

City of Philadelphia



(Bill No. 050504-A)

AN ORDINANCE

Amending Chapter 19-3200, entitled “Keystone Opportunity Zone,” by renaming said Chapter “Keystone Opportunity Zone and Economic Development District,” to provide for the contingent exemption, abatement or credit of certain taxes within a specified geographical area, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-3200 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-3200. KEYSTONE OPPORTUNITY ZONE AND ECONOMIC DEVELOPMENT DISTRICT.

§19-3201. Designation of Zone.

* * *

(4) *The area of the City generally known as follows, and more fully defined in Section 2 of the ordinance enacting this subsection, shall be designated as the Philadelphia Economic Development District or the Economic Development District:*

(a) Navy Yard (East).

§19-3202. Definitions.

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

* * *

(5.1) *EDD Act. The First Class Cities Economic Development District Act, Act of December 1, 2004, No. 226.*

* * *

(13) “Zone.” The Philadelphia Keystone Opportunity Zone, the Philadelphia Keystone Opportunity Expansion Zone, [or] the Philadelphia Keystone Opportunity Improvement Zone *or the Philadelphia Economic Development District.*

City of Philadelphia

BILL NO. 050504-A continued

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§19-3203. Authorization of Exemption, Abatement or Credits from Certain Taxes.

(a) Effective as of January 1, 1999, and continuing through and including December 31, 2010, with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Zone; (b) effective as of January 1, 2001, and continuing through and including December 31, 2013, with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Expansion Zone; [and] (c) with respect to real property or business activity, as applicable, attributable to each separate Philadelphia Keystone Opportunity Improvement Subzone, effective upon designation by DCED of such subzone (anticipated on or about October 1, 2003) and continuing for a period of fifteen (15) years from the date of such designation, the following provisions shall apply; and (d) *with respect to real property or business activity, as applicable, attributable to the Philadelphia Economic Development District, effective upon designation by DCED of such District (anticipated some time in the summer of 2005) and continuing through and including December 31, 2018:*

(1) Subject to the conditions set forth in Section 19-3205 and elsewhere in this Chapter, all real estate taxes imposed under Chapter 19-1300 or authorized under Section 19-1801, on real property located in the Zone, are abated; *provided that, with respect to real property located in the Economic Development District, real estate taxes authorized under Section 19-1801 shall not be abated.*

(2) Subject to the conditions set forth in Section 19-3206 and elsewhere in this Chapter, a person or business subject to realty use and occupancy tax authorized under Section 19-1806 with respect to real property located in the Zone *other than real property located in the Economic Development District* may claim a one hundred percent (100%) exemption from such tax.

(3) Subject to the conditions set forth in Section 19-3207 and elsewhere in this Chapter, a qualified business may claim a credit against the Business Privilege Tax imposed under Chapter 19-2600 to the extent of the tax liability attributable to business activity conducted directly by the taxpayer within the Zone.

(4) Subject to the conditions set forth in Section 19-3208 and elsewhere in this Chapter, a taxpayer, whether or not a resident, may claim a credit against the Net Profits Tax imposed under Chapters 19-1500 and 19-2800, to the extent of the tax liability attributable to net profits from the operation of a qualified business within the Zone *other than within the Economic Development District.*

(5) Subject to the conditions set forth in Section 19-3209 and elsewhere in this Chapter, a qualified business shall be exempt from sales or use tax imposed under Section 19-2701(1) or 19-2701(2) on the purchase price of sales at retail of services or tangible personal property, except motor vehicles, for the exclusive use, consumption and

City of Philadelphia

BILL NO. 050504-A continued

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utilization of the tangible personal property or service, by the qualified business at its facility located within the Zone.

(6) Subject to the conditions set forth in Section 19-3210 and elsewhere in this Chapter, compensation earned by a resident of the Zone, *other than a resident of the Economic Development District*, is exempt from Wage Tax imposed under Chapters 19-1500 and 19-2800.

§19-3204. Conditions for Exemptions, Abatements and Credits.

* * *

(2) Approval by DCED. Any taxpayer claiming an exemption, abatement or credit under this chapter must, by December 31 of each year for which the exemption, abatement or credit is claimed, apply for and receive approval from DCED of eligibility for the benefit, as set forth in Sections 906 and 907 of the Act, as amended, *or Section 906 of the EDD Act, as applicable.*

(3) Relocation.

(a) Any business that relocates into the Zone, *other than into the Economic Development District*, from outside the Zone shall not receive any of the exemptions, abatements or credits set forth in this chapter unless that business either:

* * *

(b) *Any business that relocates into the Economic Development District from outside the Economic Development District shall not receive any of the exemptions, abatements or credits set forth in this Chapter unless that business has entered into a lease agreement for property located within the Economic Development District consistent with all of the following:*

(.1) *The net present value of the lease agreement is at least \$50,000,000.*

(.2) *The lease agreement is for at least 500,000 square feet of property.*

(.3) *The term of the lease agreement is at least equivalent to the balance of the duration of the designation of the property as an economic development district.*

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

(.4) Aggregate payments under the lease agreement to support new capital investment is at least equivalent to 5% of the gross revenues of the business in the immediately preceding calendar or fiscal year.

