

## No. 2002-217

## AN ACT

## SB 1478

Amending the act of October 6, 1998 (P.L.705, No.92), entitled, as amended, "An act providing for the creation of keystone opportunity zones and keystone opportunity expansion zones to foster economic opportunities in this Commonwealth, to facilitate economic development, stimulate industrial, commercial and residential improvements and prevent physical and infrastructure deterioration of geographic areas within this Commonwealth; authorizing expenditures; providing tax exemptions, tax deductions, tax abatements and tax credits; creating additional obligations of the Commonwealth and local governmental units; and prescribing powers and duties of certain State and local departments, agencies and officials," further providing for definitions, for keystone opportunity zones and for keystone opportunity expansion zones; providing for keystone opportunity improvement zones; further providing for applications, for review, for criteria and for qualified businesses; providing for decertification; and further providing for sales and use tax, for personal income tax, for residency, for corporate net income tax, for capital stock franchise tax, for taxes on financial institutions, for job tax credits, for job creation tax credits, for real property tax, for local income and privilege tax, for mercantile licenses, for local sales and use tax, for recapture, for code compliance, for applications, for State tax credits and for expiration.

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

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

Section 103. 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:

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***"Improvement subzone."*** A clearly defined geographic area.

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Section 2. Sections 301 and 301.1 of the act are amended by adding subsections to read:

Section 301. Keystone opportunity zones.

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***(f) Authorization to enhance existing subzones.—Unless as a result of a request the limitation on size established in subsection (a) would be exceeded, a subzone of a keystone opportunity zone may request to enhance its size. The request to enhance a subzone must be made on a subzone-by-subzone basis. A qualified political subdivision having an approved subzone within its jurisdiction which is seeking to enhance its size must pass the required ordinances, resolutions or other required action of the qualified political subdivision for the necessary exemptions,***

*deductions, abatements or credits pursuant to this act for the period beginning on the date of designation and ending on the date the subzone expires and must submit copies of the ordinance, resolution or other action to the department by June 1, 2003.*

Section 301.1. Keystone opportunity expansion zones.

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*(e) Authorization to enhance existing expansion subzones.—Unless as a result of a request the limitation on size established in subsection (a) would be exceeded, an expansion subzone of a keystone opportunity expansion zone may request to enhance its size. The request to enhance the expansion subzone must be made on a subzone-by-subzone basis. A qualified political subdivision having an approved expansion subzone within its jurisdiction which is seeking to enhance its size must pass the required ordinances, resolutions or other required action of the qualified political subdivision for the necessary exemptions, deductions, abatements or credits pursuant to this act for the period beginning on the date of designation and ending on the date the expansion subzone expires and must submit copies of the ordinance, resolution or other action to the department by June 1, 2003.*

Section 3. The act is amended by adding a section to read:

*Section 301.2. Keystone opportunity improvement zones.*

*(a) Establishment.—There is established within the department a program for keystone opportunity improvement zones. A keystone opportunity improvement zone shall be comprised of improvement subzones consisting of deteriorated property designated by the Governor.*

*(b) Proposal.—By January 1, 2003, and notwithstanding any designation under sections 301 and 301.1, the Governor may, by executive order, designate deteriorated property in this Commonwealth as a proposed improvement subzone. The executive order shall specify the period of time, not to exceed 15 years, for which the tax exemptions, deductions, abatements or credits provided by this act may be granted. The department shall immediately notify political subdivisions located within the area designated.*

*(c) Application.—By June 1, 2003, a political subdivision may apply to the department for approval of the designation of the deteriorated property as an improvement subzone for the period designated under subsection (b). The application must be on a form provided by the department and must include a copy of an ordinance, resolution or other required action from the governing body of the political subdivision exempting or providing the deductions, abatements or credits required by Chapter 7 to qualified persons and qualified businesses within the proposed improvement subzone. Except as provided in section 309, all appropriate ordinances and resolutions must be effective for the period specified in the executive order and must be binding and nonrevocable on the political subdivision.*

**(d) Designation.**—*If all political subdivisions within a proposed improvement subzone submit timely completed applications, the department shall approve the applications and designate the property as an improvement subzone. If a proposed improvement subzone is an existing subzone or an existing expansion subzone, failure of a political subdivision to submit the application as required by this section shall not terminate the existing designation as either a subzone or an expansion subzone. Qualified persons and qualified businesses within the improvement subzone shall be entitled to the State exemptions, deductions, abatements or credits set forth in this act and the local tax exemptions, deductions, abatements or credits set forth in this act for the period for which the improvement subzone has been designated.*

Section 4. Sections 302, 303, 304 and 307 of the act, amended December 20, 2000 (P.L.841, No.119), are amended to read:  
Section 302. Application.

(a) Initial application.—One or more political subdivisions, or a designee of one or more political subdivisions, may apply to the department to designate deteriorated property within the political subdivision or portions thereof a subzone or expansion subzone. The application shall contain the following:

(1) The geographic area of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone. The geographic area shall be located within the boundaries of the participating political subdivision and shall not contain more than 5,000 acres in the case of a keystone opportunity zone or 1,500 acres in the case of a keystone opportunity expansion zone.

(2) An opportunity plan that shall include the following:

(i) A detailed map of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone, including geographic boundaries, total area and present use and conditions of the land and structures of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(ii) Evidence of support from and participation of local government, school districts and other educational institutions, business groups, community organizations and the public.

(iii) A proposal to increase economic opportunity, reduce crime, improve education, facilitate infrastructure improvement, reduce the local regulating burden and identify potential jobs and job training opportunities and which states whether or not the zone is located in an area which has tax revenue dedicated to the payment of debt.

(iv) A description of the current social, economic and demographic characteristics of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and anticipated improvements in education, health, human services,

public safety and employment that will result from keystone opportunity zone or keystone opportunity expansion zone designation.

(v) A description of anticipated activity in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone, including, but not limited to, industrial use, industrial site reuse, commercial or retail use and residential use.

(vi) Evidence of potential private and public investment in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(vii) The role of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone in regional economic and community development.

(viii) Plans to utilize existing resources for the administration of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(ix) Any other information deemed appropriate by the department.

(3) A report on youth at risk to include issues relating to health, welfare and education.

(4) The duration of the proposed subzones or proposed expansion subzones. The duration of a subzone may not exceed 15 years. The duration of an expansion subzone may not exceed 13 years.

(5) A formal, binding ordinance or resolution passed by every political subdivision in which the proposed subzone or proposed expansion subzone is located that specifically provides for all local tax exemptions, deductions, abatements or credits for persons and businesses set forth in this act.

(6) Evidence that the proposed keystone opportunity zone or proposed keystone opportunity expansion zone meets the required criteria under section 304.

***(a.1) Enhancement application.—One or more political subdivisions within an existing keystone opportunity zone or keystone opportunity expansion zone, or a designee of one or more political subdivisions within an existing keystone opportunity zone or keystone opportunity expansion zone, may apply to the department to designate deteriorated property within the political subdivision or portions of the political subdivision as enhancements to a subzone or an expansion subzone. The application must satisfy the requirements of subsection (a)(1), (2), (3), (5) and (6).***

(b) Participation limitation.—A political subdivision shall not be a part of more than one proposed keystone opportunity zone or proposed keystone opportunity expansion zone. A proposed expansion subzone may not overlap the boundaries of a subzone.

(c) Application limitation.—A political subdivision may submit only one application to the department for authorization as a keystone opportunity zone. A political subdivision may submit only one application to the department for authorization as a keystone opportunity expansion

zone. *A political subdivision may submit only one application to the department for designation of enhancements to existing keystone opportunity zones and keystone opportunity expansion zones. If a political subdivision seeks to enhance its existing keystone opportunity zone under section 301(f) or its existing keystone opportunity expansion zone under section 301.1(e) and the Governor has designated an improvement subzone located within the political subdivision under section 301.2(b), the political subdivision shall submit one application containing both the request required by section 301(f) or 301.1(e) and the application required by section 301.2(c).*

Section 303. Review.

