscal year as provided by this act and other applicable law.

24 (9) The local tax study commission shall publish or
25 cause to be published, within 30 days of making its
26 recommendation, a final report of its activities and
27 recommendations and shall deliver the final report to the
28 chief clerk of the county who shall supply copies to
29 interested persons at their request.

30 (10) Receipts are required for all reimbursable

1 expenses.

2 (11) All the records, receipts, minutes of meetings and
3 written discussions of the local tax study commission shall,
4 upon its discharge, be turned over to the chief clerk of the
5 county for permanent safekeeping. The chief clerk shall make
6 such materials available for public inspection at any time
7 during regular business hours.

8 (12) The local tax study commission shall be discharged
9 on the filing of its final report.

10 (b) Effect.--A county that levies, assesses and collects or
11 provides for the levy, assessment or collection of any tax,
12 after having received the recommendations of a local tax study
13 commission and acted, shall continue to levy, assess and collect
14 the same tax or combination of taxes for a minimum of the next
15 three fiscal years.

16 (c) Periodic review.--Beginning at least three fiscal years
17 after action by a board of county commissioners on the
18 recommendation of a tax study commission under this section, and
19 no more frequently than every three fiscal years thereafter, the
20 board of commissioners may appoint a local tax study commission
21 in the manner provided in subsection (a). The local tax study
22 commission appointed under this subsection shall be charged with
23 all of the same powers and duties provided for a local tax study
24 commission under subsection (a).

25 (d) Construction.--Nothing in this section shall be
26 construed to preclude the board of county commissioners from
27 changing or altering the rates of any such tax or combination of
28 taxes if it deems necessary to the extent otherwise permitted by
29 law.

30 Section 305. Municipal sales, use and occupancy tax initiative.

1 (a) General rule.--After the first January 1 occurring at
2 least six months following the effective date of this section,
3 if the board of county commissioners of a county has not elected
4 to participate under this act, municipalities located in that
5 county may require, as provided in this section, the board of
6 county commissioners of the county to impose the sales, use and
7 occupancy tax as provided in section 312.

8 (b) Procedure.--

9 (1) If the board of county commissioners of a county has
10 not elected to participate under this act by the first
11 January 1 occurring at least six months following the
12 effective date of this section, the governing body of a
13 municipality located in that county may place before the
14 governing bodies of all the municipalities located in that
15 county the following question:

16 Do you favor the imposition of a county sales, use and
17 occupancy tax at the rate of 1% as provided in section
18 312 of the County and Municipal Property Tax Relief and
19 Collaborative Services Act?

20 (2) Circulation of the question may begin no earlier
21 than January 1 of the year prior to the proposed year of
22 implementation, and the vote by the governing bodies of the
23 municipalities must conclude no later than June 1 of the year
24 prior to the proposed year of implementation.

25 (3) Each governing body of a municipality voting in the
26 affirmative on the question shall certify its vote on the
27 question to the board of county commissioners. The governing
28 body of a municipality that is located in more than one
29 county shall certify its vote on the question to the board of
30 county commissioners for each county where the municipality

1 is located.

2 (4) The affirmative votes of the governing bodies of
3 municipalities whose combined population represents more than
4 60% of the population within the county shall be necessary
5 for the board of county commissioners to elect participation
6 under this act. The population of a municipality that is
7 located in more than one county shall be determined
8 separately for each county where the municipality is located
9 on the basis of the municipality's population within each
10 county.

11 (5) Upon receipt of certifications from municipalities
12 indicating approval of the question by municipalities whose
13 combined population represents more than 60% of the
14 population of the county, the board of county commissioners
15 of the county shall, for the next calendar year, elect to
16 participate under this act, pursuant to the procedures of
17 section 303.

18 (6) A municipality is qualified to receive a
19 disbursement under section 318 if the municipality:

20 (i) votes in the affirmative on the question under
21 this section; or

22 (ii) qualifies in accordance with the provisions of
23 section 319.

24 SUBCHAPTER B

25 COUNTY SALES, USE AND OCCUPANCY TAX

26 Section 311. Construction.

27 The tax imposed by the board of county commissioners under
28 this subchapter shall be in addition to any tax imposed by the
29 Commonwealth under Article II of the Tax Reform Code. Except for
30 the differing situs provisions under section 313, the provisions

1 of Article II of the Tax Reform Code shall apply to the tax.

