

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1190 Session of
1993

INTRODUCED BY MELLOW, LINCOLN, FUMO, REIBMAN, AFFLERBACH,
STAPLETON, O'PAKE, STEWART, PORTERFIELD, LAVALLE, SCHWARTZ,
MUSTO, ANDREZESKI, STOUT, WILLIAMS, DAWIDA, FATTAH, LEWIS,
BELAN, LYNCH, JONES AND SCANLON, JUNE 2, 1993

SENATOR DAWIDA, FINANCE, AS AMENDED, JUNE 8, 1993

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," FURTHER DEFINING "TAXABLE INCOME"; reducing the <—
11 rate of corporate net income tax; FURTHER DEFINING "AVERAGE <—
12 NET INCOME" FOR CAPITAL STOCK AND FRANCHISE TAX COMPUTATIONS;
13 ~~and~~ including electric utilities on the increased gross <—
14 receipts tax and additional surtax; AND FURTHER PROVIDING FOR <—
15 THE TAXATION OF TITLE INSURANCE COMPANIES UNDER ARTICLE IX.

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

18 ~~Section 1. Section 402 of the act of March 4, 1971 (P.L.6,~~ <—
19 ~~No.2), known as the Tax Reform Code of 1971, amended August 4,~~
20 ~~1991 (P.L.97, No.22), is amended to read:~~

21 SECTION 1. SECTION 401(3)4(A) AND (C) OF THE ACT OF MARCH 4, <—
22 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971,
23 AMENDED JULY 1, 1985 (P.L.78, NO.29) AND AUGUST 4, 1991 (P.L.97,

1 NO.22), ARE AMENDED TO READ:

2 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
3 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
4 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
5 CLEARLY INDICATES A DIFFERENT MEANING:

6 * * *

7 (3) "TAXABLE INCOME." * * *

8 4. (A) FOR TAXABLE YEARS BEGINNING IN 1982 THROUGH TAXABLE
9 YEARS BEGINNING IN 1990 AND FOR THE TAXABLE YEAR BEGINNING IN
10 1993 AND EACH YEAR THEREAFTER, A NET LOSS DEDUCTION SHALL BE
11 ALLOWED FROM TAXABLE INCOME AS ARRIVED AT UNDER SUBCLAUSE 1 OR,
12 IF APPLICABLE, SUBCLAUSE 2. FOR TAXABLE YEARS BEGINNING IN 1991
13 [AND THEREAFTER] THROUGH TAXABLE YEARS BEGINNING IN 1992, THE
14 NET LOSS DEDUCTION ALLOWED FOR YEARS PRIOR TO 1991 SHALL BE
15 SUSPENDED, AND NO CARRYOVER OF NET LOSSES FROM TAXABLE YEARS
16 1988, 1989 AND 1990 SHALL BE UTILIZED IN CALCULATING NET INCOME.

17 * * *

18 (C) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF THE AMOUNT
19 OF THE NET LOSS OR LOSSES WHICH MAY BE CARRIED OVER TO THE
20 TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1
21 OR, IF APPLICABLE, SUBCLAUSE 2. A NET LOSS FOR A TAXABLE YEAR
22 MAY ONLY BE CARRIED OVER PURSUANT TO THE FOLLOWING SCHEDULE:

23	TAXABLE YEAR	CARRYOVER
24	1981	1 TAXABLE YEAR
25	1982	2 TAXABLE YEARS
26	[1983 AND THEREAFTER	3 TAXABLE YEARS]
27	<u>1983 THROUGH 1987</u>	<u>3 TAXABLE YEARS</u>
28	<u>1988</u>	<u>2 TAXABLE YEARS</u>
29	<u>1989</u>	<u>1 TAXABLE YEAR</u>
30	<u>1990-1991</u>	<u>NO CARRYOVER ALLOWED</u>

THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE EARLIEST
TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS SCHEDULE.

* * *

SECTION 2. SECTION 402 OF THE ACT, AMENDED AUGUST 4, 1991
(P.L.97, NO.22), IS AMENDED TO READ:

Section 402. Imposition of Tax.--Every corporation shall be
subject to, and shall pay for the privilege of (i) doing
business in this Commonwealth; or (ii) carrying on activities in
this Commonwealth; (iii) having capital or property employed or
used in this Commonwealth; or (iv) owning property in this
Commonwealth, by or in the name of itself, or any person,
partnership, association, limited partnership, joint-stock
association, or corporation, a State excise tax at the rate of
twelve per cent per annum upon each dollar of taxable income of
such corporation received by, and accruing to, such corporation
during the calendar year 1971 and the first six months of 1972
and at the rate of eleven per cent per annum upon each dollar of
taxable income of such corporation received by, and accruing to,
such corporation during the second six months of calendar year
1972 through the calendar year 1973 and at the rate of nine and
one-half per cent per annum upon each dollar of taxable income
of such corporation received by, and accruing to, such
corporation during the calendar years 1974, 1975 and 1976 and at
the rate of ten and one-half per cent per annum upon each dollar
of taxable income of such corporation received by, and accruing
to, such corporation during the calendar year 1977 through the
calendar year 1984 and at the rate of nine and one-half per cent
per annum upon each dollar of taxable income of such corporation
received by and accruing to such corporation during the calendar

