

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 218 Session of
2007

INTRODUCED BY BROWNE, KASUNIC, BOSCOLA, FONTANA, ROBBINS, STOUT,
COSTA, FOLMER, ARMSTRONG, PUNT, REGOLA, GORDNER, PILEGGI,
ERICKSON, O'PAKE, VANCE, C. WILLIAMS, LOGAN, WAUGH AND
BRUBAKER, JANUARY 29, 2007

REFERRED TO FINANCE, JANUARY 29, 2007

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
2 entitled "An act empowering cities of the second class,
3 cities of the second class A, cities of the third class,
4 boroughs, towns, townships of the first class, townships of
5 the second class, school districts of the second class,
6 school districts of the third class and school districts of
7 the fourth class including independent school districts, to
8 levy, assess, collect or to provide for the levying,
9 assessment and collection of certain taxes subject to maximum
10 limitations for general revenue purposes; authorizing the
11 establishment of bureaus and the appointment and compensation
12 of officers, agencies and employes to assess and collect such
13 taxes; providing for joint collection of certain taxes,
14 prescribing certain definitions and other provisions for
15 taxes levied and assessed upon earned income, providing for
16 annual audits and for collection of delinquent taxes, and
17 permitting and requiring penalties to be imposed and
18 enforced, including penalties for disclosure of confidential
19 information, providing an appeal from the ordinance or
20 resolution levying such taxes to the court of quarter
21 sessions and to the Supreme Court and Superior Court,"
22 providing for local services taxes; repealing provisions
23 relating to emergency and municipal services taxes and to
24 continuation of occupational privilege taxes; and making
25 editorial changes.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 2 of the act of December 31, 1965

1 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended
2 December 1, 2004 (P.L.1729, No.222), is amended to read:

3 Section 2. Delegation of Taxing Powers and Restrictions

4 Thereon.--The duly constituted authorities of the following
5 political subdivisions, cities of the second class, cities of
6 the second class A, cities of the third class, boroughs, towns,
7 townships of the first class, townships of the second class,
8 school districts of the second class, school districts of the
9 third class, and school districts of the fourth class, in all
10 cases including independent school districts, may, in their
11 discretion, by ordinance or resolution, for general revenue
12 purposes, levy, assess and collect or provide for the levying,
13 assessment and collection of such taxes as they shall determine
14 on persons, transactions, occupations, privileges, subjects and
15 personal property within the limits of such political
16 subdivisions, and upon the transfer of real property, or of any
17 interest in real property, situate within the political
18 subdivision levying and assessing the tax, regardless of where
19 the instruments making the transfers are made, executed or
20 delivered or where the actual settlements on such transfer take
21 place. The taxing authority may provide that the transferee
22 shall remain liable for any unpaid realty transfer taxes imposed
23 by virtue of this act. Each local taxing authority may, by
24 ordinance or resolution, exempt any person whose total income
25 from all sources is less than twelve thousand dollars (\$12,000)
26 per annum from the per capita or similar head tax, occupation
27 tax [and emergency and municipal services tax,] or earned income
28 tax, or any portion thereof, and may adopt regulations for the
29 processing of claims for exemptions. Each political subdivision
30 levying the local services tax at a rate exceeding ten dollars

1 (\$10) shall, and each political subdivision levying the local
2 services tax at a rate of ten dollars (\$10) or less may, by
3 ordinance or resolution, exempt any person from the local
4 services tax whose total income from all sources is less than
5 twelve thousand dollars (\$12,000) for the calendar year in which
6 the local services tax is levied. Each political subdivision
7 providing for exemption shall adopt regulations for the
8 processing of refund claims for the local services tax paid by
9 any person who is eligible for the exemption. The regulations
10 shall be consistent with 53 Pa.C.S. §§ 8425 (relating to refunds
11 of overpayments) and 8426 (relating to interest on overpayment).
12 Refunds made within seventy-five days of a refund request or
13 seventy-five days after the last day the employer is required to
14 remit the local services tax for the last quarter of the
15 calendar year under section 9 of this act, whichever is later,
16 shall not be subject to interest imposed under 53 Pa.C.S. §
17 8426. It is the intent of this section that a political
18 subdivision or its tax officer determine eligibility for the
19 exemption and provide refunds to exempt persons from the local
20 services tax and that employers shall not be responsible for
21 processing an exemption or exempting any employe from the local
22 services tax. For purposes of exemption from the local services
23 tax, "income from all sources" shall be limited to "earned
24 income" and "net profits" as defined in Division I of section
25 13. The Department of Community and Economic Development shall
26 develop uniform forms to be used by political subdivisions to
27 facilitate the refund of the local services tax to any person
28 eligible for the exemption. Such local authorities shall not
29 have authority by virtue of this act:

30 (1) To levy, assess and collect or provide for the levying,

1 assessment and collection of any tax on the transfer of real
2 property when the transfer is by will or mortgage or the
3 intestate laws of this Commonwealth or on a transfer by the
4 owner of previously occupied residential premises to a builder
5 of new residential premises when such previously occupied
6 residential premises is taken in trade by such builder as part
7 of the consideration from the purchaser of a new previously
8 unoccupied single family residential premises or on a transfer
9 between corporations operating housing projects pursuant to the
10 housing and redevelopment assistance law and the shareholders
11 thereof, or on a transfer between nonprofit industrial
12 development agencies and industrial corporations purchasing from
13 them, or on transfer to or from nonprofit industrial development
14 agencies, or on a transfer between husband and wife, or on a
15 transfer between persons who were previously husband and wife
16 but who have since been divorced; provided such transfer is made
17 within three months of the date of the granting of the final
18 decree in divorce, or the decree of equitable distribution of
19 marital property, whichever is later, and the property or
20 interest therein, subject to such transfer, was acquired by the
21 husband and wife, or husband or wife, prior to the granting of
22 the final decree in divorce, or on a transfer between parent and
23 child or the spouse of such a child, or between parent and
24 trustee for the benefit of a child or the spouse of such child,
25 or on a transfer between a grandparent and grandchild or the
26 spouse of such grandchild, or on a transfer between brother and
27 sister or brother and brother or sister and sister or the spouse
28 of such brother or sister, or on a transfer to a conservancy
29 which possesses a tax-exempt status pursuant to section
30 501(c)(3) of the Internal Revenue Code, and which has as its