2 Section 312. Imposition of tax.

3 (a) Sales.--

4 (1) The board of county commissioners may levy and
5 assess upon each separate sale at retail of tangible personal
6 property or services, as defined in Article II of the Tax
7 Reform Code, within the boundaries of the county, a tax on
8 the purchase price.

9 (2) The tax shall be collected by the vendor from the
10 purchaser and shall be paid over to the Commonwealth as
11 provided in this subchapter.

12 (b) Use.--

13 (1) In any county within which the tax authorized in
14 subsection (a) is imposed, there shall be levied, assessed
15 and collected upon the use, within the county, of tangible
16 personal property purchased at retail and on services
17 purchased at retail, as defined in Article II of the Tax
18 Reform Code, a tax on the purchase price.

19 (2) The tax shall be paid over to the Commonwealth by
20 the person who makes the use.

21 (3) The use tax imposed under this subchapter shall not
22 be paid over to the Commonwealth by any person who has paid
23 the tax imposed by subsection (a) or has paid the tax imposed
24 by this subsection to the vendor with respect to the use.

25 (c) Occupancy.--

26 (1) In any county within which a tax authorized by
27 subsection (a) is imposed, there shall be levied, assessed
28 and collected an excise tax on the rent upon every occupancy
29 of a room or rooms in a hotel in the county.

30 (2) The tax shall be collected by the operator or owner

1 from the occupant and paid over to the Commonwealth.

2 (d) Rate and uniformity.--The tax authorized by subsections
3 (a), (b) and (c) shall be imposed at a rate of 1% and shall be
4 uniform.

5 (e) Computation.--The tax imposed under this section shall
6 be computed in the manner set forth in section 503(e)(2) of the
7 act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania
8 Intergovernmental Cooperation Authority Act for Cities of the
9 First Class.

10 Section 313. Situs.

11 The situs of sales at retail or uses of motor vehicles,
12 aircraft, motorcraft and utility services shall be determined in
13 the manner specified by section 504 of the act of June 5, 1991
14 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
15 Cooperation Authority Act for Cities of the First Class and by
16 Article II-A of the Tax Reform Code.

17 Section 314. Licenses.

18 A license for the collection of the tax imposed by this
19 subchapter shall be issued in the same manner as is provided for
20 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known
21 as the Pennsylvania Intergovernmental Cooperation Authority Act
22 for Cities of the First Class. Licensees shall be entitled to
23 the same discount as provided in section 227 of the Tax Reform
24 Code.

25 Section 315. Rules and regulations; collection costs.

26 (a) Regulations.--Rules and regulations shall be applicable
27 to the taxes imposed under section 312 in the same manner as is
28 provided for in section 506(1) and (2) of the act of June 5,
29 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
30 Cooperation Authority Act for Cities of the First Class.

1 (b) Administrative costs.--

2 (1) The department may retain a sum equal to 1% of the
3 revenues collected under this subchapter for its
4 administrative costs.

5 (2) When the annual operating budget for the department
6 is submitted to the General Assembly, the department shall
7 also submit to the chairman and minority chairman of the
8 Appropriations Committee of the Senate and to the chairman
9 and minority chairman of the Appropriations Committee of the
10 House of Representatives the actual sums retained for costs
11 of collection in the preceding fiscal year, together with all
12 supporting details.

13 Section 316. Procedure and administration.

14 (a) Ordinance.--

15 (1) A county desiring to impose the tax authorized by
16 section 312 shall give at least 60 days' written notice to
17 each municipality in the county of its intent to impose the
18 tax and shall adopt an ordinance after the expiration of 60
19 days after the date of the notice. The notice and ordinance
20 shall state the tax rate and refer to this subchapter. The
21 ordinance shall authorize the imposition of the tax on all
22 subjects provided for in section 312.

23 (2) Prior to adopting an ordinance imposing the tax
24 under section 312, the board of county commissioners shall
25 give public notice of its intent to adopt the ordinance in
26 the manner provided by section 306 of the Local Tax Enabling
27 Act and shall conduct at least one public hearing regarding
28 the proposed adoption of the ordinance.

29 (3) The board of county commissioners may waive the
30 requirement for a public hearing if the ordinance will be

adopted pursuant to the provisions of section 305.

(b) Notification to department.--A certified copy of the county ordinance shall be delivered to the department by September 1 of the year prior to the effective date of the ordinance. The county ordinance shall become effective on the January 1 following delivery of the certified copy to the department.

(c) Repeal.--

(1) A county, having enacted the tax authorized by section 312 and desiring to repeal the tax, shall give at least 60 days' written notice to every municipality located in the county of its intent to repeal the tax and shall adopt an ordinance after the expiration of 60 days after the date of the notice. The ordinance shall authorize the repeal of the tax on all subject under section 312.