1 year 1985 through calendar year 1986 and at the rate of eight
2 and one-half per cent per annum upon each dollar of taxable
3 income of such corporation received by and accruing to such
4 corporation during the calendar year 1987 through the calendar
5 year 1990 and at the rate of ten and one-half per cent per annum
6 upon each dollar of taxable income of such corporation received
7 by and accruing to such corporation during calendar year 1991
8 and during each calendar year thereafter, with an additional
9 surtax equal to one and seventy-five hundredths per cent per
10 annum upon each dollar of taxable income of such corporation
11 received by and accruing to such corporation during calendar
12 [year 1991 and during each calendar year thereafter] years 1991
13 and 1992 and an additional surtax of ~~nine tenths of one~~ ONE AND <—
14 FORTY-NINE HUNDREDTHS per cent per annum upon each dollar of
15 taxable income of such corporation received by and accruing to
16 such corporation during calendar year 1993 and each year
17 thereafter, except where a corporation reports to the Federal
18 Government on the basis of a fiscal year, and has certified such
19 fact to the department as required by section 403 of this
20 article, in which case, such tax, at the rate of twelve per
21 cent, shall be levied, collected, and paid upon all taxable
22 income received by, and accruing to, such corporation during the
23 first six months of the fiscal year commencing in the calendar
24 year 1972 and at the rate of eleven per cent, shall be levied,
25 collected, and paid upon all taxable income received by, and
26 accruing to, such corporation during the second six months of
27 the fiscal year commencing in the calendar year 1972 and during
28 the fiscal year commencing in the calendar year 1973 and at the
29 rate of nine and one-half per cent, shall be levied, collected,
30 and paid upon all taxable income received by, and accruing to,

1 such corporation during the fiscal year commencing in the
2 calendar years 1974, 1975 and 1976 and at the rate of ten and
3 one-half per cent, shall be levied, collected, and paid upon all
4 taxable income received by, and accruing to, such corporation
5 during the fiscal year commencing in the calendar year 1977
6 through the fiscal year commencing in 1984 and at the rate of
7 nine and one-half per cent, shall be levied, collected, and paid
8 upon all taxable income received by and accruing to such
9 corporation during the fiscal year commencing in 1985 through
10 the fiscal year commencing in 1986 and at the rate of eight and
11 one-half per cent per annum upon each dollar of taxable income
12 of such corporation received by and accruing to such corporation
13 during the fiscal year commencing in 1987 through the fiscal
14 year commencing in 1990 and at the rate of ten and one-half per
15 cent per annum upon each dollar of taxable income of such
16 corporation received by and accruing to such corporation during
17 the fiscal year commencing in 1991 and during each fiscal year
18 thereafter, with an additional surtax equal to one and seventy-
19 five hundredths per cent per annum upon each dollar of taxable
20 income of such corporation received by and accruing to such
21 corporation during the fiscal year commencing in 1991 [and
22 during each fiscal year thereafter] and 1992 and an additional
23 surtax of ~~nine tenths of one~~ ONE AND FORTY-NINE HUNDREDTHS per <—
24 cent per annum upon each dollar of taxable income of such
25 corporation received by and accruing to such corporation during
26 the fiscal year commencing in 1993 and during each fiscal year
27 thereafter. No penalty prescribed by subsection (e) of section
28 3003 shall be assessed against a corporation for the additional
29 tax which may be due as a result of the increase in tax rate
30 from nine and one-half per cent to ten and one-half per cent

1 imposed retroactively by this section for the calendar year 1977
2 or for the fiscal year commencing in 1977.

3 SECTION 3. THE DEFINITION OF "AVERAGE NET INCOME" IN SECTION <—
4 601(A) OF THE ACT, AMENDED DECEMBER 23, 1983 (P.L.360, NO.89),
5 IS AMENDED TO READ:

6 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
7 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
8 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
9 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

10 "AVERAGE NET INCOME." THE SUM OF THE NET INCOME OR LOSS FOR
11 EACH OF THE CURRENT AND IMMEDIATELY PRECEDING FOUR YEARS,
12 DIVIDED BY FIVE. IF THE ENTITY HAS NOT BEEN IN EXISTENCE FOR A
13 PERIOD OF FIVE YEARS, THE AVERAGE NET INCOME SHALL BE THE
14 AVERAGE NET INCOME FOR THE NUMBER OF YEARS THAT THE ENTITY HAS
15 ACTUALLY BEEN IN EXISTENCE. IN COMPUTING AVERAGE NET INCOME,
16 LOSSES SHALL BE ENTERED AS COMPUTED, BUT IN NO CASE SHALL
17 AVERAGE NET INCOME BE LESS THAN ZERO. THE NET INCOME OR LOSS OF
18 THE ENTITY FOR ANY TAXABLE YEAR SHALL BE COMPUTED BY TAKING THE
19 AMOUNT SET FORTH AS INCOME PER BOOKS ON THE INCOME TAX RETURN
20 FILED BY THE ENTITY WITH THE FEDERAL GOVERNMENT FOR SUCH TAXABLE
21 YEAR, OR IF NO SUCH RETURN IS MADE, AS WOULD HAVE BEEN SET FORTH
22 HAD SUCH A RETURN BEEN MADE, SUBJECT, HOWEVER, IN EITHER CASE TO
23 ANY CORRECTION THEREOF, FOR FRAUD, EVASION OR ERROR[.] AND
24 ADDING TO SUCH AMOUNT THE AMOUNT OF ANY DIVIDENDS RECEIVED FROM
25 ANY SUBSIDIARY OR INVESTEE CORPORATION, WHICH DIVIDENDS ARE NOT
26 ALREADY INCLUDED IN SAID INCOME PER BOOKS DUE TO THE APPLICATION
27 OF CONSOLIDATION OR USE OF, THE EQUITY METHOD OF ACCOUNTING OR
28 ANY OTHER ACCOUNTING METHOD WHICH WOULD UNDER VALUE AVERAGE NET
29 INCOME UNLESS SUCH DIVIDENDS ARE NOT SPECIFICALLY ADDED TO THE
30 INCOME. IN THE CASE OF ANY ENTITY WHICH HAS AN INVESTMENT IN