1 primary purpose the preservation of land for historic,
2 recreational, scenic, agricultural or open space opportunities,
3 by and between a principal and straw party for the purpose of
4 placing a mortgage or ground rent upon the premises, or on a
5 correctional deed without consideration, or on a transfer to the
6 United States, the Commonwealth of Pennsylvania, or to any of
7 their instrumentalities, agencies or political subdivisions, by
8 gift, dedication or deed in lieu of condemnation, or deed of
9 confirmation in connection with condemnation proceedings, or
10 reconveyance by the condemning body of the property condemned to
11 the owner of record at the time of condemnation which
12 reconveyance may include property line adjustments provided said
13 reconveyance is made within one year from the date of
14 condemnation, leases, or on a conveyance to a trustee under a
15 recorded trust agreement for the express purpose of holding
16 title in trust as security for a debt contracted at the time of
17 the conveyance under which the trustee is not the lender and
18 requiring the trustee to make reconveyance to the grantor-
19 borrower upon the repayment of the debt, or a transfer within a
20 family from a sole proprietor family member to a family farm
21 corporation, or in any sheriff sale instituted by a mortgagee in
22 which the purchaser of said sheriff sale is the mortgagee who
23 instituted said sale, or on a privilege, transaction, subject,
24 occupation or personal property which is now or does hereafter
25 become subject to a State tax or license fee;

26 (2) To levy, assess or collect a tax on the gross receipts
27 from utility service of any person or company whose rates and
28 services are fixed and regulated by the Pennsylvania Public
29 Utility Commission or on any public utility services rendered by
30 any such person or company or on any privilege or transaction

1 involving the rendering of any such public utility service;

2 (3) Except on sales of admission to places of amusement or
3 on sales or other transfers of title or possession of property,
4 to levy, assess or collect a tax on the privilege of employing
5 such tangible property as is now or does hereafter become
6 subject to a State tax; and for the purposes of this clause,
7 real property rented for camping purposes shall not be
8 considered a place of amusement.

9 (4) To levy, assess and collect a tax on goods and articles
10 manufactured in such political subdivision or on the by-products
11 of manufacture, or on minerals, timber, natural resources and
12 farm products produced in such political subdivision or on the
13 preparation or processing thereof for use or market, or on any
14 privilege, act or transaction related to the business of
15 manufacturing, the production, preparation or processing of
16 minerals, timber and natural resources, or farm products, by
17 manufacturers, by producers and by farmers with respect to the
18 goods, articles and products of their own manufacture,
19 production or growth, or on any privilege, act or transaction
20 relating to the business of processing by-products of
21 manufacture, or on the transportation, loading, unloading or
22 dumping or storage of such goods, articles, products or by-
23 products; except that local authorities may levy, assess and
24 collect [an emergency and municipal] a local services tax and
25 taxes on the occupation, per capita and earned income or net
26 profits of natural persons engaged in the above activities
27 whether doing business as individual proprietorship or as
28 members of partnerships or other associations;

29 (5) To levy, assess or collect a tax on salaries, wages,
30 commissions, compensation and earned income of nonresidents of

1 the political subdivisions: Provided, That this limitation (5)
2 shall apply only to school districts of the second, third and
3 fourth classes;

4 (6) To levy, assess or collect a tax on personal property
5 subject to taxation by counties or on personal property owned by
6 persons, associations and corporations specifically exempted by
7 law from taxation under the county personal property tax law:
8 Provided, That this limitation (6) shall not apply to cities of
9 the second class;

10 (7) To levy, assess or collect a tax on membership in or
11 membership dues, fees or assessment of charitable, religious,
12 beneficial or nonprofit organizations including but not limited
13 to sportsmens, recreational, golf and tennis clubs, girl and boy
14 scout troops and councils;

15 (8) To levy, assess or collect any tax on a mobilehome or
16 house trailer subject to a real property tax unless the same tax
17 is levied, assessed and collected on other real property in the
18 political subdivision.

19 (9) To levy, assess or collect any tax on individuals for
20 the privilege of engaging in an occupation [(emergency and
21 municipal services tax)] except that such a tax, to be known as
22 the local services tax, may be levied, assessed and collected
23 only by the political subdivision of the taxpayer's place of
24 employment.

25 [Payment of any emergency and municipal services tax to any
26 political subdivision by any person pursuant to an ordinance or
27 resolution passed or adopted under the authority of this act
28 shall be no less than ten dollars (\$10) nor more than fifty-two
29 dollars (\$52) on each person for each calendar year.

30 The situs of such tax shall be the place of employment, but,

1 in the event a person is engaged in more than one occupation, or
2 an occupation which requires his working in more than one
3 political subdivision during the calendar year, the priority of
4 claim to collect such emergency and municipal services tax shall
5 be in the following order: first, the political subdivision in
6 which a person maintains his principal office or is principally
7 employed; second, the political subdivision in which the person
8 resides and works, if such a tax is levied by that political
9 subdivision; third, the political subdivision in which a person
10 is employed and which imposes the tax nearest in miles to the
11 person's home. The place of employment shall be determined as of
12 the day the taxpayer first becomes subject to the tax during the
13 calendar year.

14 It is the intent of this provision that no person shall pay
15 more than fifty-two dollars (\$52) in any calendar year as an
16 emergency and municipal services tax irrespective of the number
17 of political subdivisions within which such person may be
18 employed within any given calendar year.