(2) Prior to adopting an ordinance repealing the tax imposed under section 312, the board of county commissioners shall give public notice of its intent to repeal the ordinance in the manner provided by section 506 of the Local Tax Enabling Act and shall conduct at least one public hearing regarding the proposed repeal of the ordinance.

(d) Delivery of repeal ordinance.--The board of county commissioners shall deliver a certified copy of a repeal ordinance to the department by September 1 of the year prior to the effective date of the repeal.

Section 317. County sales, use and occupancy tax funds.

(a) Funds established in State Treasury.--There is hereby established in the State Treasury for each county imposing the tax under section 312 a county sales, use and occupancy tax fund in the name of each county. The State Treasurer shall be

1 custodian of the funds which shall be subject to the provisions
2 of law applicable to funds listed in section 302 of the act of
3 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

4 (b) Deposits into funds.--

5 (1) The tax imposed under section 312 shall be received
6 by the department and paid to the State Treasurer and, along
7 with interest and penalties, less any collection costs
8 allowed under this subchapter and any refunds and credits
9 paid, shall be credited to the respective fund not less
10 frequently than every two weeks.

11 (2) During any period prior to the credit of moneys to
12 each such fund, interest earned on moneys received by the
13 department and paid to the State Treasurer under this
14 subchapter shall be deposited into the respective fund.

15 (c) Lapsing and interfund transfers prohibited.--All moneys
16 in each respective fund, including, but not limited to, moneys
17 credited to the fund under this section, prior year encumbrances
18 and the interest earned thereon, shall not lapse or be
19 transferred to any other fund, but shall remain in the
20 respective fund.

21 (d) Investment.--Pending their disbursement, moneys received
22 on behalf of or deposited into each respective fund shall be
23 invested or reinvested as are other moneys in the custody of the
24 State Treasurer in the manner provided by law. All earnings
25 received from the investment or reinvestment of the moneys shall
26 be credited to the respective fund.

27 Section 318. Disbursements.

28 (a) General rule.--On or before the tenth day of every
29 month, the State Treasurer shall make disbursements as provided
30 in this section.

1 (b) Disbursement to counties.--

2 (1) The State Treasurer shall disburse to a county
3 imposing the tax under section 312 an amount of money equal
4 to 50% of the tax deposited in the respective county sales,
5 use and occupancy tax fund for deposit into the county
6 general fund for disposition as provided under section
7 501(a).

8 (2) The State Treasurer shall disburse to a county, in
9 addition to its share under paragraph (1), an amount of money
10 equal to the amount allocated to all of the nonqualified
11 municipalities as provided in this section.

12 (c) Allocation to municipalities.--The State Treasurer shall
13 allocate to the municipalities located in the county an amount
14 of money equal to 40% of the tax deposited in the respective
15 county sales, use and occupancy tax fund, which shall be
16 apportioned to all of the municipalities located in that county
17 as computed under section 320(a).

18 (d) Disbursement to municipalities.--

19 (1) The amount apportioned to each qualified
20 municipality shall be disbursed to the qualified municipality
21 for deposit into the municipal general fund for disposition
22 as provided in section 501(b).

23 (2) The amount apportioned to each nonqualified
24 municipality shall be disbursed to the county as provided in
25 subsection (b)(2) for deposit into the county general fund
26 for disposition as provided under section 501(a).

27 (e) Disbursement to municipal collaborative efforts fund.--
28 The State Treasurer shall disburse to the municipal
29 collaborative efforts fund established by the county under
30 section 502 an amount of money equal to 10% of the tax deposited

1 in the respective county sales, use and occupancy tax fund.

2 (f) Penalty.--If disbursements are not made on or before the
3 tenth day of each month, a 5% penalty shall be added thereto
4 plus an additional 1% late charge per month delayed, along with
5 interest and penalties accruing under section 317. Payment of
6 penalties and late charges under this subsection shall be made
7 from the General Fund of the Commonwealth into the county sales,
8 use and occupancy tax fund established under section 317.

9 Section 319. Adoption of municipal ordinances.

10 (a) Initial year qualification.--A municipality is qualified
11 to receive a disbursement under section 318 if, prior to
12 enactment of the county ordinance, the municipality:

13 (1) Adopts a municipal ordinance containing the
14 statement:

15 We strongly urge the county to enact a county sales, use
16 and occupancy tax and intend to accept disbursements of
17 the sales, use and occupancy tax collected.

