

COUNTY CODE, THE - AMEND AUTHORITY TO SELL OR LEASE REAL  
PROPERTY

Act of Oct. 18, 2000, P.L. 541, No. 73

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No. 2000-73

HB 1140

AN ACT

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for authority to sell or lease real property; and providing for alternative authority for third class county convention center authorities.

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

Section 1. Section 2306 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended November 23, 1994 (P.L.640, No.98), is amended to read:

Section 2306. Authority to Sell or Lease Real Property.--(a) The board of commissioners may sell for not less than the fair market value or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. If the commissioners know or have reason to believe that the property to be sold contains oil, gas, coal, stone, timber or other mineral or forest products of commercial value, such knowledge or belief shall be advertised together with the description of the land in at least two newspapers, in said county, of general circulation, once a week for three consecutive weeks. The fair market value of real property in the case of a sale shall be determined by the county commissioners in consultation with the county assessor and two licensed real estate brokers doing business within the county. In the case of any lease of county property hereunder, such property, with any and all improvements or additions thereon or thereto, shall, in the hands of the lessee, be subject to taxation by such county and any other political subdivision therein, in the same manner as other real estate located in the county. Such taxes shall be levied and assessed against and paid by the lessee. This section shall not apply to leases or sales of county property or other property which are otherwise specifically provided for by law.

(b) The provisions of subsection (a) shall not be mandatory where county real property is to be sold to any of the following:

(1) A city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the county.

(2) A municipal authority pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(3) A nonprofit corporation or limited partnership in which a nonprofit corporation is a general partner and managing agent engaged in community industrial, commercial or affordable housing development or reuse for its exclusive use for

industrial, commercial or affordable housing development. This exemption shall not apply to property owned and operated by a county or subcontracted or operated on the behalf of a county in order to conduct existing government functions.

(4) A person for his exclusive use in an industrial development program.

(5) A nonprofit corporation organized as a public library for its exclusive use as a library.

(6) A nonprofit medical service corporation for its exclusive use as a site for a medical service facility.

(7) A nonprofit housing corporation for its exclusive use for housing for the elderly or for low-income housing.

(8) The Federal Government.

(9) The Commonwealth.

When the real property is to be sold or leased to a qualified entity under this subsection, the board of commissioners may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this subsection to any entity under this subsection, other than a city, borough, town, township, institution district, school district, municipal authority pursuant to the "Municipality Authorities Act of 1945," located within the county, the Federal Government or the Commonwealth shall be subject to the condition that when the property is not used for the purposes of the entity the property shall revert to the county.

Section 2. Article XXIII of the act is amended by adding a subdivision to read:

**(o) Third Class County Convention Center Authorities  
(Alternative Provision)**

Section 2399.51. Short Title.--This subdivision shall be known and may be cited as the "Third Class County Convention Center Authority Act (Alternative Provision)."

Section 2399.52. Findings, Declaration of Policy and Scope.--(a) It is hereby determined and declared as a matter of legislative finding:

(1) That the health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism within this Commonwealth.

(2) That unemployment, the spread of indigence and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth.

(3) That development of convention centers is appropriate within a third class county and that the attraction of business to this Commonwealth as a result of such development is an important factor in the continual encouragement, promotion, attraction, stimulation, development, growth and expansion of business, industry, commerce and tourism within the county seat, the surrounding counties and this Commonwealth as a whole.

(4) That the purpose of a convention center should be the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in the county seat, the surrounding counties and this Commonwealth as a whole.

(5) That the development of a convention center will provide benefits to the hotel industry throughout the entire area of the county where the center is developed.

(6) That the development of a convention center will also provide benefits to the restaurant and entertainment industries throughout the entire county where the center is located, to

all other businesses and individuals benefited by the attraction of major conventions and tourists, to other individual businesses whose livelihood is dependent on major conventions and tourists and to the general public.

(7) That the need for and promotion of the type of facility which will provide significant benefits to the general public will require the expenditure of public money and that it is therefore appropriate to authorize a county to impose and collect a tax applicable within the entire territorial limits of the county to facilitate the development of a convention facility and the promotion of tourism within the county.

(8) That, to promote the development of convention centers within this Commonwealth, it is necessary to provide additional and flexible means of developing, constructing, designing, managing, financing and operating convention centers.

(9) That an important aspect of the development of convention centers should be the removal and redevelopment of blighted areas.

(b) It is hereby declared to be the policy of the Commonwealth to promote the health, safety, employment, business opportunities and general welfare of the people of this Commonwealth by providing for the creation of third class county convention center authorities which shall exist and operate as public instrumentalities of the Commonwealth for the public purpose of promoting, attracting, stimulating, developing and expanding business, industry, commerce and tourism in this Commonwealth. This purpose is hereby declared to be a public purpose supporting the enactment of all provisions of this subdivision for which public money may be spent and taxes may be imposed.

(c) (1) This subdivision shall apply to counties of the third class.

(2) This subdivision shall not apply to:

(i) a county which has created (either individually or jointly with its county seat) a third class county convention center authority pursuant to the provisions of subdivision (n) of this act or the act of December 27, 1994 (P.L.1375, No.162), known as the "Third Class County Convention Center Authority Act," prior to January 1, 2000.

(ii) A county which is served, together with one or more other counties, by a joint planning commission.

(d) (1) A county which has created (either individually or jointly with its county seat) a third class county convention center authority pursuant to subdivision (n) of this act after January 1, 2000, may opt to have such authority treated as having been organized under the provisions of this subdivision. Such option shall be exercised by the adoption of a resolution by the governing body of the county to that effect. The exercise of such option may not be revoked.

(2) If an authority is treated as having been organized under this subdivision pursuant to the provisions of clause (1), the following transitional provisions shall apply to the authority, the county, the county seat (if applicable), State public bodies and political subdivisions and the acts thereof:

(i) the authority shall be treated for all purposes as having been organized under the authority of this subdivision;

(ii) all acts of the authority shall be treated for all purposes as having been taken pursuant to the authority granted under this subdivision, regardless of whether such acts shall have been taken prior to or after the enactment of this subdivision;

(iii) all acts of the county and (if applicable) the county seat in organizing the authority shall be treated for all purposes as having been taken pursuant to the authority granted under this subdivision regardless of whether such acts shall have been taken prior to or after the enactment of this subdivision;

(iv) all acts of the county taken or purported to be taken under the authority of subdivision (n) of this act, including, but not limited to, the enactment of a hotel room rental tax, shall be treated as having been taken pursuant to the authority granted under this subdivision, regardless of whether such acts shall have been taken prior to or after the enactment of this subdivision; and

(v) all acts of any State public body or any political subdivision taken or purported to be taken with respect to the authority under the authority of subdivision (n) of this act, including, but not limited to, the transfer of existing convention center facilities to the authority and the funding of a convention center project as a redevelopment assistance project by the Commonwealth, shall be treated as having been taken pursuant to the authority granted under this subdivision, regardless of whether such acts shall have been taken prior to or after the enactment of this subdivision.

(3) If an authority is treated as having been organized under this subdivision pursuant to the provisions of clause (1), all acts taken or purported to be taken by the county, the county seat, the authority and State public body or any political subdivision under the authority of subdivision (n) of this act are hereby ratified and affirmed in their entirety, regardless of whether such acts shall have been taken prior to or after the enactment of this subdivision.