1 ANOTHER CORPORATION, THE NET INCOME OR LOSS SHALL BE COMPUTED ON
2 AN UNCONSOLIDATED BASIS EXCLUSIVE OF THE NET INCOME OR LOSS OF
3 SUCH OTHER CORPORATION.

4 * * *

5 Section ~~2~~ 4. Section 1101(b) of the act, amended July 13, <—
6 1987 (P.L.317, No.58), is amended to read:

7 Section 1101. Imposition of Tax.--* * *

8 (b) Electric Light, Waterpower and Hydro-electric
9 Utilities.--Every electric light company, waterpower company and
10 hydro-electric company now or hereafter incorporated or
11 organized by or under any law of this Commonwealth, or now or
12 hereafter organized or incorporated by any other state or by the
13 United States or any foreign government and doing business in
14 this Commonwealth, and every limited partnership, association,
15 joint-stock association, copartnership, person or persons,
16 engaged in electric light and power business, waterpower
17 business and hydro-electric business in this Commonwealth, shall
18 pay to the State Treasurer, through the Department of Revenue, a
19 tax of [forty-four] forty-five mills with a surtax equal to five
20 mills upon each dollar of the gross receipts of the corporation,
21 company or association, limited partnership, joint-stock
22 association, copartnership, person or persons, received from:

23 (1) the sales of electric energy within this State, except
24 gross receipts derived from the sales for resale of electric
25 energy to persons, partnerships, associations, corporations or
26 political subdivisions subject to the tax imposed by this
27 subsection upon gross receipts derived from such resale; and

28 (2) the sales of electric energy produced in Pennsylvania
29 and made outside of Pennsylvania in a state that has taken
30 action since December 21, 1977 which results in higher costs for

1 electric energy produced in that state and sold in Pennsylvania
2 unless the action that was taken after December 21, 1977 is
3 rescinded according to the following apportionment formula:
4 except for gross receipts derived from sales under clause (1),
5 the gross receipts from all sales of electricity of the producer
6 shall be apportioned to the Commonwealth of Pennsylvania by the
7 ratio of the producer's operating and maintenance expenses in
8 Pennsylvania and depreciation attributable to property in
9 Pennsylvania to the producer's total operating and maintenance
10 expenses and depreciation.

11 * * *

12 SECTION 5. THE HEADING OF ARTICLE VIII OF THE ACT IS AMENDED <—
13 TO READ:

14 ARTICLE VIII

15 [TITLE INSURANCE AND] TRUST COMPANIES SHARES TAX

16 SECTION 6. SECTION 801 OF THE ACT, AMENDED AUGUST 4, 1991
17 (P.L.97, NO.22), IS AMENDED TO READ:

18 SECTION 801. IMPOSITION OF TAX.--EVERY [COMPANY INCORPORATED
19 UNDER THE PROVISIONS OF SECTION 29 OF AN ACT, ENTITLED "AN ACT
20 TO PROVIDE FOR THE INCORPORATION AND REGULATION OF CERTAIN
21 CORPORATIONS," APPROVED APRIL 29, 1874, AND ITS SUPPLEMENTS, OR
22 ANY OTHER ACT OF ASSEMBLY HERETOFORE OR HEREAFTER APPROVED, FOR
23 THE INSURANCE OF OWNERS OF REAL ESTATE, MORTGAGES, AND OTHERS
24 INTERESTED IN REAL ESTATE, FROM LOSS BY REASON OF DEFECTIVE
25 TITLES, LIENS, AND ENCUMBRANCES, AND EVERY] COMPANY ENTITLED TO
26 BENEFITS OF, AND EVERY COMPANY HAVING ANY OF THE POWERS OF,
27 COMPANIES ENTITLED TO THE BENEFITS OF AN ACT, ENTITLED "AN ACT
28 CONFERRING UPON CERTAIN FIDELITY, INSURANCE, SAFETY DEPOSIT,
29 TRUST, AND SAVINGS COMPANIES, THE POWERS AND PRIVILEGES OF
30 COMPANIES INCORPORATED UNDER THE PROVISIONS OF SECTION 29 OF AN