(a) Action of department.—The department, in consultation with the Department of Revenue, shall review all completed applications submitted under this act. An application for authorization as a keystone opportunity zone and designation of subzones shall be received by the department on or before September 30, 1998, in order to be considered by the department. An application for authorization as a keystone opportunity expansion zone and designation of expansion subzones shall be received by the department on or before February 28, 2001, in order to be considered by the department. *An application for enhancement of an existing keystone opportunity zone or of an existing keystone opportunity expansion zone must be received by the department on or before June 1, 2003.*

(b) Process.—The department shall authorize up to 12 keystone opportunity zones from applications meeting the criteria in section 304 based upon need and likelihood of success. The department shall authorize up to 12 keystone opportunity expansion zones from applications meeting the criteria in section 304 based upon need and likelihood of success. Additionally, the department shall not alter the geographic boundaries of a subzone or expansion subzone or the duration of a subzone or expansion subzone described in an application. *The department shall designate additional enhancements to existing keystone opportunity zones and keystone opportunity expansion zones from applications meeting the criteria in section 304 based upon need and likelihood of success.*

(c) Authorizations.—The department shall authorize all keystone opportunity zones by November 30, 1998. The department shall authorize all keystone opportunity expansion zones by March 30, 2001. *The department shall designate all enhancements to existing keystone opportunity zones and keystone opportunity expansion zones by October 1, 2003.*

(d) Effective date of designation.—The designation of a subzone under this act shall take effect on January 1, 1999. The designation of an expansion subzone under this act shall take effect on January 1, 2001. *The designation of enhancements to existing keystone opportunity zones and keystone opportunity expansion zones under this act shall take effect January 1, 2004.*

(e) Extension.—The department may extend the deadline for the receipt of applications for keystone opportunity zones until December 31, 1998, if all 12 zones have not been authorized and the extension is necessary to allow eligible political subdivisions to apply. The department shall authorize additional keystone opportunity zones under this subsection by February 28, 1999. The authorization shall take effect January 1, 1999, or if the authorization occurs after January 1, 1999, that subsequent authorization shall for all purposes be retroactive to January 1, 1999. The keystone opportunity zone authorization shall end as provided in section 301(b).

Section 304. Criteria for authorization of keystone opportunity zone.

(a) Specific criteria.—In order to qualify for authorization under this act, the proposed keystone opportunity zone or proposed keystone opportunity expansion zone shall meet at least two of the following criteria:

- (1) At least 20% of the population is below the poverty level.
- (2) The unemployment rate is 1.25 times the Statewide average.
- (3) At least 20% of all real property within a five-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in a nonurban area is deteriorated or underutilized.
- (4) At least 20% of all real property within a one-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in an urban area is deteriorated or underutilized.
- (5) At least 20% of all occupied housing within a two-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in a nonurban area is deteriorated.
- (6) At least 20% of all occupied housing within a one-mile radius of the proposed keystone opportunity zone, proposed keystone opportunity expansion zone, proposed subzone or proposed expansion subzone in an urban area is deteriorated.
- (7) In an urban area, the median family income is 80% or less of the urban median family income for that metropolitan statistical area.
- (8) In an area other than an urban area, the median family income is 80% or less of the Statewide nonurban median family income.
- (9) The population loss exceeds 10% in an area that includes the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and its surrounding area but is not larger than the county or counties in which the proposed keystone opportunity zone or proposed keystone opportunity expansion zone is located, based on census data for the period between 1980 and 1990 or census estimates since 1990 establishing a pattern of population loss.

(10) The political subdivision in which the proposed keystone opportunity zone or proposed keystone opportunity expansion zone is located has experienced a sudden and/or severe job loss.

(11) At least 33% of the real property in a proposed keystone opportunity zone or proposed keystone opportunity expansion zone in a nonurban area would otherwise remain underdeveloped or nonperforming due to physical characteristics of the real property.

(12) The area has substantial real property with adequate infrastructure and energy to support new or expanded development.

(b) Additional criteria.—In addition to the required criteria under subsection (a), the department shall consider the following criteria:

(1) Evidence of distress, including, but not limited to, unemployment, percentage of population below 80% of the State median income, poverty rate, deteriorated property and adverse economic and socioeconomic conditions in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(2) The strength and viability of the proposed goals, objectives and strategies in the opportunity plan.

(3) Whether the opportunity plan is creative and innovative in comparison to other applications.

(4) Local public and private commitment to the development of the proposed keystone opportunity zone or proposed keystone opportunity expansion zone and the potential cooperation of surrounding communities.

(5) Existing resources available to the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(6) How keystone opportunity zone or keystone opportunity expansion zone authorization or economic redevelopment relates to other current economic and community development projects and to regional initiatives or programs.

(7) How the local regulatory burden will be eased for businesses operating in the proposed keystone opportunity zone or proposed keystone opportunity expansion zone.

(8) Proposals to implement educational opportunities and improvements.

(9) Crime statistics and proposals to implement local crime reduction measures.

(10) Proposals to establish and link job creation and job training.

(c) Tax exemption ordinances.—An area shall not be authorized as a keystone opportunity zone or a keystone opportunity expansion zone unless, as a part of the application, each political subdivision in which the proposed subzone or proposed expansion subzone is to be located adopts and provides a copy of an ordinance, resolution or other required action from the governing body of each political subdivision that exempts or provides deductions, abatements or credits to qualified persons and qualified

businesses from local taxes upon designation of the area as a subzone or expansion subzone. All appropriate ordinances and resolutions shall be effective on or before January 1, 1999, if designation as a subzone is granted. All appropriate ordinances and resolutions shall be effective on January 1, 2001, if designation as an expansion subzone is granted. **[The] All appropriate ordinances and resolutions shall be effective January 1, 2004, if designation of enhancements to an existing keystone opportunity zone or keystone opportunity expansion zone are granted. Except as provided in section 309, the resolution, ordinance or other required action shall be binding and nonrevocable on the qualified political subdivisions for the duration of the opportunity plan.**

(d) Urban areas.—The department shall promulgate guidelines that include the definition of “urban area” for the purposes of receiving applications for authorization as a keystone opportunity zone or keystone opportunity expansion zone.

Section 307. Qualified businesses.

(a) Qualifications.—In order to qualify each year for a tax exemption, deduction, abatement or credit under this act, a business shall own or lease real property in a subzone, *improvement subzone* or expansion subzone from which the business actively conducts a trade, profession or business. The qualified business shall receive certification from the department that the business is located[,] and is in the active conduct of a trade, profession or business, within the subzone, *improvement subzone* or expansion subzone. The business shall obtain annual renewal of the certification from the department to continue to qualify under this section.

(b) Relocation.—Any business that relocates from outside a subzone, *improvement subzone* or expansion subzone into a subzone, *improvement subzone* or expansion subzone shall not receive any of the exemptions, deductions, abatements or credits set forth in this act unless that business either:

(1) increases full-time employment by at least 20% in the first full year of operation within the subzone, *improvement subzone* or expansion subzone; or

(2) makes a capital investment in the property located within a subzone, *improvement subzone* or expansion subzone equivalent to 10% of the gross revenues of that business in the immediately preceding calendar or fiscal year.

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

Section 5. The act is amended by adding a section to read:

**Section 309. Decertification.**

(a) *Application.—One or more political subdivisions, or a designee of one or more political subdivisions, may apply to the department to decertify and remove the designation of deteriorated property as part of a*



*subzone, improvement subzone or expansion subzone. The application must contain all of the following:*

*(1) An identification of the property to be removed.*

*(2) A copy of an agreement which was supported by consideration in which each entity which possesses an interest in the real property to be removed, including any holder of an option either to purchase the real estate or to enter into a ground lease of the real estate or any other leasehold interest in the real estate, waives the party's right to any exemptions, deductions, abatements or credits granted by this act.*

*(3) A copy of a binding ordinance, resolution or other governing document passed by the political subdivision removing any exemptions, deductions, abatements or credits granted by this act effective upon decertification by the department.*

*(b) Process.—The department may grant the request to decertify and remove the property provided that completed applications have been submitted by all qualified political subdivisions in which the property is located.*

Section 6. Sections 501, 511, 512, 513, 515, 516, 517, 518, 519, 701, 702, 703, 704, 705, 902, 904, 907, 1103 and 1309 of the act, amended or added December 20, 2000 (P.L.841, No.119), are amended to read:

Section 501. State taxes.

