

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, YUDICHAK, BELFANTI, FLECK, LONGIETTI, MOYER, PASHINSKI, K. SMITH AND R. STEVENSON, MARCH 10, 2008

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 6, 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 AMENDING THE ACT OF OCTOBER 6, 1998 (P.L.705, NO.92), ENTITLED, <—
18 AS AMENDED, "AN ACT PROVIDING FOR THE CREATION OF KEYSTONE
19 OPPORTUNITY ZONES AND KEYSTONE OPPORTUNITY EXPANSION ZONES TO
20 FOSTER ECONOMIC OPPORTUNITIES IN THIS COMMONWEALTH, TO
21 FACILITATE ECONOMIC DEVELOPMENT, STIMULATE INDUSTRIAL,
22 COMMERCIAL AND RESIDENTIAL IMPROVEMENTS AND PREVENT PHYSICAL
23 AND INFRASTRUCTURE DETERIORATION OF GEOGRAPHIC AREAS WITHIN
24 THIS COMMONWEALTH; AUTHORIZING EXPENDITURES; PROVIDING TAX
25 EXEMPTIONS, TAX DEDUCTIONS, TAX ABATEMENTS AND TAX CREDITS;
26 CREATING ADDITIONAL OBLIGATIONS OF THE COMMONWEALTH AND LOCAL
27 GOVERNMENTAL UNITS; AND PRESCRIBING POWERS AND DUTIES OF
28 CERTAIN STATE AND LOCAL DEPARTMENTS, AGENCIES AND OFFICIALS,"
29 PROVIDING FOR EXTENSION FOR UNOCCUPIED PARCELS, FOR
30 ADDITIONAL SUBZONES AUTHORIZED, FOR SUBSTITUTION OF PARCELS

1 AND FOR CAP AND TRADE; FURTHER PROVIDING FOR SALES AND USE
2 TAX, FOR CORPORATE NET INCOME TAX, FOR LOCAL EARNED INCOME,
3 NET PROFITS AND BUSINESS PRIVILEGE TAXES AND FOR LOCAL SALES
4 AND USE TAX; AND PROVIDING FOR RECAPTURE AND FOR WORK
5 PERFORMED.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ~~Section 1. The act of October 6, 1998 (P.L.705, No.92),~~ <—
9 ~~known as the Keystone Opportunity Zone, Keystone Opportunity~~
10 ~~Expansion Zone and Keystone Opportunity Improvement Zone Act, is~~
11 ~~amended by adding sections to read:~~

12 ~~Section 301.3. Extension for unoccupied parcels.~~

13 ~~(a) Requests. Notwithstanding any other provisions of this~~
14 ~~act, the department may, as provided in this section, grant~~
15 ~~requests for the extension of all deductions, abatements or~~
16 ~~credits for any subzones or keystone opportunity improvement~~
17 ~~zones previously certified under this act.~~

18 ~~(b) Requirements. Extensions of deductions, abatements or~~
19 ~~credits under this section shall apply only to properties which~~
20 ~~are unoccupied and which qualify as deteriorated on a basis~~
21 ~~other than being underutilized.~~

22 ~~(c) Applications. Applications under this section shall be~~
23 ~~made to the department no later than May 31, 2009. Applications~~
24 ~~must include all ordinances, resolutions or other required~~
25 ~~action of all affected political subdivisions approving the~~
26 ~~extension of deductions, abatements or credits set forth under~~
27 ~~this act. The department shall certify the extensions by June~~
28 ~~30, 2009.~~

29 ~~(d) Expiration. For subzones or keystone opportunity~~
30 ~~improvement zones that expire December 31, 2008, an application~~
31 ~~may be submitted to the department to temporarily delay the~~
32 ~~expiration of the deductions, abatements and credits under the~~

1 ~~existing subzone until June 30, 2009. The application shall~~
2 ~~include all ordinances, resolutions or other required action of~~
3 ~~all affected political subdivisions approving the requested~~
4 ~~delay in the expiration of the subzone or keystone opportunity~~
5 ~~improvement zone and shall be submitted to the department by~~
6 ~~November 30, 2008. The department shall certify the delay in the~~
7 ~~expiration by December 31, 2008. Subzones or keystone~~
8 ~~opportunity improvement zones whose expiration is delayed under~~
9 ~~this subsection may apply for an extension under subsection (c)~~
10 ~~and an extension granted under this section shall be deemed to~~
11 ~~have begun January 1, 2009.~~

