
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 55

Session of
1997

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LEH, ROSS AND SERAFINI, JANUARY 28, 1997

SENATOR HART, FINANCE, IN SENATE, AS AMENDED, NOVEMBER 17, 1997

AN ACT

1 ~~Providing for the tax exemption of institutions of purely public~~ <—
2 ~~charity; exempting real property owned by State related~~
3 ~~universities or Federal Government instrumentalities from~~
4 ~~taxation; and providing for unfair competition.~~

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5 PROVIDING FOR THE TAX EXEMPTION OF INSTITUTIONS OF PURELY PUBLIC <—
6 CHARITY; EXEMPTING REAL PROPERTY OWNED BY STATE-RELATED
7 UNIVERSITIES OR FEDERAL GOVERNMENT INSTRUMENTALITIES FROM
8 TAXATION; PROVIDING FOR UNFAIR COMPETITION; IMPOSING
9 PENALTIES; AND MAKING REPEALS.

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

29 ~~Section 1. Short title.~~ <—

30 ~~This act shall be known and may be cited as the Institutions~~
31 ~~of Purely Public Charity Act.~~

32 ~~Section 2. Legislative intent.~~

1 ~~(a) Findings. The General Assembly finds and declares as~~
2 ~~follows:~~

3 ~~(1) It is in the best interest of this Commonwealth and~~
4 ~~its citizens that the recognition of tax exempt status be~~
5 ~~accomplished in an orderly, uniform and economical manner.~~

6 ~~(2) For more than 100 years, it has been the policy of~~
7 ~~this Commonwealth to foster the organization and operation of~~
8 ~~charitable organizations by exempting charitable~~
9 ~~organizations from taxation.~~

10 ~~(3) Because charitable organizations contribute to the~~
11 ~~common good or lessen the burdens of government, the historic~~
12 ~~policy of exempting charitable institutions from taxation~~
13 ~~should be continued.~~

14 ~~(4) The General Assembly recognizes that it is~~
15 ~~unrealistic today to expect charitable organizations to rely~~
16 ~~completely upon private philanthropy and that there is an~~
17 ~~appropriate role and responsibility for government support~~
18 ~~with respect to activities historically recognized as~~
19 ~~charitable.~~

20 ~~(5) The General Assembly recognizes that the lack of~~
21 ~~specific legislative standards defining the term~~
22 ~~"institutions of purely public charity" has led to increasing~~
23 ~~confusion and confrontation among traditionally tax exempt~~
24 ~~organizations and local governments to the detriment of the~~
25 ~~public.~~

26 ~~(6) There is increasing concern that the eligibility~~
27 ~~standards for charitable tax exemptions are being applied~~
28 ~~inconsistently, which may violate the uniformity provision of~~
29 ~~the Constitution of Pennsylvania.~~

30 ~~(b) Intent. It is the intent of the General Assembly to~~

1 ~~eliminate inconsistent application of eligibility standards for~~
2 ~~charitable tax exemptions, reduce confusion and confrontation~~
3 ~~among traditionally tax exempt organizations and local~~
4 ~~governments and insure that charitable and public funds are not~~
5 ~~unnecessarily diverted from the public good to litigate~~
6 ~~eligibility for tax exempt status by providing standards to be~~
7 ~~applied uniformly in all proceedings throughout this~~
8 ~~Commonwealth for determining eligibility for exemption from~~
9 ~~State and local taxation which are consistent with traditional~~
10 ~~legislative and judicial applications of the constitutional term~~
11 ~~"institutions of purely public charity."~~

