

## No. 1999-92

## AN ACT

HB 2328

Providing for the creation of keystone opportunity 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.

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

**CHAPTER 1  
PRELIMINARY PROVISIONS**

Section 101. Short title.

This act shall be known and may be cited as the Pennsylvania Keystone Opportunity Zone Act.

Section 102. Legislative findings.

(1) There exist in this Commonwealth areas of economic distress characterized by high unemployment, low investment of new capital, inadequate dwelling conditions, blighted conditions, underutilized, obsolete

or abandoned industrial, commercial and residential structures and deteriorating tax bases.

(2) These areas require coordinated efforts by private and public entities to restore prosperity and enable the areas to make significant contributions to the economic and social life of this Commonwealth.

(3) Long-term economic viability of these areas requires the cooperative involvement of residents, businesses, State and local elected officials and community organizations. It is in the best interest of the Commonwealth to assist and encourage the creation of keystone opportunity zones and to provide temporary relief from certain taxes within the keystone opportunity zones to accomplish the purposes of this act.

### 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:

“Business.” An association, partnership, corporation, sole proprietorship, limited liability corporation or employer.

“Department.” The Department of Community and Economic Development of the Commonwealth.

“Deteriorated property.” Any blighted, impoverished area containing residential, industrial, commercial or other real property that is abandoned, unsafe, vacant, undervalued, underutilized, overgrown, defective, condemned, demolished or which contains economically undesirable land use. The term includes property adjacent to deteriorated property that is significantly undervalued and underutilized due to the proximity of the deteriorated property.

“Domicile.” The place where a person has a true and fixed home and principal establishment for an indefinite time and to which, whenever absent, that person intends to return. Domicile continues until another place of domicile is established.

“Keystone opportunity zone.” A defined geographic area comprised of one or more political subdivisions or portions of political subdivisions designated by the Department of Community and Economic Development under Chapter 3. A keystone opportunity zone may be comprised of not more than 12 subzones.

“Metropolitan statistical area.” A core area containing a city with a population of 50,000 or more or a Bureau of Census defined urbanized area of 50,000 with a total metropolitan population of at least 100,000.

“Opportunity plan.” A written plan that addresses the criteria and meets the requirements in section 302(a).

“Person.” Any natural person.

“Political subdivision.” A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth.

“Qualified business.” Any business authorized to do business in this Commonwealth that is located within a keystone opportunity zone and is engaged in the active conduct of a trade or business in accordance with the requirements of section 307.

“Qualified political subdivision.” A political subdivision that has been designated as a keystone opportunity zone.

“Resident.” A person who is domiciled and resides in an area that is designated a keystone opportunity zone who meets the requirements of section 306.

“Subzone.” A clearly defined geographic area containing a minimum of 20 contiguous acres or a minimum of ten contiguous acres in a rural area.

“Tax Reform Code of 1971.” The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and any subsequent amendments thereto.

### CHAPTER 3 KEYSTONE OPPORTUNITY ZONES

Section 301. Keystone opportunity zones.

(a) Establishment.—There is hereby established within the department a program providing for the designation of portions of this Commonwealth as keystone opportunity zones. A keystone opportunity zone shall be comprised of deteriorated property and shall not exceed a total of 5,000 acres.

(b) Designation.—The department shall designate not more than 12 keystone opportunity zones in this Commonwealth. Persons and businesses within a designated keystone opportunity zone that are qualified under this act shall be entitled to all tax exemptions, deductions, abatements or credits set forth in this act for a period not to exceed 12 years beginning January 1, 1999, and ending on or before December 31, 2010.

(c) Subzones.—A keystone opportunity zone may be comprised of up to 12 clearly defined subzones containing a minimum of 20 contiguous acres each. The subzones may or may not be contiguous to each other. The total number of subzones shall not exceed 5,000 acres in the aggregate. The department may approve the use of a subzone containing a minimum of ten acres in an area that is not included in a metropolitan statistical area.

