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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2042 Session of  
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INTRODUCED BY STURLA, BRENNAN, BUXTON, CALTAGIRONE, CARROLL,  
DALEY, HORNAMAN, MAHONEY, MIRABITO, MUNDY, MURPHY, SANTONI,  
SCAVELLO, THOMAS, WATERS AND YOUNGBLOOD, DECEMBER 1, 2011

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REFERRED TO COMMITTEE ON APPROPRIATIONS, DECEMBER 1, 2011

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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 2101. (Reserved).

2 Section 2102. Effective date.

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

5 CHAPTER 1

6 GENERAL PROVISIONS

7 Section 101. Short title.

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

10 Section 102. Definitions.

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

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

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

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

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

30 "Domicile." As defined in section 501 of the act of December

1 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling  
2 Act.

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

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

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

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

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

22 "Ordinance." Includes a resolution.

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

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

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

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

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

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

5 Section 103. Scope.

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

9 Section 104. Preemption.

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

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

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

24 CHAPTER 3

25 SUBJECTS OF TAXATION

26 SUBCHAPTER A

27 TAX AUTHORIZATION

28 Section 301. General tax authorization.

29 (a) General rule.--Subject to section 303 and except as  
30 provided in subsection (b), a county shall have the power and

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

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

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

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

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

17 Section 302. Continuity of tax.

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

21 Section 303. Election to participate under act.

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

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

29 (2) A board of county commissioners after making an  
30 election to participate under this act may, after a period of

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

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

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

18 Section 304. Local tax study commission.

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

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

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

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

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

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

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

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

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

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

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

30 (5) Within 120 days of its appointment, the local tax



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

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

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

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

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

1           (10) Receipts are required for all reimbursable  
2 expenses.

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

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

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

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

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

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

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

9 (b) Procedure.--

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

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

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

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

1 county commissioners for each county where the municipality  
2 is located.

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

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

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

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

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

#### 25 SUBCHAPTER B

#### 26 COUNTY SALES, USE AND OCCUPANCY TAX

27 Section 311. Construction.

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

1 the differing situs provisions under section 313, the provisions  
2 of Article II of the Tax Reform Code shall apply to the tax.  
3 Section 312. Imposition of tax.

4 (a) Sales.--

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

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

13 (b) Use.--

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

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

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

26 (c) Occupancy.--

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

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

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

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

11 Section 313. Situs.

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

18 Section 314. Licenses.

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

26 Section 315. Rules and regulations; collection costs.

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

1 Cooperation Authority Act for Cities of the First Class.

2 (b) Administrative costs.--

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

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

14 Section 316. Procedure and administration.

15 (a) Ordinance.--

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

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

30 (3) The board of county commissioners may waive the

1 requirement for a public hearing if the ordinance will be  
2 adopted pursuant to the provisions of section 305.

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

9 (c) Repeal.--

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

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

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

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

28 (a) Funds established in State Treasury.--There is hereby  
29 established in the State Treasury for each county imposing the  
30 tax under section 312 a county sales, use and occupancy tax fund



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

5 (b) Deposits into funds.--

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

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

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

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

28 Section 318. Disbursements.

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

1 in this section.

2 (b) Disbursement to counties.--

3 (1) The State Treasurer shall disburse to a county  
4 imposing the tax under section 312 an amount of money equal  
5 to 50% of the tax deposited in the respective county sales,  
6 use and occupancy tax fund for deposit into the county  
7 general fund for disposition as provided under section  
8 501(a).

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

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

19 (d) Disbursement to municipalities.--

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

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

28 (e) Disbursement to municipal collaborative efforts fund.--  
29 The State Treasurer shall disburse to the municipal  
30 collaborative efforts fund established by the county under

1 section 502 an amount of money equal to 10% of the tax deposited  
2 in the respective county sales, use and occupancy tax fund.

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

10 Section 319. Adoption of municipal ordinances.

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

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

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

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

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

30 (1) Adopts a municipal ordinance containing the

1 statement:

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

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

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

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

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

21 Section 320. Allocations.

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

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

1 tax revenues for the county shall be prorated based upon the  
2 population of the municipality in each county divided by the  
3 total population of the municipality.

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

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

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

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

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

1 (P.L.323, No.130), known as The County Code, the act of June 23,  
2 1931 (P.L.932, No.317), known as The Third Class City Code, the  
3 act of February 1, 1966 (1965 P.L.1656, No.581), known as The  
4 Borough Code, the act of June 24, 1931 (P.L.1206, No.331), known  
5 as the First Class Township Code, and the act of May 1, 1933  
6 (P.L.103, No.69), known as The Second Class Township Code, as  
7 applicable to the municipality.

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

## 11 CHAPTER 5

### 12 DISPOSITION OF TAX REVENUES

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

14 (a) Counties.--

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

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

27 (b) Municipalities.--

28 (1) In the first year of implementation of the taxes  
29 under section 312, no less than 60% of any additional  
30 revenues received by a qualified municipality from the tax

1 shall be used for the following, separately or in  
2 combination:

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

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

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

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

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

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

22 Section 502. Municipal collaborative efforts fund.

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

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

29 (c) Municipal collaborative efforts board.--

30 (1) Upon levy of the taxes under section 312 by a

1 county, a municipal collaborative efforts board will be  
2 established within the county.

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

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

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

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

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



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

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

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

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

20 (d) Disbursements.--

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

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

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

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

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

19 Section 503. Supplemental appropriations for collaborative  
20 services.

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

28 Section 504. Revenue limitation exceptions.

29 (a) Waiver.--A board of county commissioners or the  
30 governing body of a municipality may waive the limitations

1 relating to the reduction or elimination of taxes in sections  
2 501, but only to the degree necessary, in the following cases:

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

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

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

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

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

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

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

29 (8) (i) To respond to a Federal or State statute,  
30 regulation or order adding to or significantly altering

1 responsibilities and duties or requiring expenditure of  
2 funds to the extent not funded by the Federal Government  
3 or State government.

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

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

10 (b) Appeal.--

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

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

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

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

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

29 CHAPTER 7

30 OPTIONAL SALES AND USE TAX

FOR CITIES OF THE FIRST CLASS

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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

1 \$5.51, 5¢ shall be collected.

2 (7) If the purchase price is \$5.51 or more but less than  
3 \$6.51, 6¢ shall be collected.

4 (8) If the purchase price is \$6.51 or more but less than  
5 \$7.51, 7¢ shall be collected.

6 (9) If the purchase price is \$7.51 or more but less than  
7 \$8.51, 8¢ shall be collected.

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

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

12 (12) If the purchase price is more than \$10, 1% of each  
13 \$10 purchase price plus the above bracket charges upon any  
14 fractional part of a \$10 increment shall be collected.

15 Section 704. Situs for imposition of tax.

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

28 (b) Out-of-State delivery.--Subsection (a) does not apply if  
29 the tangible personal property sold is delivered by the retailer  
30 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.



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

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

6 Section 705. Licenses.

7           (a) Issuance and renewal.--

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

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

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

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

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

21 Section 706. Department.

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

24           (1) Promulgate regulations.

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

27           (b) Existing regulations.--The regulations promulgated under  
28 section 270 of the act of March 4, 1971 (P.L.6, No.2), known as  
29 the Tax Reform Code of 1971, shall be applicable to the taxes  
30 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, 2016. Notwithstanding the  
22 expiration of this chapter, tax imposed under section 703 on  
23 sales or uses occurring before July 1, 2016, 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.