PRINTER'S NO. **3347**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2297 Session of 2008

INTRODUCED BY PARKER, DALEY, HESS, BISHOP, CALTAGIRONE, CAUSER, DENLINGER, FRANKEL, JAMES, McCALL, M. O'BRIEN, PETRARCA, PYLE, SAINATO, SANTONI, SIPTROTH, SOLOBAY, STURLA, YOUNGBLOOD AND YUDICHAK, MARCH 10, 2008

REFERRED TO COMMITTEE ON COMMERCE, MARCH 10, 2008

AN ACT

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," providing for extension for unoccupied parcels, for additional subzones authorized and for substitution of parcels; and further providing for sales and use tax and for corporate net income tax.

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

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

Section 301.3. Extension for unoccupied parcels.

(a) Requests.--Notwithstanding any other provisions of this act, the department may, as provided in this section, grant requests for the extension of all deductions, abatements or credits for any subzones or keystone opportunity improvement zones previously certified under this act.

(b) Requirements.--Extensions of deductions, abatements or credits under this section shall apply only to properties which are unoccupied and which qualify as deteriorated on a basis other than being underutilized.

(c) Applications.--Applications under this section shall be made to the department no later than May 31, 2009. Applications must include all ordinances, resolutions or other required action of all affected political subdivisions approving the extension of deductions, abatements or credits set forth under this act. The department shall certify the extensions by June 30, 2009.

(d) Expiration.--For subzones or keystone opportunity improvement zones that expire December 31, 2008, an application may be submitted to the department to temporarily delay the expiration of the deductions, abatements and credits under the existing subzone until June 30, 2009. The application shall include all ordinances, resolutions or other required action of all affected political subdivisions approving the requested delay in the expiration of the subzone or keystone opportunity improvement zone and shall be submitted to the department by November 30, 2008. The department shall certify the delay in the expiration by December 31, 2008. Subzones or keystone opportunity improvement zones whose expiration is delayed under this subsection may apply for an extension under subsection (c) and an extension granted under this section shall be deemed to have begun January 1, 2009.

(e) Duration of extension.--The department may approve an application for extension of the deductions, abatements and credits under subsection (c) for:

(1) seven years, provided that the deductions, abatements and credits, for the extended period shall commence only upon occupancy and terminate seven years from the termination date of the existing subzone or keystone opportunity improvement zone; or

(2) ten years from the date of occupancy, provided that the property shall become occupied after the effective date

of this subsection but before seven years from the termination date of the existing subzone or keystone opportunity improvement zone.

Section 301.4. Additional subzones authorized.

(a) Designation.--Notwithstanding any provision of this act, the department may designate additional subzones in any county which does not, as of the effective date of this subsection, have any subzones within its political boundaries.

(b) Requirements.--Subzones designated under this subsection:

(1) may not, in the aggregate, exceed 300 acres in each county;

(2) shall be comprised only of parcels which are unoccupied as of the effective date of this subsection and that qualify as deteriorated on a basis other than being underutilized.

(c) Application and approval.--Application for a subzone under this section shall be made to the department in accordance with the provisions of section 302(a)(1), (2), (3), (5) and (6) no later than May 31, 2009, and shall be certified by the

department on or before June 30, 2009.

(d) Duration of subzones.--Subzones designated under this section shall be entitled to all tax exemptions, deductions, abatements and credits set forth in this act for a period not to exceed ten years, beginning January 1, 2009, and ending December 31, 2018.

Section 301.5. Substitution of parcels within a subzone.

(a) Approval.--In the event of a decertification and removal of the designation of a deteriorated property as part of a subzone under section 309, the department may approve a substitution of other parcels within the zone or subzone containing no more than the aggregate acreage being decertified.

(b) Application and approval.--Applications to substitute parcels under this section shall be made to the department no later than May 31, 2009. Applications under this section shall be made to the department in accordance with section 302(a)(1), (2), (3), (5) and (6). The department shall certify the substitutions by June 30, 2009.

(c) Subzones set to expire on December 31, 2008.--For subzones that expire December 31, 2008, an application may be submitted to the department to temporarily delay the expiration of the deductions, abatements and credits under the existing subzone until June 30, 2009. The application shall include all ordinances, resolutions or other required action of all affected political subdivisions approving the requested delay in the expiration of the subzone and shall be submitted to the department by November 30, 2008. The department shall certify the delay in the expiration by December 31, 2008. Subzones whose expiration are delayed under this subsection may apply for a substitution of parcels under subsection (a).

(d) Extension of substituted parcels.--Upon approval by the department of a substitution of parcels under this section, the department may approve an extension of the substituted parcels under section 301.3.

Section 2. Section 511 of the act, amended December 9, 2002 (P.L.1727, No.217), is amended to read:

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 or a construction contractor pursuant to a construction contract with a qualified business, for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business or the construction contractor at [its] the qualified business's 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 3. Section 515(d)(3) of the act, amended December 23, 2003 (P.L.360, No.51), is amended to read:

Section 515. Corporate net income tax.

* * *

(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] two, in accordance with the following:

* * *

[(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 that takes possession 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.]

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Section 4. The amendment of section 515 of the act shall apply to taxable years beginning after December 31, 2008.

Section 5. This act shall take effect immediately.