(d) Authorization for local tax exemption.—Every political subdivision within which a proposed keystone opportunity zone is located, whether in whole or in part, is hereby authorized to provide tax exemptions, deductions, abatements or credits to persons and businesses qualified under this act. The political subdivision shall agree to provide exemptions, deductions, abatements or credits from all local taxes set forth in this act in order to qualify to be designated a keystone opportunity zone within that political subdivision. Except as provided in section 303(e), the exemptions, deductions, abatements or credits shall be effective January 1, 1999, if designation of a keystone opportunity zone within the political subdivision is granted by the department. The exemptions, deductions, abatements or credits shall be

binding upon the political subdivision for the duration of the keystone opportunity zone designation.

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 a keystone opportunity zone within the political subdivision or portions thereof. The application shall contain the following:

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

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

(i) A detailed map of the proposed keystone opportunity zone and subzones, including geographic boundaries, total area and present use and conditions of the land and structures of the proposed keystone opportunity 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 and anticipated improvements in education, health, human services, public safety and employment that will result from keystone opportunity zone designation.

(v) A description of anticipated activity in the keystone opportunity zone and each subzone, 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 keystone opportunity zone.

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

(viii) Plans to utilize existing resources for the administration of the proposed keystone opportunity 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 proposed duration of the keystone opportunity zone and all subzones. The duration may not exceed 12 years.

(5) A formal, binding ordinance or resolution passed by every political subdivision in which the proposed keystone opportunity zone is located

that specifically provides for all local tax exemptions, deductions, abatements or credits for persons and businesses set forth in this act if designation is received by the department, to be effective January 1, 1999.

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

(b) Participation limitation.—A qualified political subdivision shall not be a part of more than one keystone opportunity zone.

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

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 designation as a keystone opportunity zone shall be received by the department on or before September 30, 1998, in order to be considered by the department.

(b) Process.—The department shall designate up to 12 keystone opportunity 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 keystone opportunity zone or the duration of a keystone opportunity zone described in the application.

(c) Award of designations.—The department shall designate all keystone opportunity zones by November 30, 1998.

(d) Effective date of designation.—The designation of a keystone opportunity zone under this act shall take effect on January 1, 1999.

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

Section 304. Criteria for designation of keystone opportunity zone.

(a) Specific criteria.—In order to qualify for designation under this act, the proposed keystone opportunity 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 or 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 or 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 or 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 or 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 and its surrounding area but is not larger than the county or counties in which the keystone opportunity 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 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 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.

(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 keystone opportunity zone and the potential cooperation of surrounding communities.

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

(6) How keystone opportunity zone designation 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.

(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 designated as a keystone opportunity zone unless, as a part of the application, each political subdivision in which the proposed keystone opportunity zone 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 keystone opportunity zone. All appropriate ordinances and resolutions shall be effective on or before January 1, 1999, if designation as a keystone opportunity is granted. 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 which include the definition of “urban area” for the purposes of receiving applications for designation as a keystone opportunity zone.

#### Section 305. Zone limitations.

The department shall not designate more than 12 keystone opportunity zones within this Commonwealth. No keystone opportunity zone shall encompass an entire political subdivision.

#### Section 306. Residency.

In order to qualify each year for a tax exemption, deduction, abatement or credit under this act, a person shall be domiciled and shall reside in the keystone opportunity zone for a period of 184 consecutive days which may begin on the date of designation by the department or on the date the person first resides within the 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 the keystone opportunity zone 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 keystone opportunity zone. 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 keystone opportunity zone into a keystone opportunity zone 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 keystone opportunity zone; or

(2) makes a capital investment in the property located within a keystone opportunity zone 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 308. Forms.

(a) Application forms.—Applications for designation as a keystone opportunity zone shall be on forms prescribed by the department.

(b) Department assistance.—The department shall assist political subdivisions in using the Internet as a tool for encouraging new business development, including assisting political subdivisions in making available via the Internet information, applications and other forms necessary under this act.