12 ~~Section 3.— State related universities.~~

13 ~~(a) General rule.— It is the intent of the General Assembly~~
14 ~~to recognize that the State related universities provide a~~
15 ~~direct public benefit and serve the public purposes of this~~
16 ~~Commonwealth by declaring the real property of State related~~
17 ~~universities to be public property for purposes of exemption~~
18 ~~from State and local taxation when the property is actually and~~
19 ~~regularly used for public purposes, provided that nothing in~~
20 ~~this section is intended or shall be construed to affect the~~
21 ~~title to real property of State related universities or the~~
22 ~~power and authority of the governing bodies of State related~~
23 ~~universities with respect to such real property. Further,~~
24 ~~nothing in this section is intended or shall be construed to~~
25 ~~affect, impair or terminate any contract or agreement in effect~~
26 ~~on or before the effective date of this act by and between a~~
27 ~~State related university and any county, city, borough, township~~
28 ~~or school district wherein the State related university pays~~
29 ~~real estate taxes, amounts in lieu of real estate taxes or other~~
30 ~~charges, fees or contributions for municipal services.~~

1 ~~(b) Real property. All real property owned by State related~~
2 ~~universities, or owned by the Commonwealth and used by a State~~
3 ~~related university, is and shall be deemed public property for~~
4 ~~purposes of the Constitution of Pennsylvania and the laws of~~
5 ~~this Commonwealth relating to the assessment, taxation and~~
6 ~~exemption of real estate and shall be exempt from all State and~~
7 ~~local taxation when actually and regularly used for public~~
8 ~~purposes.~~

9 ~~(c) Exemption. This section shall not include the property~~
10 ~~of a State related university the possession and control of~~
11 ~~which has been transferred to a for profit entity not otherwise~~
12 ~~entitled to tax exempt status, irrespective of whether that~~
13 ~~entity is affiliated with the university. The execution of a~~
14 ~~management services contract with a third party entity to~~
15 ~~provide operational services to the university which would~~
16 ~~otherwise be provided or conducted directly by the university~~
17 ~~shall not, however, be considered a transfer of possession and~~
18 ~~control of real property within the meaning of this section.~~

19 ~~(d) Definitions. As used in this section, the following~~
20 ~~words and phrases shall have the meanings given to them in this~~
21 ~~subsection:~~

22 ~~"Public purposes." All activities relating to the~~
23 ~~educational mission of State related universities, including~~
24 ~~teaching, research, service and activities incident or ancillary~~
25 ~~thereto which provide services to or for students, employees or~~
26 ~~the public.~~

27 ~~"State related universities." The Pennsylvania State~~
28 ~~University and its affiliate, the Pennsylvania College of~~
29 ~~Technology, the University of Pittsburgh, Temple University and~~
30 ~~its subsidiaries Temple University Hospital, Inc., and Temple~~

1 ~~University Children's Hospital, Inc., and Lincoln University.~~

2 ~~Section 4. Definitions.~~

3 ~~The following words and phrases when used in this act shall~~
4 ~~have the meanings given to them in this section unless the~~
5 ~~context clearly indicates otherwise:~~

6 ~~"Commercial business." The sale of products or services that~~
7 ~~are principally the same as those offered by an existing small~~
8 ~~business in the same community.~~

9 ~~"Goods or services." Goods or services which promote any of~~
10 ~~the six enumerated purposes under section 5(b) and which are~~
11 ~~valued in accordance with generally accepted accounting~~
12 ~~principles applicable to the institution. If the institution's~~
13 ~~purpose is to provide health care services, the term shall~~
14 ~~include, but not be limited to, medically necessary goods or~~
15 ~~services in life threatening situations.~~

16 ~~"Government agency." Any Commonwealth agency or any~~
17 ~~political subdivision or municipal or other local authority or~~
18 ~~any officer or agency of any political subdivision or local~~
19 ~~authority.~~

20 ~~"Institution of purely public charity." A domestic or~~
21 ~~foreign nonprofit corporation, association, trust or other~~
22 ~~organization which meets the criteria under section 5.~~

23 ~~"Net operating income." The amount of funds remaining after~~
24 ~~deducting all operating expenses related to the provision of~~
25 ~~goods or services associated with the institution's charitable~~
26 ~~purpose from payments received from providing these goods or~~
27 ~~services, as determined in accordance with the generally~~
28 ~~accepted accounting principles applicable to the institution.~~

