

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1412 Session of 2008

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

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 9, 2008

AN ACT

1 Amending the act of October 6, 1998 (P.L.705, No.92), entitled,
2 as amended, "An act providing for the creation of keystone
3 opportunity zones and keystone opportunity expansion zones to
4 foster economic opportunities in this Commonwealth, to
5 facilitate economic development, stimulate industrial,
6 commercial and residential improvements and prevent physical
7 and infrastructure deterioration of geographic areas within
8 this Commonwealth; authorizing expenditures; providing tax
9 exemptions, tax deductions, tax abatements and tax credits;
10 creating additional obligations of the Commonwealth and local
11 governmental units; and prescribing powers and duties of
12 certain State and local departments, agencies and officials,"
13 defining "unoccupied parcel"; providing for extensions for
14 unoccupied parcels, for additional keystone opportunity
15 expansion zones and, for substitution of parcels outside a
16 subzone AND FOR PAYMENTS; PROHIBITING ILLEGAL ALIEN LABOR IN
17 ZONES; and further providing for sales and use tax and, for
18 corporate net income tax AND FOR LOCAL EARNED INCOME NET
19 PROFITS TAXES AND BUSINESS PRIVILEGE TAXES.

<—
<—
<—
<—

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

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

1 Section 103. Definitions.

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

5 * * *

6 "Unoccupied parcel." A parcel with no qualified business <—
7 located thereon that has received certification under section
8 307. THAT IS NOT OCCUPIED ON THE EFFECTIVE DATE OF THIS <—
9 DEFINITION. CONSTRUCTION ACTIVITY ON A PARCEL SHALL NOT
10 CONSTITUTE OCCUPATION OF THE ZONE.

11 Section 2. The act is amended by adding sections to read:

12 Section 301.3. Extension for unoccupied parcels.

13 (a) Extension. The department may approve the extension of <—
14 all tax exemptions, deductions, abatements or credits authorized
15 under this part for any unoccupied parcel in a keystone
16 opportunity subzone, keystone opportunity expansion zone or
17 keystone opportunity improvement zone that is unoccupied on the
18 effective date of this section for a period of seven years from
19 the expiration date of the zone. The extension may not be
20 extended to a parcel that is certified on the basis of being
21 underutilized.

22 (A) EXTENSION.--THE DEPARTMENT MAY APPROVE AN APPLICATION <—
23 FOR EXTENSION OF THE EXEMPTIONS, DEDUCTIONS, ABATEMENTS AND
24 CREDITS UNDER THIS SECTION AS FOLLOWS:

25 (1) ONE OF THE FOLLOWING:

26 (I) FOR A PARCEL IN A KEYSTONE OPPORTUNITY ZONE,
27 KEYSTONE OPPORTUNITY EXPANSION ZONE OR KEYSTONE
28 OPPORTUNITY IMPROVEMENT ZONE THAT IS AN UNOCCUPIED PARCEL
29 ON THE EFFECTIVE DATE OF THIS SECTION, FOR A PERIOD OF
30 SEVEN YEARS FROM THE EXPIRATION DATE OF THE ZONE. THE

1 EXTENSION MAY NOT BE APPROVED FOR A PARCEL THAT IS
2 CERTIFIED SOLELY ON THE BASIS OF BEING UNDERUTILIZED.

3 (II) FOR A PARCEL IN A KEYSTONE OPPORTUNITY ZONE OR
4 KEYSTONE OPPORTUNITY EXPANSION ZONE THAT IS AN UNOCCUPIED
5 PARCEL ON THE EFFECTIVE DATE OF THIS SECTION, FOR A
6 PERIOD OF TEN YEARS FROM THE DATE OF OCCUPANCY, PROVIDED
7 THAT THE PARCEL IS OCCUPIED ON OR BEFORE DECEMBER 31,
8 2015. THE EXTENSION MAY NOT BE APPROVED FOR A PARCEL THAT
9 IS CERTIFIED SOLELY ON THE BASIS OF BEING UNDERUTILIZED.