18 (2) Delivers a certified copy of the municipal ordinance
19 to the board of county commissioners on or before the
20 enactment of the county ordinance. A municipality that is
21 located in more than one county shall deliver a certified
22 copy to the board of county commissioners for each county
23 where the municipality is located.

24 (b) Subsequent year qualification.--A municipality is
25 qualified to receive a disbursement under section 318 if, prior
26 to October 1 of any year after the year of initial imposition of
27 the tax by a county, the municipality meets the following
28 requirements:

29 (1) Adopts a municipal ordinance containing the
30 statement:

1 We support the enactment by the county of the county
2 sales, use and occupancy tax and strongly urge its
3 continuation and intend to accept disbursements of the
4 sales, use and occupancy tax collected.

5 (2) Delivers a certified copy of the municipal ordinance
6 to the board of county commissioners on or before the
7 enactment of the county ordinance by October 15 of the year
8 in which the ordinance is enacted. A municipality that is
9 located in more than one county shall deliver a certified
10 copy to the board of county commissioners for each county
11 where the municipality is located.

12 (c) Nonqualification.--Notwithstanding the provisions of
13 subsection (b), a municipality shall not qualify to receive a
14 disbursement under section 318 earlier than 36 months after the
15 initial date of imposition of the tax unless the municipality:

16 (1) enacts an ordinance in accordance with the
17 provisions of subsection (a); or

18 (2) votes in the affirmative to the question in
19 accordance with the provisions of section 305.

20 Section 320. Allocations.

21 (a) Allocations to municipalities.--The State Treasurer
22 shall compute allocations to municipalities in the following
23 manner:

24 (1) Fifty percent of the money allocated to
25 municipalities in the county shall be distributed pro rata
26 based on the weighted tax revenues for each municipality
27 located in the county as a percentage of the total weighted
28 tax revenues of all municipalities located in the county. For
29 municipalities located in more than one county, the weighted
30 tax revenues for the county shall be prorated based upon the

population of the municipality in each county divided by the total population of the municipality.

(2) Fifty percent of the money allocated to municipalities in the county shall be distributed pro rata based on the population of each municipality located in the county as a percentage of the sum of the population of all municipalities located in the county. For municipalities located in more than one county, the population of the county shall be determined separately for each county where the municipality is located on the basis of the municipality's population within each county.

(b) Calculation of weighted tax revenues.--Calculations of weighted tax revenues shall be made by the Department of Community and Economic Development or any successor agency and certified to the State Treasurer based upon information reported to the Department of Community and Economic Development or any successor agency, subject to review, verification and approval by the Department of Community and Economic Development or any successor agency.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Per capita market value." The total market value of all real property divided by population as determined by the most recent decennial census.

"Total tax revenues." Real property tax revenues, revenues received by levy of a tax under the Local Tax Enabling Act, revenues received by levy of a tax under this act and revenues received by levy of a tax under the act of August 9, 1955

(P.L.323, No.130), known as The County Code, the act of June 23,

1 1931 (P.L.932, No.317), known as The Third Class City Code, the
2 act of February 1, 1966 (1965 P.L.1656, No.581), known as The
3 Borough Code, the act of June 24, 1931 (P.L.1206, No.331), known
4 as the First Class Township Code, and the act of May 1, 1933
5 (P.L.103, No.69), known as The Second Class Township Code, as
6 applicable to the municipality.

7 "Weighted tax revenues." Total tax revenues from all sources
8 of a municipality divided by the per capita market value of the
9 municipality.

10 CHAPTER 5

11 DISPOSITION OF TAX REVENUES

12 Section 501. Sales, use and occupancy tax revenues.

13 (a) Counties.--

14 (1) In the first year of implementation of the tax under
15 section 312, no less than 60% of any additional revenues
16 received by a county from the tax shall be used to offset the
17 revenues lost as a result of the prohibition against
18 imposition of the taxes enumerated in section 301(b) and then
19 to reduce the county real property tax, first by means of a
20 homestead exclusion and then, if the maximum homestead
21 exclusion has been attained, by means of reduction in the
22 property tax millage rate.

23 (2) Revenues received and retained by a county from the
24 tax under section 312 shall be expended for public purposes
25 authorized by statutes governing counties.

26 (b) Municipalities.--

27 (1) In the first year of implementation of the taxes
28 under section 312, no less than 60% of any additional
29 revenues received by a qualified municipality from the tax
30 shall be used for the following, separately or in

1 combination:

2 (i) To offset the municipal real property tax, first
3 by means of a homestead exclusion and then, if the
4 maximum homestead exclusion has been attained, by means
5 of reduction in the property tax millage rate.