19 In case of dispute, a tax receipt of the taxing authority for
20 that calendar year declaring that the taxpayer has made prior
21 payment which constitutes prima facie certification of payment
22 to all other political subdivisions.] The following apply:

23 (i) If a local services tax is levied at a combined rate
24 exceeding ten dollars (\$10) in a calendar year, a person subject
25 to the local services tax shall be assessed a pro rata share of
26 the tax for each payroll period in which the person is engaging
27 in an occupation. The pro rata share of the tax assessed on the
28 person for a payroll period shall be determined by dividing the
29 combined rate of the local services tax levied for the calendar
30 year by the number of payroll periods established by the

1 employer for the calendar year. For purposes of determining the
2 pro rata share, an employer shall round down the amount of the
3 tax collected each payroll period to the nearest one-hundredth
4 of a dollar. Collection of the local services tax levied under
5 this subclause shall be made on a payroll period basis for each
6 payroll period in which the person is engaging in an occupation,
7 except as provided in subclause (v).

8 (ii) If a school district levied an emergency and municipal
9 services tax on the effective date of this subclause, the school
10 district may continue to levy the local services tax in the same
11 amount the school district collected on the effective date of
12 this subclause. However, if a municipality located in whole or
13 in part within the school district subsequently levies the local
14 services tax, the school district may only collect five dollars
15 (\$5) on persons employed within the municipality each calendar
16 year. A school district that did not levy an emergency and
17 municipal services tax on the effective date of this subclause
18 shall be prohibited from levying the local services tax. If a
19 school district and a municipality located in whole or in part
20 within the school district both levy a local services tax at a
21 combined rate exceeding ten dollars (\$10), the school district's
22 pro rata share of the aggregate local services taxes levied on
23 persons employed within the municipality shall be collected by
24 the municipality or its tax officer based on payroll periods as
25 provided under subclause (i) and shall be paid to the school
26 district on a quarterly basis within sixty days of receipt by
27 the municipality or its tax officer.

28 (iii) Except as provided in subclause (ii), no person shall
29 be subject to the payment of the local services tax by more than
30 one political subdivision during each payroll period as

1 established by subclause (iv).

2 (iv) With respect to a person subject to the local services
3 tax at a combined rate exceeding ten dollars (\$10), the situs of
4 the tax shall be the place of employment on the first day the
5 person becomes subject to the tax during each payroll period.

6 With respect to a person subject to the local services tax at a
7 combined rate of not more than ten dollars (\$10), the situs of
8 the tax shall be the place of employment determined as of the
9 day the person first becomes subject to the tax during the
10 calendar year. In the event a person is engaged in more than one
11 occupation, that is, concurrent employment, or an occupation
12 which requires the person working in more than one political
13 subdivision during a payroll period, the priority of claim to
14 collect the local services tax shall be in the following order:
15 first, the political subdivision in which a person maintains the
16 person's principal office or is principally employed; second,
17 the political subdivision in which the person resides and works,
18 if the tax is levied by that political subdivision; and third,
19 the political subdivision in which a person is employed and
20 which imposes the tax nearest in miles to the person's home.

21 (v) In the case of concurrent employment, an employer shall
22 refrain from withholding the local services tax, if the employe
23 provides a recent pay statement from a principal employer that
24 includes the name of the employer, the length of the payroll
25 period and the amount of the local services tax withheld and a
26 statement from the employe that the pay statement is from the
27 employe's principal employer and the employe will notify other
28 employers of a change in principal place of employment within
29 two weeks of its occurrence. The Department of Community and
30 Economic Development shall develop a uniform employe statement

1 form.

2 (vi) The local services tax shall be no more than fifty-two
3 dollars (\$52) on each person for each calendar year,
4 irrespective of the number of political subdivisions within
5 which a person may be employed.

6 (vii) Political subdivisions shall adopt regulations for the
7 processing of refund claims for overpaid local services taxes
8 for any calendar year. The regulations shall be consistent with
9 53 Pa.C.S. §§ 8425 and 8426. Refunds made within seventy-five
10 days of a refund request or seventy-five days after the last day
11 the employer is required to remit the local services tax for the
12 last quarter of the calendar year under section 9 of this act,
13 whichever is later, shall not be subject to interest imposed
14 under 53 Pa.C.S. § 8426. Political subdivisions shall only
15 provide refunds for amounts overpaid in a calendar year that
16 exceed one dollar (\$1).

17 (viii) The Department of Community and Economic Development
18 may provide suggested forms and technical assistance to
19 facilitate the administration of the local services tax for
20 political subdivisions and reduce the burden of implementation,
21 accounting and compliance for employers and taxpayers.

22 (ix) For purposes of this clause, "combined rate" shall mean
23 the aggregate annual rate of the local services tax levied by a
24 school district and a municipality located in whole or in part
25 within the school district.

26 (10) To levy, assess or collect a tax on admissions to
27 motion picture theatres: Provided, That this limitation (10)
28 shall not apply to cities of the second class.

29 (11) To levy, assess or collect a tax on the construction of
30 or improvement to residential dwellings or upon the application

1 for or issuance of permits for the construction of or
2 improvements to residential dwellings.

3 (12) To levy, assess and collect a mercantile or business
4 privilege tax on gross receipts or part thereof which are: (i)
5 discounts allowed to purchasers as cash discounts for prompt
6 payment of their bills; (ii) charges advanced by a seller for
7 freight, delivery or other transportation for the purchaser in
8 accordance with the terms of a contract of sale; (iii) received
9 upon the sale of an article of personal property which was
10 acquired by the seller as a trade-in to the extent that the
11 gross receipts in the sale of the article taken in trade does
12 not exceed the amount of trade-in allowance made in acquiring
13 such article; (iv) refunds, credits or allowances given to a
14 purchaser on account of defects in goods sold or merchandise
15 returned; (v) Pennsylvania sales tax; (vi) based on the value of
16 exchanges or transfers between one seller and another seller who
17 transfers property with the understanding that property of an
18 identical description will be returned at a subsequent date;
19 however, when sellers engaged in similar lines of business
20 exchange property and one of them makes payment to the other in
21 addition to the property exchanged, the additional payment
22 received may be included in the gross receipts of the seller
23 receiving such additional cash payments; (vii) of sellers from
24 sales to other sellers in the same line where the seller
25 transfers the title or possession at the same price for which
26 the seller acquired the merchandise; or (viii) transfers between
27 one department, branch or division of a corporation or other
28 business entity of goods, wares and merchandise to another
29 department, branch or division of the same corporation or
30 business entity and which are recorded on the books to reflect

1 such interdepartmental transactions.