12 ~~(c) Duration of extension. The department may approve an~~
13 ~~application for extension of the deductions, abatements and~~
14 ~~credits under subsection (c) for:~~

15 ~~(1) seven years, provided that the deductions,~~
16 ~~abatements and credits, for the extended period shall~~
17 ~~commence only upon occupancy and terminate seven years from~~
18 ~~the termination date of the existing subzone or keystone~~
19 ~~opportunity improvement zone; or~~

20 ~~(2) ten years from the date of occupancy, provided that~~
21 ~~the property shall become occupied after the effective date~~
22 ~~of this subsection but before seven years from the~~
23 ~~termination date of the existing subzone or keystone~~
24 ~~opportunity improvement zone.~~

25 ~~Section 301.4. Additional subzones authorized.~~

26 ~~(a) Designation. Notwithstanding any provision of this act,~~
27 ~~the department may designate additional subzones in any county~~
28 ~~which does not, as of the effective date of this subsection,~~
29 ~~have any subzones within its political boundaries.~~

30 ~~(b) Requirements. Subzones designated under this~~

1 ~~subsection:~~

2 ~~(1) may not, in the aggregate, exceed 300 acres in each~~
3 ~~county;~~

4 ~~(2) shall be comprised only of parcels which are~~
5 ~~unoccupied as of the effective date of this subsection and~~
6 ~~that qualify as deteriorated on a basis other than being~~
7 ~~underutilized.~~

8 ~~(c) Application and approval. Application for a subzone~~
9 ~~under this section shall be made to the department in accordance~~
10 ~~with the provisions of section 302(a)(1), (2), (3), (5) and (6)~~
11 ~~no later than May 31, 2009, and shall be certified by the~~
12 ~~department on or before June 30, 2009.~~

13 ~~(d) Duration of subzones. Subzones designated under this~~
14 ~~section shall be entitled to all tax exemptions, deductions,~~
15 ~~abatements and credits set forth in this act for a period not to~~
16 ~~exceed ten years, beginning January 1, 2009, and ending December~~
17 ~~31, 2018.~~

18 ~~Section 301.5. Substitution of parcels within a subzone.~~

19 ~~(a) Approval. In the event of a decertification and removal~~
20 ~~of the designation of a deteriorated property as part of a~~
21 ~~subzone under section 309, the department may approve a~~
22 ~~substitution of other parcels within the zone or subzone~~
23 ~~containing no more than the aggregate acreage being decertified.~~

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

30 ~~(c) Subzones set to expire on December 31, 2008. For~~

1 ~~subzones that expire December 31, 2008, an application may be~~
2 ~~submitted to the department to temporarily delay the expiration~~
3 ~~of the deductions, abatements and credits under the existing~~
4 ~~subzone until June 30, 2009. The application shall include all~~
5 ~~ordinances, resolutions or other required action of all affected~~
6 ~~political subdivisions approving the requested delay in the~~
7 ~~expiration of the subzone and shall be submitted to the~~
8 ~~department by November 30, 2008. The department shall certify~~
9 ~~the delay in the expiration by December 31, 2008. Subzones whose~~
10 ~~expiration are delayed under this subsection may apply for a~~
11 ~~substitution of parcels under subsection (a).~~

12 ~~(d) Extension of substituted parcels. Upon approval by the~~
13 ~~department of a substitution of parcels under this section, the~~
14 ~~department may approve an extension of the substituted parcels~~
15 ~~under section 301.3.~~

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

18 ~~Section 511. Sales and use tax.~~

19 ~~(a) Exemption. Sales at retail of services or tangible~~
20 ~~personal property, other than motor vehicles, to a qualified~~
21 ~~business or a construction contractor pursuant to a construction~~
22 ~~contract with a qualified business, for the exclusive use,~~
23 ~~consumption and utilization of the tangible personal property or~~
24 ~~service by the qualified business or the construction contractor~~
25 ~~at [its] the qualified business's facility located within a~~
26 ~~subzone, improvement subzone or expansion subzone are exempt~~
27 ~~from the sales and use tax imposed under Article II of the Tax~~
28 ~~Reform Code of 1971. No person shall be allowed an exemption for~~
29 ~~sales conducted prior to designation of the real property as~~
30 ~~part of a subzone or expansion subzone.~~