29 ~~"Small business." Any self-employed individual, sole~~
30 ~~proprietorship, firm, corporation, partnership, association or~~

1 ~~other entity that:~~

2 ~~(1) has fewer than 101 full time employees; and~~

3 ~~(2) is subject to income taxation under the act of March~~
4 ~~4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

5 ~~"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),~~
6 ~~known as the Tax Reform Code of 1971.~~

7 ~~"Total operating expenses." The costs related to the~~
8 ~~provision of goods or services associated with the institution's~~
9 ~~charitable purpose, as determined in accordance with generally~~
10 ~~accepted accounting principles applicable to the institution.~~

11 ~~Section 5.—Criteria.~~

12 ~~(a) General rule.—An institution of purely public charity~~
13 ~~is a nonprofit corporation, association, trust or other~~
14 ~~organization which meets the criteria set forth in this section.~~
15 ~~A nonprofit parent corporation, together with all of its~~
16 ~~subsidiary nonprofit corporations, may elect to be considered as~~
17 ~~a single institution in meeting the criteria set forth in this~~
18 ~~section as long as all of the following are met:~~

19 ~~(1) Each subsidiary:~~

20 ~~(i) is a nonstock corporation of which the nonprofit~~
21 ~~parent corporation is the only member; and~~

22 ~~(ii) meets the requirements of subsections (b), (c),~~
23 ~~(d), (e) and (f).~~

24 ~~(2) The parent:~~

25 ~~(i) is a nonstock corporation;~~

26 ~~(ii) is duly qualified by the Internal Revenue~~
27 ~~Service as meeting the requirements of section 501(c)(3)~~
28 ~~of the Internal Revenue Code of 1986 (Public Law 99-514,~~
29 ~~26 U.S.C. § 501(c)(3));~~

30 ~~(iii) meets the requirements of subsections (b) and~~

1 ~~(c); and~~
2 ~~(iv) except for services that meet the requirements~~
3 ~~of subsections (b), (c), (d), (e) and (f), does not~~
4 ~~render services for a fee to an individual or entity that~~
5 ~~does not meet the requirements of paragraph (1).~~

6 ~~An institution of purely public charity shall meet all of the~~
7 ~~criteria contained in subsections (b), (c), (d), (e) and (f).~~

8 ~~Institutions of purely public charity which meet the criteria~~
9 ~~specified in this section shall be considered to be founded,~~
10 ~~endowed and maintained by public or private charity.~~

11 ~~(b) Charitable purpose. The institution shall advance a~~
12 ~~charitable purpose. This criterion is satisfied if the~~
13 ~~institution is organized and operated primarily to fulfill any~~
14 ~~one or combination of the following purposes:~~

15 ~~(1) Relief of poverty.~~

16 ~~(2) Advancement of education, including, but not limited~~
17 ~~to, postsecondary education.~~

18 ~~(3) Advancement of religion.~~

19 ~~(4) Prevention and treatment of disease or injury.~~

20 ~~(5) Government or municipal purposes.~~

21 ~~(6) Accomplishment of a purpose which is beneficial to~~
22 ~~the community, including advancement of the arts and~~
23 ~~sciences, advancement of the cultural, spiritual, mental,~~
24 ~~physical, social or emotional welfare or improvement of~~
25 ~~others.~~

26 ~~(c) Private profit motive. The institution shall operate~~
27 ~~entirely free from private profit motive. Notwithstanding~~
28 ~~whether the institution's revenues exceed its expenses, this~~
29 ~~criterion is satisfied if the institution meets all of the~~
30 ~~following:~~