(a) General rule.—A person who is a resident of a subzone, *improvement subzone* or expansion subzone, a qualified business or a nonresident under section 513 shall receive the exemptions, deductions, abatements or credits as provided in this chapter and Chapter 7 for the duration of the subzone, *improvement subzone* or expansion subzone designation. Exemptions, deductions, abatements or credits shall expire on the date of expiration of the subzone, *improvement subzone* or expansion subzone designation.

(b) Construction.—The Department of Revenue shall administer, construe and enforce the provisions of this chapter in conjunction with Articles II, III, IV, VI, VII, [VII-A,] IX and XV of the Tax Reform Code of 1971.

Section 511. Sales and use tax.

(a) Exemption.—Sales at retail of services or tangible personal property, other than motor vehicles, to a qualified business for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business at its facility located within a subzone, *improvement subzone* or expansion subzone are exempt from the sales and use tax imposed under Article II of the Tax Reform Code of 1971. *No person shall be allowed an exemption for sales conducted prior to designation of the real property as part of a subzone or expansion subzone.*

(b) Construction contracts.—For any construction contract performed in a subzone, *improvement subzone* or expansion subzone, the exemption provided in subsection (a) shall only apply to the sale at retail or use of

building machinery and equipment to a qualified business, or to a construction contractor pursuant to a construction contract with a qualified business, for the exclusive use, consumption and utilization by the qualified business at its facility in a subzone, *improvement subzone* or expansion subzone. For the purposes of the subzone, *improvement subzone* or expansion subzone exemption, building machinery and equipment shall include distribution equipment purchased for the exclusive use, consumption and utilization in a subzone, *improvement subzone* or expansion subzone facility.

Section 512. Personal income tax.

(a) General rule.—A person shall be allowed an exemption for:

(1) Compensation received during the time period when the person was a resident of a subzone, *improvement subzone* or expansion subzone.

(2) Net income from the operation of a qualified business received by a resident or nonresident of a subzone, *improvement subzone* or expansion subzone attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone, determined in accordance with section 515, except that any business that operates both within and outside this Commonwealth, before computing its subzone, *improvement subzone* or expansion subzone exemption, shall first determine its Pennsylvania activity over its activity everywhere by applying the three-factor apportionment formula as set forth in Department of Revenue personal income tax regulations applicable to income apportionment in connection with a business, trade or profession carried on both within and outside this Commonwealth.

(3) All of the following:

(i) Net gains or income, less net losses, derived by a resident or nonresident of a subzone, *improvement subzone* or expansion subzone from the sale, exchange or other disposition of real or tangible personal property located in a subzone, *improvement subzone* or expansion subzone as determined in accordance with accepted accounting principles and practices. The exemption provided in this subparagraph shall not apply to the sale, exchange or other disposition of any stock of goods, merchandise or inventory, or any operational assets unless the transfer is in connection with the sale, exchange or other disposition of all of the assets in complete liquidation of a qualified business located in a subzone, *improvement subzone* or expansion subzone. This subparagraph shall apply to intangible personal property employed in a trade, profession or business in a subzone or expansion subzone by a qualified business, but only when transferred in connection with a sale, exchange or other disposition of all of the assets in complete liquidation of the qualified business in the subzone, *improvement subzone* or expansion subzone.

(ii) Net gains, less net losses, realized by a resident of a subzone, *improvement subzone* or expansion subzone from the sale, exchange or disposition of intangible personal property or obligations issued on or after February 1, 1994, by the Commonwealth, a public authority, commission, board or other Commonwealth agency, political subdivision or authority created by a political subdivision or by the Federal Government as determined in accordance with accepted accounting principles and practices.

(iii) The exemption from income for gain or loss provided for in subparagraphs (i) and (ii) shall be prorated based on the following:

(A) In the case of gains, less net losses, in subparagraph (i), the percentage of time, based on calendar days, the property located in a subzone, *improvement subzone* or expansion subzone was held by a resident or nonresident of the zone during the time period the zone was in effect in relation to the total time the property was held.

(B) In the case of gains, less net losses, in subparagraph (ii), the percentage of time, based on calendar days, the property was held by the taxpayer while a resident of a subzone, *improvement subzone* or expansion subzone in relation to the total time the property was held.

(4) Net gains or income derived from or in the form of rents received by a person, whether a resident or nonresident of a subzone, *improvement subzone* or expansion subzone, to the extent that income or loss from the rental of real or tangible personal property is allocable to a subzone, *improvement subzone* or expansion subzone. For purposes of calculating this exemption:

(i) Net rents derived from real or tangible personal property located in a subzone, *improvement subzone* or expansion subzone are allocable to a subzone, *improvement subzone* or expansion subzone.

(ii) If the tangible personal property was used both within and without the subzone, *improvement subzone* or expansion subzone during the taxable year, only the net income attributable to use in the subzone, *improvement subzone* or expansion subzone is exempt. The net rental income shall be multiplied by a fraction, the numerator of which is the number of days the property was used in the subzone, *improvement subzone* or expansion subzone and the denominator which is the total days of use.

(5) Dividends received during the time the person was a resident of a subzone, *improvement subzone* or expansion subzone.

(6) Interest received during the time period the person was a resident of a subzone, *improvement subzone* or expansion subzone.

(7) The part of the income or gains received by an estate or trust for its taxable year ending within or with the resident-beneficiary's taxable year which, under the governing instrument and applicable State law, is

required to be distributed currently or is in fact paid or credited to the resident-beneficiary and which would have been exempt under this act if received by a resident-beneficiary directly.

(a.1) Exemption.—Beginning in taxable year 1999, a person located in a designated subzone shall be allowed an exemption under subsection (a) from the tax imposed by Article III of the Tax Reform Code of 1971 for the classes of income set forth in subsection (a). Beginning in taxable year 2001, a person located in a designated expansion subzone shall be allowed an exemption under subsection (a) from the tax imposed by Article III of the Tax Reform Code of 1971 for the classes of income set forth in subsection (a). ***No person shall be allowed an exemption for activities conducted prior to designation of the real property as part of a subzone or expansion subzone.***

(a.2) Pass-through entities.—The exemptions provided for in subsection (a)(2), (3)(i) and (4) shall apply to all of the following:

(1) The income or gain of a partnership or association. The partner or member shall be entitled to the exemptions under this section for the partner's or member's share, whether or not distributed, of the income or gain received by the partnership or association for its taxable year.

(2) The income or gain of a Pennsylvania S corporation. The shareholder shall be entitled to the exemptions under this section for the shareholder's pro rata share, whether or not distributed, of the income or gain received by the corporation for its taxable year ending within or with the shareholder's taxable year.

(b) Limitation.—A partnership, association, Subchapter S corporation, resident or nonresident may not apply an exemption from income under this act for any class of income against any other classes of income or gain. A partnership, association, Subchapter S corporation, resident or nonresident may not carry back or carry forward any exemption under this act from year to year. The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article III of the Tax Reform Code of 1971 for the tax year.

(c) Section not applicable to certain entities.—Any portion of net income or gain that is attributable to operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company or entity which would qualify as a regulated investment company under Article IV of the Tax Reform Code of 1971 or would qualify as a holding company under Article VI of the Tax Reform Code of 1971 shall not be used to calculate an exemption under this section. This subsection shall not apply to the exemption from tax provided in subsection (a)(5).  
Section 513. Residency considerations.