## CHAPTER 5 STATE TAXES

### SUBCHAPTER A GENERAL PROVISIONS

#### Section 501. State taxes.

(a) General rule.—A person who is a resident of a keystone opportunity zone, 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 keystone opportunity zone designation. Exemptions, deductions, abatements or credits shall expire on the date of expiration of the keystone opportunity zone designation.

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

### SUBCHAPTER B PARTICULAR STATE TAXES

#### 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 keystone opportunity zone are exempt from the sales and use tax imposed under Article II of the Tax Reform Code of 1971.

(b) Limitation.—Sales at retail or use of tangible personal property or services to the tangible personal property that will become a permanent part of real property in accordance with Department of Revenue regulations shall not be eligible for sales or use tax exemption under this section.

**Section 512. Personal income tax.**

(a) General rule.—For the 1999 taxable year and each tax year after 1999 and to the extent and for the duration provided in this act a person shall be allowed an exemption for:

(1) Compensation received during the time period when the person was a resident of a keystone opportunity zone.

(2) Net income from the operation of a qualified business received by a resident or nonresident of a keystone opportunity zone attributable to business activity conducted within a keystone opportunity zone after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with accepted accounting principles and practices but without deduction of taxes based on income.

(3) (i) Net gains or income, less net losses, derived by a resident or nonresident of a keystone opportunity zone from the sale, exchange or disposition of real or tangible personal property located in a keystone opportunity zone as determined in accordance with accepted accounting principles and practices.

(ii) Net gains, less net losses, realized by a resident of a keystone opportunity zone 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 this subparagraph shall be prorated based on either:

(A) the percentage of time, based on calendar days, the property was held by the taxpayer while a resident of a keystone opportunity zone in relation to the total time the property was held by the taxpayer; or

(B) the percentage of time, based on calendar days, the real or tangible personal property located in the keystone opportunity zone was held by a nonresident of a keystone opportunity zone during the time period the keystone opportunity zone was in effect in relation to the total time the real or tangible personal property was held by a nonresident.

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

(i) Net rents derived from real or tangible personal property located in a keystone opportunity zone are allocable to a keystone opportunity zone.

(ii) If the tangible personal property was used both within and without the keystone opportunity zone during the taxable year, only the net income attributable to use in the keystone opportunity zone 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 keystone opportunity zone and the denominator which is the total days of use.

(5) Dividends received during the time the person was a resident of a keystone opportunity zone.

(6) Interest received during the time period the person was a resident of a keystone opportunity zone.

(7) Net gains or income derived through estates or trusts received by a resident of a keystone opportunity zone at the time of such receipt.

(b) Limitation.—A 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 resident or nonresident may not carry back or carry forward any exemption under this act from year to year.

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 keystone opportunity zone 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 keystone opportunity zone. If the person meets the residency requirements under section 306 in a tax year subsequent to the tax year in which the person first resided in the keystone opportunity zone, the person may file an amended tax return within the applicable statute of limitations to claim an exemption from income for the period of residency within the keystone opportunity zone.

Section 514. Information for employer.

(a) Duty of employee.—Every person who is an employee that qualifies as a resident of a keystone opportunity zone shall furnish to his or her employer information, as prescribed by the Department of Revenue, necessary for the employer to withhold the correct amount of tax. An employee shall furnish notification to his or her employer of any changes to the information within 20 days after the change. An employee shall notify his or her employer that the employee has completed the residency requirements under section 306.

(b) Duty of employer.—Within 20 days after an employer receives information from an employee pursuant to subsection (a), the employer shall forward a copy of that information to the Department of Revenue. The information shall not be given retroactive effect for withholding purposes. The employer shall not be required to withhold tax from the compensation paid to a resident of a keystone opportunity zone, if reasonable under the

circumstances, unless directed by the Department of Revenue to withhold tax from the compensation on some other basis. If an employee fails or refuses to furnish the information or furnishes information that the employer reasonably and in good faith believes to be inaccurate, the employer shall withhold the full rate of tax from the employee's total compensation.