6 (ii) To offset lost municipal revenue based on the
7 value of real property in the municipality that has been
8 exempted from real property taxation pursuant to law.

9 (2) If, in the first year of implementation, 60% of the
10 amount of revenues received by a qualified municipality
11 exceeds the sum of the amount of offsets available under
12 paragraph (1) for that year, then that excess revenue shall
13 be used for the following, separately or in combination:

14 (i) To offset any other municipal tax or fee.

15 (ii) To make a supplemental appropriation in
16 accordance with section 503.

17 (3) Revenues received and retained by a qualified
18 municipality from the taxes under section 312 shall be
19 expended for public purposes of health, safety and welfare as
20 provided in the municipality's governing statutes.

21 Section 502. Municipal collaborative efforts program.

22 (a) Fund established.--There is hereby established in each
23 county levying the tax under section 312 a municipal
24 collaborative efforts fund.

25 (b) Deposits.--Payments received under section 318(e) shall
26 be deposited in the municipal collaborative efforts fund of the
27 county for use as specified in this section.

28 (c) Municipal collaborative efforts board.--

29 (1) Upon levy of the taxes under section 312 by a
30 county, a municipal collaborative efforts board will be

1 established within the county.

2 (2) The municipal collaborative efforts board shall
3 award grants for the provision of municipal collaborative
4 efforts within the county that meet criteria established by
5 the municipal collaborative efforts board.

6 (3) All of the members of the municipal collaborative
7 efforts board must be elected officials from qualified
8 municipalities in the county.

9 (4) The municipal collaborative efforts board shall be
10 comprised of no fewer than three voting members and one
11 nonvoting member, and no more than seven voting members and
12 one nonvoting member. The municipal collaborative efforts
13 board shall include at least one representative from each
14 class of municipality located in the county; provided that
15 the class of municipality consists of at least one qualified
16 municipality. The number of representatives from each class
17 of municipality located in the county shall be in reasonable
18 proportion to the number of municipalities within each class
19 of municipality in the county.

20 (5) The board of county commissioners shall appoint
21 members to the municipal collaborative efforts board from
22 nominations made by resolution of the qualified
23 municipalities in the county. Prior to appointment, the board
24 of county commissioners shall submit the nominees to councils
25 of governments and county associations of municipalities
26 existing in the county, if any, for review and comment.

27 (6) Members shall serve a two-year term and may be
28 nominated for successive terms. Vacancies shall be filled by
29 the board of county commissioners for the balance of the
30 unexpired term, and any appointment made shall be from the

1 same class of qualified municipality. Initial appointments
2 shall be made within 60 days of a county levying the taxes
3 under section 312, and vacancies shall be filled within 60
4 days of their occurrence from nominees submitted by
5 municipalities of the class for which the vacancy exists.

6 (7) Within 30 days of appointment, and on the first
7 Monday after the first day of January of each year following,
8 the municipal collaborative efforts board shall organize.

9 (8) No more than 10% of the annual payments received
10 under section 318(e) may be used by the municipal
11 collaborative efforts board for administrative purposes.

12 (9) The municipal collaborative efforts board shall
13 adopt standard rules of parliamentary procedure and shall
14 adopt such other rules and regulations necessary for conduct
15 of the business of the municipal collaborative efforts board.
16 The Department of Community and Economic Development shall
17 develop sample rules and regulations and other guidance
18 materials.

19 (d) Disbursements.--

20 (1) Disbursement of funds shall be made to one or more
21 qualified municipalities or groups of qualified
22 municipalities organized under 53 Pa.C.S. Ch. 23 Subch. A
23 (relating to intergovernmental cooperation) or operating
24 under other contractual agreement, for the purpose of
25 providing municipal collaborative efforts.

26 (2) Nonqualified municipalities shall be ineligible for
27 funds under this section unless the funding is pursuant to an
28 agreement under 53 Pa.C.S. Ch. 23 Subch. A in which the
29 majority of participating municipalities are qualified
30 municipalities or pursuant to other contractual agreement in

1 which the majority of participating municipalities are
2 qualified municipalities.

3 (e) Audit.--Following the close of the fiscal year, the
4 municipal collaborative efforts board shall provide for an
5 examination of its financial records and the financial records
6 of its fund by a certified public accountant in accordance with
7 generally accepted government auditing standards. The municipal
8 collaborative efforts board may require any recipient of funds
9 under this section to provide to the municipal collaborative
10 efforts board an audit of the use of those funds in accordance
11 with generally accepted government auditing standards.