If a person completes the residency requirements under section 306 or if a nonresident realizes income attributable to business activity or property within a subzone, ***improvement subzone*** or expansion subzone on or before the end of the tax year, the person may claim the exemptions from income

for the items set forth in section 512 for that portion of the tax year that the person was a resident or for that portion of the tax year during which the area is designated as a subzone, *improvement subzone* or expansion subzone.

Section 515. Corporate net income tax.

(a) Credits.—For the tax years that begin on or after January 1, 1999, a corporation that is a qualified business under this act may claim a credit against the tax imposed by Article IV of the Tax Reform Code of 1971 for tax liability attributable to business activity conducted within the subzone in the taxable year. For the tax years that begin on or after January 1, 2001, a corporation that is a qualified business under this act may claim a credit against the tax imposed by Article IV of the Tax Reform Code of 1971 for tax liability attributable to business activity conducted within the expansion subzone in the taxable year. *For tax years that begin on or after January 1, 2004, a corporation which is a qualified business under this act may claim a credit against the tax imposed by Article IV of the Tax Reform Code of 1971 for tax liability attributable to business activity conducted within the improvement subzone in the taxable year. No credit may be claimed for activities conducted prior to designation of the real property as part of a subzone or expansion subzone.* The business activity must be conducted directly by a corporation in the subzone, *improvement subzone* or expansion subzone in order for the corporation to claim the tax credit.

(b) Tax liability determinations.—The corporate tax liability attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone shall be determined by multiplying the corporation's taxable income that is attributable to business activity conducted within the subzone or expansion subzone by the rate of tax imposed under Article IV of the Tax Reform Code of 1971 for the taxable year.

(c) Determinations of attributable tax liability.—Tax liability attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone shall be computed, construed, administered and enforced in conformity with Article IV of the Tax Reform Code of 1971 and with specific reference to the following:

(1) If the entire business of the corporation in this Commonwealth is transacted wholly within the subzone, *improvement subzone* or expansion subzone, the taxable income attributable to business activity within a subzone, *improvement subzone* or expansion subzone shall consist of the Pennsylvania taxable income as determined under Article IV of the Tax Reform Code of 1971.

(2) If the entire business of the corporation in this Commonwealth is not transacted wholly within the subzone, *improvement subzone* or expansion subzone, the taxable income of a corporation in a subzone, *improvement subzone* or expansion subzone shall be determined upon such portion of the Pennsylvania taxable income of such corporation attributable to business activity conducted within the subzone,

*improvement subzone* or expansion subzone and apportioned in accordance with subsection (d).

(d) Income apportionment.—The taxable income of a corporation that is a qualified business shall be apportioned to the subzone, *improvement subzone* or expansion subzone by multiplying the Pennsylvania taxable income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three, in accordance with the following:

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the subzone, *improvement subzone* or expansion subzone during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sales price of the property.

(2) (i) The payroll factor is a fraction, the numerator of which is the total amount paid in the subzone, *improvement subzone* or expansion subzone during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid in this Commonwealth during the tax period.

(ii) Compensation is paid in the subzone, *improvement subzone* or expansion subzone if:

(A) the person's service is performed entirely within the subzone, *improvement subzone* or expansion subzone;

(B) the person's service is performed both within and without the subzone, *improvement subzone* or expansion subzone, but the service performed without the subzone, *improvement subzone* or expansion subzone is incidental to the person's service within the subzone, *improvement subzone* or expansion subzone; or

(C) some of the service is performed in the subzone, *improvement subzone* or expansion subzone and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the subzone, *improvement subzone* or expansion subzone, or the base of operations or the place from which the service is directed or controlled is not in any location in which some part of the service is performed, but the person's residence is in the subzone, *improvement subzone* or expansion subzone.

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

(i) Sales of tangible personal property are in the subzone, *improvement subzone* or expansion subzone if the property is delivered or shipped to a purchaser within the subzone, *improvement subzone* or expansion subzone regardless of the F.O.B. point or other conditions of the sale.

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

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

(B) the income-producing activity is performed both within and without the subzone, *improvement subzone* or expansion subzone and a greater proportion of the income-producing activity is performed in the subzone, *improvement subzone* or expansion subzone than in any other location, based on costs of performance.

(e) Computation.—A corporation shall compute its Commonwealth taxable income in conformity with Article IV of the Tax Reform Code of 1971 with no adjustments or subtractions for subzone, *improvement subzone* or expansion subzone taxable income.

(f) Limitation on amount of credit.—The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article IV of the Tax Reform Code of 1971 for the tax year.

(g) Section not applicable to certain businesses.—Any portion of the taxpayer's taxable income that is attributable to the operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company, a corporation that qualifies as a regulated investment company under Article IV of the Tax Reform Code of 1971 or holding company as defined in Article VI of the Tax Reform Code of 1971 shall not be used to calculate a credit under this section.

Section 516. Capital stock franchise tax.

(a) Credits.—For tax years that begin on or after January 1, 1999, a corporation that is a qualified business under this act may claim a credit against the tax imposed by Article VI of the Tax Reform Code of 1971 for tax liability attributable to the capital employed within the subzone in the taxable year. For tax years that begin on or after January 1, 2001, a corporation that is a qualified business under this act may claim a credit against the tax imposed by Article VI of the Tax Reform Code of 1971 for tax liability attributable to the capital employed within the expansion subzone in the taxable year. *For tax years that begin on or after January 1, 2004, a corporation which is a qualified business under this act may claim a credit against the tax imposed by Article VI of the Tax Reform Code of 1971 for tax liability attributable to the capital employed within the improvement subzone in the taxable year. No credit may be claimed for capital employed prior to designation of the real property as part of a subzone or expansion subzone.* The business activity must be conducted

directly by a corporation in the subzone or expansion subzone in order for the corporation to claim the tax credit.

(b) Tax liability.—The corporation's tax liability attributable to capital employed within a subzone, *improvement subzone* or expansion subzone shall be determined by multiplying the corporation's taxable value attributable to capital employed within the subzone, *improvement subzone* or expansion subzone by the rate of tax imposed under Article VI of the Tax Reform Code of 1971 for the taxable year. The corporation shall compute its Pennsylvania taxable value in conformity with Article VI of the Tax Reform Code of 1971 with no adjustments or subtractions for the capital employed in the subzone, *improvement subzone* or expansion subzone.

(c) Determination of attributable tax liability.—The determination of the corporation's taxable value attributable to the capital employed within a subzone, *improvement subzone* or expansion subzone shall be determined with specific reference to the following:

(1) If the entire business of the corporation in this Commonwealth is transacted wholly within a subzone, *improvement subzone* or expansion subzone, the taxable value attributable to the capital employed within a subzone, *improvement subzone* or expansion subzone shall consist of the Pennsylvania taxable value as determined under Article VI of the Tax Reform Code of 1971.

(2) If the entire business of the corporation in this Commonwealth is not wholly transacted within a subzone, *improvement subzone* or expansion subzone, the taxable value of a corporation in a subzone, *improvement subzone* or expansion subzone shall be determined upon such portion of the Pennsylvania taxable value attributable to the capital employed within the subzone, *improvement subzone* or expansion subzone by employing the apportionment factors set forth in section 515(d).

(e) Limitation on amount of credit.—The credit allowed under this section shall not exceed the tax liability of the taxpayer under Article VI of the Tax Reform Code of 1971 for the tax year.

(f) Credit not available.—Any portion of the taxpayer's tax liability that is attributable to the capital employed in the operation of a railroad, truck, bus or airline company, pipeline or natural gas company, water transportation company, a corporation that qualifies as a regulated investment company under Article IV of the Tax Reform Code of 1971 or holding company as defined in Article VI of the Tax Reform Code of 1971 shall not be used to calculate a credit under this section.

Section 517. Bank and trust company shares tax, alternative bank and trust company shares tax and mutual thrift institutions tax.