1 ACT, ENTITLED 'AN ACT TO PROVIDE FOR THE INCORPORATION AND
2 REGULATION OF CERTAIN CORPORATIONS,' APPROVED APRIL 29, 1874,
3 AND OF THE SUPPLEMENTS THERETO," APPROVED JUNE 27, 1895,
4 COMMONLY KNOWN AS [TITLE INSURANCE OR] TRUST COMPANIES, AND
5 EVERY COMPANY ORGANIZED AS A BANK AND TRUST COMPANY OR AS A
6 TRUST COMPANY UNDER ANY ACT OF ASSEMBLY HERETOFORE OR HEREAFTER
7 APPROVED, EXCEPT ANY SUCH COMPANIES, ALL OF THE SHARES OF
8 CAPITAL STOCK OF WHICH (OTHER THAN SHARES NECESSARY TO QUALIFY
9 DIRECTORS) ARE OWNED BY A COMPANY WHICH IS LIABLE TO PAY TO THE
10 COMMONWEALTH A TAX ON SHARES, SHALL, ON OR BEFORE MARCH 15 IN
11 EACH AND EVERY YEAR, MAKE TO THE DEPARTMENT OF REVENUE A REPORT
12 IN WRITING, SETTING FORTH THE FULL NUMBER OF SHARES OF THE
13 CAPITAL STOCK SUBSCRIBED FOR OR ISSUED BY SUCH COMPANY, AND THE
14 TAXABLE AMOUNT OF SUCH SHARES OF CAPITAL STOCK DETERMINED
15 PURSUANT TO SECTION 801.1. IT SHALL BE THE DUTY OF THE
16 DEPARTMENT OF REVENUE, TO ASSESS SUCH SHARES FOR TAXATION FOR
17 CALENDAR YEARS BEGINNING JANUARY 1, 1971 THROUGH JANUARY 1,
18 1983, AT THE RATE OF FIFTEEN MILLS AND FOR THE CALENDAR YEARS
19 BEGINNING JANUARY 1, 1984, THROUGH JANUARY 1, 1988, AT THE RATE
20 OF ONE AND SEVENTY-FIVE ONE THOUSANDTHS PER CENT AND FOR THE
21 CALENDAR YEAR BEGINNING JANUARY 1, 1989, AT THE RATE OF 10.77
22 PER CENT AND FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 1990,
23 AND EACH CALENDAR YEAR THEREAFTER AT THE RATE OF 1.25 PER CENT
24 UPON EACH DOLLAR OF THE TAXABLE AMOUNT THEREOF, THE TAXABLE
25 AMOUNT OF EACH SHARE OF STOCK TO BE ASCERTAINED AND FIXED
26 PURSUANT TO SECTION 801.1, AND DIVIDING THIS AMOUNT BY THE
27 NUMBER OF SHARES.

28 IT SHALL BE THE DUTY OF EVERY SUCH COMPANY, AT THE TIME OF
29 MAKING EVERY REPORT REQUIRED BY THIS SECTION, TO COMPUTE THE TAX
30 AND TO PAY THE AMOUNT OF SAID TAX TO THE STATE TREASURER,

1 THROUGH THE DEPARTMENT OF REVENUE, EITHER FROM ITS GENERAL FUND,
2 OR FROM THE AMOUNT OF SAID TAX COLLECTED FROM ITS SHAREHOLDERS:
3 PROVIDED, THAT FOR THE CALENDAR YEARS BEGINNING JANUARY 1, 1971
4 THROUGH JANUARY 1, 1991, EVERY SUCH COMPANY SHALL, AT THE TIME
5 OF MAKING ITS REPORT FOR THE CALENDAR YEARS BEGINNING JANUARY 1,
6 1971 THROUGH JANUARY 1, 1991, COMPUTE THE TAX AND PAY TO THE
7 STATE TREASURER, THROUGH THE DEPARTMENT OF REVENUE, EITHER FROM
8 ITS GENERAL FUND, OR FROM THE AMOUNT OF SAID TAX COLLECTED FROM
9 ITS SHAREHOLDERS, NOT LESS THAN EIGHTY PER CENT OF THE TAX DUE
10 TO THE COMMONWEALTH BY IT FOR SUCH CALENDAR YEAR AND THE
11 REMAINING TAX DUE SHALL BE PAID AT THE TIME WHEN THE REPORT
12 HEREIN REQUIRED FOR THE YEAR NEXT SUCCEEDING IS MADE: PROVIDED,
13 THAT UPON THE PAYMENT OF THE TAX FIXED BY THIS ACT INTO THE
14 STATE TREASURY, THROUGH THE DEPARTMENT OF REVENUE, THE SHARES
15 AND SO MUCH OF THE CAPITAL STOCK, SURPLUS, PROFITS, AND DEPOSITS
16 OF SUCH COMPANY AS SHALL NOT BE INVESTED IN REAL ESTATE, SHALL
17 BE EXEMPT FROM ALL OTHER TAXATION UNDER THE LAWS OF THIS
18 COMMONWEALTH. THE PROCEDURE, IN CASE THE DEPARTMENT OF REVENUE
19 BE NOT SATISFIED WITH THE REPORT MADE BY ANY [TITLE INSURANCE
20 OR] TRUST COMPANY, AND THE PENALTIES FOR FAILING TO MAKE SUCH
21 REPORT AND PAY THE TAX, SHALL BE AS PROVIDED BY LAW.