(4) If an authority is treated as having been organized under this subdivision pursuant to the provisions of clause (1), the members of the board of the authority shall continue in office and shall be treated as if they had been appointed under this subdivision.

Section 2399.53. Definitions.--The following words and phrases when used in this subdivision shall have the meanings given to them in this section unless the context clearly indicates otherwise or unless there is a specific definition in another section:

"Authority" or "Third Class County Convention Center Authority" shall mean an agency and public instrumentality of the Commonwealth and a body politic and corporate created pursuant to this subdivision.

"Board" shall mean the governing body of an authority.

"Bonds" shall mean notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidence of indebtedness or obligations which the authority is authorized to issue.

"Construct," "to construct" or "construction" shall mean the acquisition, design, erection, extension, renovation, rehabilitation, conversion, furnishing, fixturing, equipping, enlargement or substantial repair of a convention center, or part thereof, and activities substantially related to the acquisition, design, erection, extension, renovation, rehabilitation, conversion, furnishing, fixturing, equipping, enlargement or substantial repair of a convention center, or part thereof.

"Convention center" or "convention center facility" shall mean any land, improvement, structure, building, or part thereof, or property interest therein, whether owned by or

leased by or to or otherwise acquired by an authority, appropriate for any of the following: large public assemblies, the holding of conventions, conferences, trade exhibitions and other business, social, cultural, scientific, sports, recreational, artistic and public interest events, performances and exhibitions, and all facilities, furniture, fixtures and equipment necessary or incident thereto, including meeting rooms, dining rooms, kitchens, ballrooms, reception areas, registration and prefunction areas, locker rooms, practice areas and equipment, training areas and equipment, truck loading areas, including access thereto, accessways, including, but not limited to, tunnels, overhead walkways, escalators, elevators and other connections to nearby or adjoining buildings or facilities, regardless of whether such buildings or facilities constitute convention center facilities or are owned or controlled by the authority, common areas, lobbies, offices and areas appurtenant to any of the preceding, and also including other land, buildings, structures or facilities for use or planned for use in conjunction with the foregoing, including, but not limited to, landscaping, buffer areas, off-street parking, retail areas and other improvements related to a convention center facility owned by or leased by or to an authority, regardless of whether such improvements are for the purpose of producing revenues to assist in defraying the costs or expenses of such convention center facility.

"Cost of a project" shall mean all or any part of the cost of construction, acquisition, alteration, enlargement, furnishing, fixturing and equipping, reconstruction and rehabilitation of a convention center project, including, without limitation, the cost of all lands, structures, real or personal property, rights, rights-of-way, roads, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing buildings or structures on land so acquired, including the cost of acquiring lands to which the buildings or structures may be moved or located, the cost of all utility lines, structures or equipment, the charges, interest prior to, during and after completion of construction and acquisition, provisions for reserves for principal and interest and for extensions, enlargements, additions and improvements, cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other capital cost or expense as may be necessary or incident to the construction, development and acquisition of the project, the financing of construction, development and acquisition and the placing of the project in operation, including, without limitation, a proper allowance for contingencies and the provision of reasonable initial working capital for operating the project.

"County" shall mean a county of the third class.

"Federal agency" or "Federal Government" shall mean the United States, the President of the United States and any department or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States.

"Obligee of the authority" or "obligee" shall mean a bondholder or a trustee for a bondholder when a party to a contract with the authority.

"Political subdivision" shall mean any governmental body other than a State public body or a Federal agency. The term

includes, but is not limited to, any county, city, borough, township, school district, municipal authority, transit authority, parking authority or other authority of any type.

"Project" shall mean a site, building, structure, equipment, furnishing and other facilities or undertaking in respect of a convention center facility which the authority is authorized to acquire, construct, improve, install, maintain or operate under the provisions of this subdivision.

"State public body" shall mean the Commonwealth and its executive, administrative and independent agencies, departments, officers, boards, authorities, commissions and instrumentalities.

"Substantial completion" shall mean construction that is sufficiently completed in accordance with contract documents and certified by the convention center authority's architect or engineer, as modified by change orders so that any project being constructed by the convention center authority can be used, occupied or operated for its intended use. In no event shall a project be certified as substantially complete until at least ninety per centum of the work on the project area is completed.

Section 2399.54. Authority Creation.--(a) The governing bodies of a third class county and the political subdivision constituting the county seat or the county acting alone may create a body corporate and politic to be named the ..... County Convention Center Authority to be created as a public authority and government instrumentality to have continuing succession until its existence shall be terminated by law. If any part of the convention center facilities constructed by an authority created under this subdivision shall be located within the jurisdictional limits of the county seat of the county, the authority shall be a joint authority of the county and the county seat. If the convention center facilities of an authority shall be located entirely outside the jurisdictional limits of the county seat of the county, the authority may be created solely by the county. The exercise by the authority of the powers conferred by this subdivision is hereby declared to be and shall for all purposes be deemed and held to be the performance of an essential public function.

(b) An authority shall be created by an ordinance (or equivalent enactment) adopted by the county or, in the case of a joint authority, ordinances (or equivalent enactments) adopted by the county and the county seat providing that an authority is thereby created under this subdivision and specifying the articles of incorporation of the authority. The articles of incorporation shall be filed by the county with the Secretary of the Commonwealth, who shall issue a certificate of incorporation to the authority. The authority shall be deemed to come into existence on the later of the following dates:

(1) the date on which the ordinance is enacted (or, in the case of a joint authority, on the date that the second ordinance is enacted); or

(2) such later date as may be specified in the articles of incorporation.

(c) Articles of incorporation of an authority may only be amended in the manner specified above for the adoption of articles of incorporation and may not:

(1) impair the rights or security of any creditors of the authority or any party contracting with the authority; or

(2) be inconsistent with the provisions of this subdivision.

Section 2399.55. Purposes and Powers Generally.--(a) An authority created under this subdivision shall be a public body,

corporate and politic, exercising public powers of the Commonwealth as an agency and instrumentality and shall be for the purpose, without limitation, by itself or by agreement in cooperation with others, of acquiring, holding, developing, designing, constructing, improving, maintaining, managing, operating, financing, furnishing, fixturing, equipping, repairing, leasing or subleasing, either in the capacity of lessor or lessee or sublessor or sublessee, and owning convention center facilities, or parts thereof. Such convention center facilities need not comprise a single, integrated complex but may be located at one or more locations within the county and may function independently of one another.

(b) The authority is granted all powers necessary or convenient for the carrying out of the purposes in subsection (a), including, without limiting the generality of the foregoing, the following rights and powers:

(1) To have continuing succession.

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(3) To adopt, use and alter at will a corporate seal.

(4) To acquire by gift or otherwise, purchase, hold, receive, lease, sublease and use a license, franchise or property, real, personal or mixed, tangible or intangible, or any interest therein, including convention center facilities, or parts thereof, and to assume any obligations associated therewith, including leases, concession agreements, indebtedness and other contractual obligations which the authority deems necessary to accomplish the purpose of this subdivision.

(5) To sell, transfer or dispose of property or an interest therein with adequate and fair consideration.

(6) To acquire, hold, develop, design, construct, improve, maintain, manage, operate, furnish, fixture, equip, repair, own, lease or sublease convention center facilities, or parts thereof, and to make, enter into and award contracts with any person, association, partnership or corporation for the development, design, financing, construction, improvement, maintenance, operation, management, furnishing, fixturing, equipping and repair of convention center facilities, or parts thereof.