1 ~~(1) Neither the institution's net earnings nor donations~~
2 ~~which it receives inures to the benefit of private~~
3 ~~shareholders or other individuals, as the private inurement~~
4 ~~standard is interpreted under section 501(c)(3) of the~~
5 ~~Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §~~
6 ~~501(c)(3)). The purchase of tangible or intangible assets,~~
7 ~~including professional practices for fair market value, shall~~
8 ~~not, by itself, be construed to constitute evidence of~~
9 ~~operation for a private profit motive.~~

10 ~~(2) The institution applies or reserves any revenue in~~
11 ~~excess of expenses in furtherance of its charitable purpose~~
12 ~~or to funding of other charitable organizations which meet~~
13 ~~the provisions of this subsection.~~

14 ~~(3) Compensation, including benefits, of any director,~~
15 ~~officer or employee, is not based primarily upon the~~
16 ~~financial performance of the organization.~~

17 ~~(d) Community service.—~~

18 ~~(1) The institution shall donate or render gratuitously~~
19 ~~a substantial portion of its services. This criterion is~~
20 ~~satisfied if the institution benefits the community by~~
21 ~~actually providing any of the following:~~

22 ~~(i) Goods or services to all who seek them without~~
23 ~~regard to their ability to pay for what they receive if~~
24 ~~all of the following apply:~~

25 ~~(A) The institution has a written policy to this~~
26 ~~effect.~~

27 ~~(B) The institution has published this policy in~~
28 ~~a reasonable manner.~~

29 ~~(C) The institution provides uncompensated goods~~
30 ~~or services at least equal to 75% of the~~

1 ~~institution's net operating income but not less than~~
2 ~~3% of the institution's total operating expenses.~~

3 ~~(ii) Goods or services for fees that are based upon~~
4 ~~the recipient's ability to pay for them if all of the~~
5 ~~following apply:~~

6 ~~(A) The institution can demonstrate that it has~~
7 ~~implemented a written policy and a written schedule~~
8 ~~of fees based on individual or family income. An~~
9 ~~institution will meet the requirement of this clause~~
10 ~~if the institution consistently applies a formula to~~
11 ~~all individuals requesting consideration of reduced~~
12 ~~fees which is in part based on individual or family~~
13 ~~income.~~

14 ~~(B) At least 20% of the individuals receiving~~
15 ~~goods or services from the institution pay no fee or~~
16 ~~a fee which is lower than the cost of the goods or~~
17 ~~services provided by the institution.~~

18 ~~(C) At least 10% of the individuals receiving~~
19 ~~goods or services from the institution receive a~~
20 ~~reduction in fees of at least 10% of the cost of the~~
21 ~~goods or services provided to them.~~

22 ~~(D) No individual receiving goods or services~~
23 ~~from the institution pays a fee which is equal to or~~
24 ~~greater than the cost of the goods or services~~
25 ~~provided to them, or the goods or services provided~~
26 ~~to the individuals described in clause (B) are~~
27 ~~comparable in quality and quantity to the goods or~~
28 ~~services provided to those individuals who pay a fee~~
29 ~~which is equal to or greater than the cost of the~~
30 ~~goods or services provided to them.~~

1 ~~(iii) Wholly gratuitous goods or services to at~~
2 ~~least 5% of those receiving similar goods or services~~
3 ~~from the institution.~~

4 ~~(iv) Financial assistance or uncompensated goods or~~
5 ~~services to at least 20% of those receiving similar goods~~
6 ~~or services from the institution if at least 10% of the~~
7 ~~individuals receiving goods or services from the~~
8 ~~institution either paid no fees or fees which were 90% or~~
9 ~~less of the cost of the goods or services provided to~~
10 ~~them, after consideration of any financial assistance~~
11 ~~provided to them by the institution.~~

12 ~~(v) Uncompensated goods or services which, in the~~
13 ~~aggregate, are equal to at least 5% of the institution's~~
14 ~~costs of providing goods or services.~~

15 ~~(vi) Goods or services at no fee or reduced fees to~~
16 ~~government agencies or goods or services to individuals~~
17 ~~eligible for government programs if one of the following~~
18 ~~applies:~~