2 (13) To levy, assess or collect an amusement or admissions
3 tax on membership, membership dues, fees or assessments,
4 donations, contributions or monetary charges of any character
5 whatsoever paid by the general public, or a limited or selected
6 number thereof, for such persons to enter into any place,
7 indoors or outdoors, to engage in any activities, the
8 predominant purpose or nature of which is exercise, fitness,
9 health maintenance, improvement or rehabilitation, health or
10 nutrition education, or weight control.

11 (14) Except by cities of the second class, to levy, assess
12 or collect a tax on payroll amounts generated as a result of
13 business activity.

14 (15) Except by cities of the second class in which a sports
15 stadium or arena that has received public funds in connection
16 with its construction or maintenance is located, to levy, assess
17 and collect a publicly funded facility usage fee upon those
18 nonresident individuals who use such facility to engage in an
19 athletic event or otherwise render a performance for which they
20 receive remuneration.

21 (16) To levy, assess or collect an amusement or admissions
22 tax on the charge imposed upon a patron for the sale of
23 admission to or for the privilege of admission to a bowling
24 alley or bowling lane to engage in one or more games of bowling.

25 Section 2. Section 7 of the act, amended August 11, 1967
26 (P.L.228, No.83) and October 9, 1967 (P.L.361, No.160), is
27 amended to read:

28 Section 7. Filing of Certified Copies of Ordinances and
29 Resolutions.--When an ordinance or a resolution is first passed
30 or adopted by a political subdivision imposing a tax or license

1 fee under the authority of this act, an exact printed or
2 typewritten copy thereof, certified to by the secretary of the
3 taxing body, shall be filed with the [Department of Community
4 Affairs] Department of Community and Economic Development within
5 fifteen days after the same becomes effective.

6 Any secretary or person acting as the clerk or secretary of
7 the taxing body of any political subdivision during the meeting
8 at which an ordinance or resolution imposing a tax or license
9 fee is passed or adopted as herein provided who shall fail to
10 file the certified copy or statement relative thereto with the
11 [Department of Community Affairs] Department of Community and
12 Economic Development as herein required, shall, upon summary
13 conviction thereof in the county in which the political
14 subdivision is located, be sentenced to pay a fine of not less
15 than five dollars (\$5) nor more than twenty-five dollars (\$25),
16 and the costs of prosecution.

17 Section 3. Section 8 of the act, amended December 1, 2004
18 (P.L.1729, No.222), is amended to read:

19 Section 8. Limitations on Rates of Specific Taxes.--No taxes
20 levied under the provisions of this act shall be levied by any
21 political subdivision on the following subjects exceeding the
22 rates specified in this section:

23 (1) Per capita, poll or other similar head taxes, ten
24 dollars (\$10).

25 (2) On each dollar of the whole volume of business
26 transacted by wholesale dealers in goods, wares and merchandise,
27 one mill, by retail dealers in goods, wares and merchandise and
28 by proprietors of restaurants or other places where food, drink
29 and refreshments are served, one and one-half mills; except in
30 cities of the second class, where rates shall not exceed one

1 mill on wholesale dealers and two mills on retail dealers and
2 proprietors. No such tax shall be levied on the dollar volume of
3 business transacted by wholesale and retail dealers derived from
4 the resale of goods, wares and merchandise, taken by any dealer
5 as a trade-in or as part payment for other goods, wares and
6 merchandise, except to the extent that the resale price exceeds
7 the trade-in allowance.

8 (3) On wages, salaries, commissions and other earned income
9 of individuals, one percent.

10 (4) On retail sales involving the transfer of title or
11 possession of tangible personal property, two percent.

12 (5) On the transfer of real property, one percent.

13 (6) On admissions to places of amusement, athletic events
14 and the like, and on motion picture theatres in cities of the
15 second class, ten percent.

16 (7) Flat rate occupation taxes not using a millage or
17 percentage as a basis, ten dollars (\$10).

18 (8) [Emergency and municipal] Local services taxes, fifty-
19 two dollars (\$52).

20 (9) On admissions to ski facilities, ten percent. The tax
21 base upon which the tax shall be levied shall not exceed forty
22 percent of the cost of the lift ticket. The lift ticket shall
23 include all costs of admissions to the ski facility.

24 (10) On admissions to golf courses, ten percent. The tax
25 base upon which the tax shall be levied shall not exceed forty
26 percent of the greens fee. The greens fee shall include all
27 costs of admissions to the golf course.

28 (12) On payrolls, fifty-five hundredths percent.

29 Except as otherwise provided in this act, at any time two
30 political subdivisions shall impose any one of the above taxes

1 on the same person, subject, business, transaction or privilege,
2 located within both such political subdivisions, during the same
3 year or part of the same year, under the authority of this act
4 then the tax levied by a political subdivision under the
5 authority of this act shall, during the time such duplication of
6 the tax exists, except as hereinafter otherwise provided, be
7 one-half of the rate, as above limited, and such one-half rate
8 shall become effective by virtue of the requirements of this act
9 from the day such duplication becomes effective without any
10 action on the part of the political subdivision imposing the tax
11 under the authority of this act. When any one of the above taxes
12 has been levied under the provisions of this act by one
13 political subdivision and a subsequent levy is made either for
14 the first time or is revived after a lapse of time by another
15 political subdivision on the same person, subject, business,
16 transaction or privilege at a rate that would make the combined
17 levies exceed the limit allowed by this subdivision, the tax of
18 the second political subdivision shall not become effective
19 until the end of the fiscal year for which the prior tax was
20 levied, unless:

21 (1) Notice indicating its intention to make such levy is
22 given to the first taxing body by the second taxing body as
23 follows: (i) when the notice is given to a school district it
24 shall be given at least forty-five days prior to the last day
25 fixed by law for the levy of its school taxes; (ii) when given
26 to any other political subdivision it shall be prior to the
27 first day of January immediately preceding, or if a last day for
28 the adoption of the budget is fixed by law, at least forty-five
29 days prior to such last day; or

30 (2) Unless the first taxing body shall indicate by

1 appropriate resolution its desire to waive notice requirements
2 in which case the levy of the second taxing body shall become
3 effective on such date as may be agreed upon by the two taxing
4 bodies.