22 SECTION 7. SECTION 801.1 OF THE ACT, AMENDED JULY 1, 1989
23 (P.L.95, NO.21), IS AMENDED TO READ:

24 SECTION 801.1. ASCERTAINMENT OF TAXABLE AMOUNT; EXCLUSION OF
25 UNITED STATES OBLIGATIONS.--(A) THE TAXABLE AMOUNT OF SHARES
26 SHALL BE ASCERTAINED AND FIXED BY ADDING TOGETHER THE VALUE
27 DETERMINED UNDER SUBSECTION (B) FOR THE CURRENT AND PRECEDING
28 FIVE YEARS AND DIVIDING THE RESULTING SUM BY SIX. IF A COMPANY
29 HAS NOT BEEN IN EXISTENCE FOR A PERIOD OF SIX YEARS, THE TAXABLE
30 AMOUNT OF SHARES SHALL BE ASCERTAINED AND FIXED BY ADDING

1 TOGETHER THE VALUE DETERMINED UNDER SUBSECTION (B) FOR THE
2 NUMBER OF YEARS THE COMPANY HAS BEEN IN EXISTENCE AND DIVIDING
3 THE RESULTING SUM BY SUCH NUMBER OF YEARS.

4 (B) THE VALUE FOR EACH YEAR REQUIRED BY SUBSECTION (A) SHALL
5 BE DETERMINED BY ADDING TOGETHER THE BOOK VALUE OF CAPITAL STOCK
6 PAID IN, THE BOOK VALUE OF THE SURPLUS, THE BOOK VALUE OF
7 UNDIVIDED PROFITS AND THE BOOK VALUE OF THE UNEARNED PREMIUM
8 RESERVE WITH A DEDUCTION FROM THE TOTAL THEREOF OF AN AMOUNT
9 EQUAL TO THE SAME PERCENTAGE OF SUCH TOTAL AS THE BOOK VALUE OF
10 OBLIGATIONS OF THE UNITED STATES BEARS TO THE BOOK VALUE OF THE
11 TOTAL ASSETS. FOR PURPOSES OF THIS SUBSECTION, IN THE CASE OF
12 BANKS AND BANK AND TRUST COMPANIES, BOOK VALUES AND THE
13 DEDUCTION FOR UNITED STATES OBLIGATIONS FOR EACH YEAR SHALL BE
14 DETERMINED BY THE REPORTS OF CONDITION MADE IN EACH CALENDAR
15 QUARTER IN THE PRECEDING CALENDAR YEAR IN ACCORDANCE WITH THE
16 REQUIREMENTS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
17 SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE FEDERAL DEPOSIT
18 INSURANCE CORPORATION OR OTHER APPLICABLE REGULATORY AUTHORITY
19 AND IN THE CASE OF [TITLE INSURANCE AND] TRUST COMPANIES WHICH
20 DO NOT FILE SUCH REPORTS OF CONDITION, BOOK VALUES AND THE
21 DEDUCTION FOR UNITED STATES OBLIGATIONS FOR EACH YEAR SHALL BE
22 DETERMINED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS OF THE
23 END OF EACH CALENDAR QUARTER IN THE PRECEDING CALENDAR YEAR AND
24 BOOK VALUES SHALL IN ALL CASES BE AVERAGED AS CALCULATED BY
25 AVERAGING BOOK VALUES AS DETERMINED BY SUCH REPORTS OF CONDITION
26 OR AS DETERMINED AT THE END OF EACH CALENDAR QUARTER IN THE CASE
27 OF [TITLE INSURANCE AND] TRUST COMPANIES WHICH DO NOT FILE SUCH
28 REPORTS OF CONDITION. FOR THE PURPOSES OF THIS ARTICLE, UNITED
29 STATES OBLIGATIONS SHALL BE OBLIGATIONS COMING WITHIN THE SCOPE
30 OF 31 U.S.C. § 3124. FOR ANY YEAR IN WHICH A BANK OR BANK AND

1 TRUST COMPANY DOES NOT FILE FOUR QUARTERLY REPORTS OF CONDITION,
2 BOOK VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS SHALL
3 BE DETERMINED BY ADDING TOGETHER THE BOOK VALUES AND DEDUCTIONS
4 FOR UNITED STATES OBLIGATIONS FROM EACH QUARTERLY REPORTS OF
5 CONDITION FILED FOR SUCH YEAR AND DIVIDING THE RESULTING SUMS BY
6 THE NUMBER OF SUCH REPORTS OF CONDITION. FOR ANY YEAR IN WHICH A
7 [TITLE INSURANCE COMPANY OR] TRUST COMPANY IS NOT IN EXISTENCE
8 FOR THE FULL YEAR, BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
9 OBLIGATIONS SHALL BE DETERMINED BY ADDING TOGETHER THE BOOK
10 VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS AS OF THE
11 END OF EACH CALENDAR QUARTER IN WHICH THE COMPANY WAS IN
12 EXISTENCE AT THE END OF SUCH CALENDAR QUARTER AND DIVIDING THE
13 RESULTING SUMS BY THE NUMBER OF SUCH CALENDAR QUARTERS. FOR
14 PURPOSES OF THIS SECTION, A PARTIAL YEAR SHALL BE TREATED AS A
15 FULL YEAR.