19 ~~(A) The institution receives 75% or more of its~~
20 ~~gross operating revenue from grants or fee for~~
21 ~~service payments by government agencies and if the~~
22 ~~aggregate amount of fee for service payments from~~
23 ~~government agencies does not exceed 95% of the~~
24 ~~institution's costs of providing goods or services to~~
25 ~~the individuals for whom the fee for services~~
26 ~~payments are made.~~

27 ~~(B) The institution provides goods or services~~
28 ~~to individuals with mental retardation, to~~
29 ~~individuals who need mental health services, to~~
30 ~~members of an individual's family or guardian in~~

1 support of such goods or services or to individuals
2 who are dependent, neglected or delinquent children,
3 as long as the institution performs duties that would
4 otherwise be the responsibility of government and the
5 institution is restricted in its ability to retain
6 revenue over expenses or voluntary contributions by
7 any one of the following statutes or regulations or
8 by contractual limitations with county children and
9 youth offices in this Commonwealth:

10 (I) Sections 1315(c) and 1905(d) of the
11 Social Security Act (49 Stat. 620, 42 U.S.C. §§
12 1396d(d) and 1396n(c)).

13 (II) 42 CFR 440.150 (relating to
14 intermediate care facility (ICF/MR) services.

15 (III) 42 CFR Pt. 483 Subpt. I (relating to
16 conditions of participation for intermediate care
17 facilities for the mentally retarded).

18 (IV) The act of October 20, 1966 (3rd
19 Sp.Sess., P.L.96, No.6), known as the Mental
20 Health and Mental Retardation Act of 1966.

21 (V) Articles II, VII, IX and X of the act of
22 June 13, 1967 (P.L.31, No.21), known as the
23 Public Welfare Code.

24 (VI) 23 Pa.C.S. Ch. 63 (relating to child
25 protective services).

26 (VII) 42 Pa.C.S. Ch. 63 (relating to
27 juvenile matters).

28 (VIII) 55 Pa. Code Chs. 3170 (relating to
29 allowable costs and procedures for county
30 children and youth), 3680 (relating to

1 ~~administration and operation of a children and~~
2 ~~youth social service agency) 4300 (relating to~~
3 ~~county mental health and mental retardation~~
4 ~~fiscal manual), 6400 (relating to community homes~~
5 ~~for individuals with mental retardation), 6500~~
6 ~~(relating to family living homes), 6210 (relating~~
7 ~~to participation requirements for the~~
8 ~~intermediate care facilities for the mentally~~
9 ~~retarded program), 6211 (relating to allowable~~
10 ~~cost reimbursement for non State operated~~
11 ~~intermediate care facilities for the mentally~~
12 ~~retarded) and 6600 (relating to intermediate care~~
13 ~~facilities for the mentally retarded).~~

14 ~~(vii) Funds to corporations, associations, trusts or~~
15 ~~other organizations which meet the criteria of this~~
16 ~~section, funds to government agencies or funds to~~
17 ~~organizations which qualify under section 501(c)(3) of~~
18 ~~the Internal Revenue Code of 1986 (Public Law 99 514, 26~~
19 ~~U.S.C. § 501(c)(3)), if the institution providing the~~
20 ~~funds is primarily engaged in fundraising on behalf of or~~
21 ~~making grants to such corporations, associations, trusts,~~
22 ~~such government agencies or such organizations.~~

23 ~~(2) The institution may elect to average the applicable~~
24 ~~data for its five most recently completed fiscal years for~~
25 ~~the purposes of calculating any formula or meeting any~~
26 ~~quantitative standard in paragraph (1).~~

27 ~~(3) For the purposes of calculating the number of~~
28 ~~individuals for use in the percentage calculations in this~~
29 ~~subsection, educational institutions may use full time~~
30 ~~equivalent students as defined by the Department of~~