10 (2) THE EXTENSION OF EXEMPTIONS, DEDUCTIONS, ABATEMENTS
11 OR CREDITS AUTHORIZED UNDER THIS SECTION SHALL TAKE EFFECT
12 ONLY UPON OCCUPANCY.

13 (b) Real estate tax abatement.--The owner of an unoccupied
14 parcel in a keystone opportunity zone, keystone opportunity
15 expansion zone or keystone opportunity improvement zone that has
16 expired but that receives an extension of tax abatement
17 eligibility following the original expiration date of the
18 keystone opportunity zone, keystone opportunity expansion zone
19 or keystone opportunity improvement zone under subsection (a)
20 shall not receive an abatement of real property tax until the
21 parcel becomes occupied or developed.

22 (c) Application.--In order to extend the tax benefits for
23 unoccupied parcels under subsection (a), the department must
24 receive an application from a political subdivision or its
25 designee no later than July 31, 2009. The application must
26 contain the information required under section 302(a)(1), (2),
27 (3), (5) and (6). The application must include all ordinances,
28 resolutions or other required action adopted by all political
29 subdivisions in which the unoccupied parcel is located adopting
30 the extension of all tax exemptions, deductions, abatements and

1 credits authorized under Chapter 7. The department, in
2 consultation with the Department of Revenue, shall review the
3 application and, if approved, issue a certification of all tax
4 exemptions, deductions, abatements or credits under this part
5 for the unoccupied parcel within three months of receipt of the
6 application. The certification shall be effective on the day
7 following the expiration date of the existing subzone.

8 (C.1) APPLICATION FOR LICENSED FACILITIES WITHIN CITIES OF ←
9 FIRST CLASS.--NO PERSON SHALL BE ELIGIBLE TO APPLY FOR ANY TAX
10 EXEMPTION, DEDUCTION, ABATEMENT, CREDIT OR OTHER TAX BENEFIT
11 UNDER THIS ACT OR THE ACT OF DECEMBER 1, 1977 (P.L.237, NO.76),
12 KNOWN AS THE LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE ACT,
13 FOR ANY PARCEL WITHIN A CITY OF THE FIRST CLASS THAT IS
14 CONTIGUOUS WITH A NAVIGABLE WATERWAY, IF THE PARCEL IS TO BE
15 USED IN WHOLE OR IN PART FOR A LICENSED FACILITY AS DEFINED IN 4
16 PA.C.S. § 1103 (RELATING TO DEFINITIONS) UNLESS THE FOLLOWING
17 CONDITIONS HAVE BEEN SATISFIED:

18 (1) THE APPLICANT HAS OBTAINED AN EASEMENT, RIGHT-OF-
19 WAY, LICENSE OR LEASE PURSUANT TO AN ACT OF THE GENERAL
20 ASSEMBLY, ENACTED FOLLOWING THE EFFECTIVE DATE OF THIS
21 SUBSECTION, FOR THE USE, OCCUPANCY OR DEVELOPMENT OF THE
22 CONTIGUOUS SUBMERGED LANDS; AND

23 (2) THE APPLICANT HAS MADE PAYMENT TO THE COMMONWEALTH
24 FOR THE USE, OCCUPANCY OR DEVELOPMENT OF THE CONTIGUOUS
25 SUBMERGED LANDS IN AN AMOUNT ESTABLISHED BY THE GENERAL
26 ASSEMBLY.

27 (d) Applications for certain zones.--For a keystone
28 opportunity zone that expires December 31, 2008, an application
29 may be submitted to the department to temporarily delay the
30 expiration of the exemptions, deductions, abatements and credits

1 for the zone until June 30, 2009. The application must be
2 submitted by November 30, 2008, and include all ordinances,
3 resolutions or other required action from all affected political
4 subdivisions approving the requested delay in the expiration of
5 the keystone opportunity zone. If the expiration of a keystone
6 opportunity zone is delayed under this subsection, a political
7 subdivision or its designee may apply for an extension under
8 subsection (a). If an extension is granted under subsection (a),
9 the extension shall be deemed to be effective January 1, 2009.

