

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1253 Session of
1998

INTRODUCED BY HART, JUBELIRER, GERLACH, HELFRICK, CONTI, MURPHY,
WHITE, TOMLINSON, STAPLETON, STOUT AND COSTA,
JANUARY 26, 1998

REFERRED TO FINANCE, JANUARY 26, 1998

AN ACT

1 Amending the act of November 26, 1997 (P.L.508, No.55), entitled
2 "An act providing for the tax exemption of institutions of
3 purely public charity; exempting real property owned by
4 State-related universities or Federal Government
5 instrumentalities from taxation; providing for unfair
6 competition; imposing penalties; and making repeals," further
7 providing for legislative intent and for definitions;
8 providing for a charity tax credit; and further providing for
9 penalties.

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

12 Section 1. Section 2 of the act of November 26, 1997
13 (P.L.508, No.55), known as the Institutions of Purely Public
14 Charity Act, is amended to read:

15 Section 2. Legislative intent.

16 (a) Findings.--The General Assembly finds and declares as
17 follows:

18 (1) It is in the best interest of this Commonwealth and
19 its citizens that the recognition of tax-exempt status be
20 accomplished in an orderly, uniform and economical manner.

21 (2) For more than 100 years, it has been the policy of

1 this Commonwealth to foster the organization and operation of
2 institutions of purely public charity by exempting them from
3 taxation.

4 (3) Because institutions of purely public charity
5 contribute to the common good or lessen the burden of
6 government, the historic policy of exempting these
7 institutions from taxation should be continued.

8 (4) Lack of specific legislative standards defining the
9 term "institutions of purely public charity" has led to
10 increasing confusion and confrontation among traditionally
11 tax-exempt institutions and political subdivisions to the
12 detriment of the public.

13 (5) There is increasing concern that the eligibility
14 standards for charitable tax exemptions are being applied
15 inconsistently, which may violate the uniformity provision of
16 the Constitution of Pennsylvania.

17 (6) Recognizing the interest of the taxpayers in a fair
18 and equitable system of property tax assessment and the
19 attendant statutory requirements for the political
20 subdivision responsible for maintaining real property
21 assessment rolls to administer the system of property
22 assessment, this act shall not in any way limit the
23 responsibilities, prerogatives or abilities of political
24 subdivisions with respect to the determination of or
25 challenges to the taxable status of a parcel of property
26 based on the use of the parcel or part of the parcel of
27 property.

28 (7) Institutions of purely public charity benefit
29 substantially from local government services. These
30 institutions have significant value to the Commonwealth and

1 its citizens, and the need exists for revenues to maintain
2 local government services provided for the benefit of all
3 citizens, including institutions of purely public charity. It
4 is the intent of this act to encourage financially secure
5 institutions of purely public charity to enter into voluntary
6 agreements or maintain existing or continuing agreements for
7 the purpose of defraying some of the cost of various local
8 government services. Payments made under such agreements
9 shall be deemed to be in compliance with any fiduciary
10 obligation pertaining to such institutions of purely public
11 charity, its officers or directors.

12 (8) Increased funding of government welfare programs is
13 not reflected in the indicators of quality of life and
14 economic self-sufficiency in low-income communities.

15 (9) Between 1965 and 1995, government spending on
16 welfare programs increased ten times in real terms, to nearly
17 \$380,000,000,000 per year.

18 (10) Between 1970 and 1995, the child poverty rate
19 increased from 15% to 25%; and the national poverty rate rose
20 slightly.

21 (11) Federal and state governments currently spend 5.3%
22 of Gross Domestic Product, more than was spent at the peak of
23 the Great Depression, to fund over 70 separate programs to
24 assist the poor, despite the lack of positive results or
25 demonstrated benefit.

26 (12) It would benefit the Commonwealth to find ways to
27 reduce the current reliance on ineffective and costly
28 government programs and to restore the role of cost-effective
29 private charities, which reclaim lives through personal
30 attention to the problems of those in need.

1 (13) It would benefit the Commonwealth to promote
2 citizen participation in charitable giving in order to foster
3 civic responsibility and increased volunteerism and to
4 encourage competition among private charities for individual
5 contributions.

6 (14) It would benefit the Commonwealth to increase the
7 resources of private charities which provide assistance to
8 the poor in order to address the needs of those most directly
9 affected by past and future changes adopted under Federal and
10 State welfare reform laws.

11 (15) Ten other states currently offer some form of tax
12 credit program to encourage individuals to support charities
13 that help the poor.

14 (16) It is in the public interest for the Commonwealth
15 to enact a charity tax credit designed to empower individual
16 citizens to direct the use of their tax dollars for
17 charitable purposes; to expand the role of local, privately
18 funded and effective private charities; and to shift
19 resources and responsibility for helping the poor from
20 government to private charity.

21 (b) Intent.--It is the intent of the General Assembly to
22 eliminate inconsistent application of eligibility standards for
23 charitable tax exemptions, reduce confusion and confrontation
24 among traditionally tax-exempt institutions and political
25 subdivisions and ensure that charitable and public funds are not
26 unnecessarily diverted from the public good to litigate
27 eligibility for tax-exempt status by providing standards to be
28 applied uniformly in all proceedings throughout this
29 Commonwealth for determining eligibility for exemption from
30 State and local taxation which are consistent with traditional

1 legislative and judicial applications of the constitutional term
2 "institutions of purely public charity."

3 Section 2. Section 3 of the act is amended by adding
4 definitions to read:

5 Section 3. Definitions.

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

9 * * *

10 "Low-income individual." An individual with income of not
11 more than 185% of the Poverty Level by Family Size, established
12 by the Bureau of the Census.

