THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2409 Session of 2015

INTRODUCED BY DeLUCA, ENGLISH, GODSHALL, D. COSTA, McNEILL, ROEBUCK AND GOODMAN, OCTOBER 18, 2016

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 18, 2016

AN ACT

Amending the act of November 26, 1997 (P.L.508, No.55), entitled "An act providing for the tax exemption of institutions of purely public charity; exempting real property owned by State-related universities or Federal Government instrumentalities from taxation; providing for unfair competition; imposing penalties; and making repeals," further providing for prohibited act.

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

Section 1. Section 11 of the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act, is amended to read:

Section 11. Prohibited act.

(a) Exemption.--No institution may claim an exemption from sales and use tax as an institution of purely public charity unless the institution has received an order from the Department of Revenue approving and authorizing the exemption. The Department of Revenue may not issue an order to an institution approving and authorizing an exemption from sales in use tax if it receives a report from the Department of State under
subsection (b)(4) that lists the institution as subject to a disqualification order.

(b) Disqualification.--The following shall apply:

(1) The Department of State may issue an order disqualifying an institution from claiming an exemption from sales and use tax as an institution of purely public charity if the Department of State finds that the institution has failed to expend at least 60% of the institution's total annual functional expenses on program services when those expenses are averaged over the most recent three fiscal years for which the Department of State has reports containing expense information. The calculation of program services expenses and total functional expenses shall be based on the amounts of program services expenses and total functional expenses identified by the institution in the institution's Internal Revenue Service Form 990 return. If the institution does not file a full Internal Revenue Service Form 990 return, the Department of State may require an institution to file the amounts spent on program services expenses and total functional expenses identified by the institution on a form prescribed by the Department of State. All actions taken by the Department of State shall be taken subject to the right of notice, hearing and adjudication, and the right of appeal, in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(2) A disqualification order shall remain in effect until such time as the institution submits sufficient information to the Department of State to demonstrate that the institution's program services expenses meet the minimum percentage provided under paragraph (1). An institution may...
submit information under this paragraph no earlier than one year after the disqualification order becomes final, and may not submit information under this paragraph more than once each year after the initial submission is made. The information submitted under this paragraph must include all Internal Revenue Service Form 990 returns or other forms prescribed by the Department of State filed by the institution after the disqualification order became final.

(3) When a disqualification order becomes effective, the Department of State shall publish on the Department of State's publicly accessible Internet website and otherwise make publicly available information identifying the institution named in the order, the date that the order became effective and the date that the information was published on the Department of State's publicly accessible Internet website.

(4) At least once every year, the Department of State shall file a written report with the Department of Revenue that identifies:

(i) all institutions that are subject to disqualification orders during the period covered by the report;

(ii) the date the disqualification orders became effective;

(iii) the date that information required under paragraph (3) was published on the Department of State's publicly accessible Internet website for each order; and

(iv) the methods by which the public can obtain a listing of institutions that are subject to disqualification orders.
(5) The Department of State may promulgate any regulations deemed necessary to carry out the Department of State's duties under this section.

Section 2. This act shall take effect in 60 days.