10 ~~(c) Payments in lieu of taxes. A business may not provide~~ <—
11 ~~any payment in lieu of taxes or other payment, gift,~~
12 ~~reimbursement, fee or other remuneration to a political~~
13 ~~subdivision in exchange for the approval of the extension of a~~
14 ~~subzone under subsection (c) which is not otherwise required by~~
15 ~~law.~~

16 ~~(f) (E) Expiration.--All extensions of an unoccupied parcel~~ <—
17 ~~certified under this section SUBSECTION (A)(1)(I) shall expire~~ <—
18 ~~no later than seven years following the effective date of~~ <—
19 ~~certification. EXPIRATION DATE OF THE EXISTING KEYSTONE~~ <—
20 ~~OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY EXPANSION ZONE OR~~
21 ~~KEYSTONE OPPORTUNITY IMPROVEMENT ZONE. ALL EXTENSIONS OF AN~~
22 ~~UNOCCUPIED PARCEL CERTIFIED UNDER SUBSECTION (A)(1)(II) SHALL~~
23 ~~EXPIRE NO LATER THAN TEN YEARS FOLLOWING THE DATE OF OCCUPANCY~~
24 ~~OF THE UNOCCUPIED PARCEL UNDER SUBSECTION (C).~~

25 Section 301.4. Additional keystone opportunity expansion zones.

26 (a) Establishment.--

27 (1) In addition to any designations under section 301.1,
28 the department may, by December 31, 2009, designate up to
29 ~~seven~~ 15 additional keystone opportunity expansion zones in <—
30 accordance with this section. Each additional keystone

1 opportunity expansion zone shall:

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

4 (ii) Not exceed, in the aggregate, a total of 350
5 acres.

6 (iii) Be comprised of parcels that meet any of the
7 following criteria:

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

10 (B) Are occupied by a business that:

11 (I) Creates or retains at least 1,400 full-
12 time jobs in this Commonwealth within three years
13 of the designation of the keystone opportunity
14 expansion zone; and

15 (II) Makes a capital investment of at least
16 \$750,000,000 in the additional keystone
17 opportunity enhancement zone within three years
18 of the designation of the keystone opportunity
19 expansion zone.

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

22 (b) Authorization.--Persons and businesses within an
23 additional keystone opportunity expansion zone authorized under
24 subsection (a) shall be entitled to all tax exemptions,
25 deductions, abatements or credits set forth under this part for
26 a period of ten years beginning January 1, 2010 and ending on
27 December 31, 2020.

28 (c) Application.--In order to receive a designation under
29 subsection (a), the department must receive an application from
30 a political subdivision or its designee no later than May 1,

1 2009. The application must contain the information required
2 under section 302(a)(1), (2), (3), (5) and (6). The application
3 must include all ordinances, resolutions or other required
4 action adopted by all political subdivisions in which the
5 keystone opportunity expansion zone is located adopting the
6 extension of all tax exemptions, deductions, abatements and
7 credits authorized under Chapter 7. The department, in
8 consultation with the Department of Revenue, shall review the
9 application and, if approved, issue a certification of all tax
10 exemptions, deductions, abatements or credits under this part
11 for the additional keystone opportunity expansion zone within
12 three months of receipt of the application. The department shall
13 act on an application under this subsection by June 30, 2009.

14 ~~(d) Payments in lieu of taxes. A business may not provide~~ <—
15 ~~any payment in lieu of taxes or other payment, gift,~~
16 ~~reimbursement, fee or other remuneration to a political~~
17 ~~subdivision in exchange for the approval of the extension of a~~
18 ~~subzone under subsection (c) which is not otherwise required by~~
19 ~~law.~~

20 Section 301.5. Substitution of parcels outside a subzone.

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

29 (b) Application and approval.--Applications to substitute
30 parcels under this section shall be made to the department no

1 later than May 31, 2009. Applications under this section shall
2 be made to the department in accordance with section 302(a)(1),
3 (2), (3), (5) and (6). The department shall certify the
4 substitutions by June 30, 2009.