13 * * *

14 "Qualified institution of purely public charity." An
15 institution of purely public charity which meets the community
16 service criteria of section 5(d) by being organized and operated
17 primarily for the purpose of the relief of poverty as set forth
18 in section 5(b)(1) and which meets the following criteria:

19 (1) Has an approved application with the bureau
20 containing information the bureau determines necessary in
21 order to administer the provisions of section 10.1.

22 (2) Is organized to provide direct assistance to low-
23 income individuals or to provide material or in-kind
24 assistance to organizations which provide direct assistance
25 to low-income individuals.

26 (3) Applies at least 75% of its annual revenues,
27 including contributions, to direct assistance to low-income
28 individuals residing in this Commonwealth or to in-kind or
29 material assistance to other qualified institutions of purely
30 public charity located in this Commonwealth.

1 (4) Applies no more than 5% of its annual revenues,
2 including contributions, to lobbying, legal assistance,
3 public policy advocacy or research, voter registration,
4 political organization or carrying on propaganda.

5 (5) Receives no more than 50% of its annual revenues,
6 including contributions, from government sources.

7 * * *

8 Section 3. The act is amended by adding a section to read:
9 Section 10.1. Charity tax credit.

10 (a) Eligibility.--An individual who makes a monetary
11 donation to a qualified institution of purely public charity
12 shall be entitled to a credit against the tax imposed by Article
13 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
14 Reform Code of 1971, as provided in this section.

15 (b) Amount.--

16 (1) The credit authorized by this section shall be as
17 follows, subject to paragraph (2):

18 (i) For the first taxable year in which a donation
19 is made, 10% of the amount donated.

20 (ii) For the second taxable year in which a donation
21 is made, 15% of the amount donated.

22 (iii) For the third taxable year in which a donation
23 is made, 20% of the amount donated.

24 (iv) For the fourth taxable year in which a donation
25 is made, 25% of the amount donated.

26 (2) In any taxable year, the credit under paragraph (1)
27 shall not exceed 25% of the individual's tax liability
28 calculated under Article III of the Tax Reform Code of 1971
29 after reduction for:

30 (i) any tax forgiven pursuant to section 304 of the

1 Tax Reform Code of 1971;

2 (ii) the credit for income taxes imposed by other
3 states pursuant to section 314 of the Tax Reform Code of
4 1971; and

5 (iii) the employment incentive payment credit
6 allowed by section 491 of the act of June 13, 1967
7 (P.L.31, No.21), known as the Public Welfare Code.

8 (c) Administration.--

9 (1) The Department of Revenue, in cooperation with the
10 bureau, shall administer the provisions of this section,
11 promulgate appropriate regulations and forms for that purpose
12 and make determinations as may be required. Determinations
13 made with respect to the tax credit provided in this section
14 may be reviewed and appealed in the manner provided by law
15 for other corporate or personal tax credits.

16 (2) The bureau shall, by regulation, establish
17 application and appeal deadlines and procedures as follows:

18 (i) The bureau must approve or deny an application
19 within 60 days of receiving the completed application.
20 The application shall be deemed approved if the bureau
21 fails to act within 60 days of receiving the application.

22 (ii) The procedures established by the bureau under
23 this paragraph shall include the requirement that the
24 principal officer of an institution which no longer meets
25 the criteria for a qualified institution of purely public
26 charity notify the bureau within 90 days of the date the
27 institution no longer meets the criteria.

28 (iii) For the purposes of this subsection, at the
29 election of the individual, a contribution which is made
30 not later than the time prescribed by law for filing the

1 return of tax for taxable year, not including extensions,
2 shall be treated as made on the last day of such taxable
3 year.

4 (3) The bureau shall maintain a list of the entities for
5 which applications have been approved. The list of eligible
6 entities shall be effective for contributions made in the
7 calendar year beginning on the January 1 after the filing
8 deadline established by the bureau.

9 (4) The department may randomly and periodically review
10 the applications submitted and audit the entities holding
11 approved applications to ensure that those entities meet the
12 criteria to be qualified institutions of purely public
13 charity. An institution which the bureau or the department
14 determines does not meet the criteria for a qualified
15 institution of purely public charity shall be removed from
16 the list of entities to which contributions qualify for a tax
17 credit.

18 (5) The bureau shall, upon request, provide a person a
19 copy of the list of qualified institutions of purely public
20 charity.

21 Section 4. Section 13 of the act is amended to read:

22 Section 13. [Civil penalty] Penalties.

23 (a) Civil.--

24 (1) In addition to any penalties authorized by the act
25 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
26 of 1971, for violations of that act, the Department of
27 Revenue may impose an administrative penalty not to exceed
28 \$500 for any willful and knowing violation of this act. This
29 section shall not apply to any violation of section 8.

30 (2) If the principal officer of an entity fails to

1 notify the bureau within the specified time period that the
2 entity does not meet the criteria for a qualified institution
3 of purely public charity, the bureau may levy an
4 administrative penalty not to exceed \$1,000 per occurrence.

5 (b) Criminal.--A person who intentionally files an
6 application with the bureau under section 10.1 which the person
7 knows to be fraudulent commits a misdemeanor of the second
8 degree and shall, upon conviction, be sentenced to pay a fine of
9 \$5,000 plus the amount of all contributions to the entity
10 received pursuant to the fraudulent application.

11 Section 4. The addition of section 10.1 of the act shall
12 apply to taxable years beginning after December 31, 1997.

13 Section 5. This act shall take effect immediately.