1 ~~[(b) Construction contracts. For any construction contract~~
2 ~~performed in a subzone, improvement subzone or expansion~~
3 ~~subzone, the exemption provided in subsection (a) shall only~~
4 ~~apply to the sale at retail or use of building machinery and~~
5 ~~equipment to a qualified business, or to a construction~~
6 ~~contractor pursuant to a construction contract with a qualified~~
7 ~~business, for the exclusive use, consumption and utilization by~~
8 ~~the qualified business at its facility in a subzone, improvement~~
9 ~~subzone or expansion subzone. For the purposes of the subzone,~~
10 ~~improvement subzone or expansion subzone exemption, building~~
11 ~~machinery and equipment shall include distribution equipment~~
12 ~~purchased for the exclusive use, consumption and utilization in~~
13 ~~a subzone, improvement subzone or expansion subzone facility.]~~

14 ~~Section 3. Section 515(d)(3) of the act, amended December~~
15 ~~23, 2003 (P.L.360, No.51), is amended to read:~~

16 ~~Section 515. Corporate net income tax.~~

17 ~~* * *~~

18 ~~(d) Income apportionment. The taxable income of a~~
19 ~~corporation that is a qualified business shall be apportioned to~~
20 ~~the subzone, improvement subzone or expansion subzone by~~
21 ~~multiplying the Pennsylvania taxable income by a fraction, the~~
22 ~~numerator of which is the property factor plus the payroll~~
23 ~~factor [plus the sales factor] and the denominator of which is~~
24 ~~[three] two, in accordance with the following:~~

25 ~~* * *~~

26 ~~[(3) The sales factor is a fraction, the numerator of~~
27 ~~which is the total sales of the taxpayer in the subzone,~~
28 ~~improvement subzone or expansion subzone during the tax~~
29 ~~period and the denominator of which is the total sales of the~~
30 ~~taxpayer in this Commonwealth during the tax period.~~

1 ~~(i) Sales of tangible personal property are in the~~
2 ~~subzone, improvement subzone or expansion subzone if the~~
3 ~~property is delivered or shipped to a purchaser that~~
4 ~~takes possession within the subzone, improvement subzone~~
5 ~~or expansion subzone regardless of the F.O.B. point or~~
6 ~~other conditions of the sale.~~

7 ~~(ii) Sales other than sales of tangible personal~~
8 ~~property are in the subzone, improvement subzone or~~
9 ~~expansion subzone if:~~

10 ~~(A) the income producing activity is performed~~
11 ~~in the subzone, improvement subzone or expansion~~
12 ~~subzone; or~~

13 ~~(B) the income producing activity is performed~~
14 ~~both within and without the subzone, improvement~~
15 ~~subzone or expansion subzone and a greater proportion~~
16 ~~of the income producing activity is performed in the~~
17 ~~subzone, improvement subzone or expansion subzone~~
18 ~~than in any other location, based on costs of~~
19 ~~performance.]~~

20 ~~* * *~~

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

23 ~~Section 5. This act shall take effect immediately.~~

24 SECTION 1. THE ACT OF OCTOBER 6, 1998 (P.L.705, NO.92), <—
25 KNOWN AS THE KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY
26 EXPANSION ZONE AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONE ACT, IS
27 AMENDED BY ADDING SECTIONS TO READ:

28 SECTION 301.3. EXTENSION FOR UNOCCUPIED PARCELS.

29 (A) REQUESTS.--NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
30 ACT, THE DEPARTMENT MAY, AS PROVIDED IN THIS SECTION, GRANT

1 REQUESTS FOR THE EXTENSION OF ALL DEDUCTIONS, ABATEMENTS OR
2 CREDITS FOR ANY SUBZONES OR KEYSTONE OPPORTUNITY IMPROVEMENT
3 ZONES PREVIOUSLY CERTIFIED UNDER THIS ACT.

4 (B) REQUIREMENTS.--EXTENSIONS OF DEDUCTIONS, ABATEMENTS OR
5 CREDITS UNDER THIS SECTION SHALL APPLY ONLY TO PROPERTIES WHICH
6 ARE UNOCCUPIED AND WHICH QUALIFY AS DETERIORATED ON A BASIS
7 OTHER THAN BEING UNDERUTILIZED.

