

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1377 Session of 2021

INTRODUCED BY BOBACK, ZABEL, 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

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 15, 2021

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:

1 Section 103. Definitions.

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

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

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

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

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

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

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

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

25 * * *

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

27 Section 301.8. Limitation on benefits.

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

1 act.

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

5 ~~(1) Section 301.3.~~

6 ~~(2) Section 301.4(a)(3).~~

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

9 ~~(4) Section 1912 D of the Tax Reform Code of 1971.~~

10 SECTION 1. THE ACT OF OCTOBER 6, 1998 (P.L.705, NO.92), <--
11 KNOWN AS THE KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY
12 EXPANSION ZONE AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONE ACT, IS
13 AMENDED BY ADDING A SECTION TO READ:

14 Section 305.1. Zone relocation.

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

1 required under this section SUBSECTION. <--

2 ~~Section 3. Section 307(b) of the act is amended to read:~~ <--

3 ~~Section 307. Qualified businesses.~~

4 * * *

5 ~~(b) Relocation. Any business that relocates from outside a~~
6 ~~subzone, improvement subzone or expansion subzone into a~~
7 ~~subzone, improvement subzone or expansion subzone shall not~~
8 ~~receive any of the exemptions, deductions, abatements or credits~~
9 ~~set forth in this act unless that business does one of the~~
10 ~~following:~~

11 ~~(1) increases full time employment by [at least] the~~
12 ~~greater of 20% or five full time jobs in the first [full~~
13 ~~year] three years of operation within the subzone,~~
14 ~~improvement subzone or expansion subzone[;] and maintains the~~
15 ~~increased full time employment for the entire period benefits~~
16 ~~are received; or~~

17 ~~(2) makes a capital investment in the property located~~
18 ~~within the subzone, improvement subzone or expansion subzone~~
19 ~~at least equivalent to [10%] 20% of the gross revenues of~~
20 ~~that business in the immediately preceding calendar or fiscal~~
21 ~~year.[; or~~

22 ~~(3) enters into a lease agreement for property located~~
23 ~~within the subzone, improvement subzone or expansion subzone:~~

24 ~~(i) for a term at least equivalent to the duration~~
25 ~~of the subzone, improvement subzone or expansion subzone;~~
26 ~~and~~

27 ~~(ii) with aggregate payment under the lease~~
28 ~~agreement at least equivalent to 5% of the gross revenues~~
29 ~~of that business in the immediately preceding calendar or~~
30 ~~fiscal year.~~

1 ~~The department, in consultation with the Department of Revenue,~~
2 ~~may waive or modify the requirements of this subsection, as~~
3 ~~appropriate.]~~

4 (B) EXEMPTION.--A BUSINESS MAY NOT BE SUBJECT TO SUBSECTION <--

5 (A), IF ALL THE FOLLOWING APPLY:

6 (1) THE BUSINESS APPLIED FOR AND RECEIVED A TAX
7 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT
8 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

9 (2) THE BUSINESS MADE A COMMITMENT TO RELOCATE TO
10 ANOTHER SUBZONE, IMPROVEMENT SUBZONE OR EXPANSION SUBZONE
11 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. THE BUSINESS
12 SHALL HAVE THE BURDEN TO DEMONSTRATE TO THE DEPARTMENT
13 EVIDENCE OF THE COMMITMENT.

14 Section 4 2. This act shall take effect in 60 days. <--