5 It is the intent and purpose of this provision to limit rates
6 of taxes referred to in this section so that the entire burden
7 of one tax on a person, subject, business, transaction or
8 privilege shall not exceed the limitations prescribed in this
9 section: Provided, however, That any two political subdivisions
10 which impose any one of the above taxes, on the same person,
11 subject, business, transaction or privilege during the same year
12 or part of the same year may agree among themselves that,
13 instead of limiting their respective rates to one-half of the
14 maximum rate herein provided, they will impose respectively
15 different rates, the total of which shall not exceed the maximum
16 rate as above permitted.

17 Notwithstanding the provisions of this section, any city of
18 the second class A may enact a tax upon wages, salaries,
19 commissions and other earned income of individuals resident
20 therein, not exceeding one percent, even though a school
21 district levies a similar tax on the same person provided that
22 the aggregate of both taxes does not exceed two percent. [In the
23 case of duplication of emergency and municipal services taxes by
24 both a school district, other than a school district of the
25 first class A, and another taxing body, the school district's
26 share of the tax shall not exceed the amount of a tax on the
27 privilege of engaging in an occupation collected by the school
28 district as of the effective date of this paragraph. In the case
29 where a school district did not levy a tax on the privilege of
30 engaging in an occupation on the effective date of this

1 paragraph, the school district may impose a future levy not to
2 exceed five dollars (\$5). A school district of the first class A
3 shall not levy, assess or collect an emergency and municipal
4 services tax.]

5 Section 4. Section 9 of the act, amended December 12, 1968
6 (P.L.1203, No.377), is amended to read:

7 Section 9. Register for Earned Income and [Occupational
8 Privilege] Local Services Taxes.--It shall be the duty of the
9 [Department of Community Affairs] Department of Community and
10 Economic Development to have available an official continuing
11 register supplemented annually of all earned income and
12 [occupational privilege] local services taxes levied under
13 authority of this act. The register and its supplements,
14 hereinafter referred to as the register, shall list such
15 jurisdictions levying earned income [and/or occupational
16 privilege] and local services taxes, the rate of the tax as
17 stated in the tax levying ordinance or resolution, and the
18 effective rate on resident and nonresident taxpayers, if
19 different from the stated rate because of a coterminous levy,
20 the name and address of the officer responsible for
21 administering the collection of the tax and from whom
22 information, forms for reporting and copies of rules and
23 regulations are available. With each jurisdiction listed, all
24 jurisdictions making coterminous levies shall also be noted and
25 their tax rates shown.

26 Information for the register shall be furnished by the
27 secretary of each taxing body to the [Department of Community
28 Affairs] Department of Community and Economic Development in
29 such manner and on such forms as the [Department of Community
30 Affairs] Department of Community and Economic Development may

1 prescribe. The information must be received by the [Department
2 of Community Affairs] Department of Community and Economic
3 Development by certified mail not later than May 31 of each year
4 to show new tax enactments, repeals and changes. Failure to
5 comply with this date for filing may result in the omission of
6 the levy from the register for that year. Failure of the
7 [Department of Community Affairs] Department of Community and
8 Economic Development to receive information of taxes continued
9 without change may be construed by the department to mean that
10 the information contained in the previous register remains in
11 force.

12 The [Department of Community Affairs] Department of Community
13 and Economic Development shall have the register with such
14 annual supplements as may be required by new tax enactments,
15 repeals or changes available upon request not later than July 1
16 of each year. The effective period for each register shall be
17 from July 1 of the year in which it is issued to June 30 of the
18 following year.

19 Employers shall not be required by any local ordinance to
20 withhold from the wages, salaries, commissions or other
21 compensation of their employes any tax imposed under the
22 provisions of this act, which is not listed in the register, or
23 make reports of wages, salaries, commissions or other
24 compensation in connection with taxes not so listed: Provided,
25 That if the register is not available by July 1, the register of
26 the previous year shall continue temporarily in effect for an
27 additional period not to exceed one year. The provisions of this
28 section shall not affect the liability of any taxpayer for taxes
29 lawfully imposed under this act.

30 Ordinances or resolutions imposing earned income or

1 [occupational privilege] local services taxes under authority of
2 this act may contain provisions requiring employers doing
3 business within the jurisdiction of the political subdivision
4 imposing the tax to withhold the tax from the compensation of
5 those of their employes who are subject to the tax: Provided,
6 That no employer shall be held liable for failure to withhold
7 earned income taxes or for the payment of such withheld tax
8 money to a political subdivision other than the political
9 subdivision entitled to receive such money if such failure to
10 withhold or such incorrect transmittal of withheld taxes arises
11 from incorrect information as to the employe's place of
12 residence submitted by the employe: And provided further, That
13 [employers shall not be required by any local ordinance to
14 withhold from compensation for any one of their employes for the
15 occupational privilege tax more than one time in any fiscal
16 period:] no employer shall be held liable for failure to
17 withhold the local services tax or for the payment of the
18 withheld tax money to a political subdivision if the failure to
19 withhold taxes arises from incorrect information submitted by
20 the employe as to the employe's place or places of employment,
21 the employe's principal office or where the employe is
22 principally employed: And provided further, That an employer
23 shall not be liable for payment of the local services tax in an
24 amount exceeding the amount withheld by the employer if the
25 employer complies with the provisions of section 2(9) of this
26 act and remits the amount so withheld in accordance with this
27 section: And provided further, That the [occupational privilege]
28 local services tax shall be applicable to employment in the
29 period beginning January 1, of the current year and ending
30 December 31 of the current year, except that taxes imposed for

1 the first time shall become effective from [the date] January 1
2 of the year specified in the ordinance or resolution, and the
3 tax shall continue in force on a calendar year basis[.]: And
4 provided further, That employers shall be required to remit the
5 local services taxes within thirty days after the end of each
6 quarter of a calendar year.

