

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 486

Session of
1977

INTRODUCED BY FINEMAN, IRVIS, MANDERINO, BUTERA, SALVATORE,
PIEVSKY, GREENFIELD, BERSON, RAPPAPORT, MEBUS, ITKIN,
SCIRICA, KELLY, BROWN, LETTERMAN, McCLATCHY, CALTAGIRONE,
HOPKINS, BELOFF, BENNETT, BURNS, HOFFEL, REED, PYLES,
SCHMITT, FREIND, GAMBLE, DiCARLO, BELLOMINI, SCANLON,
GLEESON, KNEPPER, CIANCIULLI, GIAMMARCO AND WHITE,
MARCH 2, 1977

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 2, 1977

AN ACT

1 Prohibiting certain practices in commercial transactions which
2 have the effect of limiting, discouraging or preventing free
3 association among persons, business organizations or
4 governmental agencies on account of race, color, sex,
5 religious creed, ancestry, national origin, ethnicity, or the
6 relationship of any person, business organization or
7 governmental agency with any foreign person, foreign business
8 organization or foreign government if such relationship is
9 not inconsistent with the declared foreign policy of the
10 United States.

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

13 Section 1. Short title.

14 This act shall be known and may be cited as the "Free
15 Commercial Association Act."

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have, unless the context clearly indicates otherwise, the
19 meanings given to them in this section:

1 "Business organization." A corporation, association,
2 partnership, joint-stock company, business trust, syndicate,
3 joint adventureship or other combination or group of persons
4 which is organized for the purpose of engaging, or is engaging
5 in profit-making activities, including but not limited to any
6 bank, bank and trust company, trust company, savings bank,
7 private bank, consumer discount company, consumer credit
8 company, mortgage company, savings and loan association, or
9 credit union.

10 "Coercive economic act":

11 (1) "Coercive economic act." Any action the effect of
12 which is to limit, discourage or prevent free commercial
13 association of or among persons, business organizations, or
14 governmental agencies, including but not limited to:

15 (i) entering or refusing to enter into any contract
16 or legal relationship of whatever nature;

17 (ii) boycotting, blacklisting, or refusing to buy,
18 sell, trade, employ, license or provide goods, services
19 or information, or otherwise do business;

20 (iii) issuing or accepting any letter of credit; or

21 (iv) complying with the request of any foreign
22 person, foreign government, or foreign business
23 organization,

24 where a basis of such action is the race, color, sex,
25 religious creed, ancestry, national origin, or ethnicity of
26 any person or the relationship of any person, business
27 organization, or governmental agency with any foreign person,
28 foreign government, or foreign business organization if such
29 relationship is not inconsistent with the declared foreign
30 policy of the United States:

1 (2) "Coercive economic act" shall not include:

2 (i) actions connected with labor disputes;

3 (ii) actions which protest discriminatory practices
4 of foreign governments which are inconsistent with to the
5 declared foreign policy of the United States; or

6 (iii) actions which protest unlawful discriminatory
7 practices.

8 "Control." The power to exercise a controlling influence
9 over the management or policies of an entity, to govern such
10 management or policies or to play a significant role in the
11 implementation thereof.

12 "Foreign business organization." Any business organization
13 whose principal place of business or domicile is outside of the
14 United States, or any business organization controlled directly
15 or indirectly by any other business organization whose principal
16 place of business or domicile is outside of the United States.

17 "Foreign government." All governments and political
18 subdivisions and the instrumentalities thereof, excepting the
19 governments, political subdivisions, and instrumentalities of
20 the United States and the States, Commonwealths, territories and
21 possessions of the United States, and the District of Columbia.

22 "Foreign person." Any person whose principal place of
23 residence, business, or domicile is outside of the United
24 States, or any person controlled directly or indirectly by any
25 other person whose principal place of residence, business, or
26 domicile is outside of the United States.

27 "Governmental agency." The Commonwealth of Pennsylvania or
28 any department, board, commission, agency or authority thereof
29 or any political subdivision of the Commonwealth of Pennsylvania
30 or any agency or authority thereof.