(7) To make bylaws for the management and regulation of its affairs and issue rules, regulations and policies in connection with the performance of its functions and duties.

(8) To appoint officers, agents, employes and servants, to prescribe their duties and to fix their compensation.

(9) To fix, alter, charge and collect rentals, admissions, license fees and other charges.

(10) To borrow money for the purpose of paying the costs of a project and to evidence the same; make and issue negotiable bonds of the authority; secure payment of the bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues (including any hotel room rental tax), rentals, receipts and contract rights; make such agreements with the purchasers or holders of the bonds or with other obligees of the authority in connection with the bonds, whether issued or to be issued, as the authority shall deem advisable, which agreements shall constitute contracts with the holders or purchasers; obtain such credit enhancement or liquidity facilities in connection with the bonds as the authority shall determine to be advantageous; and, in general, provide for the security of the bonds and the rights of the bondholders.

(11) To make, enter into and award contracts of every name and nature and to execute all instruments necessary or convenient for the carrying out of its business.

(12) To borrow money and accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any Federal agency, State public body, political subdivision, person, association, partnership or corporation.

(13) To pledge, hypothecate or otherwise encumber its property, real, personal or mixed, tangible or intangible, and its revenues or receipts, including, but not limited to, any interest the authority may have in a lease or sublease of convention center facilities, or parts thereof.

(14) To procure such insurance containing such coverages, including, without limitation, insurance covering the timely payment in full of principal of and interest on bonds of the authority, in such amounts, from such insurers, as the authority may determine to be necessary or desirable for its purposes.

(15) To invest its money.

(16) To cooperate with any Federal agency, State public body or political subdivision.

(17) To invest funds held in reserve or sinking funds or funds not required for immediate disbursements as authorized by section 2399.63(d).

(18) To appoint all officers, agents and employees required for the performance of its duties and compensation and retain or employ other agents or consultants, including, but not limited to, architects, auditors, engineers, private legal counsel and private consultants, on a contract basis or otherwise for rendering professional or technical services and advice.

(19) To enroll its employees in an existing retirement system of the State, county, city or other governmental entity.

(20) To appoint and fix the compensation of chief counsel and such assistant counsel to provide it with legal assistance, and the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

(21) To maintain an office in the county seat.

(22) To appoint an executive director who shall be the chief executive officer of the authority, who shall devote his full time during business hours to the duties of his office and who shall receive compensation as the board shall determine.

(23) To make grants to the county in accordance with the provisions of subsection (e).

(24) To do all acts and things necessary or convenient for the promotion of its purposes and the general welfare of the authority and to carry out the powers granted to it by this subdivision or any other act.

(c) (1) The authority shall have no power to pledge the credit or taxing powers of a State public body, a political subdivision or the county, nor shall its obligations be deemed obligations of any State public body, a political subdivision or the county, nor shall any State public body, a political subdivision or the county be liable for the payment of principal or interest on such obligations.

(2) The authority shall have no power of eminent domain.

(d) The authority shall develop and implement an affirmative action plan to assure that all persons are accorded equality of opportunity in employment and contracting by the authority, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.



(e) (1) The authority shall have the power to make grants to the county for the financial support of regional assets located within the county. Any such grants shall be included in the capital budget adopted by the authority pursuant to section 2399.56(a) and may only be made if the authority finds, by resolution adopted by a majority vote of its members, that the making of such grants shall not adversely affect the short-term or long-term capital, operational and/or financial needs of the authority, or otherwise impair the ability of the authority to meet any contractual or legal obligations of the authority, including obligations owed to holders of bonds issued by the authority. Grants made under the authority of this clause:

(i) shall not obligate funds of the authority beyond a single fiscal year of the authority;

(ii) shall be payable to the county in a single lump sum or in installments during the fiscal year in question, as determined by the authority in its discretion; and

(iii) may be rescinded or reduced by the authority if the authority, prior to payment of the grant, determines in its discretion that the then current and/or projected financial needs of the authority require reduction or rescission of the grant.

(2) Grants received by the county from the authority under the provisions of clause (1) shall be deposited in a segregated account identified as the regional asset fund. The regional asset fund shall be used by the county solely for the purpose of making grants of financial support to regional assets located within the county in accordance with and subject to the limitations of this subsection. Funds deposited in the regional asset fund shall be invested only in those types of investments in which a county of the third class may invest general funds of the county under applicable law. Earnings on such investments shall become a part of the regional asset fund and may not be used for purposes other than those permitted under this subsection. The county shall not be required to disburse all of the funds in the regional asset fund during a particular fiscal year but may instead accumulate funds within the regional asset fund if the county, in its discretion, determines that the accumulation of such funds, in whole or in part, is appropriate for the effective and efficient long-term funding of regional assets.

(3) The county shall have the authority to make grants of financial support for regional assets from the regional asset fund established under clause (2). Grants made by the county from the regional asset fund shall be subject to all of the following terms, conditions and limitations:

(i) grants may only be made to:

(A) political subdivisions located within the county; and

(B) organizations which have been determined by the Internal Revenue Service to be organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or any successor provision of law;

(ii) grants may only be made for the purpose of supporting a specific regional asset located within the county and which is owned by the grantee or for which the grantee has operational and financial responsibility;

(iii) grants may only be made pursuant to written grant agreements and executed by authorized officers of the county and the grantee, specifying the terms and conditions of the grant;

(iv) the grant agreement shall describe with specificity the purpose for which the grant is being made;

(v) the grant agreement shall set forth such other terms and conditions as the county, in its discretion, may prescribe, including requirements with respect to matching funds, continued financial support of the grantee for the regional asset with respect to which the grant is being made, and so forth; and

(vi) no grant may obligate funds from the regional asset fund beyond a single twelve-month period.

(4) For purposes of this subsection, the term "regional asset" means a civic, recreational, sports or cultural facility (including, but not limited to, zoos, museums and performing arts facilities), function or activity which is owned or provided by a political subdivision or section 501(c)(3) of the Internal Revenue Code of 1986 organization, or with respect to which a political subdivision or section 501(c)(3) of the Internal Revenue Code of 1986 organization has operational and financial responsibility. Notwithstanding the foregoing, the following shall not be considered regional assets:

(i) any health care facility;

(ii) any institution which predominantly provides elementary, secondary or higher education or other training;

(iii) any Federal or State parks;

(iv) any airports or public transportation systems or facilities;

(v) any libraries;

(vi) any paid or volunteer public safety organizations and facilities;

(vii) any authority created under this subdivision, and any facilities owned or operated by such an authority; or

(viii) any asset which fails to serve a significant number of persons who are not residents of the city, borough or township within which the asset is located.

(5) The county shall have the authority to prescribe reasonable rules, regulations and procedures for:

(i) the administration of the regional asset fund and the segregated account in which the regional asset fund is deposited;

(ii) the making of grants from the regional asset fund; and

(iii) the administration of grants made from the regional asset funds.

(f) Net revenues received from the sale of rights for the naming or designation of any convention center facility, or portion thereof, shall be allocated in the following manner:

(1) Fifty per centum of such revenues shall be distributed to the county for deposit in a segregated account identified as the regional asset fund, to be utilized as provided in subsection (e)(3).

(2) Fifty per centum of such revenues shall be retained by the convention center authority established under this subdivision.