8 (C) APPLICATIONS.--APPLICATIONS UNDER THIS SECTION SHALL BE
9 MADE TO THE DEPARTMENT NO LATER THAN MAY 31, 2009. APPLICATIONS
10 MUST INCLUDE ALL ORDINANCES, RESOLUTIONS OR OTHER REQUIRED
11 ACTION OF ALL AFFECTED POLITICAL SUBDIVISIONS APPROVING THE
12 EXTENSION OF DEDUCTIONS, ABATEMENTS OR CREDITS SET FORTH UNDER
13 THIS ACT. THE DEPARTMENT SHALL CERTIFY THE EXTENSIONS BY JUNE
14 30, 2009.

15 (D) EXPIRATION.--FOR SUBZONES OR KEYSTONE OPPORTUNITY
16 IMPROVEMENT ZONES THAT EXPIRE DECEMBER 31, 2008, AN APPLICATION
17 MAY BE SUBMITTED TO THE DEPARTMENT TO TEMPORARILY DELAY THE
18 EXPIRATION OF THE DEDUCTIONS, ABATEMENTS AND CREDITS UNDER THE
19 EXISTING SUBZONE UNTIL JUNE 30, 2009. THE APPLICATION SHALL
20 INCLUDE ALL ORDINANCES, RESOLUTIONS OR OTHER REQUIRED ACTION OF
21 ALL AFFECTED POLITICAL SUBDIVISIONS APPROVING THE REQUESTED
22 DELAY IN THE EXPIRATION OF THE SUBZONE OR KEYSTONE OPPORTUNITY
23 IMPROVEMENT ZONE AND SHALL BE SUBMITTED TO THE DEPARTMENT BY
24 NOVEMBER 30, 2008. THE DEPARTMENT SHALL CERTIFY THE DELAY IN THE
25 EXPIRATION BY DECEMBER 31, 2008. SUBZONES OR KEYSTONE
26 OPPORTUNITY IMPROVEMENT ZONES WHOSE EXPIRATION IS DELAYED UNDER
27 THIS SUBSECTION MAY APPLY FOR AN EXTENSION UNDER SUBSECTION (C)
28 AND AN EXTENSION GRANTED UNDER THIS SECTION SHALL BE DEEMED TO
29 HAVE BEGUN JANUARY 1, 2009.

30 (E) DURATION OF EXTENSION.--THE DEPARTMENT MAY APPROVE AN

1 APPLICATION FOR EXTENSION OF THE DEDUCTIONS, ABATEMENTS AND
2 CREDITS UNDER SUBSECTION (C) FOR:

3 (1) SEVEN YEARS, PROVIDED THAT THE DEDUCTIONS,
4 ABATEMENTS AND CREDITS, FOR THE EXTENDED PERIOD SHALL
5 COMMENCE ONLY UPON OCCUPANCY AND TERMINATE SEVEN YEARS FROM
6 THE TERMINATION DATE OF THE EXISTING SUBZONE OR KEYSTONE
7 OPPORTUNITY IMPROVEMENT ZONE; OR

8 (2) TEN YEARS, PROVIDED THAT THE DEDUCTIONS, ABATEMENTS
9 AND CREDITS, FOR THE EXTENDED PERIOD, SHALL COMMENCE ONLY
10 UPON OCCUPANCY AND TERMINATE TEN YEARS FROM THE DATE OF
11 OCCUPANCY IF THE PROPERTY IS OCCUPIED WITHIN SEVEN YEARS
12 FOLLOWING THE TERMINATION DATE OF THE EXISTING SUBZONE OR
13 KEYSTONE 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 (B) REQUIREMENTS.--SUBZONES DESIGNATED UNDER THIS
18 SUBSECTION:

19 (1) MAY NOT BE LESS THAN TEN ACRES IN SIZE, UNLESS
20 CONTIGUOUS TO AN EXISTING SUBZONE, IN WHICH CASE NO MINIMUM
21 ACREAGE SHALL BE REQUIRED;

22 (2) MAY NOT, IN THE AGGREGATE, EXCEED 350 ACRES IN EACH
23 COUNTY; AND

24 (3) SHALL BE COMPRISED ONLY OF PARCELS WHICH:

25 (I) QUALIFY AS DETERIORATED ONLY ON A BASIS OTHER
26 THAN BEING UNDERUTILIZED AND ARE UNOCCUPIED AS OF THE
27 EFFECTIVE DATE OF THIS SUBSECTION; OR

28 (II) ARE OCCUPIED BY A BUSINESS THAT:

29 (A) CREATES OR RETAINS AT LEAST 1,400 FULL-TIME
30 JOB IN THIS COMMONWEALTH WITHIN THREE YEARS OF

1 APPROVAL OF THE SUBZONE; AND

2 (B) MAKES A CAPITAL INVESTMENT OF AT LEAST
3 \$750,000,000 IN THE SUBZONE WITHIN THREE YEARS OF
4 APPROVAL OF THE SUBZONE.