7 Section 5. Section 19 of the act, amended October 4, 1978
8 (P.L.930, No.177), is amended to read:

9 Section 19. Collection of Delinquent Per Capita, Occupation,
10 Occupational Privilege, Emergency and Municipal Services, Local
11 Services and Earned Income Taxes from Employers, etc.--The tax
12 collector shall demand, receive and collect from all
13 corporations, political subdivisions, associations, companies,
14 firms or individuals, employing persons owing delinquent per
15 capita, or occupation, occupational privilege, emergency and
16 municipal services, local services and earned income taxes, or
17 whose spouse owes delinquent per capita, occupation,
18 occupational privilege, emergency and municipal services, local
19 services and earned income taxes, or having in possession unpaid
20 commissions or earnings belonging to any person or persons owing
21 delinquent per capita, occupation, occupational privilege,
22 emergency and municipal services, local services and earned
23 income taxes, or whose spouse owes delinquent per capita,
24 occupation, occupational privilege, emergency and municipal
25 services, local services and earned income taxes, upon the
26 presentation of a written notice and demand certifying that the
27 information contained therein is true and correct and containing
28 the name of the taxable or the spouse thereof and the amount of
29 tax due. Upon the presentation of such written notice and
30 demand, it shall be the duty of any such corporation, political

1 subdivision, association, company, firm or individual to deduct
2 from the wages, commissions or earnings of such individual
3 employes, then owing or that shall within sixty days thereafter
4 become due, or from any unpaid commissions or earnings of any
5 such taxable in its or his possession, or that shall within
6 sixty days thereafter come into its or his possession, a sum
7 sufficient to pay the respective amount of the delinquent per
8 capita, occupation, occupational privilege, emergency and
9 municipal services, local services and earned income taxes and
10 costs, shown upon the written notice or demand, and to pay the
11 same to the tax collector of the taxing district in which such
12 delinquent tax was levied within sixty days after such notice
13 shall have been given. No more than ten percent of the wages,
14 commissions or earnings of the delinquent taxpayer or spouse
15 thereof may be deducted at any one time for delinquent per
16 capita, occupation, occupational privilege, emergency and
17 municipal services, local services and earned income taxes and
18 costs. Such corporation, political subdivision, association,
19 firm or individual shall be entitled to deduct from the moneys
20 collected from each employe the costs incurred from the extra
21 bookkeeping necessary to record such transactions, not exceeding
22 two percent of the amount of money so collected and paid over to
23 the tax collector. Upon the failure of any such corporation,
24 political subdivision, association, company, firm or individual
25 to deduct the amount of such taxes or to pay the same over to
26 the tax collector, less the cost of bookkeeping involved in such
27 transaction, as herein provided, within the time hereby
28 required, such corporation, political subdivision, association,
29 company, firm or individual shall forfeit and pay the amount of
30 such tax for each such taxable whose taxes are not withheld and

1 paid over, or that are withheld and not paid over together with
2 a penalty of ten percent added thereto, to be recovered by an
3 action of assumpsit in a suit to be instituted by the tax
4 collector, or by the proper authorities of the taxing district,
5 as debts of like amount are now by law recoverable, except that
6 such person shall not have the benefit of any stay of execution
7 or exemption law. The tax collector shall not proceed against a
8 spouse or his employer until he has pursued collection remedies
9 against the delinquent taxpayer and his employer under this
10 section.

11 Section 6. Section 20 of the act is amended to read:

12 Section 20. Collection of Delinquent Per Capita, Occupation,
13 Occupational Privilege, Emergency and Municipal Services, Local
14 Services and Earned Income Taxes from the Commonwealth.--Upon
15 presentation of a written notice and demand under oath or
16 affirmation, to the State Treasurer or any other fiscal officer
17 of the State, or its boards, authorities, agencies or
18 commissions, it shall be the duty of the treasurer or officer to
19 deduct from the wages then owing, or that shall within sixty
20 days thereafter become due to any employe, a sum sufficient to
21 pay the respective amount of the delinquent per capita,
22 occupation, occupational privilege, emergency and municipal
23 services, local services and earned income taxes and costs shown
24 on the written notice. The same shall be paid to the tax
25 collector of the taxing district in which said delinquent tax
26 was levied within sixty days after such notice shall have been
27 given.

28 Section 7. Section 22.1 of the act, added November 30, 2004
29 (P.L.1520, No.192), is amended to read:

30 Section 22.1. Costs of Collection of Delinquent Per Capita,

1 Occupation, Occupational Privilege, Emergency and Municipal
2 Services, Local Services and Earned Income Taxes.--(a) A person,
3 public employe or private agency designated by a governing body
4 of a political subdivision to collect and administer a per
5 capita, occupation, occupational privilege, emergency and
6 municipal services, local services or earned income tax may
7 impose and collect the reasonable costs incurred to provide
8 notices of delinquency or to implement similar procedures
9 utilized to collect delinquent taxes from a taxpayer as approved
10 by the governing body of the political subdivision. Reasonable
11 costs collected may be retained by the person, public employe or
12 private agency designated to collect the tax as agreed to by the
13 governing body of the political subdivision. An itemized
14 accounting of all costs collected shall be remitted to the
15 political subdivision on an annual basis.