Section 515. Corporate net income tax.

(a) Credits.—For the tax years that begin on or after January 1, 1999, a corporation that qualifies as 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 the taxable year to the extent of the tax liability attributable to business activity conducted within a keystone opportunity zone in the taxable year. The business activity must be conducted directly by a corporation in the keystone opportunity zone 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 keystone opportunity zone shall be determined by multiplying the corporation's taxable income that is attributable to business activity conducted within the keystone opportunity zone 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 keystone opportunity zone 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 keystone opportunity zone, the taxable income attributable to business activity within a keystone opportunity zone 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 keystone opportunity zone, the taxable income of a corporation in a keystone opportunity zone shall be determined upon such portion of the Pennsylvania taxable income of such corporation attributable to business activity conducted within the keystone opportunity zone and apportioned in accordance with subsection (d).

(d) Income apportionment.—All taxable income of a qualified business shall be apportioned to the keystone opportunity zone 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.

(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 keystone opportunity zone 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 keystone opportunity zone 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 keystone opportunity zone if:

(A) the person's service is performed entirely within the keystone opportunity zone;

(B) the person's service is performed both within and without the keystone opportunity zone, but the service performed without the keystone opportunity zone is incidental to the person's service within the keystone opportunity zone; or

(C) some of the service is performed in the keystone opportunity zone 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 keystone opportunity zone, 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 keystone opportunity zone.

(3) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the keystone opportunity zone 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 keystone opportunity zone if the property is delivered or shipped to a purchaser within the keystone opportunity zone 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 keystone opportunity zone if:

(A) the income-producing activity is performed in the keystone opportunity zone; or

(B) the income-producing activity is performed both within and without the keystone opportunity zone and a greater proportion of the income-producing activity is performed in the keystone opportunity zone 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 keystone opportunity zone taxable income.

(f) Credit.—The credit allowed under this section shall not exceed the corporate net income tax liability of the taxpayer 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 and any business activity that is associated or affiliated with the operation of these business activities 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 section 307(a) may claim a credit against the tax imposed by Article VI of the Tax Reform Code of 1971 for the taxable year to the extent of the tax liability attributable to the capital employed within a keystone opportunity zone in the taxable year.

(b) Tax liability.—The corporation's tax liability attributable to capital employed within a keystone opportunity zone shall be determined by multiplying the corporation's taxable value attributable to capital employed within the keystone opportunity zone 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 keystone opportunity zone.

(c) Determination of attributable tax liability.—The determination of the corporation's taxable value attributable to the capital employed within a keystone opportunity zone 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 keystone opportunity zone, the taxable value attributable to the capital employed within a keystone opportunity zone 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 keystone opportunity zone, the taxable value of a corporation in a keystone opportunity zone shall be determined upon such portion of the Pennsylvania taxable value attributable to the capital employed within the keystone opportunity zone by employing the apportionment factors set forth in subsection (d).

(d) Capital stock and franchise tax apportionment.—For purposes of apportionment of the capital stock and franchise tax, the apportionment fraction shall be the property factor plus the payroll factor plus the sales factor as the numerator, and the denominator shall be three. In determining the relevant apportionment factors, the numerator of the property, payroll and sales factors shall not include any property, payroll and sales attributable to

manufacturing, processing, research and development activities conducted within a keystone opportunity zone, and the denominator of the property, payroll and sales factors shall not include any property, payroll and sales attributable to manufacturing, processing and research and development activities conducted within this Commonwealth but without a keystone opportunity zone.

(e) Limitation on amount of credit.—The credit allowed under this section shall not exceed the capital stock franchise tax liability of the taxpayer 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, 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 and any capital employed in a business activity that is associated or affiliated with the operation of these business activities shall not be used to calculate a credit under this section.