5 SECTION 310. PAYMENTS.

←

6 THE FOLLOWING SHALL APPLY TO AN AGREEMENT BETWEEN A BUSINESS
7 AND A POLITICAL SUBDIVISION ENTERED INTO AFTER THE EFFECTIVE
8 DATE OF THIS SECTION IN EXCHANGE FOR THE APPROVAL OF, OR
9 OTHERWISE RELATING TO, THE ESTABLISHMENT OF A KEYSTONE
10 OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY EXPANSION ZONE OR
11 KEYSTONE OPPORTUNITY IMPROVEMENT ZONE UNDER THIS ACT, TO INCLUDE
12 AN EXTENSION UNDER SECTION 301.2:

13 (1) EXCEPT AS OTHERWISE REQUIRED OR AUTHORIZED BY LAW, A
14 BUSINESS MAY NOT PROVIDE PAYMENTS TO A POLITICAL SUBDIVISION
15 IN EXCHANGE FOR THE APPROVAL OF, OR OTHERWISE RELATING TO,
16 THE DESIGNATION OR EXTENSION OF A KEYSTONE OPPORTUNITY ZONE,
17 KEYSTONE OPPORTUNITY EXPANSION ZONE OR KEYSTONE OPPORTUNITY
18 IMPROVEMENT ZONE IN EXCESS OF 110% OF THE AMOUNT OF REAL
19 PROPERTY TAXES PAYABLE TO THE POLITICAL SUBDIVISION FOR THE
20 TAX YEAR IMMEDIATELY PRIOR TO THE YEAR IN WHICH THE
21 DESIGNATION OR EXTENSION IS GRANTED. THE LIMITATION ON
22 PAYMENTS SET FORTH UNDER THIS PARAGRAPH MAY INCREASE BY THE
23 PERCENTAGE INCREASE IN THE PAYMENTS THAT WOULD OCCUR IF THE
24 PROPERTY WAS NOT EXEMPT FROM LOCAL REAL PROPERTY TAXES.

25 (2) EXCEPT AS PROVIDED UNDER PARAGRAPH (3), PAYMENTS
26 MADE UNDER PARAGRAPH (1) MAY BE INCREASED BASED ON A TAXPAYER
27 ASSESSMENT APPEAL OR AS NECESSARY TO CORRECT ANY ERRORS OR
28 OMISSIONS IN THE COUNTY'S ASSESSMENT RECORDS. PAYMENTS MAY BE
29 INCREASED FOLLOWING A COUNTY-WIDE REASSESSMENT BASED ON
30 IMPROVEMENTS TO THE PROPERTY MADE PRIOR TO THE APPROVAL OF

1 THE DESIGNATION OR EXPANSION.

2 (3) PAYMENTS MAY NOT BE INCREASED FOR THE DURATION OF
3 THE DESIGNATION OR EXPANSION BASED ON AN INCREASE IN THE
4 ASSESSED VALUE OF PROPERTY DUE TO IMPROVEMENTS TO THE
5 PROPERTY MADE SUBSEQUENT TO DESIGNATION.

6 (4) ANY AGREEMENT TO MAKE PAYMENTS UNDER THIS SECTION
7 SHALL BE IN WRITING AND APPROVED BY A MAJORITY VOTE OF THE
8 GOVERNING BODY OF THE POLITICAL SUBDIVISION AT A MEETING THAT
9 IS SUBJECT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