16 (b) Costs related to the collection of unpaid per capita,
17 occupation [or], occupational privilege, emergency and municipal
18 services or local services taxes may only be assessed, levied
19 and collected for five years from the last day of the calendar
20 year in which the tax was due.

21 (c) A delinquent taxpayer may not bring an action for
22 reimbursement, refund or elimination of reasonable costs of
23 collection assessed or imposed prior to the effective date of
24 this section. Additional costs may not be assessed on delinquent
25 taxes collected prior to the effective date of this section.

26 Section 8. Sections 22.4 and 22.5 of the act, added December
27 1, 2004 (P.L.1729, No.222), are repealed:

28 [Section 22.4. Emergency and Municipal Services Taxes.--Any
29 reference in any act or law to an occupational privilege tax
30 shall mean the emergency and municipal services taxes as

1 provided for in this act.

2 Section 22.5. Restricted Use.--(a) Any municipality
3 deriving funds from the emergency and municipal services tax may
4 only use the funds for:

- 5 (1) police, fire and/or emergency services;
- 6 (2) road construction and/or maintenance; or
- 7 (3) reduction of property taxes.

8 (b) For the purpose of the emergency and municipal services
9 tax, the term municipality does not include a school district.]

10 Section 9. The act is amended by adding a section to read:

11 Section 22.6. Restricted Use.--(a) Any municipality
12 deriving funds from the local services tax may only use the
13 funds for:

14 (1) Emergency services, which shall include emergency
15 medical services, police services and/or fire services.

16 (2) Road construction and/or maintenance.

17 (3) Reduction of property taxes.

18 (4) Property tax relief through implementation of a
19 homestead and farmstead exclusion in accordance with 53 Pa.C.S.
20 Ch. 85 Subch. F (relating to homestead property exclusion).

21 (b) In the event that a municipality decides to implement a
22 homestead and farmstead exclusion for purposes of providing
23 property tax relief in accordance with subsection (a)(4), the
24 following shall apply:

25 (1) The decision to provide a homestead and farmstead
26 exclusion shall be made, by ordinance, prior to December 1, with
27 the homestead and farmstead exclusion to take effect for the
28 fiscal year beginning the first day of January following
29 adoption of the ordinance. Upon adopting an ordinance in
30 accordance with this paragraph, a municipality shall, by first

1 class mail, notify the assessor, as defined in 53 Pa.C.S. § 8582
2 (relating to definitions), of its decision to provide a
3 homestead and farmstead exclusion.

4 (2) The assessor shall provide a municipality that will be
5 imposing a homestead and farmstead exclusion in accordance with
6 subsection (a)(4) with a certified report, as provided in 53
7 Pa.C.S. § 8584(i) (relating to administration and procedure),
8 listing information regarding homestead and farmstead properties
9 in the municipality as determined pursuant to applications filed
10 with the assessor in connection with this or any other law under
11 which a homestead or farmstead exclusion has been adopted. In
12 the year in which an ordinance is adopted in accordance with
13 paragraph (1), the assessor shall provide the certified report
14 after being notified by the municipality of its decision to
15 provide a homestead and farmstead exclusion. In each succeeding
16 year, the assessor shall provide the certified report by
17 December 1 or at the same time the tax duplicate is certified to
18 the municipality, whichever occurs first. Any duty placed on an
19 assessor in accordance with this paragraph shall be in addition
20 to those established in 53 Pa.C.S. Ch. 85 Subch. F and the act
21 of June 27, 2006 (Sp.Sess. P.L. , No.1), known as the "Taxpayer
22 Relief Act."

23 (3) Only homestead or farmstead properties identified in the
24 certified report of the assessor obtained in any year shall be
25 eligible to receive the exclusion for the next fiscal year.

26 (4) In the year in which a municipality adopts the ordinance
27 evidencing its decision to implement a homestead and farmstead
28 exclusion, the municipality shall notify by first class mail the
29 owner of each parcel of residential property within the
30 municipality which is not approved as a homestead or farmstead

1 property or for which the approval is due to expire of the
2 following:

3 (i) That the homestead and farmstead exclusion program is to
4 be implemented to provide property tax relief as authorized by
5 subsection (a)(4), beginning in the next fiscal year.

6 (ii) That only properties currently identified in the
7 certified report of the assessor as having been approved in
8 whole or in part as homestead or farmstead properties shall be
9 entitled to an exclusion in the next fiscal year.

10 (iii) That owners of properties that have not been approved
11 by the assessor as homestead or farmstead properties may file an
12 application in accordance with 53 Pa.C.S. § 8584(a) by the
13 annual application deadline of March 1 in order to qualify for
14 the program in the year following the next fiscal year.

15 (5) The one-time notice required by paragraph (4) may be
16 combined and made together with the annual notice required by
17 paragraph (7) or with an annual notice by a coterminous
18 political subdivision that has implemented a homestead and
19 farmstead exclusion.

20 (6) In the year in which the initial decision to provide a
21 homestead and farmstead exclusion is made and in each succeeding
22 year, a municipality shall, by resolution, fix the dollar amount
23 that is to be excluded from the assessed value of each homestead
24 and farmstead property for the next fiscal year, consistent with
25 53 Pa.C.S. §§ 8583 (relating to exclusion for homestead
26 property) and 8586 (relating to limitations). This determination
27 of the amount of the homestead and farmstead exclusion shall be
28 made, after receipt of the tax duplicate and the certified
29 report from the assessor, at the time the governing body of a
30 municipality determines the municipal budget and estimates

1 revenues to be derived from the local services tax for the next
2 fiscal year.

3 (7) Each year after the year in which the municipality
4 implements a homestead and farmstead exclusion and no later than
5 sixty days prior to the application deadline, the municipality
6 shall give notice of the existence of the municipality's
7 homestead and farmstead exclusion program, the need to file an
8 application in accordance with 53 Pa.C.S. § 8584(a) in order to
9 qualify for the program and the application deadline, which, in
10 accordance with 53 Pa.C.S. § 8584(b), shall be March 1. This
11 annual notice, which shall be given by first class mail, need
12 only be sent to the owner of each parcel of residential property
13 in the municipality which is not approved as homestead or
14 farmstead property or for which the approval is due to expire.