5 (C) APPLICATION AND APPROVAL.--APPLICATION FOR A SUBZONE
6 UNDER THIS SECTION SHALL BE MADE TO THE DEPARTMENT IN ACCORDANCE
7 WITH THE PROVISIONS OF SECTION 302(A)(1), (2), (3), (5) AND (6)
8 NO LATER THAN MAY 31, 2009, AND SHALL BE CERTIFIED BY THE
9 DEPARTMENT ON OR BEFORE JUNE 30, 2009.

10 (D) DURATION OF SUBZONES.--SUBZONES DESIGNATED UNDER THIS
11 SECTION SHALL BE ENTITLED TO ALL TAX EXEMPTIONS, DEDUCTIONS,
12 ABATEMENTS AND CREDITS SET FORTH IN THIS ACT FOR A PERIOD NOT TO
13 EXCEED TEN YEARS, BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER
14 31, 2018.

15 SECTION 301.5. SUBSTITUTION OF PARCELS WITHIN A SUBZONE.

16 (A) APPROVAL.--IN THE EVENT OF A DECERTIFICATION AND REMOVAL
17 OF THE DESIGNATION OF A DETERIORATED PROPERTY AS PART OF A
18 SUBZONE UNDER SECTION 309, THE DEPARTMENT MAY APPROVE A
19 SUBSTITUTION OF OTHER PARCELS WITHIN THE ZONE OR SUBZONE
20 CONTAINING NO MORE THAN THE AGGREGATE ACREAGE BEING DECERTIFIED.

21 (B) APPLICATION AND APPROVAL.--APPLICATIONS TO SUBSTITUTE
22 PARCELS UNDER THIS SECTION SHALL BE MADE TO THE DEPARTMENT NO
23 LATER THAN MAY 31, 2009. APPLICATIONS UNDER THIS SECTION SHALL
24 BE MADE TO THE DEPARTMENT IN ACCORDANCE WITH SECTION 302(A)(1),
25 (2), (3), (5) AND (6). THE DEPARTMENT SHALL CERTIFY THE
26 SUBSTITUTIONS BY JUNE 30, 2009.

27 (C) SUBZONES SET TO EXPIRE ON DECEMBER 31, 2008.--FOR
28 SUBZONES THAT EXPIRE DECEMBER 31, 2008, AN APPLICATION MAY BE
29 SUBMITTED TO THE DEPARTMENT TO TEMPORARILY DELAY THE EXPIRATION
30 OF THE DEDUCTIONS, ABATEMENTS AND CREDITS UNDER THE EXISTING

1 SUBZONE UNTIL JUNE 30, 2009. THE APPLICATION SHALL INCLUDE ALL
2 ORDINANCES, RESOLUTIONS OR OTHER REQUIRED ACTION OF ALL AFFECTED
3 POLITICAL SUBDIVISIONS APPROVING THE REQUESTED DELAY IN THE
4 EXPIRATION OF THE SUBZONE AND SHALL BE SUBMITTED TO THE
5 DEPARTMENT BY NOVEMBER 30, 2008. THE DEPARTMENT SHALL CERTIFY
6 THE DELAY IN THE EXPIRATION BY DECEMBER 31, 2008. SUBZONES WHOSE
7 EXPIRATION ARE DELAYED UNDER THIS SUBSECTION MAY APPLY FOR A
8 SUBSTITUTION OF PARCELS UNDER SUBSECTION (A).

9 (D) EXTENSION OF SUBSTITUTED PARCELS.--UPON APPROVAL BY THE
10 DEPARTMENT OF A SUBSTITUTION OF PARCELS UNDER THIS SECTION, THE
11 DEPARTMENT MAY APPROVE AN EXTENSION OF THE SUBSTITUTED PARCELS
12 UNDER SECTION 301.3.