10 SECTION 311. PROHIBITION ON ILLEGAL ALIEN LABOR.

11 (A) GENERAL RULE.--NO PERSON OR BUSINESS THAT RECEIVES A TAX
12 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT SHALL
13 KNOWINGLY PERMIT THE LABOR SERVICES OF AN ILLEGAL ALIEN UNDER A
14 CONTRACT TO WHICH THE PERSON OR BUSINESS IS A PARTY IN THE
15 APPLICABLE KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY
16 EXPANSION ZONE OR KEYSTONE OPPORTUNITY IMPROVEMENT ZONE. A
17 PERSON SHALL BE DEEMED TO HAVE KNOWINGLY EMPLOYED OR KNOWINGLY
18 PERMITTED THE PROHIBITED SERVICES IF HE SHALL HAVE ACTIVE
19 KNOWLEDGE OF OR HAVE REASON TO KNOW THAT SUCH SERVICES HAVE BEEN
20 PROVIDED UNDER THE CONTRACT IN THE APPLICABLE KEYSTONE
21 OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY EXPANSION ZONE OR
22 KEYSTONE OPPORTUNITY IMPROVEMENT ZONE.

23 (B) REIMBURSEMENT.--AS A CONDITION OF THE RECEIPT OF A TAX
24 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT, THE
25 DEPARTMENT OR POLITICAL SUBDIVISION THAT AWARDS THE TAX
26 EXEMPTION, DEDUCTION, ABATEMENT OF CREDIT UNDER THIS ACT SHALL
27 REQUIRE FULL REPAYMENT OF THE VALUE OR AMOUNT OF THE TAX
28 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT IF SUBSECTION (C)
29 APPLIES.

30 (C) VIOLATIONS.--

1 (1) REPAYMENT UNDER SUBSECTION (B) IS REQUIRED IF ANY OF
2 THE FOLLOWING APPLY:

3 (I) THE PERSON OR BUSINESS THAT RECEIVED THE TAX
4 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT
5 IS SENTENCED UNDER FEDERAL LAW FOR AN OFFENSE INVOLVING
6 KNOWING USE OF LABOR BY AN ILLEGAL ALIEN UNDER THE
7 CONTRACT IN THE APPLICABLE KEYSTONE OPPORTUNITY ZONE,
8 KEYSTONE OPPORTUNITY EXPANSION ZONE OR KEYSTONE
9 IMPROVEMENT ZONE.

10 (II) ALL OF THE FOLLOWING APPLY:

11 (A) A CONTRACTOR TO A PERSON OR BUSINESS THAT
12 RECEIVED THE TAX EXEMPTION, DEDUCTION, ABATEMENT OR
13 CREDIT UNDER THIS ACT IS SENTENCED UNDER FEDERAL LAW
14 FOR AN OFFENSE INVOLVING KNOWING USE OF LABOR BY AN
15 ILLEGAL ALIEN ON THE CONTRACT.

16 (B) THE PERSON KNEW OR HAD REASON TO KNOW OF THE
17 CONTRACTOR'S KNOWING USE OF LABOR BY AN ILLEGAL ALIEN
18 ON THE CONTRACT.

19 (2) ANY PERSON WHO IS REQUIRED TO REPAY THE DEPARTMENT
20 OR POLITICAL SUBDIVISION UNDER THIS SECTION SHALL BE
21 INELIGIBLE TO APPLY FOR ANY TAX EXEMPTION, DEDUCTION,
22 ABATEMENT OR CREDIT UNDER THIS ACT FOR A PERIOD OF TWO YEARS.

23 (3) IT SHALL BE AN AFFIRMATIVE DEFENSE TO A VIOLATION OF
24 THIS SECTION, IF THE PERSON OR BUSINESS CONTRACTS WITH A
25 CONTRACTOR TO PROVIDE LABOR UNDER THE CONTRACT IN THE
26 APPLICABLE KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY
27 EXPANSION ZONE OR KEYSTONE OPPORTUNITY IMPROVEMENT ZONE AND
28 ESTABLISHES THAT THE PERSON HAS REQUIRED THE CONTRACTOR TO
29 CERTIFY COMPLIANCE WITH THE REQUIREMENTS OF SECTION 274A OF
30 THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (PUBLIC LAW

1 99-603, 8 U.S.C. § 1324A) WITH RESPECT TO THE HIRING,
2 RECRUITING OR REFERRAL FOR EMPLOYMENT OF AN ALIEN IN THE
3 UNITED STATES AND HAS NOTIFIED THE APPROPRIATE FEDERAL
4 AUTHORITY, IF THE PERSON KNEW THAT THE CONTRACTOR USED LABOR
5 BY AN ILLEGAL ALIEN.