(g) Subsection (f) shall not apply to a sale of rights occurring prior to the enactment of this subdivision. Revenues from the sale of naming rights for items of a de minimis nature, including, but not limited to, the sale of plaques, individualized bricks or furniture, shall not be subject to allocation under this section.

Section 2399.56. Capital and Operating Budgets.--(a) At least ninety days before the commencing of the ensuing fiscal year of the authority, the board shall cause to be prepared and submitted to it a recommended capital budget. The capital budget shall show in detail the capital expenditures to be made or

incurred in the next fiscal year which are to be financed from funds subject to control or appropriation by the board. For each separate purpose, project, facility or other property, there shall be shown the amount and the source of the money that has been spent, encumbered or is intended to be spent or encumbered during the fiscal year. No later than the date of the adoption of the annual operating budget, the board shall by a majority vote of its members adopt a capital budget.

(b) At least ninety days before the commencing of the ensuing fiscal year of the authority, the board shall cause to be prepared and submitted to it a recommended operating budget. The operating budget shall be prepared with the aid of the governing bodies of the county and county seat. In the event that the operating budget is not in form and detail satisfactory to the governing body, they may require that the operating budget be redrafted and resubmitted, and the governing body shall not be considered to be in receipt of the operating budget or any amendments unless the form and detail is to the governing body's satisfaction. The operating budget should set forth the estimated receipts and revenues of the authority during the next fiscal year. The board shall, at least thirty days before the end of the fiscal year, adopt by a majority vote of its members an operating budget for the next fiscal year.

Section 2399.57. Purposes and Powers; Bonds.--(a) The bonds of an authority created under this subdivision and authorized to be issued shall be authorized by resolution of the board of the authority and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates as shall be determined by the board as necessary to issue and sell the authorized bonds, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities in the revenues or receipts of the authority as the resolution or resolutions may provide. The bonds shall be signed by or shall bear the facsimile signatures of such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, and all bonds shall be authenticated by an authenticating agent, fiscal agent or trustee, all as may be prescribed in such resolution or resolutions. The bonds may be issued and delivered notwithstanding that one or more of the officers signing the bonds or the treasurer whose facsimile signature shall be upon the coupon shall have ceased to be such officer or officers at the time when the bonds shall actually be delivered.

(b) The bonds may be sold at public sale or private negotiated sale for such price or prices and at such rate of interest as the authority shall determine. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of the bonds and may contain such terms and conditions as the authority may determine.

(c) The bonds shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).

(d) The net proceeds of the issue of bonds or notes may be used to pay the costs of a project or to reimburse costs initially paid by a State public body, the county, another political subdivision, an agency, an organization or a person.

(e) (1) Subject to the provisions of the outstanding bonds, notes or other obligations and subject to the provisions of this subdivision, the authority shall have the right and power to refund outstanding debt, in whole or in part, at any time and shall have the right and power to refund outstanding notes with bonds or bonds with notes.

(2) As used in this subsection, the term "refund" and its variations means the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

Section 2399.58. Provisions of Bonds, Trusts, Indentures and Mortgages.--In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds and obligations, the authority, in addition to its other powers, shall have the power to:

(1) Pledge all or part of its gross or net revenues to which its right then exists or may thereafter come into existence.

(2) Mortgage all or part of its real or personal property then owned or thereafter acquired.

(3) Covenant against pledging all or part of its revenues or against mortgaging all or part of its real or personal property to which its right or title exists or may thereafter come into existence or against permitting or suffering a lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of its real property; and to covenant as to what other or additional debts or obligations may be incurred by it.

(4) Covenant as to the bonds to be issued and as to the issuance of the bonds, in escrow or otherwise, and as to the use and disposition of the proceeds; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest; and to redeem the bonds and to covenant for and provide the terms and conditions for their redemption.

(5) Covenant as to the amount and the use and disposition of revenues to be raised each year or other period of time by the authority; to create or to authorize the creation of special funds for debt service or other purposes; and to covenant as to the use and disposition of the moneys held in such funds.

(6) Prescribe the procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated, the amount of bonds, the holders of which must consent thereto and the manner in which consent may be given.

(7) Covenant as to the use of its real or personal property; to warrant its title; and to covenant as to the maintenance and replacement of its real and personal property, the insurance to be carried on the property and the use and disposition of insurance moneys.

(8) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation; and to covenant and prescribe in the event of default as to terms and conditions upon which its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(9) Vest in a trustee or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee the right in the event of a default by the authority to take possession and use, operate and manage any real property and to collect the rents and revenues arising therefrom and to

dispose of such moneys in accordance with the agreement of the authority with the trustee; to provide for the powers and duties of a trustee and to limit the trustee's liabilities; and to provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce covenants or rights securing or relating to the bonds.

(10) Obtain letters of credit and bond insurance.

(11) Exercise all or any part or combination of the powers granted in this section; to make covenants other than and in addition to the covenants expressly authorized in this section and to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this subdivision by making the bonds more marketable notwithstanding that such covenants, acts or things may not be specifically enumerated in this section.

Section 2399.59. Remedies of Obligee of Authority.--An obligee of the authority shall have the right, in addition to all other rights which may be conferred on the obligee, subject only to any contractual restrictions binding upon the obligee:

(1) By mandamus, suit, action or proceeding at law or in equity, to compel the authority and its members, officers, agents or employees to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this subdivision.

(2) By proceeding in equity, to obtain an injunction against any acts or things which may be unlawful or the violation of any of the rights of the obligee.

Section 2399.60. Additional Remedies Conferrable by Authority.--(a) The authority shall have power by its resolution, trust, indenture or mortgage to confer upon any obligees holding or representing a specified percentage of bonds the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in the resolution or instrument, by suit, action or proceeding in a court of competent jurisdiction:

(1) to obtain the appointment of a receiver of any real property or leasehold interest of the authority and of the rents and profits therefrom. If a receiver be appointed, he may enter and take possession of the real property or any leasehold interest, operate the same and collect and receive all revenues or other income thereafter arising therefrom and shall keep the money in a separate account and apply the same in accordance with the obligations of the authority as the court shall direct; or

(2) to require the authority and its members to account as if it and they were the trustees of an express trust.

(b) Nothing in this subdivision shall authorize a receiver appointed pursuant to this subdivision for the purpose of operating and maintaining any facilities of the authority to sell, assign, mortgage or otherwise dispose of any of the assets of whatever kind or character belonging to the authority. It is the intention of this subdivision to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court shall direct, and no holder or holders of bonds of the authority nor any trustee or other obligee shall ever have the right in any suit, action or proceeding, at law or in equity, to compel a receiver, nor shall

any receiver ever be authorized or court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the authority.

Section 2399.61. Governing Board.--(a) The power of the authority shall be exercised by a governing board composed of nine members:

(1) The mayor or, if there is no mayor, the elected chief executive officer, of the county seat in which the convention center facilities are located shall appoint, with the advice and consent of the city council or equivalent body, three members. The term of office of these members shall be four years. The terms of the first three members appointed shall be allocated among them for a two-year, three-year and four-year term, respectively. In all cases, the beginning of the term shall be deemed January 1 of the year of appointment, subject to subsection (b).