13 SECTION 310. CAP AND TRADE.

14 THE DEPARTMENT SHALL PROVIDE A METHOD BY WHICH A COUNTY WHICH
15 HAS ACREAGE IN A SUBZONE OR A KEYSTONE OPPORTUNITY IMPROVEMENT
16 ZONE THAT REMAINS UNUSED MAY TRANSFER THE DESIGNATION OF THE
17 AMOUNT OF ACREAGE AS A SUBZONE OR A KEYSTONE OPPORTUNITY
18 IMPROVEMENT ZONE TO ANOTHER COUNTY TO UTILIZE IN AN AREA WITHIN
19 THE COUNTY IN WHICH THERE IS DETERIORATED PROPERTY FOR THE
20 PURPOSES OF DESIGNATING THE DETERIORATED PROPERTY AS A SUBZONE
21 OR A KEYSTONE OPPORTUNITY ZONE. THE DEPARTMENT SHALL ALLOW FOR
22 THE PURCHASE OF THE ACREAGE AS A TRANSFER UNDER THIS SECTION. A
23 TRANSFER UNDER THIS SECTION SHALL FIRST BE APPROVED BY ALL
24 AFFECTED POLITICAL SUBDIVISIONS WITHIN EACH COUNTY, INCLUDING
25 EACH COUNTY. ANY TRANSFER UNDER THIS SECTION SHALL BE SUBJECT TO
26 APPROVAL BY THE DEPARTMENT.

27 SECTION 2. SECTION 511 OF THE ACT, AMENDED DECEMBER 9, 2002
28 (P.L.1727, NO.217), IS AMENDED TO READ:

29 SECTION 511. SALES AND USE TAX.

30 [(A) EXEMPTION.--]SALES AT RETAIL OF SERVICES OR TANGIBLE

1 PERSONAL PROPERTY, OTHER THAN MOTOR VEHICLES, TO A QUALIFIED
2 BUSINESS OR A CONSTRUCTION CONTRACTOR PURSUANT TO A CONSTRUCTION
3 CONTRACT WITH A QUALIFIED BUSINESS, FOR THE EXCLUSIVE USE,
4 CONSUMPTION AND UTILIZATION OF THE TANGIBLE PERSONAL PROPERTY OR
5 SERVICE BY THE QUALIFIED BUSINESS OR THE CONSTRUCTION CONTRACTOR
6 AT [ITS] THE QUALIFIED BUSINESS'S FACILITY LOCATED WITHIN A
7 SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE ARE EXEMPT
8 FROM THE SALES AND USE TAX IMPOSED UNDER ARTICLE II OF THE TAX
9 REFORM CODE OF 1971. NO PERSON SHALL BE ALLOWED AN EXEMPTION FOR
10 SALES CONDUCTED PRIOR TO DESIGNATION OF THE REAL PROPERTY AS
11 PART OF A SUBZONE OR EXPANSION SUBZONE.

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

25 SECTION 3. SECTION 515(D)(3) OF THE ACT, AMENDED DECEMBER
26 23, 2003 (P.L.360, NO.51), IS AMENDED TO READ:
27 SECTION 515. CORPORATE NET INCOME TAX.

28 * * *

29 (D) INCOME APPORTIONMENT.--THE TAXABLE INCOME OF A
30 CORPORATION THAT IS A QUALIFIED BUSINESS SHALL BE APPORTIONED TO

1 THE SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE BY
2 MULTIPLYING THE PENNSYLVANIA TAXABLE INCOME BY A FRACTION, THE
3 NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL
4 FACTOR [PLUS THE SALES FACTOR] AND THE DENOMINATOR OF WHICH IS
5 [THREE] TWO, IN ACCORDANCE WITH THE FOLLOWING:

6 * * *

7 [(3) THE SALES FACTOR IS A FRACTION, THE NUMERATOR OF
8 WHICH IS THE TOTAL SALES OF THE TAXPAYER IN THE SUBZONE,
9 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE DURING THE TAX
10 PERIOD AND THE DENOMINATOR OF WHICH IS THE TOTAL SALES OF THE
11 TAXPAYER IN THIS COMMONWEALTH DURING THE TAX PERIOD.

12 (I) SALES OF TANGIBLE PERSONAL PROPERTY ARE IN THE
13 SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE IF THE
14 PROPERTY IS DELIVERED OR SHIPPED TO A PURCHASER THAT
15 TAKES POSSESSION WITHIN THE SUBZONE, IMPROVEMENT SUBZONE
16 OR EXPANSION SUBZONE REGARDLESS OF THE F.O.B. POINT OR
17 OTHER CONDITIONS OF THE SALE.