12 (f) Definition.--For the purposes of this section, the term
13 "qualified municipality" shall have the same meaning given in
14 section 102, except that for municipal collaborative efforts
15 provided by agreement for municipalities in more than one
16 county, the term shall include municipalities qualified in
17 another county.

18 Section 503. Supplemental appropriations for collaborative
19 services.

20 A county or municipality may appropriate and transfer by
21 contract a portion of its receipts of disbursements under this
22 act to one or more other counties or municipalities or groups of
23 municipalities organized under 53 Pa.C.S. Ch. 23 Subch. A
24 (relating to intergovernmental cooperation), for the purpose of
25 providing governmental services on behalf of that county or
26 municipality.

27 Section 504. Revenue limitation exceptions.

28 (a) Waiver.--A board of county commissioners or the
29 governing body of a municipality may waive the limitations
30 relating to the reduction or elimination of taxes in sections

1 501, but only to the degree necessary, in the following cases:

2 (1) If an increase in local expenditures is necessary to
3 respond to or recover from an emergency or disaster declared
4 by the Governor.

5 (2) If the political subdivision is required to
6 implement a court decision.

7 (3) To pay interest and principal on any indebtedness
8 incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B
9 (relating to indebtedness and borrowing).

10 (4) To pay increases in pension fund requirements which
11 are in excess of the annual average increase over the
12 immediately preceding five fiscal years.

13 (5) To respond to a county or municipality declared to
14 be distressed under the act of July 10, 1987 (P.L.246,
15 No.47), known as the Municipalities Financial Recovery Act.

16 (6) To increase revenues when actual revenues decline
17 from the immediately preceding year, but only to the extent
18 of the revenue decline.

19 (7) If the increase does not exceed the limitations on
20 millage rates for real property under the act of August 9,
21 1955 (P.L.323, No.130), known as The County Code, the act of
22 June 23, 1931 (P.L.932, No.317), known as The Third Class
23 City Code, the act of February 1, 1966 (1965 P.L.1656,
24 No.581), known as The Borough Code, the act of June 24, 1931
25 (P.L.1206, No.331), known as the First Class Township Code,
26 and the act of May 1, 1933 (P.L.103, No.69), known as The
27 Second Class Township Code.

28 (8) (i) To respond to a Federal or State statute,
29 regulation or order adding to or significantly altering
30 responsibilities and duties or requiring expenditure of

1 funds to the extent not funded by the Federal Government
2 or State government.

3 (ii) This paragraph shall apply only to a Federal or
4 State statute, regulation or order taking effect after
5 the effective date of this section.

6 (9) To increase revenue equal to the percentage increase
7 in the Statewide average weekly wage from the immediately
8 preceding year or 5%, whichever is less.

9 (b) Appeal.--

10 (1) A person aggrieved by a waiver of limitations
11 pursuant to this section may appeal to the court of common
12 pleas in the judicial district in which the county or
13 municipality is located.

14 (2) The following shall apply to any proceedings
15 instituted under this subsection:

16 (i) The county or municipality that is subject of
17 the appeal must show by clear and convincing evidence the
18 necessity to claim the waiver of limitations.

19 (ii) The county or municipality must show by clear
20 and convincing evidence that there are no assets or other
21 feasible alternatives available to the county or
22 municipality.

23 (iii) A person shall have standing as a party to a
24 proceeding under this subsection as long as the person
25 resides within or pays real property taxes to the taxing
26 jurisdiction of the county or municipality that is
27 subject of the appeal.

28 CHAPTER 7

29 OPTIONAL SALES AND USE TAX FOR CITIES OF THE FIRST CLASS

30 Section 701. Definitions.

1 (a) Article II of Tax Reform Code.--The definitions in
2 section 201 of the act of March 4, 1971 (P.L.6, No.2), known as
3 the Tax Reform Code of 1971, apply to this chapter.

4 (b) Specific.--The following words and phrases when used in
5 this chapter shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:

7 "City." A city of the first class.

8 "Fund." The Local Sales and Use Tax Fund.

9 Section 702. Construction.

10 (a) Additional tax.--The tax imposed by a city under this
11 chapter shall be in addition to any tax imposed:

12 (1) by the Commonwealth under Article II of the act of
13 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
14 1971; or

15 (2) by a city under the act of June 5, 1991 (P.L.9,
16 No.6), known as the Pennsylvania Intergovernmental
17 Cooperation Authority Act for Cities of the First Class.

