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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1377 Session of  
2021

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INTRODUCED BY BOBACK, ZABEL, GALLOWAY, ROWE, MILLARD, BROOKS,  
LEE, MOUL, NEILSON, KEEFER, ISAACSON, INNAMORATO,  
PISCIOTTANO, SANCHEZ, McNEILL, HANBIDGE, SHUSTERMAN, COX,  
T. DAVIS, O'MARA, HELM, BIZZARRO, SOLOMON, DELLOSO, SAYLOR,  
WEBSTER, STRUZZI, HOWARD, OTTEN, HILL-EVANS, ROAE, HENNESSEY,  
HEFFLEY, FRITZ AND JAMES, MAY 10, 2021

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REFERRED TO COMMITTEE ON COMMERCE, MAY 10, 2021

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AN ACT

1 Amending the act of October 6, 1998 (P.L.705, No.92), entitled  
2 "An act providing for the creation of keystone opportunity  
3 zones and keystone opportunity expansion zones to foster  
4 economic opportunities in this Commonwealth, to facilitate  
5 economic development, stimulate industrial, commercial and  
6 residential improvements and prevent physical and  
7 infrastructure deterioration of geographic areas within this  
8 Commonwealth; authorizing expenditures; providing tax  
9 exemptions, tax deductions, tax abatements and tax credits;  
10 creating additional obligations of the Commonwealth and local  
11 governmental units; and prescribing powers and duties of  
12 certain State and local departments, agencies and officials,"  
13 in preliminary provisions, further providing for definitions;  
14 and, in keystone opportunity zones, providing for limitation  
15 on benefits and for zone relocation and further providing for  
16 qualified businesses.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

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

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

4 "Active conduct of a trade or business." As follows:

5 (1) The engagement of an active conduct of a trade or  
6 business by a business that meets any of the following  
7 criteria:

8 (i) The business is subject to tax under Article IV  
9 of the Tax Reform Code of 1971.

10 (ii) In the case of a pass-through entity, the  
11 business is:

12 (A) engaged in a commercial enterprise conducted  
13 for profit and earning net profits as classified  
14 under section 303(a)(2) of the Tax Reform Code of  
15 1971, from the operation of the business within a  
16 subzone, expansion subzone or improvement subzone; or

17 (B) receives net gains or income classified  
18 under section 303(a)(4) of the Tax Reform Code of  
19 1971 derived from renting real or tangible personal  
20 property located in a subzone, improvement subzone or  
21 expansion subzone.

22 (2) The term does not include activity from real estate  
23 investment trusts, venture capital funds and hedge funds.

24 \* \* \*

25 Section 2. This act is amended by adding sections to read:

26 Section 301.8. Limitation on benefits.

27 (a) Limitation.--Except as provided subsection (b), a  
28 business may not receive more than 10 years in the aggregate of  
29 tax exemptions, deductions, abatements or credits under this  
30 act.

1 (b) Exception.--Subsection (a) shall not apply to a business  
2 that receives tax exemptions, deductions, abatements or credits  
3 under any of the following:

4 (1) Section 301.3.

5 (2) Section 301.4(a)(3).

6 (3) Section 1719-E(a.1) of the act of April 9, 1929  
7 (P.L.343, No.176), known as the Fiscal Code.

8 (4) Section 1912-D of the Tax Reform Code of 1971.

9 Section 305.1. Zone relocation.

10 A business that relocates from one active or expired subzone,  
11 improvement subzone or expansion subzone in which the business  
12 received tax exemptions, deductions, abatements or credits under  
13 this act into another subzone, improvement subzone or expansion  
14 subzone may not receive tax exemptions, deductions, abatements  
15 or credits under this act unless the relocation is necessary to  
16 meet the expansion or operational needs of the business and the  
17 business anticipates a significant financial impact on the zone  
18 into which the business is relocating. A business relocating  
19 under this section shall have burden to demonstrate that the  
20 relocation is necessary to meet the expansion or operational  
21 needs of the business and the business anticipates a significant  
22 financial impact on the zone into which the business is  
23 relocating. The department, in consultation with the Department  
24 of Revenue, shall have the sole discretion to determine whether  
25 a business has met the burden required under this section.

26 Section 3. Section 307(b) of the act is amended to read:

27 Section 307. Qualified businesses.

28 \* \* \*

29 (b) Relocation.--Any business that relocates from outside a  
30 subzone, improvement subzone or expansion subzone into a

1 subzone, improvement subzone or expansion subzone shall not  
2 receive any of the exemptions, deductions, abatements or credits  
3 set forth in this act unless that business does one of the  
4 following:

5 (1) increases full-time employment by [at least] the  
6 greater of 20% or five full-time jobs in the first [full  
7 year] three years of operation within the subzone,  
8 improvement subzone or expansion subzone[;] and maintains the  
9 increased full-time employment for the entire period benefits  
10 are received; or

11 (2) makes a capital investment in the property located  
12 within the subzone, improvement subzone or expansion subzone  
13 at least equivalent to [10%] 20% of the gross revenues of  
14 that business in the immediately preceding calendar or fiscal  
15 year.[; or

16 (3) enters into a lease agreement for property located  
17 within the subzone, improvement subzone or expansion subzone:

18 (i) for a term at least equivalent to the duration  
19 of the subzone, improvement subzone or expansion subzone;  
20 and

21 (ii) with aggregate payment under the lease  
22 agreement at least equivalent to 5% of the gross revenues  
23 of that business in the immediately preceding calendar or  
24 fiscal year.

25 The department, in consultation with the Department of Revenue,  
26 may waive or modify the requirements of this subsection, as  
27 appropriate.]

28 Section 4. This act shall take effect in 60 days.