15 (c) For purposes of this section, the term "municipality"
16 does not include a school district.

17 Section 10. Any ordinance or resolution providing for the
18 levying, assessment or collection of a tax on individuals for
19 the privilege of engaging in an occupation which has been
20 enacted by a political subdivision prior to December 1, 2004,
21 shall continue in full force and effect, without reenactment, as
22 if such tax had been levied, assessed or collected as a local
23 services tax under section 2(9) of the act. All references in
24 any ordinance or resolution to a tax on the privilege of
25 engaging in an occupation shall be deemed to be a reference to a
26 local services tax for the purposes of the act.

27 Section 11. All emergency and municipal services taxes
28 levied for the calendar year beginning on January 1, 2007, shall
29 remain in effect for the calendar year beginning on January 1,
30 2007, and ending December 31, 2007, and are not otherwise

1 altered.

2 Section 12. The following shall apply:

3 (1) Except as provided in paragraphs (2) and (3), the
4 amendment or addition of the following provisions shall apply
5 to taxes levied for calendar year 2008 and each year
6 thereafter:

7 (i) The amendment of section 2 of the act.

8 (ii) The amendment of section 8 of the act.

9 (iii) The amendment of section 9 of the act, except
10 for any editorial amendment changing the reference from
11 the Department of Community Affairs to the Department of
12 Community and Economic Development.

13 (iv) The amendment of section 19 of the act.

14 (v) The amendment of section 20 of the act.

15 (vi) The amendment of section 22.1 of the act.

16 (vii) The amendment of section 22.4 of the act.

17 (viii) The amendment of section 22.5 of the act.

18 (ix) The addition of section 22.6 of the act.

19 (2) The amendment or addition of the provisions listed
20 under paragraph (1) shall apply to taxes levied for calendar
21 year 2010 and each year thereafter in a city of the second
22 class and shall not affect the authority of a city of the
23 second class to levy a tax on individuals for the privilege
24 of engaging in an occupation, whether designated as an
25 emergency and municipal services tax or a local services tax,
26 for calendar years 2008 and 2009.

27 (3) The amendment of the introductory paragraph of
28 section 2 of the act shall not apply, until January 1, 2009,
29 to a municipality which reduced its real estate property tax
30 by at least 25% upon adoption of an ordinance pursuant to the

1 act of December 1, 2004 (P.L.1729, No.222), entitled "An act
2 amending the act of December 31, 1965 (P.L.1257, No.511),
3 entitled 'An act empowering cities of the second class,
4 cities of the second class A, cities of the third class,
5 boroughs, towns, townships of the first class, townships of
6 the second class, school districts of the second class,
7 school districts of the third class and school districts of
8 the fourth class including independent school districts, to
9 levy, assess, collect or to provide for the levying,
10 assessment and collection of certain taxes subject to maximum
11 limitations for general revenue purposes; authorizing the
12 establishment of bureaus and the appointment and compensation
13 of officers, agencies and employes to assess and collect such
14 taxes; providing for joint collection of certain taxes,
15 prescribing certain definitions and other provisions for
16 taxes levied and assessed upon earned income, providing for
17 annual audits and for collection of delinquent taxes, and
18 permitting and requiring penalties to be imposed and
19 enforced, including penalties for disclosure of confidential
20 information, providing an appeal from the ordinance or
21 resolution levying such taxes to the court of quarter
22 sessions and to the Supreme Court and Superior Court,'
23 further providing for delegation of taxing powers and
24 restrictions thereon; providing for nonresident sports
25 facility usage fee, for parking tax rates and for payroll
26 taxes; further providing for limitations on rates of specific
27 taxes and for the appointment of a single collector of taxes;
28 further providing for the applicability of petitions under
29 the act of July 10, 1987 (P.L.246, No.47), known as the
30 Municipalities Financial Recovery Act; and making a repeal."

1 Section 13. Repeals are as follows:

2 (1) The General Assembly declares that the repeal under
3 paragraph (2) is necessary to effectuate the amendment of
4 section 2(9) of the act.

5 (2) Section 6 of the act of December 1, 2004 (P.L.1729,
6 No.222), entitled "An act amending the act of December 31,
7 1965 (P.L.1257, No.511), entitled 'An act empowering cities
8 of the second class, cities of the second class A, cities of
9 the third class, boroughs, towns, townships of the first
10 class, townships of the second class, school districts of the
11 second class, school districts of the third class and school
12 districts of the fourth class including independent school
13 districts, to levy, assess, collect or to provide for the
14 levying, assessment and collection of certain taxes subject
15 to maximum limitations for general revenue purposes;
16 authorizing the establishment of bureaus and the appointment
17 and compensation of officers, agencies and employes to assess
18 and collect such taxes; providing for joint collection of
19 certain taxes, prescribing certain definitions and other
20 provisions for taxes levied and assessed upon earned income,
21 providing for annual audits and for collection of delinquent
22 taxes, and permitting and requiring penalties to be imposed
23 and enforced, including penalties for disclosure of
24 confidential information, providing an appeal from the
25 ordinance or resolution levying such taxes to the court of
26 quarter sessions and to the Supreme Court and Superior
27 Court,' further providing for delegation of taxing powers and
28 restrictions thereon; providing for nonresident sports
29 facility usage fee, for parking tax rates and for payroll
30 taxes; further providing for limitations on rates of specific

1 taxes and for the appointment of a single collector of taxes;
2 further providing for the applicability of petitions under
3 the act of July 10, 1987 (P.L.246, No.47), known as the
4 Municipalities Financial Recovery Act; and making a repeal,"
5 is repealed.
6 Section 14. This act shall take effect immediately.