1 ~~Education.~~

2 ~~(4) As used in this subsection, the term "uncompensated~~
3 ~~goods or services" shall include all benefits provided to the~~
4 ~~community the institution serves, including, but not limited~~
5 ~~to, the following:~~

6 ~~(i) The full cost of all goods or services provided~~
7 ~~by the institution for which the institution has not~~
8 ~~received monetary compensation or the difference between~~
9 ~~the full cost and any lesser fee received for the goods~~
10 ~~or services, including the cost of the goods or services~~
11 ~~provided to individuals unable to pay.~~

12 ~~(ii) The difference between the full cost of~~
13 ~~education and research programs provided by or~~
14 ~~participated in by the institution and the payment made~~
15 ~~to the institution to support the education and research~~
16 ~~programs.~~

17 ~~(iii) The difference between the full cost of~~
18 ~~providing the goods or services and the payment made to~~
19 ~~the institution under any government program, including~~
20 ~~individuals covered by Medicare or Medicaid.~~

21 ~~(iv) The difference between the full cost of the~~
22 ~~community services which the institution provides or~~
23 ~~participates in and the payment made to the institution~~
24 ~~to support such community services.~~

25 ~~(v) The reasonable value of any moneys, property,~~
26 ~~goods or services donated by the primary donor to another~~
27 ~~institution of purely public charity or to a government~~
28 ~~agency or the reasonable value of the net donation made~~
29 ~~by a secondary donor to a primary donor. As used in this~~
30 ~~subparagraph, the following words and phrases shall have~~

1 the following meanings:

2 "Net donation."—In the case of a donation of money,
3 property or identical goods and services made by a
4 secondary donor, the difference between the value of the
5 donation made by the secondary donor and the value of the
6 donation made by the primary donor, provided such value
7 is positive.

8 "Primary donor."—An institution which makes a
9 donation of any money, property, goods or services to
10 another institution of purely public charity.

11 "Secondary donor."—An institution which receives a
12 donation of any money, property, goods or services from a
13 primary donor and then makes a donation back to that
14 primary donor within three years of having received such
15 donation.

16 (vi) The reasonable value of volunteer assistance
17 donated by individuals to the institution. The reasonable
18 value of volunteer assistance, computed on an hourly
19 basis, shall not exceed the "Statewide average weekly
20 wage" as defined in section 105.1 of the act of June 2,
21 1915 (P.L. 736, No. 338), known as the Workers'
22 Compensation Act divided by 40.

23 (vii) The cost of goods or services provided to an
24 individual by charitable health care facilities licensed
25 by the Department of Health or the Department of Public
26 Welfare, which are bad debts, as determined in accordance
27 with the generally accepted accounting principles
28 applicable to the institution.

29 (viii) The reasonable value of any moneys, property,
30 goods or services donated to a political subdivision. If

1 ~~the institution of purely public charity donates to a~~
2 ~~political subdivision an amount equal to or greater than~~
3 ~~25% of the tax liability the exempt entity would incur if~~
4 ~~its currently tax exempt property were taxable, the~~
5 ~~institution can credit the donation at 200% of the actual~~
6 ~~value for purposes of meeting the requirements of this~~
7 ~~subsection.~~

8 ~~(c) Charity to persons.—~~

9 ~~(1) The institution shall benefit a substantial and~~
10 ~~indefinite class of persons who are legitimate subjects of~~
11 ~~charity.~~

12 ~~(2) As used in this subsection, the following words and~~
13 ~~phrases shall have the meanings given to them in this~~
14 ~~paragraph:~~

15 ~~"Legitimate subjects of charity."—Those individuals who~~
16 ~~are unable to provide themselves with what the institution~~
17 ~~provides for them.~~