18 (II) SALES OTHER THAN SALES OF TANGIBLE PERSONAL
19 PROPERTY ARE IN THE SUBZONE, IMPROVEMENT SUBZONE OR
20 EXPANSION SUBZONE IF:

21 (A) THE INCOME-PRODUCING ACTIVITY IS PERFORMED
22 IN THE SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION
23 SUBZONE; OR

24 (B) THE INCOME-PRODUCING ACTIVITY IS PERFORMED
25 BOTH WITHIN AND WITHOUT THE SUBZONE, IMPROVEMENT
26 SUBZONE OR EXPANSION SUBZONE AND A GREATER PROPORTION
27 OF THE INCOME-PRODUCING ACTIVITY IS PERFORMED IN THE
28 SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE
29 THAN IN ANY OTHER LOCATION, BASED ON COSTS OF
30 PERFORMANCE.]

1 * * *

2 SECTION 4. SECTION 703 OF THE ACT IS AMENDED BY ADDING A
3 SUBSECTION TO READ:

4 SECTION 703. LOCAL EARNED INCOME AND NET PROFITS TAXES;
5 BUSINESS PRIVILEGE TAXES.

6 * * *

7 (G) DETERMINATION OF EXEMPTION.--FOR THE PURPOSES OF
8 DETERMINING AN EXEMPTION UNDER THIS SECTION, A TAX ON OR
9 MEASURED BY ANY OF THE FOLLOWING SHALL BE ATTRIBUTED TO BUSINESS
10 ACTIVITY CONDUCTED WITHIN A SUBZONE, IMPROVEMENT ZONE OR
11 EXPANSION ZONE BY APPLYING THE APPORTIONMENT FACTORS UNDER
12 SECTION 515(D):

13 (1) BUSINESS GROSS RECEIPTS.

14 (2) GROSS OR NET INCOME.

15 (3) GROSS OR NET PROFITS.

16 SECTION 5. SECTION 705 OF THE ACT, AMENDED DECEMBER 9, 2002
17 (P.L.1727, NO.217), IS AMENDED TO READ:

18 SECTION 705. LOCAL SALES AND USE TAX.

19 (A) GENERAL RULE.--THE POLITICAL SUBDIVISION SHALL EXEMPT
20 SALES AT RETAIL OF SERVICES OR TANGIBLE PERSONAL PROPERTY,
21 EXCEPT MOTOR VEHICLES, TO A QUALIFIED BUSINESS OR A CONSTRUCTION
22 CONTRACTOR PURSUANT TO A CONSTRUCTION CONTRACT WITH A QUALIFIED
23 BUSINESS, FOR THE EXCLUSIVE USE, CONSUMPTION AND UTILIZATION OF
24 THE TANGIBLE PERSONAL PROPERTY OR SERVICE BY THE QUALIFIED
25 BUSINESS OR THE CONSTRUCTION CONTRACTOR AT [ITS] THE QUALIFIED
26 BUSINESS'S FACILITY LOCATED WITHIN A SUBZONE, IMPROVEMENT
27 SUBZONE OR EXPANSION SUBZONE FROM A CITY OR COUNTY TAX ON
28 PURCHASE PRICE AUTHORIZED UNDER ARTICLE XXXI-B OF THE ACT OF
29 JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS
30 COUNTY CODE, AS AMENDED, AND THE ACT OF JUNE 5, 1991 (P.L.9,

1 NO.6), KNOWN AS THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
2 AUTHORITY ACT FOR CITIES OF THE FIRST CLASS, AS AMENDED. NO
3 EXEMPTION MAY BE GRANTED FOR SALES OCCURRING PRIOR TO
4 DESIGNATION OF THE REAL PROPERTY AS PART OF A SUBZONE OR
5 EXPANSION SUBZONE.