(2) The county executive or other elected chief executive officer of the county or, if there is no county executive or elected chief executive officer of the county, the governing body of the county in which the convention center facilities are located shall appoint four members. Appointments by a county executive or other elected chief executive officer shall be with the advice and consent of the county council or equivalent body. The term of office of these members shall be four years. The terms of the first four members appointed shall be allocated among them for a one-year, two-year, three-year and four-year term, respectively. In all cases, the beginning of the term shall be deemed January 1 of the year of appointment, subject to subsection (b).

(3) Two members shall be appointed by the Governor with the advice and consent of a majority of the members of the Senate.

(4) If the authority created pursuant to section 2399.54 is created by the county acting alone, seven members shall be appointed under clause (2). The term of office of these members shall be four years. The terms of the first members appointed shall be allocated among them as follows: a one-year term, two two-year terms, two three-year terms and two four-year terms.

(b) Except as otherwise provided, members shall serve a four-year term from the date of their appointment and until their successors have been appointed and qualified. If a vacancy shall occur by means of the death, disqualification, resignation or removal of a member, subject to the provisions of subsection (a), the appointing authority shall appoint a successor to fill the unexpired term.

(c) The members of the board shall not be compensated for their service on the board or for any other position in which they may serve the authority. The authority may reimburse members for reasonable and necessary out-of-pocket expenses incurred by members in carrying out the business of the authority.

(d) (1) The members of the board shall select from among themselves a chairman and such other officers as the board may determine. Except as otherwise provided, all actions of the board shall be taken by a vote of at least five members of the board, which shall constitute a majority of the board, unless the bylaws of the authority shall provide for a majority vote by a present quorum of not less than five members in the absence of a full board. The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted

and the powers granted to it may be exercised and embodied. Notwithstanding any other law, court decision, precedent or practice to the contrary, no actions by or on behalf of the board shall be taken by an officer of the board or the authority except upon the approval or prior authorization of the board. As used in this subsection, the term "actions by or on behalf of the board" means any action whatsoever of the board, including, but not limited to, the hiring, appointment, removal, transfer, promotion or demotion of any officers and employees, the retention, use or remuneration of advisors, counsel, auditors, architects, engineers or consultants, the initiation of legal action, the making of contracts, leases, agreements, bonds, notes or covenants, the approval of requisitions, purchase orders, investments and reinvestments, and the adoption, amendment, revision or rescission of rules and regulations, orders or other directives.

(2) The board shall appoint an executive director, who shall act as the chief executive officer of the authority. The executive director shall not be a member of the board. Notwithstanding the provisions of clause (1), the board may, by bylaw or by resolution, delegate to the executive director the authority and power to carry out the day-to-day operations of the authority and to exercise those powers which are normal, customary and necessary to perform the duties of a chief executive officer.

(3) The board may appoint such assistant and other officers, including assistant secretaries and assistant treasurers, as the board determines to be appropriate to carry out the business of the authority. Assistant secretaries and assistant treasurers may be members of the board.

(4) The board may appoint one or more deputy executive directors who, to the extent authorized by the board, may exercise the duties and powers of the executive director in the executive director's absence or incapacity or in the event of a vacancy in the office of executive director.

(e) Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against the authority. The authority, itself or by contract, shall defend board members, and the authority shall indemnify and hold harmless board members, whether or not currently serving as a member of the authority, against and from any and all personal liabilities, actions, causes of action and claims made against them for whatever actions they perform within the scope of their duties as board members.

Section 2399.62. Sovereign Immunity.--It is hereby declared to be the intent of the General Assembly that an authority created pursuant to this subdivision and its officers, officials and employees shall enjoy sovereign and official immunity, as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) and remain immune from suit except as provided by and subject to the provisions of 42 Pa.C.S. §§ 8501 (relating to definitions) through 8528 (relating to limitations on damages). Notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to legal assistance), the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

Section 2399.63. Moneys of Authority.--(a) All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the authority or such other officer or officers of the authority as the authority may designate.

(b) The board shall invest authority funds consistent with sound business practice.

(c) The board shall provide for an investment program subject to restrictions contained in this subdivision, in any other applicable statute and in rules and regulations adopted by the board.

(d) Authorized types of investments for authority funds shall be:

(1) Direct obligations of or obligations guaranteed by the United States.

(2) A bond, debenture, note, participation certificate or other similar obligation issued by any one or combination of the following agencies: Government National Mortgage Corporation, Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Student Loan Marketing Association and Export-Import Bank of the United States.

(3) A bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Corporation to the extent such obligations are guaranteed by the Government National Mortgage Corporation or issued by another Federal agency and backed by the full faith and credit of the United States.

(4) Deposits in interest-bearing time or demand deposits or certificates of deposit fully insured by the Federal Deposit Insurance Corporation or its successors or the Federal Savings and Loan Insurance Corporation or its successors or fully secured by any of the obligations described above to the extent not so insured.

(5) Repurchase agreements relating to, or investment agreements secured by or providing for the acquisition of and, if applicable, resale of, obligations described in clauses (1) through (4) or obligations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association with:

(i) banks or trust companies, which may include a banking entity or depository;

(ii) brokers or broker-dealers registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §§ 78a-78jj) acceptable to the authority; or

(iii) insurance companies rated A+ or better by Best's and having a net capital and surplus of at least twenty-five million dollars (\$25,000,000) or certificates of deposit with banks or trust companies fully secured as to principal and accrued interest by obligations described in clauses (1) through (4) deposited with or subject to the control of the authority.

(6) Money market deposit accounts of banks or trust companies having a net capital and surplus of at least twenty-five million dollars (\$25,000,000), which may include a banking entity or depository.

(7) The description of authorized investments as set forth in clauses (5) and (6) shall be met only if the agreements referenced therein provide for the repayment of the principal amount invested at an amount not less than that so invested. Whenever security is required as set forth in clauses (4) through (6), the security shall be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. Moneys of the authority shall be paid out on the warrant or other order of the chairman of the authority or of such other person or persons as the authority may authorize to execute warrants or orders.



(e) (1) An authority created under this subdivision shall file an annual report with the Department of Community and Economic Development and with the county and political subdivision constituting the county seat, which shall make provisions for the accounting of revenues and expenses. The authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant, and a copy of his audit report shall be attached to and be made a part of the annual report. A concise financial statement shall be published annually in a newspaper of general circulation in the county where the authority is located.

(2) An authority created under this subdivision shall, upon request by the county or the political subdivision constituting the county seat, file a report with the requesting entity listing the names of authority employees and the amount of compensation received by each employee, the names of authority independent contractors and the amount of remuneration received by such individuals and the names of any providers of professional services and the value of such contracts for professional services.

(f) The Attorney General, Auditor General, Secretary of the Budget and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and the minority chairman of the Appropriations Committee of the House of Representatives shall have the right to examine the books, accounts and records of the authority.

Section 2399.64. Transfer of Existing Facilities or Funds; Making of Annual Grants and Lease Payments to Authority.--(a)

A State public body or political subdivision may and is hereby authorized to sell, lease or sublease from or to, lend, grant, convey or otherwise transfer or pay over to the authority, with or without consideration, convention center facilities, or parts thereof, or an interest in property, real, personal or mixed, tangible or intangible, or any funds available, needed or obligated for development, acquisition, design, maintenance, management, operation, financing, leasing or subleasing, construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for construction or improvement of a convention center, or parts thereof. Property, funds or convention center facilities, or parts thereof, received by the authority may be used for any lawful purpose of the authority. Nothing in this subdivision nor in any other law shall be deemed to make an authority or person a State-supported or State-aided institution under any law of this Commonwealth.