(a) Credits.—For tax years that begin on or after January 1, 2001, an institution that is a qualified business under this act may claim a credit against the tax imposed by Article VII[, VII-A] or XV of the Tax Reform Code of 1971 for tax liability attributable to business activity conducted



within the subzone or expansion subzone in the taxable year. *For tax years that begin on or after January 1, 2004, an institution which is a qualified business under this act may claim a credit against the tax imposed by Article VII or XV of the Tax Reform Code of 1971 for tax liability attributable to business activity conducted within an improvement subzone in the taxable year. No credit may be claimed for business activity conducted prior to designation of the real property as part of a subzone or expansion subzone.* The business activity must be conducted directly by an institution in the subzone, *improvement subzone* or expansion subzone in order for the institution to claim the tax credit.

(b) Tax liability.—The institution's tax liability attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone shall be determined by multiplying the taxable amount of its shares or net income that is attributable to business activity conducted within the subzone, *improvement subzone* or expansion subzone by the rate of tax imposed under Article VII[, VII-A] or XV of the Tax Reform Code of 1971 for the taxable year. The institution shall compute the Pennsylvania taxable amount of its shares or net income in conformity with Article VII[, VII-A] or XV of the Tax Reform Code of 1971.

(c) Determination of attributable taxable liability.—The taxable shares or the income of an institution that is a qualified business shall be apportioned to the subzone, *improvement subzone* or expansion subzone by multiplying the Pennsylvania taxable shares or income by a fraction, the numerator of which is the payroll factor plus the receipts factor plus the deposits factor and the denominator of which is three.

(1) The payroll factor is a fraction, the numerator of which is the total wages paid in a subzone, *improvement subzone* or expansion subzone during the tax period by the taxpayer and the denominator of which is the total wages paid in this Commonwealth during the period. Wages are paid in a subzone, *improvement subzone* or expansion subzone if they are paid to an employee having a regular presence in the subzone, *improvement subzone* or expansion subzone.

(2) The receipts factor is a fraction, the numerator of which is total receipts of the taxpayer in a subzone, *improvement subzone* or expansion subzone during the tax period and the denominator of which is the total receipts located in this Commonwealth. Receipts do not include principal repayments on loans or credit, travel and entertainment cards. Receipts from the sale or disposition of intangible and tangible property include only the net gain received from the sale or disposition. The location of receipts shall be determined as follows:

(i) Receipts from loans primarily secured by real property are located in a subzone, *improvement subzone* or expansion subzone if the predominant portion of the real property is located in the subzone, *improvement subzone* or expansion subzone and the application and

negotiation or administrative responsibility occurs at a qualified business.

(ii) Receipts from loans not primarily secured by real property are located in a subzone, *improvement subzone* or expansion subzone if the obligor, in the case of an individual, resides in a subzone or expansion subzone or, in the case of a corporation, if the corporation's commercial domicile is located in a subzone, *improvement subzone* or expansion subzone and the application and negotiation or administrative responsibility occurs at a qualified business.

(iii) Receipts from performance of services are located in a subzone, *improvement subzone* or expansion subzone if the services are performed in the subzone, *improvement subzone* or expansion subzone. If services are performed partly within the subzone, *improvement subzone* or expansion subzone and partly outside the subzone, *improvement subzone* or expansion subzone, the subzone, *improvement subzone* or expansion subzone receipts shall be the ratio that the time spent in performing the services in the subzone, *improvement subzone* or expansion subzone bears to the total time spent in performing the services in this Commonwealth. Time spent in performing services in the subzone, *improvement subzone* or expansion subzone is the time spent by employees having a regular presence in the subzone, *improvement subzone* or expansion subzone in performing the services.

(iv) Receipts from lease transactions are located in a subzone, *improvement subzone* or expansion subzone if the leased property is located in the subzone, *improvement subzone* or expansion subzone.

(v) Receipts from interest or service charges, excluding merchant discounts, from credit, travel and entertainment card receivables and credit card holders' fees are located in a subzone, *improvement subzone* or expansion subzone if the credit card holder, in the case of an individual, resides in a subzone, *improvement subzone* or expansion subzone or, in the case of a corporation, if the corporation's commercial domicile is located in a subzone, *improvement subzone* or expansion subzone.

(vi) Receipts from interest, dividends and net gains from the sale or disposition of intangibles, exclusive of those receipts described elsewhere in this paragraph, are located in a subzone, *improvement subzone* or expansion subzone if the institution maintains a qualified business that treats such intangibles as assets on its books or records.

(vii) Receipts from fees or charges from the issuance of traveler's checks and money orders are located in a subzone, *improvement subzone* or expansion subzone if the traveler's checks or money orders are issued in the subzone, *improvement subzone* or expansion subzone.

(viii) Receipts from sales of tangible property are located in a subzone, *improvement subzone* or expansion subzone if the property is delivered or shipped to a purchaser located in a subzone, *improvement subzone* or expansion subzone, regardless of the free on board point or other conditions of the sale.

(ix) Receipts not specifically treated under this paragraph are located in a subzone, *improvement subzone* or expansion subzone if the greatest portion of the income-producing activities are performed in the subzone, *improvement subzone* or expansion subzone, based on costs of performance.

(3) The deposits factor is a fraction, the numerator of which is the average value of deposits located in a subzone, *improvement subzone* or expansion subzone during the taxable year and the denominator of which is the average value of the total deposits in this Commonwealth during the taxable year. The average value of deposits is to be computed on a quarterly basis. Deposits are located in the subzone, *improvement subzone* or expansion subzone if the institution maintains a qualified business that properly treats the deposits as a liability on its books or records. A deposit is considered to be properly treated as a liability on the books or records of a qualified business if:

(i) the deposit account was opened or transferred to the qualified business by or at the direction of the depositor, regardless of where subsequent deposits or withdrawals are made;

(ii) the employees regularly connected with the qualified business are primarily responsible for servicing the depositor's general banking and other financial needs; and

(iii) at least one of the following factors occurs at the qualified business:

(A) The deposit was solicited by an employee regularly connected with the qualified business, regardless of where the deposit was actually solicited.

(B) The terms governing the deposit were negotiated by employees regularly connected with the qualified business, regardless of where the negotiations were actually conducted.

(C) The essential records relating to the deposit are physically located at the qualified business and the deposit is serviced at the qualified business.

(d) Limitation on amount of credit.—The credit allowed under this section shall not exceed 50% of the tax liability of the taxpayer under Article VII[, VII-A] or XV of the Tax Reform Code of 1971 for the tax year.

Section 518. Keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit.

(a) Credits.—For tax years that begin on or after January 1, 2001, an insurance company that is a qualified business under this act may apply to the Department of Revenue for a job tax credit against the tax imposed by Article IX of the Tax Reform Code of 1971 for all full-time jobs within a subzone or expansion subzone in the taxable year. *For tax years that begin on or after January 1, 2004, an insurance company that is a qualified business under this act may apply to the Department of Revenue for a job tax credit against the tax imposed by Article IX of the Tax Reform Code of 1971 for all full-time jobs within an improvement subzone in the taxable year.* The job must be held directly with an insurance company in the subzone, *improvement subzone* or expansion subzone in order for the insurance company to apply for the tax credit. The Department of Revenue will prescribe the form and manner to obtain the credit.

(b) Section not applicable to certain insurance companies.—

(1) An insurance company that relocates from a location in a political subdivision in this Commonwealth that is not in a subzone, *improvement subzone* or expansion subzone to a location in a [keystone opportunity zone or keystone opportunity expansion zone] *subzone, improvement subzone or expansion subzone* may not apply for a credit for an existing job that is transferred, discontinued or lost in this Commonwealth which is attributable to the relocation.

(2) An insurance company that has relocated pursuant to paragraph (1) may apply for a keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit for a new full-time job that is created in the subzone, *improvement subzone* or expansion subzone. A new full-time job is created with an insurance company if the average monthly employment for that insurance company has increased from the prior 12-month calendar year in the subzone, *improvement subzone* or expansion subzone.