6 (B) [CONSTRUCTION CONTRACTS.--FOR ANY CONSTRUCTION CONTRACT
7 PERFORMED IN A SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION
8 SUBZONE, THE EXEMPTION PROVIDED IN SUBSECTION (A) SHALL ONLY
9 APPLY TO THE SALE AT RETAIL OR USE OF BUILDING MACHINERY AND
10 EQUIPMENT TO A QUALIFIED BUSINESS, OR TO A CONSTRUCTION
11 CONTRACTOR PURSUANT TO A CONSTRUCTION CONTRACT WITH A QUALIFIED
12 BUSINESS, FOR THE EXCLUSIVE USE, CONSUMPTION AND UTILIZATION BY
13 THE QUALIFIED BUSINESS AT ITS FACILITY IN A SUBZONE, IMPROVEMENT
14 SUBZONE OR EXPANSION SUBZONE. FOR THE PURPOSES OF THE SUBZONE,
15 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE EXEMPTION, BUILDING
16 MACHINERY AND EQUIPMENT SHALL INCLUDE DISTRIBUTION EQUIPMENT
17 PURCHASED FOR THE EXCLUSIVE USE, CONSUMPTION AND UTILIZATION IN
18 A SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE FACILITY.]
19 (RESERVED).

20 (C) DEFINITION.--SALES AT RETAIL OF TANGIBLE PERSONAL
21 PROPERTY AND SERVICES SHALL BE DEFINED IN ACCORDANCE WITH
22 ARTICLE II OF THE TAX REFORM CODE OF 1971.

23 SECTION 6. SECTION 902 OF THE ACT IS AMENDED BY ADDING A
24 SUBSECTION TO READ:

25 SECTION 902. RECAPTURE.

26 * * *

27 (C) DOCUMENTATION.--QUALIFIED BUSINESSES SHALL PROVIDE
28 DOCUMENTATION, AT THE REQUEST OF THE DEPARTMENT, THAT ALL
29 EMPLOYEES OF THE QUALIFIED BUSINESS AND EMPLOYEES OF ANY
30 CONTRACTOR OR SUBCONTRACTOR PROVIDING SERVICES TO THE QUALIFIED

1 BUSINESS AT ITS FACILITY LOCATED WITHIN A SUBZONE, IMPROVEMENT
2 SUBZONE OR EXPANSION SUBZONE ARE AUTHORIZED UNDER FEDERAL LAW TO
3 WORK IN THE UNITED STATES, AS DEFINED UNDER SECTION 274A OF THE
4 IMMIGRATION AND NATIONALITY ACT (66 STAT. 163, 8 U.S.C. §
5 1324A). A QUALIFIED BUSINESS THAT FAILS TO PROVIDE DOCUMENTATION
6 REQUIRED BY THIS SUBSECTION SHALL REFUND THE FULL VALUE OF ANY
7 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT RECEIVED TO THE STATE
8 AND THE POLITICAL SUBDIVISION WHICH GRANTED THE EXEMPTION,
9 DEDUCTION, ABATEMENT OR CREDIT.

10 SECTION 7. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
11 SECTION 1301.1. WORK PERFORMED.

12 WHEN A POLITICAL SUBDIVISION APPROVES, AUTHORIZES OR PROVIDES
13 TAX ABATEMENTS, EXEMPTIONS, DEDUCTIONS OR CREDITS TO PERSONS OR
14 BUSINESSES QUALIFIED UNDER THIS ACT, ALL CONSTRUCTION,
15 RECONSTRUCTION, DEMOLITION, ALTERATION AND REPAIR WORK OTHER
16 THAN MAINTENANCE WORK PERFORMED ON A PROPERTY SHALL BE DONE IN
17 ACCORDANCE WITH THE ACT OF MAY 1, 1913 (P.L.155, NO.104),
18 REFERRED TO AS THE SEPARATIONS ACT, AND THE ACT OF AUGUST 15,
19 1961 (P.L.987, NO.442), KNOWN AS THE PENNSYLVANIA PREVAILING
20 WAGE ACT. FOR PURPOSES OF THIS ACT, MAINTENANCE WORK MEANS
21 REPAIR OF EXISTING FACILITIES WHEN THE SIZE, TYPE OR EXTENT OF
22 THE FACILITIES IS NOT THEREBY CHANGED OR INCREASED.

23 SECTION 8. THIS ACT SHALL APPLY AS FOLLOWS:

24 (1) THE AMENDMENT OF SECTION 515 OF THE ACT SHALL APPLY
25 TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008.

26 (2) THE ADDITION OF SECTION 1301.1 OF THE ACT SHALL
27 APPLY TO ALL CONTRACTS ENTERED INTO ON OR AFTER THE EFFECTIVE
28 DATE OF THIS ACT.

29 SECTION 9. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.