(.5) The property will be used for food distribution.

(.6) The property consists of at least 85 acres.

(.7) The property is publicly owned.

[(b)] (c) * * *

(4) No abatement or exemption shall be available under Section 19-1303(3) of this Code, relating to Exemptions from Real Estate Taxes on Improvements to Deteriorated Industrial, Commercial or Other Business Properties, with respect to any real property or improvements in the Economic Development District until calendar year 2019. Any period remaining in an abatement or exemption period that otherwise would have been available but for this subsection shall be available to the taxpayer commencing on January 1, 2019, provided that no abatement, credit or exemption shall be available for any years that would have been subject to abatement but for this subsection. No exemption, abatement or credit shall be taken under this Chapter with respect to any property or business activity in the Economic Development District unless the taxpayer shall have first submitted to the Board of Revision of Taxes, with a copy to the Department, a binding acknowledgement that acceptance of any exemption, abatement or credit under this Chapter shall constitute an irrevocable abandonment of any claim to an abatement of real property taxes under Section 19-1303(3) of this Code beyond that provided in this subsection; provided further that such acknowledgement shall be filed with the Recorder of Deeds and shall be binding on successor owners.

§19-3205. Conditions for Real Estate Tax Exemption.

(1) A resident of real property located in the Zone, other than in the Economic Development District, shall not be entitled to an abatement of real estate taxes on such property unless such resident invests in improvements to the real property an amount equal to no less than twenty-five percent (25%) of all real property taxes which would have been due if the real property was not located in the Zone.

(2) A nonresident owner of real property located in the Zone, other than in the Economic Development District, who leases such property directly or indirectly to a person for residential use shall not be entitled to an abatement of real estate taxes on such property unless such nonresident owner invests in improvements to the real property no less than fifty percent (50%) of all real property taxes which would have been due if the real property was not located in the Zone.

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

(3) Application deadlines.

* * *

(c) The provisions of this subsection relating to application deadlines shall not apply to real property located in the Philadelphia Keystone Opportunity Expansion Zone, [or] the Philadelphia Keystone Opportunity Improvement Zone *or the Economic Development District*.

(4) *Interest and penalties. If the department finds that a taxpayer claimed an abatement of real property tax to which the taxpayer was not entitled under this Chapter, the taxpayer shall be liable for the abated taxes and subject to interest, additions and penalties under Section 19-1303 of this Code.*

* * *

§19-3213. Recapture.

(1) General rule. If any qualified business located within the Zone has received an exemption, abatement or credit under this Chapter and subsequently relocates outside of the Zone within five years, that business shall refund to the City or School District, as applicable, the following (*for purposes of this subsection, the Zone shall not include the Economic Development District*):

* * *

(2) *If any qualified business located within the Economic Development District has received an exemption, abatement or credit under this Chapter and subsequently relocates outside of the Economic Development District within five years, that business shall refund to the City the following:*

(a) *If the qualified business relocates within three years from the date of first locating in the economic development district, 75% of all the exemptions, deductions, abatements or credits attributed to the qualified business's participation in the economic development district shall be refunded to the Commonwealth and the qualified political subdivisions.*

(b) *If a qualified business relocates within four to seven years from the date of first locating in the economic development district, 50% of all exemptions, deductions, abatements or credits attributed to the qualified business's participation in the economic development district shall be refunded to the Commonwealth and the qualified political subdivisions.*

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

(c) If the qualified business was located within a facility operated by a nonprofit organization for food distribution, no exemption, deduction, abatement or credit shall be refunded.

[(2)] (3) * * *

* * *

§19-3215. Code Compliance.

(1) General rule. A person or qualified business shall be precluded from claiming any exemption, abatement or credit provided for in this Chapter *with respect to any real property in the Zone (other than in the Economic Development District)* if that person or qualified business owns real property in the Zone *(other than in the Economic Development District); or with respect to any real property in the Economic Development District if that person or qualified business owns real property in the Economic Development District;* [and] if 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 Department attesting to compliance for that calendar year before December 31 with all applicable State and local zoning, building and housing laws, ordinances or codes. For purposes of this subsection, real property is not in compliance with all applicable State and local zoning, building and housing laws if liens have been placed on such property by the City with respect to prior violations of any State or local zoning, building and housing laws and such liens have not been satisfied. The requirement to file an affidavit shall not apply with respect to benefits relating to real property in the Philadelphia Keystone Opportunity Expansion Zone *or the Economic Development District.*

* * *

§19-3216. Administration and Construction.