(c) Application of credit.—An insurance company shall apply for a credit by January 15 for the previous calendar year.

(d) Apportionment.—The Department of Revenue shall apportion a keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or a keystone opportunity expansion zone job tax credit for an insurance company that is a qualified business that has not operated in a subzone, *improvement subzone* or expansion subzone for a full fiscal year.

(e) Credit determinations.—The keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit shall be determined by multiplying the monthly average of all full-time jobs by the allowance. The allowance for purposes of the keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone

opportunity expansion zone job tax credit for taxable years beginning within the dates set forth shall be as follows:

January 1, 2001, to December 31, 2001	\$500 per job
January 1, 2002, to December 31, 2002	\$750 per job
January 1, 2003, to December 31, 2003	\$1,000 per job
January 1, 2004, to December 31, 2004	\$1,250 per job
January 1, 2005, to December 31, 2005	\$1,250 per job
January 1, 2006, to December 31, 2006	\$1,250 per job
January 1, 2007, to December 31, 2007	\$1,250 per job
January 1, 2008, to December 31, 2008	\$1,250 per job
January 1, 2009, to December 31, 2009	\$1,250 per job
January 1, 2010, to December 31, 2010	\$1,250 per job
January 1, 2011, to December 31, 2011	\$1,250 per job
January 1, 2012, to December 31, 2012	\$1,250 per job
January 1, 2013, to December 31, 2013	\$1,250 per job
<i>January 1, 2014, to December 31, 2014</i>	<i>\$1,250 per job</i>
<i>January 1, 2015, to December 31, 2015</i>	<i>\$1,250 per job</i>
<i>January 1, 2016, to December 31, 2016</i>	<i>\$1,250 per job</i>
<i>January 1, 2017, to December 31, 2017</i>	<i>\$1,250 per job</i>
<i>January 1, 2018, to December 31, 2018</i>	<i>\$1,250 per job</i>

(f) Notification of credit.—By March 15, the Department of Revenue shall notify an insurance company of the amount of the insurance company's tax credit approved.

(g) Limitation on amount of credit.—The tax credit allowed under this section shall not exceed 50% of the tax liability of the insurance company under Article IX of the Tax Reform Code of 1971 for the tax year. An

insurance company may not carry back or forward any credit received under this section.

(h) Allocation.—The total amount of credits approved by the Department of Revenue under this section shall not exceed \$1,000,000 annually. If the credits exceed the \$1,000,000 cap in a given year, the credits will be allocated on a pro rata basis.

(i) Calculation of allocation.—If the total amount of keystone opportunity zone job tax credits, *keystone opportunity improvement zone job tax credit* and keystone opportunity expansion zone job tax credits applied for by all insurance companies under this section exceeds \$1,000,000, then the credit to be received by each insurance company shall be the product of \$1,000,000 multiplied by the quotient of the credit applied for by the insurance company divided by the total of all credits applied for by all insurance companies, the algebraic equivalent of which is:

insurance company's keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit = \$1,000,000 X (the amount of keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit applied for by the insurance company/the sum of all keystone opportunity zone job tax credits, *keystone opportunity improvement zone job tax credits* and keystone opportunity expansion zone job tax credits applied for by all insurance companies).

(j) Partnership arrangements.—The jobs tax credit provided for under this section may be allocated to an insurance company that is a partner in such partnership that is also a qualified business in proportion to the full-time jobs within a subzone, *improvement subzone* or expansion subzone that are provided to such insurance company by the partnership. However, a partnership and a partner of that partnership may not claim any other tax benefit, expense or credit for the same keystone opportunity zone job tax credit, *keystone opportunity improvement zone job tax credit* or keystone opportunity expansion zone job tax credit.

(k) Relief from additional retaliatory tax.—The tax credit taken by an insurance company under this section shall not be included in determining liability for retaliatory taxes imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

(l) Hold-harmless clause.—The tax credits allowed by this section shall not reduce the amounts which would otherwise be payable for firemen's relief pension or retirement purposes or for police pension retirement or disability purposes. The Department of Revenue shall transfer by June 30 of each fiscal year an amount equal to the tax credits taken under this section by foreign fire and casualty insurance companies from the General Fund to

the Municipal Pension Aid Fund and the Fire Insurance Tax Fund, as appropriate.

Section 519. Keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job creation tax credit.

(a) Credits.—For tax years that begin on or after January 1, 2001, a railroad, truck, bus or airline company, pipeline or natural gas company or water transportation company that is required to apportion income in accordance with section 401(3)2(b), (c) or (d) of the Tax Reform Code of 1971 and is a qualified business under this act may apply to the Department of Revenue for a keystone opportunity zone job creation tax credit or keystone opportunity expansion zone job creation tax credit against the tax imposed by Article III, IV or VI of the Tax Reform Code of 1971. *For tax years that begin on or after January 1, 2004, a railroad, truck, bus or airline company, pipeline or natural gas company or water transportation company that is required to apportion income in accordance with section 401(3)2(b), (c) or (d) of the Tax Reform Code of 1971 and is a qualified business under this act may apply to the Department of Revenue for a keystone opportunity zone improvement job creation tax credit against the tax imposed by Article III, IV or VI of the Tax Reform Code of 1971.* The credit shall be for all full-time jobs created within a subzone, *improvement subzone* or expansion subzone in the taxable year. The job must be held directly with the qualified business in the subzone, *improvement subzone* or expansion subzone in order for the qualified business to apply for the tax credit. The Department of Revenue shall prescribe the form and manner to obtain the credit.

(b) Section not applicable to certain businesses or qualified businesses.—

(1) A business that relocates from a location in a political subdivision in this Commonwealth that is not in a subzone, *improvement subzone* or expansion subzone to a location in a subzone, *improvement subzone* or expansion subzone may not apply for a credit for an existing job that is transferred, discontinued or lost in this Commonwealth which is attributable to the relocation.

(2) A business that has relocated pursuant to paragraph (1) and becomes a qualified business may apply for a keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job creation tax credit for a new full-time job that is created in the subzone, *improvement subzone* or expansion subzone. A new full-time job is created with a qualified business if the average monthly employment for that qualified business has increased from the prior 12-month calendar year in the zone.

(c) Application of credit.—A qualified business shall apply for a credit under this section by January 15 for the previous calendar year.

(d) Apportionment.—The Department of Revenue shall apportion a keystone opportunity zone job *creation* tax credit, *keystone opportunity improvement zone job creation tax credit* or a keystone opportunity expansion zone job *creation* tax credit for a business that is a qualified business that has not operated in a subzone, *improvement subzone* or expansion subzone for a full fiscal year.

(e) Credit determinations.—The keystone opportunity zone job *creation* tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job *creation* tax credit shall be determined by multiplying the monthly average of all full-time jobs by the allowance. The allowance for purposes of the keystone opportunity zone job *creation* tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job *creation* tax credit for taxable years beginning within the dates set forth shall be as follows:

January 1, 2001, to December 31, 2001	\$500 per job
January 1, 2002, to December 31, 2002	\$750 per job
January 1, 2003, to December 31, 2003	\$1,000 per job
January 1, 2004, to December 31, 2004	\$1,250 per job
January 1, 2005, to December 31, 2005	\$1,250 per job
January 1, 2006, to December 31, 2006	\$1,250 per job
January 1, 2007, to December 31, 2007	\$1,250 per job
January 1, 2008, to December 31, 2008	\$1,250 per job
January 1, 2009, to December 31, 2009	\$1,250 per job
January 1, 2010, to December 31, 2010	\$1,250 per job
January 1, 2011, to December 31, 2011	\$1,250 per job
January 1, 2012, to December 31, 2012	\$1,250 per job
January 1, 2013, to December 31, 2013	\$1,250 per job
<b>January 1, 2014, to December 31, 2014</b>	<b>\$1,250 per job</b>
<b>January 1, 2015, to December 31, 2015</b>	<b>\$1,250 per job</b>
<b>January 1, 2016, to</b>	



<i>December 31, 2016</i>	<i>\$1,250 per job</i>
<i>January 1, 2017, to</i>	
<i>December 31, 2017</i>	<i>\$1,250 per job</i>
<i>January 1, 2018, to</i>	
<i>December 31, 2018</i>	<i>\$1,250 per job</i>

(f) Notification of credit.—By March 15, the Department of Revenue shall notify the qualified business of the amount of the qualified business's job creation tax credit approved.