16 (C) FOR PURPOSES OF THIS SECTION:

17 (1) A MERE CHANGE IN IDENTITY, FORM OR PLACE OF ORGANIZATION
18 OF ONE COMPANY, HOWEVER EFFECTED, SHALL BE TREATED AS IF A
19 SINGLE COMPANY HAD BEEN IN EXISTENCE PRIOR TO AS WELL AS AFTER
20 SUCH CHANGE; AND

21 (2) THE COMBINATION OF TWO OR MORE COMPANIES INTO ONE SHALL
22 BE TREATED AS IF THE CONSTITUENT COMPANIES HAD BEEN A SINGLE
23 COMPANY IN EXISTENCE PRIOR TO AS WELL AS AFTER THE COMBINATION
24 AND THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS
25 FROM THE REPORTS OF CONDITION OR AS DETERMINED BY GENERALLY
26 ACCEPTED ACCOUNTING PRINCIPLES AS OF THE END OF EACH CALENDAR
27 QUARTER OF THE CONSTITUENT COMPANIES SHALL BE COMBINED. FOR
28 PURPOSES OF THE PRECEDING SENTENCE, A COMBINATION SHALL INCLUDE
29 ANY ACQUISITION REQUIRED TO BE ACCOUNTED FOR BY THE SURVIVING
30 COMPANY UNDER THE POOLING OF INTEREST METHOD IN ACCORDANCE WITH

1 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OR A STATUTORY MERGER
2 OR CONSOLIDATION.

3 SECTION 8. ARTICLE VIII-A HEADING AND SECTIONS 801-A AND
4 802-A OF THE ACT, ADDED JULY 1, 1989 (P.L.95, NO.21), ARE
5 AMENDED TO READ:

6 ARTICLE VIII-A
7 ALTERNATIVE [TITLE INSURANCE AND]
8 TRUST COMPANIES SHARES TAX
9 PART I
10 IMPOSITION OF TAX

11 SECTION 801-A. IMPOSITION OF TAX.--(A) EXCEPT AS MODIFIED
12 BY SUBSECTION (B), [EVERY COMPANY INCORPORATED UNDER THE
13 PROVISIONS OF SECTION 29 OF THE ACT OF APRIL 29, 1874 (P.L.73,
14 NO.32), KNOWN AS THE "CORPORATION ACT OF 1874," AND ITS
15 SUPPLEMENTS, OR ANY OTHER ACT OF ASSEMBLY HERETOFORE OR
16 HEREAFTER APPROVED, FOR THE INSURANCE OF OWNERS OF REAL ESTATE,
17 MORTGAGES, AND OTHERS INTERESTED IN REAL ESTATE, FROM LOSS BY
18 REASON OF DEFECTIVE TITLES, LIENS AND ENCUMBRANCES, AND EVERY
19 COMPANY ENTITLED TO BENEFITS OF, AND] EVERY COMPANY HAVING ANY
20 OF THE POWERS OF, COMPANIES ENTITLED TO THE BENEFITS OF THE ACT
21 OF JUNE 27, 1895 (P.L.399, NO.286), ENTITLED "AN ACT CONFERRING
22 UPON CERTAIN FIDELITY, INSURANCE, SAFETY DEPOSIT, TRUST AND
23 SAVINGS COMPANIES THE POWERS AND PRIVILEGES OF COMPANIES
24 INCORPORATED UNDER THE PROVISIONS OF SECTION TWENTY-NINE OF AN
25 ACT, ENTITLED 'AN ACT TO PROVIDE FOR THE INCORPORATION AND
26 REGULATION OF CERTAIN CORPORATIONS,' APPROVED APRIL 29, 1874,
27 AND OF THE SUPPLEMENTS THERETO," APPROVED JUNE 27, 1895,
28 COMMONLY KNOWN AS [TITLE INSURANCE OR] TRUST COMPANIES, AND
29 EVERY COMPANY ORGANIZED AS A BANK AND TRUST COMPANY OR AS A
30 TRUST COMPANY UNDER ANY ACT OF ASSEMBLY HERETOFORE OR HEREAFTER