18 (b) Article II of Tax Reform Code.--Except for the differing
19 situs provisions under section 704, section 202-A and Article II
20 of the Tax Reform Code of 1971 applies to this chapter.

21 Section 703. Imposition.

22 (a) Sales.--

23 (1) The governing body of a city may levy, assess and
24 collect, upon each separate sale at retail of tangible
25 personal property or services within the city, a tax on the
26 purchase price.

27 (2) The tax shall be collected by the vendor from the
28 purchaser and shall be paid over to the Commonwealth as
29 provided in this chapter.

30 (b) Use.--

1 (1) If a city imposes the tax under subsection (a), the
2 governing body of the city shall levy, assess and collect,
3 upon the use within the city of tangible personal property
4 purchased at retail and of services purchased at retail, a
5 tax on the purchase price.

6 (2) Except as set forth in paragraph (3), the tax shall
7 be paid over to the Commonwealth by the person that makes the
8 use.

9 (3) The tax shall not be paid over to the Commonwealth
10 by a person that, with respect to the same taxable subject:

11 (i) has paid the tax under subsection (a); or

12 (ii) has paid the tax imposed by this subsection to
13 the vendor.

14 (c) Rate and uniformity.--The rate of the tax authorized by
15 this section shall be 1%.

16 (d) Computation.--The tax under this section shall be
17 computed as follows:

18 (1) If the purchase price is 50¢ or less, no tax shall
19 be collected.

20 (2) If the purchase price is 51¢ or more but less than
21 \$1.51, 1¢ shall be collected.

22 (3) If the purchase price is \$1.51 or more but less than
23 \$2.51, 2¢ shall be collected.

24 (4) If the purchase price is \$2.51 or more but less than
25 \$3.51, 3¢ shall be collected.

26 (5) If the purchase price is \$3.51 or more but less than
27 \$4.51, 4¢ shall be collected.

28 (6) If the purchase price is \$4.51 or more but less than
29 \$5.51, 5¢ shall be collected.

30 (7) If the purchase price is \$5.51 or more but less than

1 \$6.51, 6¢ shall be collected.

2 (8) If the purchase price is \$6.51 or more but less than
3 \$7.51, 7¢ shall be collected.

4 (9) If the purchase price is \$7.51 or more but less than
5 \$8.51, 8¢ shall be collected.

6 (10) If the purchase price is \$8.51 or more but less
7 than \$9.51, 9¢ shall be collected.

8 (11) If the purchase price is \$9.51 or more but less
9 than \$10.01, 10¢ shall be collected.

10 (12) If the purchase price is more than \$10, 1% of each
11 \$10 purchase price plus the above bracket charges upon any
12 fractional part of a \$10 increment shall be collected.

13 Section 704. Situs for imposition of tax.

14 (a) Situs for retail sales.--Except as otherwise set forth
15 in this section, a sale at retail shall be deemed to be
16 consummated at the place of business of the retailer. If a
17 retailer has more than one place of business in this
18 Commonwealth which participates in the sale, the sale shall be
19 deemed to be consummated at the place of business of the
20 retailer where the initial order for the tangible personal
21 property is taken, even though the order must be forwarded
22 elsewhere for acceptance, approval of credit, shipment or
23 billing. A sale by a retailer's employee shall be deemed to be
24 consummated at the place of business from which that employee
25 works.

26 (b) Out-of-State delivery.--Subsection (a) does not apply if
27 the tangible personal property sold is delivered by the retailer
28 to:

29 (1) an out-of-State destination;

30 (2) a common carrier for delivery to an out-of-State

1 destination; or

2 (3) the United States Post Office for delivery to an
3 out-of-State destination.

4 (c) Situs for vehicle, aircraft and motorcraft sales.--

5 (1) This subsection applies to all of the following:

6 (i) A mobile home, motor vehicle, semitrailer or
7 trailer, as defined in 75 Pa.C.S. § 102 (relating to
8 definitions).

9 (ii) Any aircraft, motorboat or similar item of
10 tangible personal property required under either Federal
11 or state law to be registered or licensed.

12 (2) The sale at retail or use of an item listed in
13 paragraph (1) shall be deemed to have been completed or used
14 at the address of the purchaser or user.

15 (3) The tax due on an item listed in paragraph (1) shall
16 be paid by the purchaser or user:

17 (i) to the Department of Transportation at the time
18 of making application for the issuance of a certificate
19 of title; or

20 (ii) if licensing by the Department of
21 Transportation is not required or obtained, to the
22 department.