## CHAPTER 7 LOCAL TAXES

### Section 701. Local taxes.

Every political subdivision in which a designated keystone opportunity zone is located shall exempt, deduct, abate or credit local taxes in accordance with ordinances and resolutions adopted under section 301(d). Failure to exempt, deduct, abate or credit local taxes shall result in the revocation of the keystone opportunity zone 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 keystone opportunity zone within this Commonwealth.

(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 keystone opportunity zone in improvements to the real property in order for the residents to be qualified for exemptions, credits and abatements under this act.

(2) A nonresident owner of deteriorated real property who leases the real property to a person for residential use shall invest 50% of all real property taxes which would have been due if the real property was not

located in a keystone opportunity zone in improvements to the real property.

(c) Application for tax abatement.—Any person requesting real property tax abatement pursuant to ordinances or resolutions adopted pursuant to this act shall notify each county or other designated assessment office granting such abatement in writing on a form provided by that assessment office within 30 days of the designation as a keystone opportunity zone or within 30 days of the transfer of ownership of the real property subject to abatement. A copy of the abatement request shall be forwarded by the county or other designated assessment office to the political subdivision.

(d) Annual real property report.—Every keystone opportunity zone shall submit to the department an annual report by January 31 of each calendar year of all real property, and the owners and addresses of that real property at any time during the preceding year, which is located in a designated keystone opportunity zone.

(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.—To the extent that a qualified 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 keystone opportunity zone, such qualified political subdivision shall exempt from the imposition or operation of such local tax ordinances, statutes, regulations or otherwise:

(1) The business gross receipts for operations conducted by a qualified business within a keystone opportunity zone.

(2) The earned income received by a resident of a keystone opportunity zone.

(3) The net profits of a qualified business received by a resident or nonresident of a keystone opportunity zone attributable to business activity conducted within a keystone opportunity zone.



(b) Additional exemptions.—To the extent that a qualified political subdivision has:

(1) Pursuant to the act of August 5, 1932 (Sp.Sess. P.L.45, No.45), referred to as the Sterling Act, the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, the act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act, 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,” the act of May 30, 1984 (P.L.345, No.69), known as the First Class City Business Tax Reform Act, or 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, enacted a tax on:

- (i) the privilege of engaging in a profession or business;
- (ii) wages or compensation;
- (iii) net profits from the operation of a business, profession or other activity; or
- (iv) the occupancy or use of real property.

(2) The qualified political subdivision shall provide an exemption, deduction, abatement or credit from the imposition and operation of such local tax ordinance or resolution all of the following:

(i) A person or qualified business, whether a resident or a nonresident of a keystone opportunity zone, for the privilege of engaging in a business or profession within a keystone opportunity zone.

(ii) Salaries, wages, commissions, compensation or other income received for services rendered or work performed by a resident of a keystone opportunity zone.

(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 keystone opportunity zone.

(iv) The occupancy or use of real property located within the keystone opportunity zone.

(c) Limitation on withholding.—Every employer required to withhold any local tax on the earned income, wages or compensation of one or more persons within the particular political subdivision shall not withhold such tax on earned income, wages or compensation paid to any person or his personal representative during any period when the qualified political subdivision has by ordinance or resolution provided for the exemption from tax as provided in section 701 and the person is a resident of a keystone opportunity zone.

(d) Information for employer.—Every person who is an employee that qualifies as a resident of a keystone opportunity zone shall furnish to his or her employer information, as prescribed by the political subdivision,

necessary for the employer to withhold the correct amount of tax. An employee shall furnish notification to his or her employer of any changes to the information within 20 days after the change. An employee shall notify his or her employer that the employee has completed the residency requirements under section 306.