6 (D) DEFINITION.--AS USED IN THIS SECTION, "ILLEGAL ALIEN"
7 MEANS A NONCITIZEN OF THE UNITED STATES WHO IS VIOLATING FEDERAL
8 IMMIGRATION LAWS AND IS PROVIDING COMPENSATED LABOR WITHIN THIS
9 COMMONWEALTH.

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

12 Section 511. Sales and use tax.

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

26 [(b) Construction contracts.--For any construction contract
27 performed in a subzone, improvement subzone or expansion
28 subzone, the exemption provided in subsection (a) shall only
29 apply to the sale at retail or use of building machinery and
30 equipment to a qualified business, or to a construction

1 contractor pursuant to a construction contract with a qualified
2 business, for the exclusive use, consumption and utilization by
3 the qualified business at its facility in a subzone, improvement
4 subzone or expansion subzone. For the purposes of the subzone,
5 improvement subzone or expansion subzone exemption, building
6 machinery and equipment shall include distribution equipment
7 purchased for the exclusive use, consumption and utilization in
8 a subzone, improvement subzone or expansion subzone facility.]

9 Section 4. Section 515(d) introductory paragraph and (3) of
10 the act, amended December 23, 2003 (P.L.360, No.51), are amended
11 to read:

12 Section 515. Corporate net income tax.

13 * * *

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

21 * * *

22 [(3) The sales factor is a fraction, the numerator of
23 which is the total sales of the taxpayer in the subzone,
24 improvement subzone or expansion subzone during the tax
25 period and the denominator of which is the total sales of the
26 taxpayer in this Commonwealth during the tax period.

27 (i) Sales of tangible personal property are in the
28 subzone, improvement subzone or expansion subzone if the
29 property is delivered or shipped to a purchaser that
30 takes possession within the subzone, improvement subzone

1 or expansion subzone regardless of the F.O.B. point or
2 other conditions of the sale.

3 (ii) Sales other than sales of tangible personal
4 property are in the subzone, improvement subzone or
5 expansion subzone if:

6 (A) the income-producing activity is performed
7 in the subzone, improvement subzone or expansion
8 subzone; or

9 (B) the income-producing activity is performed
10 both within and without the subzone, improvement
11 subzone or expansion subzone and a greater proportion
12 of the income-producing activity is performed in the
13 subzone, improvement subzone or expansion subzone
14 than in any other location, based on costs of
15 performance.]

16 * * *

17 SECTION 5. SECTION 703 OF THE ACT IS AMENDED BY ADDING A ←
18 SUBSECTION TO READ:

19 SECTION 703. LOCAL EARNED INCOME AND NET PROFITS TAXES;
20 BUSINESS PRIVILEGE TAXES.

21 * * *

22 (G) DETERMINATION OF EXEMPTION.--FOR THE PURPOSES OF
23 DETERMINING AN EXEMPTION UNDER THIS SECTION, A TAX ON OR
24 MEASURED BY ANY OF THE FOLLOWING SHALL BE ATTRIBUTED TO BUSINESS
25 ACTIVITY CONDUCTED WITHIN A SUBZONE, IMPROVEMENT ZONE OR
26 EXPANSION ZONE BY APPLYING THE APPORTIONMENT FACTORS UNDER
27 SECTION 515(D):

28 (1) BUSINESS GROSS RECEIPTS.

29 (2) GROSS OR NET INCOME.

30 (3) GROSS OR NET PROFITS.

1 Section ~~5~~ 6. The amendment of ~~section 515~~ SECTIONS 515 AND <—
2 703 of the act shall apply to taxable years beginning after
3 December 31, 2008.

4 Section ~~6~~ 7. This act shall take effect in 60 days. <—