(g) Limitation on amount of credit.—The tax credit allowed under this section shall only be used to offset a tax liability incurred from subzone, *improvement subzone* or expansion subzone activities and shall not exceed 50% of the tax liability of a qualified business or person under Article III, IV or VI of the Tax Reform Code of 1971 for the tax year. The job creation tax credit may not carry back or forward to any other year.

(h) Allocation.—The total amount of credits approved by the Department of Revenue under this section shall not exceed \$1,000,000 annually. If the credits exceed the \$1,000,000 cap in a given year, the credits will be allocated on a pro rata basis.

(i) Calculation of allocation.—If the total amount of keystone opportunity zone job *creation* tax credits, *keystone opportunity improvement zone job creation tax credits* and keystone opportunity expansion zone job *creation* tax credits applied for by all qualified businesses under this section exceeds \$1,000,000, then the credit to be received by each qualified business shall be the product of \$1,000,000 multiplied by the quotient of the credit applied for by the qualified business divided by the total of all credits applied for by all qualified businesses, the algebraic equivalent of which is:

qualified business keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job creation tax credit = \$1,000,000 X (the amount of keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job creation tax credit applied for by the qualified business/the sum of all keystone opportunity zone job creation tax credits, *keystone opportunity improvement zone job creation tax credits* and keystone opportunity expansion zone job *creation* tax credits applied for by all qualified businesses).

(j) Pass-through entities.—The keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* and keystone opportunity expansion zone job creation tax credit provided for in this section shall apply to the following:

(1) A partner or member of a partnership or association that qualifies under this section shall be entitled to a job creation tax credit in proportion to the partner's or member's share, whether or not distributed,

of the income or gain received by the partnership or association for its taxable year.

(2) A shareholder of a Pennsylvania S Corporation that qualifies under this section shall be entitled to a job creation tax credit in proportion to the shareholder's pro rata share, whether or not distributed, of the income or gain received by the corporation for its taxable year ending within or with the shareholder's taxable year.

(3) No partnership, association or Pennsylvania S Corporation, or partner, member or shareholder, may claim any other tax benefit, expense or credit for the same keystone opportunity zone job creation tax credit, *keystone opportunity improvement zone job creation tax credit* or keystone opportunity expansion zone job creation tax credit.

#### Section 701. Local taxes.

(a) General rule.—Every political subdivision in which a designated subzone is located shall exempt, deduct, abate or credit local taxes in accordance with ordinances and resolutions adopted under section 301(d) *or (f), as is applicable*. Failure to exempt, deduct, abate or credit local taxes shall result in the revocation of the subzone designation.

(b) Expansion rule.—Every political subdivision in which a designated *expansion* subzone is located shall exempt, deduct, abate or credit local taxes in accordance with ordinances and resolutions adopted under section 301.1(d) *or (e), as is applicable*. Failure to exempt, deduct, abate or credit local taxes shall result in the revocation of the *expansion* subzone designation.

(c) *Improvement rule*.—Every political subdivision in which a *designated improvement subzone* is located shall exempt, deduct, abate or credit local taxes in accordance with ordinances and resolutions adopted under section 301.2(d). Failure to exempt, deduct, abate or credit local taxes shall result in the revocation of the *improvement subzone designation*.

#### Section 702. Real property tax.

(a) General rule.—Notwithstanding the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, and the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class County Assessment Law, each qualified political subdivision for taxable years beginning on or after January 1, 1999, shall by ordinance or resolution abate 100% of the real property taxation on the assessed valuation of deteriorated property in an area designated as a subzone within this Commonwealth. The real property tax abatement provided for in this section shall apply to all real property located in a subzone, irrespective of the business activity, if any, made of the realty by its owner, when this act is in effect. *No abatement may be provided to deteriorated property prior to designation of the deteriorated property as part of a subzone.*

(a.1) Expansion rule.—Notwithstanding The General County Assessment Law and The Fourth to Eighth Class County Assessment Law,

each political subdivision for taxable years beginning on or after January 1, 2001, shall by ordinance or resolution abate 100% of the real property taxation on the assessed valuation of deteriorated property in an area designated as an expansion subzone within this Commonwealth. The real property tax abatement provided for in this section shall apply to all real property located in an expansion subzone, irrespective of the business activity, if any, made of the realty by its owner, when this act is in effect. *No abatement may be provided to deteriorated property prior to designation of the deteriorated property as part of an expansion subzone.*

(a.2) *Improvement rule.—Notwithstanding The General County Assessment Law and The Fourth to Eighth Class County Assessment Law, each political subdivision for taxable years beginning after December 31, 2003, shall by ordinance or resolution abate 100% of the real property taxation on the assessed valuation of deteriorated property in an area designated as an improvement subzone. The real property tax abatement provided for in this section shall apply to all real property located in an improvement subzone, irrespective of the business activity made of the realty by its owner, when this act is in effect. No abatement may be provided to deteriorated property prior to designation of the deteriorated property as part of an improvement subzone.*

(b) Investment in lieu of tax payment.—

(1) A qualified political subdivision may require a resident of deteriorated real property to invest up to 25% of all real property taxes which would have been due if the real property was not located in a subzone, *improvement subzone* or expansion subzone in improvements to the real property in order for the residents to be qualified for exemptions, credits and abatements under this act.

(2) A qualified political subdivision may require a nonresident owner of deteriorated real property who leases the real property to a person for residential use to invest 50% of all real property taxes which would have been due if the real property was not located in a subzone, *improvement subzone* or expansion subzone in improvements to the real property.

(d) Annual real property report.—By January 31 of each calendar year, a political subdivision in which a subzone, *improvement subzone* or expansion subzone is located shall submit to the department a report listing the address of each real property designated a subzone, *improvement subzone* or expansion subzone and its owner of record.

(e) Interest and penalties.—If the department or a political subdivision finds that a person claimed an abatement of real property tax to which the person was not entitled under this act, the person shall be liable for the abated taxes and subject to the applicable interest and penalty provisions provided by law.

(f) Calculations for education subsidy for school districts.—In determining the market value of real property in each school district, the

State Tax Equalization Board shall exclude any increase in value above the base value prior to the effect of the abatement of local taxes to the extent and during the period of time that real estate tax revenues attributable to such increased value are not available to the school district for general school district purposes.

Section 703. Local earned income and net profits taxes; business privilege taxes.

(a) General exemption.—If a political subdivision has enacted any tax on the privilege of engaging in any business or profession, measured by gross receipts or on a flat rate basis, earned income or net profits, as defined in the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, imposed within the boundaries of a subzone, *improvement subzone* or expansion subzone, the qualified political subdivision shall exempt from the imposition or operation of the local tax ordinances, statutes, regulations or otherwise:

(1) The business gross receipts for operations conducted by a qualified business within a subzone, *improvement subzone* or expansion subzone.

(2) The earned income received by a resident of a subzone, *improvement subzone* or expansion subzone.

(3) The net profits of a qualified business attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone when imposed by the qualified political subdivision where that qualified business is located.

*No exemption may be granted for operations conducted, for earned income received or for activities conducted prior to designation of the real property as part of a subzone or expansion subzone.*

(b) Additional exemptions.—

(1) Paragraph (2) shall apply if a qualified political subdivision has enacted a tax on the privilege of engaging in a profession or business, on wages or compensation, on net profits from the operation of a business or profession or other activity or on the occupancy or use of real property pursuant to any of the following:

(i) The act of August 5, 1932 (Sp.Sess. P.L.45, No.45), referred to as the Sterling Act.