1 APPROVED, EXCEPT ANY SUCH COMPANIES, ALL OF THE SHARES OF
2 CAPITAL STOCK OF WHICH (OTHER THAN SHARES NECESSARY TO QUALIFY
3 DIRECTORS) ARE OWNED BY A COMPANY WHICH IS LIABLE TO PAY TO THE
4 COMMONWEALTH A TAX ON SHARES, SHALL, ON OR BEFORE APRIL 15 IN
5 EACH AND EVERY YEAR, MAKE TO THE DEPARTMENT OF REVENUE A REPORT
6 IN WRITING SETTING FORTH THE FULL NUMBER OF SHARES OF THE
7 CAPITAL STOCK SUBSCRIBED FOR OR ISSUED BY SUCH COMPANY, AND THE
8 VALUE THEREOF AS OF JANUARY 1 PRECEDING, WHICH SHALL BE
9 ASCERTAINED AS HEREINAFTER PROVIDED. IT SHALL BE THE DUTY OF THE
10 DEPARTMENT OF REVENUE, TO ASSESS SUCH SHARES FOR TAXATION AT THE
11 RATE SPECIFIED BY SUBSECTION (C) UPON EACH DOLLAR OF THE VALUE
12 THEREOF, THE VALUE OF EACH SHARE OF STOCK TO BE ASCERTAINED AND
13 FIXED BY ADDING TOGETHER THE AMOUNT OF CAPITAL STOCK PAID IN,
14 THE SURPLUS, THE UNDIVIDED PROFITS AND THE UNEARNED PREMIUM
15 RESERVE, AND DIVIDING THIS AMOUNT BY THE NUMBER OF SHARES.

16 IT SHALL BE THE DUTY OF EVERY SUCH COMPANY, AT THE TIME OF
17 MAKING EVERY REPORT REQUIRED BY THIS SECTION, TO COMPUTE THE TAX
18 AND TO PAY THE AMOUNT OF SAID TAX TO THE STATE TREASURER,
19 THROUGH THE DEPARTMENT OF REVENUE, EITHER FROM ITS GENERAL FUND,
20 OR FROM THE AMOUNT OF SAID TAX COLLECTED FROM ITS SHAREHOLDERS:
21 PROVIDED, THAT EVERY SUCH COMPANY SHALL, AT THE TIME OF MAKING
22 ITS REPORT FOR EACH CALENDAR YEAR, COMPUTE THE TAX AND PAY TO
23 THE STATE TREASURER, THROUGH THE DEPARTMENT OF REVENUE, EITHER
24 FROM ITS GENERAL FUND, OR FROM THE AMOUNT OF SAID TAX COLLECTED
25 FROM ITS SHAREHOLDERS, NOT LESS THAN EIGHTY PER CENT OF THE TAX
26 DUE SHALL BE PAID AT THE TIME WHEN THE REPORT HEREIN REQUIRED
27 FOR THE YEAR NEXT SUCCEEDING IS MADE: PROVIDED, THAT UPON THE
28 PAYMENT OF THE TAX FIXED BY THIS ACT INTO THE STATE TREASURY,
29 THROUGH THE DEPARTMENT OF REVENUE, THE SHARES AND SO MUCH OF THE
30 CAPITAL STOCK, SURPLUS, PROFITS AND DEPOSITS OF SUCH COMPANY AS

1 SHALL NOT BE INVESTED IN REAL ESTATE, SHALL BE EXEMPT FROM ALL
2 OTHER TAXATION UNDER THE LAWS OF THIS COMMONWEALTH. THE
3 PROCEDURE, IN CASE THE DEPARTMENT OF REVENUE BE NOT SATISFIED
4 WITH THE REPORT MADE BY ANY [TITLE INSURANCE OR] TRUST COMPANY,
5 AND THE PENALTIES FOR FAILING TO MAKE SUCH REPORT AND PAY THE
6 TAX, SHALL BE AS PROVIDED BY LAW.

7 (B) EVERY COMPANY SUBJECT TO TAX UNDER THIS ARTICLE SHALL,
8 WITHIN ONE HUNDRED TWENTY DAYS OF THE DATE THIS ARTICLE BECOMES
9 EFFECTIVE:

10 (1) MAKE A REPORT FOR THE CALENDAR YEAR TO WHICH THIS
11 ARTICLE FIRST APPLIES AND PAY SUCH TAX AS MAY BE DUE IN
12 ACCORDANCE WITH THIS SECTION.

13 (2) MAKE A REPORT FOR THE SECOND CALENDAR YEAR TO WHICH THIS
14 ARTICLE APPLIES AND PAY SUCH TAX AS MAY BE DUE IN ACCORDANCE
15 WITH THIS SECTION.

16 (C) THE RATE OF TAX IMPOSED UNDER THIS ARTICLE FOR THE FIRST
17 CALENDAR YEAR TO WHICH THIS ARTICLE APPLIES AND THE SUCCEEDING
18 TWO CALENDAR YEARS SHALL BE 3.85 PER CENT. THE RATE OF TAX
19 IMPOSED UNDER THIS ARTICLE FOR EACH CALENDAR YEAR THEREAFTER
20 SHALL BE 1.075 PER CENT.