(b) The governing bodies of the county and county seat may and are hereby authorized to make grants from current revenues to the authority and to assist in defraying the costs of management, operation, maintenance, financing and debt service of convention center facilities, or parts thereof, and to enter into long-term agreements providing for the payment of the same and to enter into long-term leases or subleases as lessee or sublessee of all or part of convention center facilities, provided that obligations of the county and county seat to make grants, lease or sublease payments to an authority shall not, even if based on debt obligations of an authority, constitute debts of the county and county seat within the meaning of any constitutional or statutory provision and shall be payable only to the extent that current revenues of the county and county seat are available. The county and county seat may issue general

obligation bonds for the purpose of obtaining funds for local contributions pertaining to convention center facilities, or parts thereof.

(c) The Commonwealth may contribute to the capital costs of constructing a convention center facility by the issuance of Commonwealth bonds and notes pursuant to Chapter 3 of the act of February 9, 1999 (P.L.1, No.1), known as the "Capital Facilities Debt Enabling Act." A convention center project undertaken by the authority is hereby deemed to be a redevelopment assistance project for which capital funds of the Commonwealth may be expended pursuant to the provisions of the act of May 20, 1949 (P.L.1633, No.493), known as the "Housing and Redevelopment Assistance Law," and, notwithstanding any provisions of the "Housing and Redevelopment Assistance Law," the Department of Community and Economic Development is hereby authorized to make capital grants directly to the authority in furtherance of this subdivision.

Section 2399.65. Award of Contracts.--(a) All construction, reconstruction, repairs or work of any nature made by the authority where the entire cost, value or amount of the construction, reconstruction, repairs or work, including labor and materials, shall exceed ten thousand dollars (\$10,000), except construction, reconstruction, repairs or work done by employees of the authority or by labor supplied under agreement with any Federal agency, State public body or political subdivision, with supplies and materials purchased as hereinafter provided, shall be done only under contract or contracts to be entered into by the authority with the lowest responsible bidder upon proper terms after due public notice has been given asking for competitive bids as hereinafter provided, but the authority shall have the right to reject any or all bids or select a single item from any bid. No contract shall be entered into for construction or improvement or repair of any project or portion thereof unless the contractor shall provide sufficient surety or sureties approved by the authority and in an amount fixed by the authority for the performance of the contract. All contracts shall provide among other things that the person or corporation entering into the contract with the authority will pay for all materials furnished and services rendered for the performance of the contract and that a person or corporation furnishing materials or rendering services may maintain an action to recover for the same against the obligor in the undertaking as though the person or corporation was named therein provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve a project or portion thereof or any addition, betterment or extension thereto directly by the officers and employees of the authority. The authority shall award the construction of a convention center according to the provisions of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," and shall be subject to 62 Pa.C.S. Pt. I (relating to Commonwealth procurement code). Nothing in this section or any other law of this Commonwealth shall require the authority to competitively bid architectural design, engineering or other professional services required by the authority.

(b) All supplies and materials costing ten thousand dollars (\$10,000) or more to be acquired directly by the authority shall

be purchased only after due advertisement as hereinafter provided. The authority shall accept the lowest bid or bids from a responsible bidder, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from a bid. The provisions as to bidding shall not apply to the purchase of unique supplies and materials or supplies and materials which cannot be obtained in the open market.

(c) Nothing in this section or in any other law of this Commonwealth shall preclude the board, with the approval of six members, from negotiating contracts for management, operation, concession services, licensing or leasing of convention center facilities, or any part thereof. The authority shall not award a contract to a manager, operator, concessionaire, licensee, lessee or lessor that exceeds three years in duration unless six members of the board approve the awarding of a contract for a greater period of time.

(d) The authority, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers shall not be subject to county or county seat laws, ordinances, rules or regulations relating to limits or preferences with regard to employment, contracting or procurement in the construction and operation of convention center facilities.

(e) The authority shall be subject to the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act," the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act," and 62 Pa.C.S. Ch. 37 Subch. B (relating to motor vehicles).

(f) As used in this section, the terms "advertisement" or "public notice" mean a notice published at least ten days before the award of a contract in a newspaper of general circulation published in the county, provided that the notice may be waived where the authority determines an emergency exists and supplies and materials must be immediately purchased by the authority.

Section 2399.66. Interests of Public Officers, Public Employes and Party Officers.--(a) (1) No party officer, public officer, public official or public employe shall be employed as a management-level authority employe.

(2) No person convicted of an infamous crime shall be employed as a management-level employe by the authority.

(b) The provisions of the act of July 19, 1957 (P.L.1017, No.451), known as the "State Adverse Interest Act," and 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) are hereby made specifically applicable to board members, officers and employes of the authority. For the purposes of application of these acts, employes of the authority shall be regarded as public employes of the Commonwealth, and officers or board members of the authority shall be regarded as public officials of the Commonwealth, whether or not they receive compensation. The authority shall also be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Notwithstanding the provisions of subsection (b), the following prohibitions shall apply to the authority created by this subdivision:

(1) No management-level employe or other employe of the authority shall use his position with the authority or confidential information received through his position with the authority to obtain financial gain other than compensation provided by law for himself, a member of his immediate family or a business with which he is associated.

(2) No person shall offer or give to a management-level employe or other employe of the board or a member of his immediate family or a business with which he is associated, and no management-level employe or other employe of the board shall solicit or accept, anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on an understanding that the vote, official action or judgment of the management-level employe or other employe of the board would be influenced thereby.

(3) No management-level employe or other employe of the board or a member of his immediate family or a business in which the person or a member of the person's immediate family is a director, officer, owner or holder of stock exceeding five per centum of the equity at fair market value of the business shall enter into a contract valued at five hundred dollars (\$500) or more to provide goods or services to the authority unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

(4) No former management-level employe or other former employe of the board shall represent a person, with or without compensation, on any matter before the authority with which he has been associated for one year after he leaves the authority.

(5) An individual who is a State, county seat or public officer or public official or party officer, a member of the immediate family of such an individual or a business with which such an individual or immediate family member is associated shall not have a financial interest in a contract valued at five hundred dollars (\$500) or more to provide goods or services to the authority either during the time the person holds the office or for two years after the person terminates the office unless the contract is executed pursuant to the provisions of clause (3). For purposes of this clause, the term "financial interest" shall not include employment by, association with or ownership of a business association unless the public officer, public official, party officer or immediate family member owns shares of stock in the corporation or has an ownership interest in a noncorporate business association in an amount in excess of five per centum of the total ownership of the noncorporate business association.

(6) No management-level employe or other employe of the board nor an advisor or consultant to the county seat, the county or the State, having recommended to the authority which he serves either the making of a contract relating to a convention center authority or a course of action of which the making of such a contract is an express or implied part, shall, at any time thereafter, have an adverse interest in the contract.

(7) No management-level employe or other employe of the authority, the county seat, the county or the State shall influence or attempt to influence the making of or supervise or in any manner deal with a contract with the authority in which he has an adverse interest.

(8) No management-level employe or other employe shall have an adverse interest in a contract with an authority.

(9) No person having an adverse interest in a contract with the authority shall become a management-level employe or other employe of the authority until the adverse interest shall have been wholly divested.

(10) No management-level employe or other employe of the authority, the county seat, the county or the State, except in

the performance of his duties as an employee, shall for remuneration, directly or indirectly, represent a person upon a matter pending before the authority.