(ii) The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(iii) The act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act.

(iv) The act of August 9, 1963 (P.L.640, No.338), entitled "An act empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes.

(v) The act of May 30, 1984 (P.L.345, No.69), known as the First Class City Business Tax Reform Act.

(vi) 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.

(2) If there is an enactment under paragraph (1), the qualified political subdivision shall provide an exemption, deduction, abatement or credit from the imposition and operation of such local tax ordinance or resolution for all of the following:

(i) The privilege of engaging in a business or profession within a subzone, *improvement subzone* or expansion subzone by a person or qualified business, whether a resident or nonresident of the subzone, *improvement subzone* or expansion subzone.

(ii) Salaries, wages, commissions, compensation or other income received for services rendered or work performed by a resident of a subzone, *improvement subzone* or expansion subzone.

(iii) The gross or net income or gross or net profits realized from the operation of a qualified business to the extent attributable to business activity conducted within a subzone, *improvement subzone* or expansion subzone.

(iv) The occupancy or use of real property located within the subzone, *improvement subzone* or expansion subzone.

(f) Calculation for education subsidy for school district.—In determining the personal income valuation of a school district, the Secretary of Revenue shall exclude any increase in the valuation as defined in section 2501(9.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, above the base value prior to the abatement of local taxes in a subzone, *improvement subzone* or expansion subzone located within the school district to the extent and during the period of time that personal income revenues attributable to the increase in the personal income valuation are not available to the school district for general school district purposes. *No exemption under this section may be granted to a person or qualified business prior to designation of the real property as part of a subzone or expansion subzone.*

Section 704. Mercantile license tax.

No person or qualified business in a subzone, *improvement subzone* or expansion subzone shall be required to pay any fee authorized pursuant to a mercantile license tax imposed under the act of June 20, 1947 (P.L.745, No.320), entitled, as amended, "An act to provide revenue for school districts of the first class A by imposing a temporary mercantile license tax on persons engaging in certain occupations and businesses therein; providing for its levy and collection; for the issuance of mercantile licenses upon the payment of fees therefor; conferring and imposing powers and duties on boards of public education, receivers of school taxes and school treasurers in such districts; saving certain ordinances of council of certain

cities, and providing compensation for certain officers, and employes and imposing penalties.”

Section 705. Local sales and use tax.

(a) General rule.—The political subdivision shall exempt sales at retail of services or tangible personal property, except motor vehicles, to a qualified business for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business at its facility located within a subzone, *improvement subzone* or expansion subzone from a city or county tax on purchase price authorized under Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, as amended, and 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, as amended. *No exemption may be granted for sales occurring prior to designation of the real property as part of a subzone or expansion subzone.*

(b) Construction contracts.—For any construction contract performed in a subzone, *improvement subzone* or expansion subzone, the exemption provided in subsection (a) shall only apply to the sale at retail or use of building machinery and equipment to a qualified business, or to a construction contractor pursuant to a construction contract with a qualified business, for the exclusive use, consumption and utilization by the qualified business at its facility in a subzone, *improvement subzone* or expansion subzone. For the purposes of the subzone, *improvement subzone* or expansion subzone exemption, building machinery and equipment shall include distribution equipment purchased for the exclusive use, consumption and utilization in a subzone, *improvement subzone* or expansion subzone facility.

(c) Definition.—Sales at retail of tangible personal property and services shall be defined in accordance with Article II of the Tax Reform Code of 1971.

Section 902. Recapture.

(a) General rule.—If any qualified business located within a subzone, *improvement subzone* or expansion subzone has received an exemption, deduction, abatement or credit under this act and subsequently relocates outside of the zone within the first five years of locating in a subzone, *improvement subzone* or expansion subzone, that business shall refund to the State and political subdivision which granted the exemption, deduction, abatement or credit received in accordance with the following:

(1) If a qualified business relocates within three years from the date of first locating in a subzone, *improvement subzone* or expansion subzone, 66% of all the exemptions, deductions, abatements or credits attributed to that qualified business's participation in the subzone, *improvement subzone* or expansion subzone shall be refunded to the Commonwealth and the political subdivision.

(2) If a qualified business relocates within three to five years from the date of first locating in a subzone, *improvement subzone* or expansion subzone, 33% of all exemptions, deductions, abatements or credits attributed to that qualified business's participation in the subzone, *improvement subzone* or expansion subzone shall be refunded to the Commonwealth and the political subdivision.

(3) If the qualified business was located within a facility operated by a nonprofit organization to assist in the creation and development of a start-up business, no exemption, deduction, abatement or credit shall be refunded.

(b) Waiver.—The department, in consultation with the Department of Revenue and the political subdivision, may waive or modify recapture requirements under this section if the department determines that the business relocation was due to circumstances beyond the control of the business, including, but not limited to:

- (1) natural disaster;
- (2) unforeseen industry trends; or
- (3) loss of a major supplier or market.

Section 904. Code compliance.

(a) General rule.—A person or qualified business shall be precluded from claiming any exemption, deduction, abatement or credit provided for in this act if that person or qualified business owns real property in a subzone, *improvement subzone* or expansion subzone and the real property is not in compliance with all applicable State and local zoning, building and housing laws, ordinances or codes.

(b) Opportunity to achieve compliance.—The person or qualified business who is not in compliance under subsection (a) shall have until December 31 of the calendar year following designation of the real property as part of a subzone, *improvement subzone* or expansion subzone to be in compliance in order to claim any State exemptions, deductions, abatements or credits for that year. If full compliance is not attained by December 31 of that calendar year, the person or qualified business is precluded from claiming any exemption, deduction or credit for that calendar year, whether or not compliance is achieved in a subsequent calendar year. The political subdivision may extend the time period in which a person or qualified business must come into compliance with a local ordinance or building code for a period not to exceed one year if the political subdivision determines that the person or qualified business has made and shall continue to make a good faith effort to come into compliance and that an extension will enable the person or qualified business to achieve full compliance. Qualified political subdivisions are required to notify the Department of Revenue in writing of all persons or qualified businesses not in compliance with this subsection within 30 days following the end of each calendar year.

Section 907. Application time.

[A keystone opportunity zone or keystone opportunity expansion zone] An applicant must file [a keystone opportunity zone or keystone opportunity expansion zone] *an* application in a manner prescribed by the department by December 31 of each calendar year for which the applicant claims any exemption, deduction, abatement or credit under this act. No exemption, deduction, abatement or credit may be claimed or received for that calendar year until approval has been granted by the department.

Section 1103. Other Commonwealth tax credits.

A person or qualified business that is entitled to claim an exemption, deduction, abatement or credit in accordance with the provisions of this act shall not be entitled to claim or accumulate any of the following exemptions, deductions, abatements or credits that it may otherwise have qualified for due to activity within a subzone, *improvement subzone* or expansion subzone:

(1) Tax Reform Code of 1971:

(i) Article XVII relating to economic revitalization tax credits;

[(ii) Article XVII-A relating to employment incentive payments;]

(iii) Article XVII-B relating to research and development tax credits; or

(iv) Article XIX-A relating to neighborhood assistance and enterprise zone tax credits;

(2) tax credits under section 109 of the act of December 19, 1996 (P.L.1478, No.190), known as the Waste Tire Recycling Act;

(3) homeowners mortgage credits;

(4) insurance premiums tax credits; and

(5) job creation tax credit under the act of June 29, 1996 (P.L.434, No.67), known as the Job Improvement Act.

The person or qualified business may apply the exemptions, deductions, abatements or credits to income realized from activity or transactions outside the subzone, *improvement subzone* or expansion subzone, but only for the taxable year to which the exemptions, deductions, abatements or credits apply. The provisions of this section shall apply only to the taxes set forth in Chapters 5 and 7.

Section 1309. Expiration.

This act and all benefits associated with this act shall terminate December 31, [2013] 2018.

Section 7. This act shall take effect immediately.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER