

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1858 Session of  
2009

INTRODUCED BY STURLA, McCALL AND EACHUS, JULY 15, 2009

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, AUGUST 3, 2009

## AN ACT

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

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1 ~~Section 2102. Effective date.~~

2 AUTHORIZING COUNTIES TO IMPOSE SALES, USE AND OCCUPANCY TAXES;  
3 AND PROVIDING FOR THE LEVYING, ASSESSMENT AND COLLECTION OF  
4 TAXES AND FOR THE POWERS AND DUTIES OF THE DEPARTMENT OF  
5 COMMUNITY AND ECONOMIC DEVELOPMENT OR ANY SUCCESSOR AGENCY,  
6 THE DEPARTMENT OF REVENUE AND THE STATE TREASURER.

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3 SECTION 2101. EFFECTIVE DATE.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 CHAPTER 1

7 GENERAL PROVISIONS

8 ~~Section 101. Short title.~~

9 ~~This act shall be known and may be cited as the County and~~  
10 ~~Municipal Property Tax Relief and Collaborative Services Act.~~

11 ~~Section 102. Definitions.~~

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

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

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

28 ~~"Current year." The calendar year or fiscal year for which a~~  
29 ~~tax is levied.~~

30 ~~"Department." The Department of Revenue of the Commonwealth.~~

1       ~~"Domicile." As defined in section 501 of the act of December~~  
2       ~~31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling~~  
3       ~~Act.~~

4       ~~"Homestead." As defined in 53 Pa.C.S. § 8401 (relating to~~  
5       ~~definitions).~~

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

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

19       ~~"Nonqualified municipality." A municipality that is not a~~  
20       ~~qualified municipality under this act.~~

21       ~~"Nonresident." An individual domiciled outside a~~  
22       ~~municipality.~~

23       ~~"Ordinance." Includes a resolution.~~

24       ~~"Population." The number of individuals residing in an area~~  
25       ~~as determined in the most recent Federal decennial census.~~

26       ~~"Preceding year." The calendar year or fiscal year before~~  
27       ~~the current year.~~

28       ~~"Qualified municipality." A municipality that qualifies in~~  
29       ~~accordance with section 305(b) or 319.~~

30       ~~"Succeeding year." The calendar year or fiscal year~~

~~following the current year.~~

~~"Tax Reform Code." The act of March 4, 1971 (P.L. 6, No. 2),  
known as the Tax Reform Code of 1971.~~

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

~~Section 103. Scope.~~

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

~~Section 104. Preemption.~~

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

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

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

### ~~CHAPTER 3~~

### ~~SUBJECTS OF TAXATION~~

### ~~SUBCHAPTER A~~

### ~~TAX AUTHORIZATION~~

~~Section 301. General tax authorization.~~

~~(a) General rule. Subject to section 303 and except as~~

~~provided in subsection (b), a county shall have the power and may by ordinance levy and assess or provide for the levying and assessment of taxes on the sale or use of tangible personal property and services and the occupancy of a hotel room at a rate of 1% for general revenue purposes as it shall determine on any or all of the subjects of taxation set forth in this act within the geographical limits of the county.~~

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

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

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

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

~~Section 302. Continuity of tax.~~

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

~~Section 303. Election to participate under act.~~

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

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

~~(2) A board of county commissioners after making an~~

~~election to participate under this act may, after a period of  
at least three full calendar years of participation, elect  
under the provisions of subsection (c) to cease participation  
under this act and levy, assess and collect the taxes  
prohibited by section 301(b) to the extent otherwise provided  
by law.~~

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

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

~~Section 304. Local tax study commission.~~

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

~~(1) The local tax study commission shall consist of  
five, seven or nine members appointed by the board of county  
commissioners. One member of the local tax study commission  
may be a member of the board of county commissioners. No~~

1 ~~member of the local tax study commission may be a relative,~~  
2 ~~by blood or marriage, of an official or employee of the~~  
3 ~~county. All members must be residents of the county.~~  
4 ~~Representatives on a local tax study commission should~~  
5 ~~reasonably reflect the socioeconomic, age and occupational~~  
6 ~~diversity of the county.~~

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

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

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

20 ~~(i) Historic rate and revenue provided by taxes~~  
21 ~~currently levied, assessed and collected by the county.~~

22 ~~(ii) The percentage of total revenues provided by~~  
23 ~~taxes currently levied, assessed and collected.~~

24 ~~(iii) The age, income, employment and property use~~  
25 ~~characteristics of the existing tax base.~~

26 ~~(iv) The projected revenues of any taxes currently~~  
27 ~~levied, assessed and collected.~~

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

1       ~~(5) Within 120 days of its appointment, the local tax~~  
2 ~~study commission shall make a nonbinding recommendation to~~  
3 ~~the board of county commissioners of the appropriate tax or~~  
4 ~~combination of taxes, identified in paragraph (4), to be~~  
5 ~~levied, assessed and collected commencing the next fiscal~~  
6 ~~year.~~

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

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

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

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

~~interested persons at their request.~~

~~(10) Receipts are required for all reimbursable expenses.~~

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

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

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

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

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

1 ~~law.~~

2 ~~Section 305. Municipal sales, use and occupancy tax initiative.~~

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

10 ~~(b) Procedure.~~

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

18 ~~Do you favor the imposition of a county sales, use and~~  
19 ~~occupancy tax at the rate of 1% as provided in section~~  
20 ~~312 of the County and Municipal Property Tax Relief and~~  
21 ~~Collaborative Services Act?~~

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

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

1 ~~county shall certify its vote on the question to the board of~~  
2 ~~county commissioners for each county where the municipality~~  
3 ~~is located.~~

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

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

20 ~~(6) A municipality is qualified to receive a~~  
21 ~~disbursement under section 318 if the municipality:~~

22 ~~(i) votes in the affirmative on the question under~~  
23 ~~this section; or~~

24 ~~(ii) qualifies in accordance with the provisions of~~  
25 ~~section 319.~~

#### 26 ~~SUBCHAPTER B~~

#### 27 ~~COUNTY SALES, USE AND OCCUPANCY TAX~~

#### 28 ~~Section 311. Construction.~~

29 ~~The tax imposed by the board of county commissioners under~~  
30 ~~this subchapter shall be in addition to any tax imposed by the~~

~~Commonwealth under Article II of the Tax Reform Code. Except for the differing situs provisions under section 313, the provisions of Article II of the Tax Reform Code shall apply to the tax.~~

~~Section 312. Imposition of tax.~~

~~(a) Sales.—~~

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

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

~~(b) Use.—~~

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

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

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

~~(c) Occupancy.—~~

~~(1) In any county within which a tax authorized by subsection (a) is imposed, there shall be levied, assessed and collected an excise tax on the rent upon every occupancy~~

~~of a room or rooms in a hotel in the county.~~

~~(2) The tax shall be collected by the operator or owner from the occupant and paid over to the Commonwealth.~~

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

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

~~Section 313. Situs.~~

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

~~Section 314. Licenses.~~

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

~~Section 315. Rules and regulations; collection costs.~~

~~(a) Regulations. Rules and regulations shall be applicable to the taxes imposed under section 312 in the same manner as is provided for in section 506(1) and (2) of the act of June 5,~~

~~1991 (P.L. 9, No. 6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.~~

~~(b) Administrative costs.~~

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

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

~~Section 316. Procedure and administration.~~

~~(a) Ordinance.~~

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

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

~~(3) The board of county commissioners may waive the requirement for a public hearing if the ordinance will be adopted pursuant to the provisions of section 305.~~

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

~~(c) Repeal.~~

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

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

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

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

~~(a) Funds established in State Treasury. There is hereby established in the State Treasury for each county imposing the~~

~~tax under section 312 a county sales, use and occupancy tax fund in the name of each county. The State Treasurer shall be custodian of the funds which shall be subject to the provisions of law applicable to funds listed in section 302 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.~~

~~(b) Deposits into funds.~~

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

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

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

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

~~Section 318. Disbursements.~~

~~(a) General rule. On or before the tenth day of every~~

~~month, the State Treasurer shall make disbursements as provided in this section.~~

~~(b) Disbursement to counties.—~~

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

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

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

~~(d) Disbursement to municipalities.—~~

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

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

~~(e) Disbursement to municipal collaborative efforts fund.—~~

~~The State Treasurer shall disburse to the municipal~~

~~collaborative efforts fund established by the county under section 502 an amount of money equal to 10% of the tax deposited in the respective county sales, use and occupancy tax fund.~~

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

~~Section 319. Adoption of municipal ordinances.~~

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

~~(1) Adopts a municipal ordinance containing the statement:~~

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

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

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

~~(1) Adopts a municipal ordinance containing the statement:~~

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

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

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

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

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

~~Section 320. Allocations.~~

~~(a) Allocations to municipalities. The State Treasurer shall compute allocations to municipalities in the following manner:~~

~~(1) Fifty percent of the money allocated to municipalities in the county shall be distributed pro rata based on the weighted tax revenues for each municipality located in the county as a percentage of the total weighted tax revenues of all municipalities located in the county. For~~

~~municipalities located in more than one county, the weighted tax revenues for the county shall be prorated based upon the population of the municipality in each county divided by the total population of the municipality.~~

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

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

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

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

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

~~received by levy of a tax under the act of August 9, 1955~~  
~~(P.L.323, No.130), known as The County Code, the act of June 23,~~  
~~1931 (P.L.932, No.317), known as The Third Class City Code, the~~  
~~act of February 1, 1966 (1965 P.L.1656, No.581), known as The~~  
~~Borough Code, the act of June 24, 1931 (P.L.1206, No.331), known~~  
~~as the First Class Township Code, and the act of May 1, 1933~~  
~~(P.L.103, No.69), known as The Second Class Township Code, as~~  
~~applicable to the municipality.~~

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

## ~~CHAPTER 5~~

### ~~DISPOSITION OF TAX REVENUES~~

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

~~(a) Counties.—~~

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

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

~~(b) Municipalities.—~~

~~(1) In the first year of implementation of the taxes~~  
~~under section 312, no less than 60% of any additional~~

1 ~~revenues received by a qualified municipality from the tax~~  
2 ~~shall be used for the following, separately or in~~  
3 ~~combination:~~

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

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

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

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

17 ~~(ii) To make a supplemental appropriation in~~  
18 ~~accordance with section 503.~~

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

23 ~~Section 502. Municipal collaborative efforts program.~~

24 ~~(a) Fund established. There is hereby established in each~~  
25 ~~county levying the tax under section 312 a municipal~~  
26 ~~collaborative efforts fund.~~

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

30 ~~(c) Municipal collaborative efforts board.~~

1       ~~(1) Upon levy of the taxes under section 312 by a~~  
2       ~~county, a municipal collaborative efforts board will be~~  
3       ~~established within the county.~~

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

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

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

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

29      ~~(6) Members shall serve a two year term and may be~~  
30      ~~nominated for successive terms. Vacancies shall be filled by~~

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

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

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

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

21 ~~(d) Disbursements.—~~

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

28 ~~(2) Nonqualified municipalities shall be ineligible for~~  
29 ~~funds under this section unless the funding is pursuant to an~~  
30 ~~agreement under 53 Pa.C.S. Ch. 23 Subch. A in which the~~

~~majority of participating municipalities are qualified municipalities or pursuant to other contractual agreement in which the majority of participating municipalities are qualified municipalities.~~

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

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

~~Section 503. Supplemental appropriations for collaborative services.~~

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

~~Section 504. Revenue limitation exceptions.~~

~~(a) Waiver. A board of county commissioners or the~~

~~governing body of a municipality may waive the limitations relating to the reduction or elimination of taxes in sections 501, but only to the degree necessary, in the following cases:~~

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

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

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

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

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

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

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

~~(8) (i) To respond to a Federal or State statute,~~

~~regulation or order adding to or significantly altering responsibilities and duties or requiring expenditure of funds to the extent not funded by the Federal Government or State government.~~

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

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

~~(b) Appeal.—~~

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

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

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

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

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

## ~~CHAPTER 7~~

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

~~Section 701. Definitions.~~

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

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

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

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

~~Section 702. Construction.~~

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

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

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

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

~~Section 703. Imposition.~~

~~(a) Sales.~~

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

~~(2) The tax shall be collected by the vendor from the purchaser and shall be paid over to the Commonwealth as~~

1 ~~provided in this chapter.~~

2 ~~(b) Use.~~

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

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

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

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

14 ~~(ii) has paid the tax imposed by this subsection to~~  
15 ~~the vendor.~~

16 ~~(c) Rate and uniformity. The rate of the tax authorized by~~  
17 ~~this section shall be 1%.~~

18 ~~(d) Computation. The tax under this section shall be~~  
19 ~~computed as follows:~~

20 ~~(1) If the purchase price is 50¢ or less, no tax shall~~  
21 ~~be collected.~~

22 ~~(2) If the purchase price is 51¢ or more but less than~~  
23 ~~\$1.51, 1¢ shall be collected.~~

24 ~~(3) If the purchase price is \$1.51 or more but less than~~  
25 ~~\$2.51, 2¢ shall be collected.~~

26 ~~(4) If the purchase price is \$2.51 or more but less than~~  
27 ~~\$3.51, 3¢ shall be collected.~~

28 ~~(5) If the purchase price is \$3.51 or more but less than~~  
29 ~~\$4.51, 4¢ shall be collected.~~

30 ~~(6) If the purchase price is \$4.51 or more but less than~~

~~\$5.51, 5¢ shall be collected.~~

~~(7) If the purchase price is \$5.51 or more but less than \$6.51, 6¢ shall be collected.~~

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

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

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

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

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

~~Section 704. Situs for imposition of tax.~~

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

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

1       ~~(1) an out of State destination;~~  
2       ~~(2) a common carrier for delivery to an out of State~~  
3 ~~destination; or~~  
4       ~~(3) the United States Post Office for delivery to an~~  
5 ~~out of State destination.~~

6 ~~(c) Situs for vehicle, aircraft and motorcraft sales.~~

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

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

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

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

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

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

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

25 ~~(d) Situs for utility services.~~

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

~~(2) The sale or use of telephone service shall be deemed to occur at the address where the telephone equipment is located and to which the telephone number is assigned.~~

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

~~Section 705. Licenses.~~

~~(a) Issuance and renewal.~~

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

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

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

~~(b) Assignment. The license shall be nonassignable.~~

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

~~Section 706. Department.~~

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

~~(1) Promulgate regulations.~~

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

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

1 ~~with section 703.~~

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

10 ~~Section 707. Dedication and disbursement.~~

11 ~~(a) Fund.—~~

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

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

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

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

27 ~~(5) Money in the fund under paragraph (2):~~

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

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

30 ~~(iii) shall be used exclusively as provided in this~~

1 ~~section.~~

2 ~~(b) Disbursement. By the 10th day of the month, the State~~  
3 ~~Treasurer shall disburse to the city the total amount of money~~  
4 ~~which is, as of the last day of the previous month, contained in~~  
5 ~~the fund under subsection (a) (2).~~

6 ~~Section 708. Municipal action.~~

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

11 ~~(1) at least 30 days after adoption; and~~

12 ~~(2) on the first day of a month.~~

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

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

20 ~~Section 709. Expiration.~~

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

25 ~~CHAPTER 21~~

26 ~~MISCELLANEOUS PROVISIONS~~

27 ~~Section 2101. (Reserved).~~

28 ~~Section 2102. Effective date.~~

29 ~~This act shall take effect immediately.~~

30 ~~CHAPTER 1~~



GENERAL PROVISIONS

SECTION 101. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE COUNTY AND MUNICIPAL PROPERTY TAX RELIEF ACT.

SECTION 102. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"BOARD OF COUNTY COMMISSIONERS." INCLUDES THE SUCCESSOR IN FUNCTION TO THE BOARD OF COUNTY COMMISSIONERS IN A COUNTY WHICH HAS ADOPTED A HOME RULE CHARTER UNDER THE PROVISIONS 53 PA.C.S. PT. III SUBPT. E (RELATING TO HOME RULE AND OPTIONAL PLAN GOVERNMENT), BUT DOES NOT INCLUDE THE CITY COUNCIL OF A CITY OF THE FIRST CLASS OR THE COUNTY COUNCIL OF A COUNTY OF THE SECOND CLASS.

"COUNTY." A COUNTY-LEVEL MUNICIPALITY WITHIN THIS COMMONWEALTH. THE TERM INCLUDES A COUNTY WHICH HAS ADOPTED A HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT UNDER THE PROVISIONS OF 53 PA.C.S. PT. III SUBPT. E (RELATING TO HOME RULE AND OPTIONAL PLAN GOVERNMENT). THE TERM DOES NOT INCLUDE A COUNTY OF THE FIRST CLASS OR A COUNTY OF THE SECOND CLASS.

"DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

"FUND." THE COUNTY SALES, USE AND OCCUPANCY TAX FUND.

"HOMESTEAD." AS DEFINED IN 53 PA.C.S. § 8401 (RELATING TO DEFINITIONS).

"LOCAL TAX ENABLING ACT." THE ACT OF DECEMBER 31, 1965 (P.L.1257, NO.511), KNOWN AS THE LOCAL TAX ENABLING ACT.

"MUNICIPALITY." A CITY OF THE SECOND CLASS A, CITY OF THE THIRD CLASS, BOROUGH, INCORPORATED TOWN, TOWNSHIP OF THE FIRST CLASS, TOWNSHIP OF THE SECOND CLASS, HOME RULE MUNICIPALITY,

1 OPTIONAL PLAN MUNICIPALITY, OPTIONAL FORM MUNICIPALITY OR  
2 SIMILAR GENERAL PURPOSE UNIT OF GOVERNMENT WHICH MAY AFTER THE  
3 EFFECTIVE DATE OF THIS SECTION BE ESTABLISHED BY STATUTE. UNLESS  
4 THE CONTEXT CLEARLY INDICATES OTHERWISE, FOR THE PURPOSES OF  
5 THIS ACT, A MUNICIPALITY LOCATED IN A COUNTY SHALL INCLUDE  
6 MUNICIPALITIES THAT ARE LOCATED ENTIRELY OR PARTIALLY IN THE  
7 COUNTY. THE TERM SHALL NOT INCLUDE A CITY OF THE FIRST CLASS, A  
8 CITY OF THE SECOND CLASS OR A MUNICIPALITY LOCATED IN A COUNTY  
9 OF THE SECOND CLASS.

10 "NONQUALIFIED MUNICIPALITY." A MUNICIPALITY THAT IS NOT  
11 QUALIFIED UNDER SECTION 305 TO RECEIVE DISBURSEMENTS UNDER  
12 SECTION 318.

13 "PICAA." THE ACT OF JUNE 5, 1991 (P.L.9, NO.6), KNOWN AS THE  
14 PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR  
15 CITIES OF THE FIRST CLASS.

16 "POPULATION." THE NUMBER OF INDIVIDUALS RESIDING IN AN AREA  
17 AS DETERMINED IN THE MOST RECENT FEDERAL DECENNIAL CENSUS.

18 "QUALIFIED MUNICIPALITY." A MUNICIPALITY THAT IS QUALIFIED  
19 UNDER SECTION 305 TO RECEIVE DISBURSEMENTS UNDER SECTION 318.

20 "TAX EXEMPT REAL PROPERTY." REAL PROPERTY THAT IS EXEMPT  
21 FROM THE PAYMENT OF LOCAL REAL PROPERTY TAXES AND OWNED BY ONE  
22 OF THE FOLLOWING:

23 (1) THE FEDERAL GOVERNMENT OR AN INSTRUMENTALITY OF THE  
24 FEDERAL GOVERNMENT.

25 (2) THE COMMONWEALTH OR AN INSTRUMENTALITY OF THE  
26 COMMONWEALTH.

27 (3) A POLITICAL SUBDIVISION OTHER THAN THE MUNICIPALITY  
28 IN WHICH THE PROPERTY IS LOCATED.

29 (4) AN ENTITY THAT HAS BEEN GRANTED EXEMPTION FROM REAL  
30 PROPERTY TAXATION PURSUANT TO THE AUTHORITY VESTED IN THE

1 GENERAL ASSEMBLY UNDER SECTION 2(A) (I), (II), (IV) OR (V) OF  
2 ARTICLE VIII OF THE CONSTITUTION OF PENNSYLVANIA.

3 (5) A LOCAL AUTHORITY AS DEFINED IN 1 PA.C.S. § 1991  
4 (RELATING TO DEFINITIONS).

5 "TAX REFORM CODE." THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),  
6 KNOWN AS THE TAX REFORM CODE OF 1971.

7 SECTION 103. SCOPE.

8 IT IS THE INTENT OF THIS ACT TO CONFER UPON EACH COUNTY THE  
9 POWER TO LEVY, ASSESS AND COLLECT TAXES UPON THE SUBJECTS OF  
10 TAXATION SPECIFIED IN THIS ACT.

11 SECTION 104. PREEMPTION.

12 NO ACT OF THE GENERAL ASSEMBLY IN EFFECT PRIOR TO OR AFTER  
13 THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED TO VACATE OR  
14 PREEMPT ANY ORDINANCE PASSED OR ADOPTED UNDER THE AUTHORITY OF  
15 THIS ACT OR ANY OTHER ACT PROVIDING AUTHORITY FOR THE IMPOSITION  
16 OF A TAX BY A COUNTY, UNLESS THE ACT OF THE GENERAL ASSEMBLY  
17 EXPRESSLY VACATES OR PREEMPTS THE AUTHORITY TO PASS OR ADOPT THE  
18 ORDINANCE.

19 SECTION 105. RATES OF TAXATION IN HOME RULE COUNTIES.

20 A COUNTY WHICH HAS ADOPTED A HOME RULE CHARTER OR OPTIONAL  
21 PLAN OF GOVERNMENT UNDER THE PROVISIONS OF 53 PA.C.S. PT. III  
22 SUBPT. E (RELATING TO HOME RULE AND OPTIONAL PLAN GOVERNMENT)  
23 MAY NOT FIX THE RATE OF TAXATION FOR THE SUBJECTS OF TAXATION  
24 AUTHORIZED UNDER CHAPTER 3 IN EXCESS OF THE RATES FIXED IN  
25 CHAPTER 3.

## 26 CHAPTER 3

### 27 SUBJECTS OF TAXATION

#### 28 SUBCHAPTER A

#### 29 TAX AUTHORIZATION

30 SECTION 301. GENERAL TAX AUTHORIZATION.

1 A COUNTY SHALL HAVE THE POWER AND MAY BY ORDINANCE LEVY AND  
2 ASSESS OR PROVIDE FOR THE LEVYING AND ASSESSMENT OF TAXES ON THE  
3 SALE OR USE OF TANGIBLE PERSONAL PROPERTY AND SERVICES AND THE  
4 OCCUPANCY OF A HOTEL ROOM AT A RATE OF 1% WITHIN THE  
5 GEOGRAPHICAL LIMITS OF THE COUNTY, SUBJECT TO THE PROVISIONS OF  
6 THIS ACT.

7 SECTION 302. CONTINUITY OF TAX.

8 A TAX LEVIED UNDER THE PROVISIONS OF THIS ACT SHALL CONTINUE  
9 IN FORCE ON A FISCAL YEAR BASIS WITHOUT ANNUAL REENACTMENT UNTIL  
10 THE TAX IS SUBSEQUENTLY REPEALED.

11 SECTION 303. ELECTION TO PARTICIPATE UNDER ACT.

12 A BOARD OF COUNTY COMMISSIONERS MAY ELECT TO PARTICIPATE  
13 UNDER THIS ACT BY ADOPTING AN ORDINANCE IMPOSING THE TAX UNDER  
14 THE PROCEDURES SET FORTH IN SECTION 316.

15 SECTION 304. (RESERVED).

16 SECTION 305. MUNICIPAL QUALIFICATION AND INITIATIVE.

17 (A) INITIAL YEAR OF IMPLEMENTATION.--

18 (1) THE GOVERNING BODY OF A MUNICIPALITY DESIRING TO  
19 QUALIFY FOR DISBURSEMENTS UNDER SECTION 318 BEGINNING IN THE  
20 FIRST FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
21 SECTION SHALL, ON OR BEFORE NOVEMBER 30, 2009, DO ALL OF THE  
22 FOLLOWING:

23 (I) ADOPT A RESOLUTION CONTAINING THE FOLLOWING  
24 STATEMENT:

25 WE STRONGLY URGE THE COUNTY TO ENACT A COUNTY SALES,  
26 USE AND OCCUPANCY TAX AND INTEND TO ACCEPT  
27 DISBURSEMENTS OF THE SALES, USE AND OCCUPANCY TAX  
28 COLLECTED.

29 (II) DELIVER A CERTIFIED COPY OF THE RESOLUTION TO  
30 THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY IN WHICH

1 THE MUNICIPALITY IS LOCATED. IF THE MUNICIPALITY IS  
2 LOCATED IN MORE THAN ONE COUNTY, THE GOVERNING BODY SHALL  
3 DELIVER A CERTIFIED COPY TO THE BOARD OF COUNTY  
4 COMMISSIONERS FOR EACH COUNTY WHERE THE MUNICIPALITY IS  
5 LOCATED.

6 (2) WITHIN 30 DAYS FOLLOWING RECEIPT OF CERTIFIED  
7 RESOLUTIONS FROM MUNICIPALITIES WHOSE COMBINED POPULATION  
8 REPRESENTS MORE THAN 60% OF THE POPULATION OF THE COUNTY, THE  
9 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY SHALL COMMENCE  
10 THE PROCEDURES UNDER SECTION 316 FOR IMPOSING THE TAX UNDER  
11 SECTION 312; HOWEVER, THE WRITTEN NOTICE TO MUNICIPALITIES  
12 UNDER SECTION 316(A) MUST BE MADE 15 DAYS PRIOR TO ADOPTION  
13 OF THE ORDINANCE. THE POPULATION OF A MUNICIPALITY THAT IS  
14 LOCATED IN MORE THAN ONE COUNTY SHALL BE DETERMINED  
15 SEPARATELY FOR EACH COUNTY WHERE THE MUNICIPALITY IS LOCATED  
16 ON THE BASIS OF THE MUNICIPALITY'S POPULATION WITHIN EACH  
17 COUNTY.

18 (3) THE TAX SHALL BE IMPOSED AS OF THE DATE OCCURRING 90  
19 DAYS FOLLOWING THE ADOPTION OF THE ORDINANCE.

20 (4) A MUNICIPALITY LOCATED IN A COUNTY WHERE THE TAX IS  
21 IMPOSED DURING THE FIRST FISCAL YEAR FOLLOWING THE EFFECTIVE  
22 DATE OF THIS SECTION WHOSE GOVERNING BODY DOES NOT ADOPT AND  
23 DELIVER TO THE BOARD OF COUNTY COMMISSIONERS A RESOLUTION  
24 UNDER PARAGRAPH (1) SHALL NOT BE QUALIFIED TO RECEIVE  
25 DISBURSEMENTS UNDER SECTION 318 FOR THE FIRST THREE FISCAL  
26 YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

27 (B) IMPLEMENTATION IN SUBSEQUENT YEARS.--

28 (1) A MUNICIPALITY LOCATED IN A COUNTY WHERE THE TAX IS  
29 NOT IMPOSED IN THE FIRST FISCAL YEAR FOLLOWING THE EFFECTIVE  
30 DATE OF THIS SECTION DESIRING TO QUALIFY FOR DISBURSEMENTS

1 UNDER SECTION 318 SHALL FOLLOW THE PROCEDURES UNDER  
2 SUBSECTION (A), EXCEPT WITH RESPECT TO ADOPTION BY NOVEMBER  
3 30, 2009, PRIOR TO THE ENACTMENT BY THE COUNTY OF AN  
4 ORDINANCE UNDER SECTION 316 IN ANY SUBSEQUENT FISCAL YEAR. IN  
5 THAT EVENT, THE MUNICIPALITY SHALL BE QUALIFIED TO RECEIVE  
6 DISBURSEMENTS UNDER SECTION 318 FOR ALL SUBSEQUENT FISCAL  
7 YEARS THAT THE TAX IS IN EFFECT. THE REQUIREMENTS OF  
8 SUBSECTION (A) (1) MUST BE MET BY JUNE 30 FOR THE IMPOSITION  
9 OF THE TAX BY THE COUNTY FOR THE SUBSEQUENT FISCAL YEAR.

10 (2) A MUNICIPALITY LOCATED IN A COUNTY WHERE THE TAX HAS  
11 BEEN IMPOSED AND THAT HAS NOT FOLLOWED THE PROCEDURES UNDER  
12 SUBSECTION (A) (1) OR (B) (1) MAY ONLY QUALIFY FOR  
13 DISBURSEMENTS UNDER SECTION 318 IN THE FOURTH OR ANY  
14 SUBSEQUENT FISCAL YEAR FOLLOWING IMPOSITION OF THE TAX, AND  
15 FOR ALL FISCAL YEARS THEREAFTER, IF IT DOES ALL OF THE  
16 FOLLOWING BY SEPTEMBER 1 OF THE FISCAL YEAR PRIOR TO THE  
17 FIRST FISCAL YEAR IN WHICH THE MUNICIPALITY WILL BE QUALIFIED  
18 TO RECEIVE DISBURSEMENT:

19 (I) ADOPTS A RESOLUTION CONTAINING THE FOLLOWING  
20 STATEMENT:

21 WE SUPPORT THE ENACTMENT BY THE COUNTY OF THE COUNTY  
22 SALES, USE AND OCCUPANCY TAX, STRONGLY URGE ITS  
23 CONTINUATION AND INTEND TO ACCEPT DISBURSEMENTS OF  
24 THE SALES, USE AND OCCUPANCY TAX COLLECTED.

25 (II) DELIVERS A CERTIFIED COPY OF THE RESOLUTION TO  
26 THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY IN WHICH  
27 THE MUNICIPALITY IS LOCATED. IF THE MUNICIPALITY IS  
28 LOCATED IN MORE THAN ONE COUNTY, THE GOVERNING BODY SHALL  
29 DELIVER A CERTIFIED COPY TO THE BOARD OF COUNTY  
30 COMMISSIONERS FOR EACH COUNTY WHERE THE MUNICIPALITY IS

1 LOCATED.

2 (C) NO LIMITATION ON COUNTIES.--NOTHING IN THIS SECTION  
3 SHALL PROHIBIT THE BOARD OF COMMISSIONERS OF A COUNTY FROM  
4 ELECTING TO PARTICIPATE UNDER THIS ACT UNDER THE PROCEDURES SET  
5 FORTH IN SECTION 316 WITHOUT HAVING RECEIVED CERTIFIED  
6 RESOLUTIONS FROM MUNICIPALITIES UNDER SUBSECTION (A) OR (B).

7 SUBCHAPTER B

8 COUNTY SALES, USE AND OCCUPANCY TAX

9 SECTION 311. CONSTRUCTION.

10 THE TAX IMPOSED BY THE BOARD OF COUNTY COMMISSIONERS UNDER  
11 THIS SUBCHAPTER SHALL BE IN ADDITION TO ANY TAX IMPOSED BY THE  
12 COMMONWEALTH UNDER ARTICLE II OF THE TAX REFORM CODE. EXCEPT FOR  
13 THE DIFFERING SITUS PROVISIONS UNDER SECTION 313, THE PROVISIONS  
14 OF ARTICLE II OF THE TAX REFORM CODE SHALL APPLY TO THE TAX.

15 SECTION 312. IMPOSITION OF TAX.

16 (A) SALES.--

17 (1) THE BOARD OF COUNTY COMMISSIONERS MAY LEVY AND  
18 ASSESS UPON EACH SEPARATE SALE AT RETAIL OF TANGIBLE PERSONAL  
19 PROPERTY OR SERVICES, AS DEFINED IN ARTICLE II OF THE TAX  
20 REFORM CODE, WITHIN THE BOUNDARIES OF THE COUNTY, A TAX ON  
21 THE PURCHASE PRICE.

22 (2) THE TAX SHALL BE COLLECTED BY THE VENDOR FROM THE  
23 PURCHASER AND SHALL BE PAID OVER TO THE COMMONWEALTH AS  
24 PROVIDED IN THIS SUBCHAPTER.

25 (B) USE.--

26 (1) IN ANY COUNTY WITHIN WHICH THE TAX AUTHORIZED IN  
27 SUBSECTION (A) IS IMPOSED, THERE SHALL BE LEVIED, ASSESSED  
28 AND COLLECTED UPON THE USE, WITHIN THE COUNTY, OF TANGIBLE  
29 PERSONAL PROPERTY PURCHASED AT RETAIL AND ON SERVICES  
30 PURCHASED AT RETAIL, AS DEFINED IN ARTICLE II OF THE TAX

REFORM CODE, A TAX ON THE PURCHASE PRICE.

(2) THE TAX SHALL BE PAID OVER TO THE COMMONWEALTH BY THE PERSON WHO MAKES THE USE.

(3) THE USE TAX IMPOSED UNDER THIS SUBCHAPTER SHALL NOT BE PAID OVER TO THE COMMONWEALTH BY ANY PERSON WHO HAS PAID THE TAX IMPOSED BY SUBSECTION (A) OR HAS PAID THE TAX IMPOSED BY THIS SUBSECTION TO THE VENDOR WITH RESPECT TO THE USE.

(C) OCCUPANCY.--

(1) IN ANY COUNTY WITHIN WHICH A TAX AUTHORIZED BY SUBSECTION (A) IS IMPOSED, THERE SHALL BE LEVIED, ASSESSED AND COLLECTED AN EXCISE TAX ON THE RENT UPON EVERY OCCUPANCY OF A ROOM OR ROOMS IN A HOTEL IN THE COUNTY.

(2) THE TAX SHALL BE COLLECTED BY THE OPERATOR OR OWNER FROM THE OCCUPANT AND PAID OVER TO THE COMMONWEALTH.

(D) RATE AND UNIFORMITY.--THE TAX AUTHORIZED BY SUBSECTIONS (A), (B) AND (C) SHALL BE IMPOSED AT A RATE OF 1% AND SHALL BE UNIFORM.

(E) COMPUTATION.--THE TAX IMPOSED UNDER THIS SECTION SHALL BE COMPUTED IN THE MANNER SET FORTH IN SECTION 503(E)(2) OF PICAA.

SECTION 313. SITUS.

THE SITUS OF SALES AT RETAIL OR USES SHALL BE DETERMINED IN THE MANNER SPECIFIED BY SECTION 504 OF PICAA AND BY ARTICLE II-A OF THE TAX REFORM CODE.