(d) (1) A person who violates this section shall have his employment by the authority immediately terminated by the appropriate person having the power to terminate and shall be liable to the authority to reimburse the authority for all compensation received by him from the authority while employed in violation of subsection (a).

(2) A person who violates subsection (c)(1) or (2) commits a felony and shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000) or to imprisonment for not more than five years, or both.

(3) A person who violates subsection (c)(3) through (10) commits a misdemeanor and shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than one year, or both.

(4) A person who obtains financial gain from violating subsection (c), in addition to any other penalty provided by law, shall pay into the accounts of the authority a sum of money equal to three times the financial gain resulting from the violation.

(5) A person who violates subsection (c) shall be barred for a period of five years from engaging in any business or contract with the authority, the county seat, the county, the State and all political subdivisions.

(6) An employee of the county seat, county, State or any political subdivision or a public officer or public official who violates subsection (c) shall automatically forfeit the office or employment he may then hold.

(7) The penalties and sanctions provided by this section shall supersede any similar penalties and sanctions provided by 65 Pa.C.S. Ch. 11 and the "State Adverse Interest Act."

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business" shall mean a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or any legal entity organized for profit or as a not-for-profit corporation or organization.

"Business with which he is associated" shall mean a business in which the person or a member of the person's immediate family is a director, officer, owner, employee or holder of stock.

"Immediate family" shall mean a parent, spouse, child, brother, sister or like relative-in-law.

"Infamous crime" shall mean a violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania or a conviction for a violation of this section, 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions) or Ch. 47 (relating to bribery and corrupt influence), 49 (relating to falsification and intimidation), 51 (relating to obstructing governmental operations) or 53 (relating to abuse of office) or any other violation of the laws of this Commonwealth for which an individual has been convicted within the preceding ten years and which is classified as a felony, and similar violations of the laws of another state or the Federal Government.

"Management-level authority employee" shall mean the chairman and members of the board of the authority, counsel employed by

the authority, the executive director of the authority and any authority employe with discretionary powers which may affect the outcome of the authority's decision in relation to a private corporation or business or any employe who by virtue of his job function could influence the outcome of the decision.

"Party officer" shall mean the following members or officers of a political party:

- (1) a member of a national committee;
- (2) a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee;
- (3) a city chairman or vice chairman or counsel, secretary or treasurer of a city committee; or
- (4) a county chairman or vice chairman or counsel, secretary or treasurer of a county committee.

"Person" shall mean a business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

"Public employe" shall mean an individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest of any person.

A public employe shall not include individuals who are independent contractors or persons who are employed by the State or a political subdivision in teaching, as distinguished from administrative duties.

"Public officer" shall mean a person elected to any public office of the Commonwealth or a political subdivision.

"Public official" shall mean an elected or appointed official in the executive, legislative or judicial branch of the State or a political subdivision, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or a political subdivision. The term shall not include an appointed official who receives no compensation other than reimbursement for actual expenses.

Section 2399.67. Use and Operation of Convention Center Facilities.--The use and operation of convention center facilities, and all parts thereof, and the operation of the business of the authority shall be subject to the rules and regulations from time to time adopted by the authority, provided, however, that the authority shall not be authorized to do anything which will impair the security of the obligees of the authority or violate any agreements with them or for their benefit or violate any contracts, leases or other agreements awarded, made or entered into by the authority.

Section 2399.68. Limitation of Powers.--(a) The Commonwealth does hereby pledge to and agree with any person, the county, county seat, political subdivision or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction or improvement of a convention center facility, or parts thereof, that the Commonwealth will not limit or alter the rights hereby vested in the authority

in any manner inconsistent with the obligations to the bondholders until all bonds at any time issued, together with the interest, are fully paid and discharged. The Commonwealth does further pledge to and agree with any Federal agency that in the event that the Federal agency shall construct or contribute funds for the construction or improvement of a convention center facility, or parts thereof, that the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreements between the authority and the Federal agency.

(b) The Commonwealth does hereby pledge to and agree with any person who as owner leases or subleases a convention center facility, or parts thereof, to or from an authority created pursuant to this subdivision that the Commonwealth will not limit or alter the rights and powers hereby vested in the authority or otherwise created by this subdivision in any manner which impairs the obligations of the authority until all obligations of the authority under the lease or sublease are fully met and discharged.

Section 2399.69. Exemption from Taxation.--The effectuation of the authorized purposes of authorities created under this subdivision shall and will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and since authorities, as public instrumentalities of the Commonwealth, will be performing essential governmental functions in effectuating these purposes, the authorities shall not be required to pay any taxes or assessments upon a convention center facility, or parts thereof, or property acquired or used or permitted to be used by them for these purposes; and the bonds issued by any authority, their transfer and the income from the bonds, including any profits made on the sale of the bonds, shall at all times be free from State and local taxation within this Commonwealth. This exemption shall not extend to gift, estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, their transfer or the income from or the realization of profits on the sale of the bonds.

Section 2399.70. Lease by Authorities.--A convention center facility, or part thereof, may be leased or subleased by the authority to and from the county or county seat, and the county or county seat is hereby empowered to enter into leases, subleases, or both, for this purpose. A lease or sublease may be made for a specified or unlimited time and on any terms and conditions which may be approved by the county or county seat and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds.

Section 2399.71. Cooperation.--(a) For the purpose of aiding and cooperating with the authority and in the planning, acquisition, clearance, relocation, development, design, construction, rehabilitation, leasing, subleasing, alteration, expansion, financing, improvement, management or operation of a convention center facility, or parts thereof, any State public body or political subdivision or the county or county seat may, upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey, lease or otherwise transfer property or any interest therein, real, personal or mixed, tangible or intangible, to the authority.

(2) Cause parking, recreational or community facilities or any other works, which it is otherwise empowered to undertake,

to be furnished in or adjacent to any area selected for a convention center facility, or parts thereof.

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered so to do.

(4) Enter into agreements, extending over any period, with the authority or with the Federal Government respecting action to be taken by a State public body pursuant to the powers granted by this section.

(5) Do any and all things necessary or convenient to aid and cooperate in the development, acquisition, design, construction, improvement, maintenance, management, operation, furnishing, fixturing, equipping, repairing, financing, owning, leasing and subleasing of a convention center facility, or parts thereof.

(6) In connection with public improvements made by a State public body, political subdivision, county or the county seat, in exercising the powers herein granted, a State public body or political subdivision or the county or county seat may incur the entire expense.

(7) The Secretary of General Services is authorized, with the approval of the Governor and Attorney General, to execute and deliver, on behalf of the Commonwealth, conveyances, deeds and leases authorized under this subdivision.

(b) In connection with a convention center facility, or parts thereof, the county or county seat may contract with the authority or the Federal Government with respect to sums which the authority or the Federal Government may agree to pay during any year or period of years to the county or county seat for the improvements, services and facilities to be provided by it for the benefit of the authority, convention center facility, or parts thereof, or the persons occupying the area. However, the absence of a contract for these payments shall in no way relieve the county or county seat from the duty to furnish for the benefit of the authority, convention center facility, or parts thereof, or the persons occupying the area, customary improvements and such services and facilities as the county or county seat usually furnishes without a service fee.