(e) **Duty of employer.**—Within 20 days after an employer receives information from an employee pursuant to subsection (d), the employer shall forward a copy of that information to the political subdivision or other agency designated by the political subdivision. The information shall not be given retroactive effect for withholding purposes. The employer shall not be required to withhold tax from the wages, earned income or compensation paid to a resident of a keystone opportunity zone, if reasonable under the circumstances, unless directed by the political subdivision to withhold tax from the wages, earned income or compensation on some other basis. If an employee fails or refuses to furnish the information or furnishes information that the employer reasonably and in good faith believes to be inaccurate, the employer shall withhold the full rate of tax from the employee's total wages, earned income or compensation.

(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 keystone opportunity zone 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.

Section 704. Mercantile license tax.

No person or qualified business in a keystone opportunity zone 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 keystone opportunity zone 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.

(b) Real property.—The exemption provided in subsection (a) shall apply to the sale at retail 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 keystone opportunity zone.

(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.

## CHAPTER 9 ADMINISTRATION OF TAX PROVISIONS

### Section 901. Transferability.

Any exemption, deduction, abatement or credit provided to any person under Chapter 5 or 7 is nontransferable and cannot be applied, used or assigned to any other person or tax account.

### Section 902. Recapture.

(a) General rule.—If any qualified business located within a keystone opportunity zone has received an exemption, deduction, abatement or credit under this act and subsequently relocates outside of the zone, 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 any claim, 66% of all the exemptions, deductions, abatements or credits previously received due to that qualified business's participation in the keystone opportunity zone 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 any claim, 33% of all exemptions, deductions, abatements or credits previously received from participation in the keystone opportunity zone 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.

(c) Determination of claim date.—For purposes of this section, an exemption, deduction, abatement or credit is deemed to be claimed on the later of:

- (1) the date the return or other report for the tax or fee is due;
- (2) the date the return is filed; or
- (3) the date the tax or fee would be paid.

Section 903. Delinquent or deficient State or local taxes.

(a) Persons.—No person may claim or receive an exemption, deduction, abatement or credit under this act unless that person is in full compliance with all State and local tax laws and related ordinances and resolutions.

(b) Qualified business.—

(1) No qualified business may claim or receive an exemption, deduction, abatement or credit under this act unless that qualified business is in full compliance with all State and local tax laws, ordinances and resolutions.

(2) No qualified business may claim or receive an exemption, deduction, abatement or credit under this act if any person or business with a 20% or greater interest in that qualified business is not in full compliance with all State and local tax laws, ordinances and resolutions.

(c) Later compliance and eligibility.—Any person or qualified business that is not eligible to claim an exemption, deduction, abatement or credit due to noncompliance with any State or local tax law may become eligible if that person subsequently comes into full compliance with all State and local tax laws to the satisfaction of the Department of Revenue or the political subdivision within the calendar year in which the noncompliance first occurred. If full compliance is not attained by December 31 of the calendar year in which noncompliance first occurred, then that person or qualified business is precluded from claiming any exemption, deduction, abatement or credit for that calendar year, whether or not full compliance is achieved in subsequent calendar years.

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 keystone opportunity zone and the real property is not in compliance with all applicable State and local zoning, building and housing laws, ordinances or codes and the real property owner has not filed an affidavit with the political subdivision attesting to compliance for that calendar year before December 31 with the political subdivision in which the real property is located.

(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 keystone opportunity zone 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 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 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 905. Appeals.

A person shall be deemed to be in compliance with any State or local tax for purposes of this section if that person had made a timely administrative or judicial appeal for that particular tax or has entered into and is in compliance with a duly authorized deferred payment plan with the Department of Revenue or political subdivision for that particular tax.

## CHAPTER 11 PROCEDURES FOR ZONES

Section 1101. Community benefits.

(a) Implementation grant.—The department may provide a one-time \$250,000 grant to the keystone opportunity zone to implement the opportunity plan and to provide an annual update of real property ownership and other information to the Department of Revenue. The annual update shall describe progress on all proposals required as part of the opportunity plan and other information as required by the department. A separate application must be submitted to the department outlining a budget and implementation narrative. The grant shall be drawn down as needed over a period not to exceed the first five years of designation as a keystone opportunity zone. Grant funds shall be provided from the housing and redevelopment appropriations. Keystone opportunity zones shall comply with the provisions of the appropriation.