21 SECTION 802-A. ASCERTAINMENT OF VALUE; EXCLUSION OF UNITED
22 STATES OBLIGATIONS.--THE VALUE OF SHARES SHALL BE ASCERTAINED
23 AND FIXED PURSUANT TO SECTION 801-A BY ADDING TOGETHER THE BOOK
24 VALUE OF CAPITAL STOCK PAID IN, THE BOOK VALUE OF THE SURPLUS,
25 THE BOOK VALUE OF UNDIVIDED PROFITS AND THE BOOK VALUE OF THE
26 UNEARNED PREMIUM RESERVE WITH A DEDUCTION FROM THE TOTAL THEREOF
27 OF AN AMOUNT EQUAL TO THE SAME PERCENTAGE OF SUCH TOTAL AS THE
28 BOOK VALUE OF OBLIGATIONS OF THE UNITED STATES BEARS TO THE BOOK
29 VALUE OF THE TOTAL ASSETS. FOR PURPOSES OF THIS SECTION, IN THE
30 CASE OF BANKS AND BANK AND TRUST COMPANIES, BOOK VALUES SHALL BE

1 DETERMINED BY THE REPORTS OF CONDITION MADE IN EACH CALENDAR
2 QUARTER IN THE PRECEDING CALENDAR YEAR IN ACCORDANCE WITH THE
3 REQUIREMENTS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
4 SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE FEDERAL DEPOSIT
5 INSURANCE CORPORATION OR OTHER APPLICABLE REGULATORY AUTHORITY
6 AND IN THE CASE OF [TITLE INSURANCE AND] TRUST COMPANIES WHICH
7 DO NOT FILE SUCH REPORTS OF CONDITION, BOOK VALUES SHALL BE
8 DETERMINED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS OF THE
9 END OF EACH CALENDAR QUARTER IN THE PRECEDING CALENDAR YEAR AND
10 BOOK VALUES SHALL IN ALL CASES BE AVERAGED AS CALCULATED BY
11 AVERAGING BOOK VALUES AS DETERMINED BY SUCH REPORTS OF CONDITION
12 OR AS DETERMINED AT THE END OF EACH CALENDAR QUARTER IN THE CASE
13 OF [TITLE INSURANCE AND] TRUST COMPANIES WHICH DO NOT FILE SUCH
14 REPORTS OF CONDITION. FOR THE PURPOSES OF THIS ARTICLE, UNITED
15 STATES OBLIGATIONS SHALL BE OBLIGATIONS COMING WITHIN THE SCOPE
16 OF 31 U.S.C. § 3124.

17 SECTION 9. THE DEFINITION OF "INSURANCE COMPANY" IN SECTION
18 901 OF THE ACT, AMENDED DECEMBER 1, 1983 (P.L.228, NO.66), IS
19 AMENDED TO READ:

20 SECTION 901. DEFINITIONS.--THE FOLLOWING TERMS, WHEN USED IN
21 THIS ACT, SHALL HAVE THE MEANING ASCRIBED TO THEM IN THIS
22 SECTION:

23 (1) "INSURANCE COMPANY" MEANS EVERY INSURANCE COMPANY,
24 ASSOCIATION OR EXCHANGE, INCORPORATED OR ORGANIZED BY OR UNDER
25 THE LAWS OF THIS COMMONWEALTH, THE UNITED STATES, TERRITORIES,
26 DEPENDENCIES, OTHER STATES, OR FOREIGN GOVERNMENTS, AND ENGAGED
27 IN TRANSACTING INSURANCE BUSINESS OF ANY KIND OR CLASSIFICATION
28 WITHIN THIS COMMONWEALTH, [EXCEPT TITLE INSURANCE COMPANIES
29 SUBJECT TO TAX UNDER ARTICLE VIII OR XVI OF THIS ACT, AS THE
30 CASE MAY BE,] EXCEPT PURELY MUTUAL BENEFICIAL ASSOCIATIONS WHOSE

1 FUNDS FOR THE BENEFIT OF MEMBERS AND FAMILIES OR HEIRS ARE MADE
2 UP ENTIRELY OF THE WEEKLY, MONTHLY, QUARTERLY, SEMI-ANNUAL OR
3 ANNUAL CONTRIBUTIONS TO THEIR MEMBERS AND THE ACCUMULATED
4 INTEREST THEREON AND CORPORATIONS ORGANIZED UNDER THE ACT OF
5 JUNE 21, 1937 (P.L.1948), KNOWN AS THE "NONPROFIT HOSPITAL PLAN
6 ACT," AND THE ACT OF JUNE 27, 1939 (P.L.1125), KNOWN AS THE
7 "NONPROFIT MEDICAL, OSTEOPATHIC, DENTAL AND PODIATRY SERVICE
8 CORPORATION ACT." THE TERM "INSURANCE COMPANY" SHALL INCLUDE ANY
9 COMPANY INCORPORATED UNDER THE FORMER PROVISIONS OF SECTION 29
10 OF THE ACT OF APRIL 29, 1874 (P.L.73, NO.32), ENTITLED "AN ACT
11 TO PROVIDE FOR THE INCORPORATION AND REGULATION OF CERTAIN
12 CORPORATIONS."

13 * * *

14 SECTION 10. THE AMENDMENTS AFFECTING ARTICLES VIII, VIII-A
15 AND IX SHALL APPLY TO THE TAX YEARS BEGINNING ON OR AFTER
16 JANUARY 1, 1994.

17 Section 3.—~~This~~ 11. THE PROVISIONS OF SECTIONS 401, 402, <—
18 601 AND 1101 OF THE act shall be retroactive to the tax years
19 beginning on or after January 1, 1993.

20 Section 4 12. This act shall take effect immediately. <—