* * *

(2) Illegal activity. Any funds or other forms of consideration received by a person or business conducting any type of illegal activity *and, in an Economic Development District, any funds or other forms of consideration received by a person or business from gaming,* shall not be eligible for any of the exemptions, deductions, abatements and credits or any other benefits that are created under this Chapter.

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City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

SECTION 2. The area of the City bounded as follows shall constitute the Philadelphia Economic Development District, and the following boundary description shall control over the generally “known as” description set forth in Section 1 of this Ordinance:

ALL THAT CERTAIN tract or parcel of land situate in the 39th Ward of the City of Philadelphia, Commonwealth of Pennsylvania, more particularly bounded and described in accordance with a Survey Plan prepared by Barton & Martin Engineers, a division of Vollmer Associates LLP, dated June 06, 2005, Project Number 200463047 as follows to wit:

Beginning at an interior point, said interior point is located the following fourteen courses and distances from a monument found on the West side of Broad Street (300' wide) extended, said monument being the southerly intersection of the Southerly right of way line of Now or Formerly Consolidated Rail Corporation with the Southwesterly line of lands of Now or Formerly the Pennsylvania Department of Transportation:

1. South 14 degrees 30 minutes 00 seconds West, a distance of 24 feet to a point;
2. South 75 degrees 30 minutes 00 seconds East, a distance of 1.50 feet to a point;
3. South 14 degrees 30 minutes 00 seconds West, a distance of 30 feet to a point;
4. South 30 degrees 30 minutes 00 seconds East, a distance of 66.47 feet to a point;
5. South 14 degrees 30 minutes 00 seconds West, a distance of 482.85 feet to a point;
6. South 73 degrees 08 minutes 17 seconds East, a distance of 54.11 feet to a point;
7. South 14 degrees 36 minutes 46 seconds West, a distance of 249.15 feet to a point
8. North 73 degrees 17 minutes 43 seconds West, a distance of 26.42 feet to a point;
9. South 14 degrees 28 minutes 38 seconds West, a distance of 709.37 feet to a point;
10. South 75 degrees 28 minutes 19 seconds East, a distance of 25.48 feet to a point;
11. South 14 degrees 31 minutes 41 seconds West, a distance of 69.25 feet to a point;
12. Southwesterly , by a curve to the left having a radius of 474.00 feet, an arc distance of 124.87 feet, the chord bearing South 06 degrees 58 minutes 53 seconds West, a distance of 124.50 feet to a point;
13. South 00 degrees 33 minutes 56 seconds East, a distance of 1308.88 feet and;
14. North 89 degrees 16 minutes 58 seconds East, a distance of 6334.02 to a point;
15. South 00 degrees 00 minutes 00 seconds West, a distance of 60.005 feet to the said point of Beginning and running thence;

1. North 89 degrees 16 minutes 58 seconds East, a distance of 3685.126 feet to a point thence;
2. South 32 degrees 13 minutes 41 seconds West, a distance of 1260.420 feet to a point thence;
3. South 72 degrees 42 minutes 25 seconds West, a distance of 730.649 feet to a point thence;
4. South 87 degrees 25 minutes 47 seconds West, a distance of 991.227 feet to a point thence;
5. North 58 degrees 07 minutes 17 seconds West, a distance of 199.189 feet to a point

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

thence;

6. North 89 degrees 25 minutes 59 seconds West, a distance of 223.450 feet to a point thence;

7. South 59 degrees 23 minutes 02 seconds West, a distance of 157.287 feet to a point thence;

8. South 88 degrees 14 minutes 02 seconds West, a distance of 841.404 feet to a point thence;

9. North 00 degrees 10 minutes 23 seconds West, a distance of 696.607 feet to a point thence;

10. South 89 degrees 49 minutes 37 seconds West, a distance of 263.816 feet to a point thence;

11. North 00 degrees 00 minutes 00 seconds East, a distance of 519.599 feet to the point and place of Beginning.

Containing 85 Acres of land more or less.

SECTION 3. This Ordinance shall be effective upon designation by the Commonwealth Department of Community and Economic Development of the property identified by Section 2 hereof as an Economic Development District, and only for such period of time as the Commonwealth provides for exemptions, abatements or credits with respect to sales and use tax, personal income tax and corporate net income tax for businesses in such district, as set forth in The First Class Cities Economic Development District Act, Act of December 1, 2004, No. 226, and only in such District as is designated by the Commonwealth.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

City of Philadelphia

BILL NO. 050504-A continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 16, 2005. The Bill was Signed by the Mayor on July 8, 2005.

A handwritten signature in black ink, reading "Patricia Rafferty". The signature is written in a cursive style with a large, looped "P" and a trailing flourish.

Patricia Rafferty
Chief Clerk of the City Council