23 (d) Situs for utility services.--

24 (1) The sale or use of steam, natural and manufactured
25 gas and electricity shall be deemed to occur at the service
26 address in the city where the meter which registers the
27 service is located, without regard to where the services are
28 rendered.

29 (2) The sale or use of telephone service shall be deemed
30 to occur at the address where the telephone equipment is

1 located and to which the telephone number is assigned.

2 (3) The sale or use of telegraph services shall be
3 deemed to occur where the telegraph originated.

4 Section 705. Licenses.

5 (a) Issuance and renewal.--

6 (1) The license issued under Article II of act of March
7 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
8 or a separate license may be issued by the department for the
9 collection and reporting of the taxes imposed by section 703.

10 (2) The license is subject to renewal periodically as
11 required by the department in regulations but in no event
12 more frequently than once within a five-year period.

13 (3) No fee shall be charged for either a license or any
14 renewal.

15 (b) Assignment.--The license shall be nonassignable.

16 (c) Liability.--Failure of a person to obtain a license
17 shall not relieve the person of liability to pay the taxes
18 imposed by this chapter.

19 Section 706. Department.

20 (a) Administration.--The department has the following powers
21 and duties to administer this chapter:

22 (1) Promulgate regulations.

23 (2) Enforce this chapter and regulations under this
24 chapter and subsection (b).

25 (b) Existing regulations.--The regulations promulgated under
26 section 270 of the act of March 4, 1971 (P.L.6, No.2), known as
27 the Tax Reform Code of 1971, shall be applicable to the taxes
28 imposed by section 703 insofar as the regulations are consistent
29 with section 703.

30 (c) Administrative costs.--The department shall use the

1 money to cover cost of administration of the tax under Chapter 5
2 of the act of June 5, 1991 (P.L.9, No.6), known as the
3 Pennsylvania Intergovernmental Cooperation Authority Act for
4 Cities of the First Class, to cover the cost of administration
5 of the tax authorized by this chapter; and the department shall
6 not retain any additional amounts for the costs of collection of
7 the tax authorized by this chapter.

8 Section 707. Dedication and disbursement.

9 (a) Fund.--

10 (1) At least every two weeks, the department shall pay
11 to the State Treasurer the money from the tax, interest and
12 penalties, minus refunds and credits, under this chapter.

13 (2) The State Treasurer shall credit the money under
14 paragraph (1) to the fund. During any period prior to the
15 credit of money, interest earned on money shall be deposited
16 into the fund.

17 (3) Money in the fund under paragraph (2) shall be the
18 property of the city and shall be distributed as provided in
19 this section.

20 (4) Pending disbursement to the city, money in the fund
21 under paragraph (2) shall be invested as is other money in
22 the custody of the State Treasurer in the manner provided by
23 law. All earnings received from the investment or deposit of
24 the money shall be credited to the fund.

25 (5) Money in the fund under paragraph (2):

26 (i) shall not lapse at the end of any fiscal year;

27 (ii) shall not be transferred to any other fund; and

28 (iii) shall be used exclusively as provided in this
29 section.

30 (b) Disbursement.--By the 10th day of the month, the State

1 Treasurer shall disburse to the city the total amount of money
2 which is, as of the last day of the previous month, contained in
3 the fund under subsection (a) (2).

4 Section 708. Municipal action.

5 (a) Adoption of ordinance.--If a city desires to impose the
6 tax under section 703, the governing body of the city must adopt
7 an ordinance stating the tax rate. The effective date of the
8 ordinance must be:

9 (1) at least 30 days after adoption; and

10 (2) on the first day of a month.

11 (b) Notification to department.--A certified copy of a city
12 ordinance imposing the tax authorized by section 703 shall be
13 delivered to the department within ten days after the adoption
14 of the ordinance.

15 (c) Copy of repeal ordinance.--A certified copy of a repeal
16 ordinance shall be delivered to the department at least 30 days
17 prior to the effective date of the repeal.

18 Section 709. Expiration.

19 This chapter shall expire July 1, 2014. Notwithstanding the
20 expiration of this chapter, tax imposed under section 703 on
21 sales or uses occurring before July 1, 2014, shall be subject to
22 section 707.

23 CHAPTER 21

24 MISCELLANEOUS PROVISIONS

25 Section 2101. (Reserved).

26 Section 2102. Effective date.

27 This act shall take effect immediately.