1 Section 3. Prohibited practices.

2 It shall be a prohibited commercial practice for any business
3 organization or governmental agency or any person acting on
4 behalf of or in the interest of any such business organization
5 or governmental agency or any officer, employee, or agent of any
6 foreign government or foreign business organization to engage in
7 any coercive economic act.

8 Section 4. Void contracts.

9 Any contract of whatever nature entered into by any business
10 organization or governmental agency, or by any person acting on
11 behalf of or in the interest of any such business organization,
12 or governmental agency, which contains any provision which
13 requires or requests that any party thereto or any other entity
14 commit a coercive economic act, shall be void and unenforceable
15 in its entirety.

16 Section 5. Penalties.

17 (a) Any business organization or governmental agency, or any
18 person acting on behalf of or in the interest of any such
19 business organization or governmental agency, or any officer,
20 employee, or agent of any foreign government or foreign business
21 organization who violates any provision of this act by
22 committing a prohibited practice as set forth in section 3 shall
23 be guilty of a misdemeanor of the third degree and, upon
24 conviction thereof, shall be sentenced to pay a fine not
25 exceeding \$2,500, or to undergo imprisonment for a term not to
26 exceed one year, or both.

27 (b) The Attorney General may institute an action in the
28 Commonwealth Court, on behalf of this Commonwealth, to collect a
29 civil penalty against any business organization or governmental
30 agency, or any person acting on behalf of or in the interest of

1 any such business organization or governmental agency, or any
2 officer, employee, or agent of any foreign government or foreign
3 business organization who violates any provision of this act by
4 committing a prohibited practice as set forth in section 3. The
5 penalty shall not exceed \$5,000 if imposed upon a natural
6 person, and shall not exceed \$50,000 if imposed upon an entity
7 other than a natural person.

8 (c) Any business organization or foreign business
9 organization which is required under any law of this
10 Commonwealth to obtain a certificate of authority, or in any
11 other manner to register in order to conduct business in this
12 Commonwealth by reason of the fact that it is not domesticated
13 within this Commonwealth, and any domestic corporation, shall,
14 upon conviction of a misdemeanor of the third degree as provided
15 in subsection (a) or, upon the imposition of a civil penalty as
16 provided in subsection (b) or both, forfeit any right to
17 continue to conduct business within this Commonwealth and any
18 such certificate of authority or registration shall be cancelled
19 and revoked. The officer of this Commonwealth or other
20 individual responsible for issuing such a certificate of
21 authority or conducting such registration shall, upon
22 notification from the court of any such conviction or imposition
23 of a civil penalty, proceed immediately, under the procedures
24 established by the law of this Commonwealth requiring a
25 certificate of authority or other registration, to cancel and
26 revoke the same.

27 (d) Without regard to the amount in controversy, in a civil
28 action brought by any entity aggrieved by the commission of a
29 prohibited practice as set forth in section 3, such aggrieved
30 entity may recover threefold actual damages, reasonable

1 attorney's fees, other litigation costs reasonably incurred, and
2 obtain other appropriate relief.

3 (e) The remedies provided in this act are cumulative.

4 Section 6. Evidence.

5 In any judicial proceeding to enforce the provisions of this
6 act where the declared foreign policy of the United States is an
7 issue of fact, the court may accept as evidence of such policy,
8 without requiring formal proof thereof, written and oral
9 statements of officials of the Executive Branch of the United
10 States Government charged by law with the duty of developing or
11 executing such policy, resolutions of the United States Senate
12 or House of Representatives, and any other relevant evidence
13 otherwise admissible under the laws of this Commonwealth.

14 Section 7. Effect on other laws.

15 Nothing contained in this act shall be deemed to supersede,
16 restrict or otherwise limit any other law of this Commonwealth
17 which prohibits the activity herein proscribed.

18 Section 8. Effective date.

19 This act shall take effect in 60 days.