(c) The county, county seat or State may by written agreement designate the authority as its agent within the authority's field of operation to perform any specified activity or to administer any specified program which the State, county or county seat is authorized by law to do. However, any such activities or programs shall be in furtherance of the public purposes specified in this subdivision. These activities may include, without being limited to, development, acquisition, design, construction, improvement, maintenance, leasing, management or operation of a convention center facility, or parts thereof.

(d) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

Section 2399.72. Hotel Room Rental Tax.--(a) The county in which the authority's convention center facilities are located or are to be located is hereby authorized to impose an excise tax on the consideration received by each operator of a hotel within the market area from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the county and shall be known as the Hotel Room Rental Tax.



(b) The rate of tax imposed under this section by the county in which the authority's convention center facilities are located shall not exceed five per centum.

(c) Subject to the deduction of the administrative fee authorized by subsection (i), eighty per centum of revenues received from taxes imposed pursuant to this section shall be deposited within two working days in the special fund required under subsection (d) for the use of the authority for authority purposes. Twenty per centum of the revenues received from taxes imposed pursuant to this section shall be deposited within two working days in the tourist promotion agency fund required under subsection (d) until disbursed as provided in subsection (g).

(d) The treasurer of each county electing to impose the tax authorized under this section is hereby directed to collect the tax and subject to the deduction of the administrative fee authorized by subsection (i):

(1) to deposit eighty per centum of the revenues received from the tax in a special fund established for the purposes set forth in this section; and

(2) to deposit twenty per centum of the revenues received from the tax in the tourist promotion agency fund until disbursed pursuant to subsection (g). Interest on moneys deposited in the funds shall accrue proportionately to the respective funds as provided in this section. The treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax, which collection shall occur not more often than monthly nor less often than quarterly.

(e) The authority shall have the right to draw upon the special fund established pursuant to subsection (d) for the authority. Expenditures from the special fund shall be used by the authority for the following purposes:

(1) Projected annual debt service or lease payments of the convention center authority.

(2) Costs associated with financing, constructing, expanding, improving, maintaining, furnishing, fixturing and equipping convention center facilities.

(3) Costs associated with the development of convention center facilities, including, but not limited to, design, engineering and feasibility costs.

(4) Costs associated with the operation and management of convention center facilities.

(5) Costs associated with promoting, marketing and otherwise encouraging use of the convention center facilities.

(6) General purposes of the authority.

(7) Grants authorized under section 2399.55(e).

(f) If and to the extent that the authority pledges its share of the proceeds of the tax authorized by this section as security for the payment of bonds issued by the authority for convention center purposes:

(1) the Commonwealth does hereby pledge to and agree with any person, firm or corporation subscribing to or acquiring bonds to be issued by the authority for convention center purposes that the Commonwealth itself will not, nor will it authorize a county to, reduce the rate of tax imposed for convention center purposes until all bonds so secured by the pledge of the authority, together with interest, are fully met and discharged; and

(2) the county may not reduce the rate of tax imposed for convention center purposes until all bonds so secured by the pledge of the authority, together with interest, are fully met and discharged.

(g) Revenues received from the tax deposited into the tourist promotion agency fund required under subsection (d) shall be disbursed by each county to the tourist promotion agency within ten days of receipt thereof.

(h) Each tax year for any tax imposed hereunder shall run concurrently with the county's fiscal year.

(i) For purposes of defraying the costs of collecting the tax imposed hereunder and otherwise performing its obligations under this subdivision, the county is hereby authorized to deduct and retain an administrative fee from the taxes collected hereunder. Such administrative fee shall be established by the county but shall not exceed in any tax year the lesser of:

(1) two per centum of all taxes collected hereunder; or

(2) forty thousand dollars (\$40,000), which amount shall be adjusted biannually, beginning two years after the date of enactment, by the percentage growth in the Consumer Price Index for all Urban Consumers as determined by the United States Department of Labor.

(j) The county shall have the authority to prescribe such rules and regulations as the county determines are appropriate to administer the provisions of this subsection.

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Consideration" shall mean receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for a temporary period.

"Convention center" or "convention center facility" shall mean any land, improvement, structure, building, or part thereof, or property interest therein, whether owned by or leased by or to or otherwise acquired by an authority, appropriate for any of the following: large public assemblies, the holding of conventions, conferences, trade exhibitions and other business, social, cultural, scientific, sports, recreational, artistic and public interest events, performances and exhibitions, and all facilities, furniture, fixtures and equipment necessary or incident thereto, including meeting rooms, dining rooms, kitchens, ballrooms, reception areas, registration and prefunction areas, locker rooms, practice areas and equipment, training areas and equipment, truck loading areas, including access thereto, accessways, including, but not limited to, tunnels, overhead walkways, escalators, elevators and other connections to nearby or adjoining buildings or facilities, regardless of whether such buildings or facilities constitute convention center facilities or are owned or controlled by the authority, common areas, lobbies, offices and areas appurtenant to any of the preceding, and also including other land, buildings, structures or facilities for use or planned for use in conjunction with the foregoing, including, but not limited to, landscaping, buffer areas, off-street parking, retail areas and other improvements related to a convention center facility owned by or leased by or to an authority, regardless of whether such improvements are for the purpose of producing revenues to assist in defraying the costs or expenses of such convention center facility.

"Hotel" shall mean a hotel, motel, inn, guesthouse or other building or complex of buildings located within the market area which holds itself out by any means, including advertising, license, registration with an innkeeper's group, convention listing association, travel publication or similar association or with a government agency, as being available to provide

overnight lodging or use of facility space for consideration to persons seeking temporary accommodation. The term includes a place which advertises to the public at large or a segment of the public that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large. The term also includes a place recognized as a hostelry, provided that portions of a facility which are devoted to persons who have established permanent residence shall not be included in this definition. The term does not include a bed and breakfast homestead or inn as defined in the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law.

"Market area" shall mean:

(1) With respect to a county in which there is more than one city of the third class, the entire county.

(2) With respect to a county in which there is only one city of the third class, one of the following, as selected by the governing body of the county:

(i) That city and the area within the county which is not more than fifteen miles from the city limits of the county seat.

(ii) That city and the area within the county which, as determined by the governing body of the county imposing the tax, derives a material benefit from the existence of the convention center within the county. The owner of a hotel affected by a determination by the governing body under this subparagraph may challenge the determination by filing a petition in the court of common pleas in the judicial district where the determination was made.

"Occupancy" shall mean the use or possession or the right to the use or possession by a person other than a permanent resident of a room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator" shall mean any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron" shall mean any person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident" shall mean any person who has occupied or has the right to occupy a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

"Room" shall mean a space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodations provided therein.

"Temporary" shall mean a period of time not exceeding thirty consecutive days.

"Tourist promotion agency" shall mean the agency designated by the governing body of a county or county seat in which the convention center facilities are located to be eligible for grants from the Department of Community and Economic Development pursuant to the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."

"Transaction" shall mean the activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

"Transient" shall mean an individual who obtains an accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of a room for the personal use of that individual by paying to the operator of the facility a fee in consideration therefor.

"Treasurer" shall mean the elected treasurer of the county or, if there is no elected treasurer of the county, such other official or agent of the county as may be designated by the county to collect and account for the tax authorized by this section.

Section 2399.73. Construction.--Nothing in this subdivision shall be construed to limit any action taken under subdivision (n).

Section 3. This act shall take effect in 60 days.

APPROVED--The 18th day of October, A. D. 2000.

THOMAS J. RIDGE