(b) Reduced interest.—Projects in designated keystone opportunity zones that are approved for Pennsylvania Industrial Development Authority (PIDA) or Small Business First financing shall receive the lowest interest rate extended to borrowers.

(c) Priority consideration.—Projects in keystone opportunity zones shall receive priority consideration for State assistance under State economic, community and economic development programs and community building initiatives.

(d) Marketing.—The department shall develop and implement a consolidated marketing strategy for the keystone opportunity zones for use in job retention and attraction activities.

(e) Education.—The Department of Education shall provide technical assistance to school districts located in or school districts having parts of their districts located in keystone opportunity zones.

(f) Local governments.—The Center for Local Government Services in the department shall provide technical assistance to political subdivisions relating to taxation, implementation of the opportunity plan, establishing annual benchmarks and annual reporting requirements to the departments. Additionally, the Center for Local Government Services shall provide political subdivisions in keystone opportunity zones with technical assistance to encourage the implementation of best practices in achieving efficient and effective local government administration and shall coordinate activities with other departments and agencies providing various assistance to communities.

(g) Community-based organizations.—The department shall provide technical assistance for capacity building of existing community-based organizations dealing with socioeconomic needs, housing assistance and job training in the keystone opportunity zones.

#### Section 1102. Reporting.

The department shall report to the General Assembly on the economic effects of this act in each keystone opportunity zone every four years.

#### 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 keystone opportunity zone:

(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 Enhancement Act.

The person or qualified business may apply the exemptions, deductions, abatements or credits to income realized from activity or transactions outside the keystone opportunity zone, 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.

## CHAPTER 13 MISCELLANEOUS PROVISIONS

### Section 1301. Illegal activity.

Any funds or other forms of consideration received by a person or business conducting any type of illegal activity shall not be eligible for any of the exemptions, deductions, abatements and credits or any other benefits that are created under this act.

### Section 1302. Rules and regulations.

The Department of Revenue shall promulgate such rules and regulations as may be necessary to effectuate the provisions of this act. The department shall promulgate such rules and regulations as may be necessary to effectuate the provisions of this act.

### Section 1303. Compliance.

Any person eligible for an exemption, deduction or credit under this act shall comply with all reporting, filing and compliance requirements pursuant to the Tax Reform Code of 1971 unless otherwise provided for in this act.

### Section 1304. Penalties.

#### (a) Civil penalty.—

(1) In addition to any penalties authorized by the Tax Reform Code of 1971 for violations of that act, the Department of Revenue may impose an additional administrative penalty not to exceed \$10,000 for any act or violation of this act relating to State and local taxes, including the filing of any false statement, return or document.

(2) The department may impose a civil penalty not to exceed \$10,000 for a violation of this act, including the filing of any false statement, return or document.

(b) Criminal penalty.—In addition to any criminal penalty under the Tax Reform Code of 1971, any person who knowingly violates any of the provisions of this act commits a misdemeanor of the third degree.

### Section 1305. Construction.

This act shall be interpreted to ensure that all provisions relating to State and local tax exemptions, deductions, abatements and credits are strictly construed in favor of the Commonwealth.

### Section 1306. Applicability.

The provisions of this act shall be applied prospectively. No person or business may claim any exemption, deduction, abatement or credit until that person or business becomes qualified under this act and, in the case of a business, receives certification from the department that the business is qualified.

### Section 1307. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall

not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

**Section 1308. Repeals.**

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

**Section 1309. Expiration.**

This act and all benefits associated with this act shall terminate December 31, 2010.

**Section 1310. Effective date.**

This act shall take effect immediately.

**APPROVED—The 6th day of October, A.D. 1998.**

**THOMAS J. RIDGE**