SECTION 314. LICENSES.

THE LICENSE ISSUED PURSUANT TO ARTICLE II OF THE TAX REFORM CODE OR A SEPARATE LICENSE FOR THE COLLECTION OF THE TAX IMPOSED BY THIS SUBCHAPTER MAY BE ISSUED BY THE DEPARTMENT IN THE SAME MANNER AS IS PROVIDED FOR IN SECTION 505 OF PICAA. LICENSEES SHALL BE ENTITLED TO THE SAME DISCOUNT AS PROVIDED IN SECTION

227 OF THE TAX REFORM CODE.

SECTION 315. RULES AND REGULATIONS; COLLECTION COSTS.

(A) REGULATIONS.--THE RULES AND REGULATIONS PROMULGATED UNDER SECTION 270 OF THE TAX REFORM CODE SHALL BE APPLICABLE TO THE TAXES IMPOSED UNDER SECTION 312 INsofar AS SUCH RULES AND REGULATIONS ARE CONSISTENT WITH SECTION 312.

(B) ADMINISTRATION AND COSTS.--

(1) THE DEPARTMENT SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SUBCHAPTER. THE DEPARTMENT MAY PROMULGATE AND ENFORCE REGULATIONS CONSISTENT WITH THE PROVISIONS OF THIS SUBCHAPTER RELATING TO ANYTHING PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THIS SUBCHAPTER. THE DEPARTMENT MAY PRESCRIBE THE EXTENT TO WHICH A REGULATION SHALL BE APPLIED WITHOUT RETROACTIVE EFFECT.

(2) TO COVER THEIR RESPECTIVE COSTS OF ADMINISTRATION, THE DEPARTMENT AND THE TREASURY DEPARTMENT SHALL BE ENTITLED TO RETAIN A SUM EQUAL TO COSTS OF COLLECTION, BUT NO MORE THAN 1% AND .5%, RESPECTIVELY, OF THE REVENUES COLLECTED UNDER THIS SUBCHAPTER. THE DEPARTMENT SHALL INFORM THE COUNTIES PARTICIPATING UNDER THIS ACT IN WRITING MONTHLY OF THE SUM RETAINED AND THE COSTS OF COLLECTION REIMBURSED. WHEN THE ANNUAL OPERATING BUDGETS FOR THE DEPARTMENT AND THE TREASURY DEPARTMENT ARE SUBMITTED TO THE GENERAL ASSEMBLY, EACH AGENCY SHALL ALSO SUBMIT TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES THE ACTUAL SUMS RETAINED FOR COSTS OF COLLECTION IN THE PRECEDING FISCAL YEAR, TOGETHER WITH ALL SUPPORTING DETAILS.

SECTION 316. PROCEDURE.

1 (A) ORDINANCE.--

2 (1) A COUNTY DESIRING TO IMPOSE THE TAX AUTHORIZED BY  
3 SECTION 312 SHALL GIVE AT LEAST 45 DAYS' WRITTEN NOTICE TO  
4 EACH MUNICIPALITY IN THE COUNTY OF ITS INTENT TO IMPOSE THE  
5 TAX. THE NOTICE AND ORDINANCE SHALL STATE THE TAX RATE AND  
6 REFER TO THIS SUBCHAPTER. THE ORDINANCE SHALL AUTHORIZE THE  
7 IMPOSITION OF THE TAX ON ALL SUBJECTS PROVIDED FOR IN SECTION  
8 312.

9 (2) PRIOR TO ADOPTING AN ORDINANCE IMPOSING THE TAX  
10 UNDER SECTION 312, THE BOARD OF COUNTY COMMISSIONERS SHALL  
11 GIVE PUBLIC NOTICE OF ITS INTENT TO ADOPT THE ORDINANCE IN  
12 THE MANNER PROVIDED BY SECTION 306 OF THE LOCAL TAX ENABLING  
13 ACT AND SHALL CONDUCT AT LEAST ONE PUBLIC HEARING REGARDING  
14 THE PROPOSED ADOPTION OF THE ORDINANCE.

15 (3) THE BOARD OF COUNTY COMMISSIONERS MAY WAIVE THE  
16 REQUIREMENT FOR A PUBLIC HEARING IF THE ORDINANCE WILL BE  
17 ADOPTED PURSUANT TO THE PROVISIONS OF SECTION 305.

18 (4) EXCEPT AS PROVIDED IN PARAGRAPH (5), AN ORDINANCE  
19 ADOPTED UNDER THIS SECTION SHALL BE ADOPTED BY SEPTEMBER 1  
20 AND THE TAX SHALL BE IMPOSED AS OF JANUARY 1 OF THE FOLLOWING  
21 FISCAL YEAR.

22 (5) NOTWITHSTANDING PARAGRAPH (4), A COUNTY DESIRING TO  
23 IMPOSE THE TAX IN THE FIRST FISCAL YEAR FOLLOWING THE  
24 EFFECTIVE DATE OF THIS SECTION MAY ADOPT AN ORDINANCE UNDER  
25 THIS SECTION BY NOVEMBER 30, 2009. IF THIS PARAGRAPH APPLIES,  
26 THE TAX SHALL BE IMPOSED AS OF THE DATE OCCURRING 90 DAYS  
27 FOLLOWING THE ADOPTION OF THE ORDINANCE.

28 (B) NOTIFICATION TO DEPARTMENT.--CERTIFIED COPIES OF THE  
29 COUNTY ORDINANCE SHALL BE DELIVERED TO THE DEPARTMENT AND THE  
30 MUNICIPALITIES WITHIN 15 DAYS FOLLOWING ADOPTION OF THE

1 ORDINANCE.

2 (C) REPEAL.--

3 (1) NO EARLIER THAN THE END OF THE FIFTH FISCAL YEAR  
4 FOLLOWING IMPOSITION OF THE TAX AUTHORIZED BY SECTION 312, A  
5 COUNTY MAY REPEAL THE TAX. IN THAT EVENT, THE COUNTY SHALL  
6 GIVE AT LEAST 30 DAYS' WRITTEN NOTICE TO EVERY MUNICIPALITY  
7 LOCATED IN THE COUNTY OF ITS INTENT TO REPEAL THE TAX. THE  
8 ORDINANCE SHALL AUTHORIZE THE REPEAL OF THE TAX ON ALL  
9 SUBJECTS PROVIDED FOR IN SECTION 312.

10 (2) PRIOR TO ADOPTING AN ORDINANCE REPEALING THE TAX  
11 IMPOSED UNDER SECTION 312, THE BOARD OF COUNTY COMMISSIONERS  
12 SHALL GIVE PUBLIC NOTICE OF ITS INTENT TO REPEAL THE  
13 ORDINANCE IN THE MANNER PROVIDED BY SECTION 306 OF THE LOCAL  
14 TAX ENABLING ACT FOR THE ADOPTION OF ORDINANCES AND SHALL  
15 CONDUCT AT LEAST ONE PUBLIC HEARING REGARDING THE PROPOSED  
16 REPEAL OF THE ORDINANCE.

17 (D) DELIVERY OF REPEAL ORDINANCE.--THE BOARD OF COUNTY  
18 COMMISSIONERS SHALL DELIVER CERTIFIED COPIES OF A REPEAL  
19 ORDINANCE TO THE DEPARTMENT AND THE MUNICIPALITIES WITHIN THE  
20 COUNTY BY SEPTEMBER 1 OF THE YEAR PRIOR TO THE EFFECTIVE DATE OF  
21 THE REPEAL.

22 SECTION 317. COUNTY SALES, USE AND OCCUPANCY TAX FUND.

23 (A) FUND ESTABLISHED IN STATE TREASURY.--THERE IS HEREBY  
24 ESTABLISHED IN THE STATE TREASURY A COUNTY SALES, USE AND  
25 OCCUPANCY TAX FUND. THE STATE TREASURER SHALL BE CUSTODIAN OF  
26 THE FUND WHICH SHALL BE SUBJECT TO THE PROVISIONS OF LAW  
27 APPLICABLE TO FUNDS LISTED IN SECTION 302 OF THE ACT OF APRIL 9,  
28 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE. SUBACCOUNTS  
29 SHALL BE ESTABLISHED WITHIN THE FUND FOR EACH COUNTY  
30 PARTICIPATING UNDER THIS ACT.

(B) DEPOSITS INTO FUND.--

(1) THE TAX IMPOSED UNDER SECTION 312 SHALL BE RECEIVED BY THE DEPARTMENT AND PAID TO THE STATE TREASURER AND, ALONG WITH INTEREST AND PENALTIES, LESS ANY COLLECTION COSTS ALLOWED UNDER THIS SUBCHAPTER AND ANY REFUNDS AND CREDITS PAID, SHALL BE CREDITED TO THE RESPECTIVE COUNTIES' SUBACCOUNTS NOT LESS FREQUENTLY THAN EVERY TWO WEEKS.

(2) DURING ANY PERIOD PRIOR TO THE CREDIT OF MONEY TO EACH SUCH SUBACCOUNT, INTEREST EARNED ON MONEY RECEIVED BY THE DEPARTMENT AND PAID TO THE STATE TREASURER UNDER THIS SUBCHAPTER SHALL BE CREDITED TO THE RESPECTIVE SUBACCOUNT.

(C) LAPSING AND INTERFUND TRANSFERS PROHIBITED.--ALL MONEY IN THE FUND AND CREDITED TO THE SUBACCOUNTS, INCLUDING, BUT NOT LIMITED TO, MONEY CREDITED TO THE SUBACCOUNTS UNDER THIS SECTION, PRIOR YEAR ENCUMBRANCES AND THE INTEREST EARNED THEREON, SHALL NOT LAPSE OR BE TRANSFERRED TO ANY OTHER FUND OR SUBACCOUNT, BUT SHALL REMAIN IN THE FUND AND CREDITED TO THE RESPECTIVE SUBACCOUNTS AS PROVIDED IN THIS CHAPTER.

(D) INVESTMENT.--PENDING THEIR DISBURSEMENT, MONEY RECEIVED ON BEHALF OF OR DEPOSITED INTO THE FUND SHALL BE INVESTED OR REINVESTED AS ARE OTHER MONEY IN THE CUSTODY OF THE STATE TREASURER IN THE MANNER PROVIDED BY LAW. ALL EARNINGS RECEIVED FROM THE INVESTMENT OR REINVESTMENT OF THE MONEY SHALL BE CREDITED TO THE FUND.

SECTION 318. DISBURSEMENTS.

(A) GENERAL RULE.--ON OR BEFORE THE TENTH BUSINESS DAY FOLLOWING RECEIPT FROM THE DEPARTMENT OF THE NECESSARY CALCULATIONS, THE STATE TREASURER SHALL MAKE DISBURSEMENTS AS PROVIDED IN THIS SECTION.

(B) DISBURSEMENT TO COUNTIES.--

1           (1) THE STATE TREASURER SHALL DISBURSE TO A COUNTY  
2 IMPOSING THE TAX UNDER SECTION 312 AN AMOUNT OF MONEY EQUAL  
3 TO 50% OF THE TAX DEPOSITED IN THE FUND CREDITED TO THE  
4 COUNTY'S SUBACCOUNT. THE MONEY SHALL BE DEPOSITED INTO THE  
5 COUNTY GENERAL FUND FOR DISPOSITION AS PROVIDED UNDER SECTION  
6 501(A) .

7           (2) THE STATE TREASURER SHALL DISBURSE TO A COUNTY, IN  
8 ADDITION TO ITS SHARE UNDER PARAGRAPH (1), AN AMOUNT OF MONEY  
9 EQUAL TO THE AMOUNT ALLOCATED UNDER SECTION 320 TO ALL OF THE  
10 NONQUALIFIED MUNICIPALITIES. THE MONEY SHALL BE DEPOSITED  
11 INTO THE COUNTY GENERAL FUND FOR DISPOSITION AS PROVIDED  
12 UNDER SECTION 501(A) .

13       (C) DISBURSEMENT TO MUNICIPALITIES.--THE REMAINING 50% OF  
14 THE TAX DEPOSITED INTO THE FUND SHALL BE DISBURSED TO EACH  
15 QUALIFIED MUNICIPALITY IN THE AMOUNTS ALLOCATED UNDER SECTION  
16 320(A) . THE MONEY DISBURSED SHALL BE DEPOSITED INTO THE  
17 MUNICIPAL GENERAL FUND FOR DISPOSITION AS PROVIDED IN SECTION  
18 501(B) .

19 SECTION 319. (RESERVED) .

20 SECTION 320. ALLOCATIONS.

21       (A) ALLOCATIONS TO MUNICIPALITIES.--THE DEPARTMENT SHALL  
22 COMPUTE ALLOCATIONS OF THE SUMS TO BE DISBURSED TO  
23 MUNICIPALITIES UNDER SECTION 318(C) IN THE FOLLOWING MANNER:

24           (1) FIFTY PERCENT SHALL BE ALLOCATED PRO RATA BASED ON  
25 THE WEIGHTED TAX REVENUES FOR EACH MUNICIPALITY LOCATED IN  
26 THE COUNTY AS A PERCENTAGE OF THE TOTAL WEIGHTED TAX REVENUES  
27 OF ALL MUNICIPALITIES LOCATED IN THE COUNTY. FOR  
28 MUNICIPALITIES LOCATED IN MORE THAN ONE COUNTY, THE WEIGHTED  
29 TAX REVENUES FOR THE COUNTY SHALL BE PRORATED BASED UPON THE  
30 POPULATION OF THE MUNICIPALITY IN EACH COUNTY DIVIDED BY THE

1 TOTAL POPULATION OF THE MUNICIPALITY.

2 (2) FIFTY PERCENT SHALL BE ALLOCATED PRO RATA BASED ON  
3 THE POPULATION OF EACH MUNICIPALITY LOCATED IN THE COUNTY AS  
4 A PERCENTAGE OF THE SUM OF THE POPULATION OF ALL  
5 MUNICIPALITIES LOCATED IN THE COUNTY. FOR MUNICIPALITIES  
6 LOCATED IN MORE THAN ONE COUNTY, THE POPULATION OF THE COUNTY  
7 SHALL BE DETERMINED SEPARATELY FOR EACH COUNTY WHERE THE  
8 MUNICIPALITY IS LOCATED ON THE BASIS OF THE MUNICIPALITY'S  
9 POPULATION WITHIN EACH COUNTY.

10 (B) CALCULATION OF WEIGHTED TAX REVENUES.--CALCULATIONS OF  
11 WEIGHTED TAX REVENUES SHALL BE MADE BY THE DEPARTMENT OF  
12 COMMUNITY AND ECONOMIC DEVELOPMENT OR ANY SUCCESSOR AGENCY AND  
13 CERTIFIED TO THE DEPARTMENT BASED UPON INFORMATION REPORTED TO  
14 THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT OR ANY  
15 SUCCESSOR AGENCY, SUBJECT TO REVIEW, VERIFICATION AND APPROVAL  
16 BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT OR ANY  
17 SUCCESSOR AGENCY.

18 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
19 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
20 SUBSECTION:

21 "PER CAPITA MARKET VALUE." THE TOTAL MARKET VALUE OF ALL  
22 REAL PROPERTY DIVIDED BY POPULATION AS DETERMINED BY THE MOST  
23 RECENT DECENNIAL CENSUS.

24 "TOTAL TAX REVENUES." REAL PROPERTY TAX REVENUES, REVENUES  
25 RECEIVED BY LEVY OF A TAX UNDER THE LOCAL TAX ENABLING ACT,  
26 REVENUES RECEIVED BY LEVY OF A TAX UNDER THIS ACT AND REVENUES  
27 RECEIVED BY LEVY OF A TAX UNDER THE ACT OF JUNE 23, 1931

28 (P.L.932, NO.317), KNOWN AS THE THIRD CLASS CITY CODE, THE ACT  
29 OF FEBRUARY 1, 1966 (1965 P.L.1656, NO.581), KNOWN AS THE  
30 BOROUGH CODE, THE ACT OF JUNE 24, 1931 (P.L.1206, NO.331), KNOWN

1 AS THE FIRST CLASS TOWNSHIP CODE, AND THE ACT OF MAY 1, 1933  
2 (P.L.103, NO.69), KNOWN AS THE SECOND CLASS TOWNSHIP CODE, AS  
3 APPLICABLE TO THE MUNICIPALITY.

4 "WEIGHTED TAX REVENUES." TOTAL TAX REVENUES OF A  
5 MUNICIPALITY FROM ALL SOURCES DIVIDED BY THE PER CAPITA MARKET  
6 VALUE OF THE MUNICIPALITY.

7 CHAPTER 5

8 DISPOSITION OF TAX REVENUES

9 SECTION 501. SALES, USE AND OCCUPANCY TAX REVENUES.

10 (A) COUNTIES.--

11 (1) NO LESS THAN 50% OF ANY REVENUES ESTIMATED TO BE  
12 RECEIVED BY A COUNTY FROM THE TAX IN A FISCAL YEAR SHALL BE  
13 USED TO REDUCE, OR MAINTAIN THE REDUCTION OF, THE COUNTY REAL  
14 PROPERTY TAX, FIRST BY MEANS OF A HOMESTEAD EXCLUSION AND  
15 THEN, IF THE MAXIMUM HOMESTEAD EXCLUSION HAS BEEN ATTAINED,  
16 BY MEANS OF REDUCTION IN THE PROPERTY TAX MILLAGE RATE.

17 (2) THE REMAINING 50% OF REVENUES RECEIVED BY A COUNTY  
18 FROM THE TAX IN THE FISCAL YEAR AND ANY REVENUES RECEIVED IN  
19 EXCESS OF THE ESTIMATED REVENUES NEEDED UNDER PARAGRAPH (1)  
20 SHALL BE EXPENDED FOR PUBLIC PURPOSES AUTHORIZED BY LAW.

21 (B) MUNICIPALITIES.--

22 (1) NO LESS THAN 50% OF ANY REVENUES ESTIMATED TO BE  
23 RECEIVED BY A QUALIFIED MUNICIPALITY FROM THE TAX IN A FISCAL  
24 YEAR SHALL BE USED FOR EITHER, OR A COMBINATION OF, THE  
25 FOLLOWING:

26 (I) TO REDUCE, OR MAINTAIN THE REDUCTION OF, THE  
27 MUNICIPAL REAL PROPERTY TAX, FIRST BY MEANS OF A  
28 HOMESTEAD EXCLUSION AND THEN, IF THE MAXIMUM HOMESTEAD  
29 EXCLUSION HAS BEEN ATTAINED, BY MEANS OF REDUCTION IN THE  
30 PROPERTY TAX MILLAGE RATE.

(II) TO REPLACE LOST REVENUE AS A RESULT OF THE  
EXISTENCE OF TAX EXEMPT REAL PROPERTY WITHIN THE  
MUNICIPALITY IN THE IMMEDIATELY PRECEDING FISCAL YEAR.  
THE VALUE OF TAX EXEMPT REAL PROPERTY SHALL BE CALCULATED  
BY DIVIDING THE BASE YEAR MARKET VALUE OF THE SUBJECT  
PROPERTY BY THE COMMON LEVEL RATIO AS CALCULATED ANNUALLY  
FOR THE COUNTY WHERE THE MUNICIPALITY IS LOCATED BY THE  
STATE TAX EQUALIZATION BOARD. THE BASE YEAR MARKET VALUE  
OF EACH TAX EXEMPT PROPERTY IN THE MUNICIPALITY SHALL BE  
UPDATED WITH EACH COUNTYWIDE REASSESSMENT.

(2) IF THE AMOUNT OF REVENUES ESTIMATED TO BE RECEIVED  
BY A QUALIFIED MUNICIPALITY IN A FISCAL YEAR UNDER PARAGRAPH  
(1) EXCEEDS THE AMOUNT NEEDED TO REDUCE THE MUNICIPAL REAL  
PROPERTY TAX UNDER PARAGRAPH (1)(I) OR REPLACE LOST REVENUE  
UNDER PARAGRAPH (1)(II) IN THAT FISCAL YEAR, THE EXCESS  
REVENUE SHALL BE USED TO REDUCE ANY OTHER MUNICIPAL TAX.

(3) THE REMAINING 50% OF REVENUES RECEIVED BY A  
QUALIFIED MUNICIPALITY FROM THE TAX IN A FISCAL YEAR AND ANY  
REVENUES RECEIVED IN EXCESS OF THE ESTIMATED REVENUES NEEDED  
UNDER PARAGRAPHS (1) AND (2) SHALL BE EXPENDED FOR ANY PUBLIC  
PURPOSE AS PROVIDED BY LAW.

## CHAPTER 21

### MISCELLANEOUS PROVISIONS

#### SECTION 2101. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT IMMEDIATELY.