18 ~~"Substantial and indefinite class of persons."—Persons~~
19 ~~not predetermined in number, provided that, where the goods~~
20 ~~or services are received primarily by members of the~~
21 ~~institution, membership cannot be predetermined in number and~~
22 ~~cannot be arbitrarily denied by a vote of the existing~~
23 ~~members. This section specifically recognizes that the use of~~
24 ~~admissions criteria and enrollment limitations by educational~~
25 ~~institutions do not constitute predetermined membership or~~
26 ~~arbitrary restrictions on membership so as to violate this~~
27 ~~section and recognizes that an institution may reasonably~~
28 ~~deny membership based on the types of services it provides,~~
29 ~~as long as denial is not in violation of Federal or State~~
30 ~~antidiscrimination laws, such as the Civil Rights Act of 1964~~

1 ~~(Public Law 88 352, 78 Stat. 241) and the act of October 27,~~
2 ~~1955 (P.L.744, No.222), known as the Pennsylvania Human~~
3 ~~Relations Act.~~

4 ~~(3) An institution shall be considered to benefit a~~
5 ~~substantial and indefinite class of persons who are~~
6 ~~legitimate subjects of charity if the institution is~~
7 ~~primarily engaged in fundraising on behalf of or making~~
8 ~~grants to:~~

9 ~~(i) corporations, associations, trusts or other~~
10 ~~organizations which meet the criteria set forth in this~~
11 ~~section;~~

12 ~~(ii) government agencies; or~~

13 ~~(iii) organizations which qualify under section~~
14 ~~501(c)(3) of the Internal Revenue Code of 1986 (Public~~
15 ~~Law 99 514, 26 U.S.C. § 501(c)(3)).~~

16 ~~(4) An institution shall not be considered to benefit a~~
17 ~~substantial and indefinite class of persons who are~~
18 ~~legitimate subjects of charity if:~~

19 ~~(i) the institution is not qualified under section~~
20 ~~501(c)(3) of the Internal Revenue Code of 1986; and~~

21 ~~(ii) the institution is qualified under section~~
22 ~~501(c)(4), (5), (6), (7), (8) or (9) of the Internal~~
23 ~~Revenue Code of 1986 as any of the following:~~

24 ~~(A) An association of employees, the membership~~
25 ~~of which is limited to the employees of a designated~~
26 ~~person or persons.~~

27 ~~(B) A labor organization.~~

28 ~~(C) An agricultural or horticultural~~
29 ~~organization.~~

30 ~~(D) A business league, chamber of commerce, real~~

1 ~~estate board, board of trade or professional sports~~
2 ~~league.~~

3 ~~(E) A club organized for pleasure or recreation.~~

4 ~~(F) A fraternal beneficiary society, order or~~
5 ~~association.~~

6 ~~(f) Government service. The institution shall relieve the~~
7 ~~government of some of its burden. This criterion is satisfied if~~
8 ~~the institution meets any of the following:~~

9 ~~(1) provides a service to the public that the government~~
10 ~~would otherwise be obliged to fund or to provide directly or~~
11 ~~indirectly or assure that a similar organization exists to~~
12 ~~provide the service;~~

13 ~~(2) provides services in furtherance of its charitable~~
14 ~~purpose which are either the responsibility of the government~~
15 ~~by law or which historically have been assumed or offered or~~
16 ~~funded by the government;~~

17 ~~(3) receives on a regular basis payments for services~~
18 ~~rendered under a government program if the payments are less~~
19 ~~than the full costs incurred by the institution for the~~
20 ~~rendering of the services or if the institution can~~
21 ~~demonstrate that comparable services are more expensive when~~
22 ~~provided by the government; or~~

23 ~~(4) provides a service which advances important~~
24 ~~community, public, spiritual, mental, physical, educational,~~
25 ~~emotional, civic, historical or cultural objectives.~~

26 ~~(g) Standards.—~~

27 ~~(1) Except as provided in paragraph (2), nothing in this~~
28 ~~act shall be deemed to prohibit a charitable organization~~
29 ~~from conducting activities intended to influence legislation.~~

30 ~~(2) No substantial part of the activities of an~~

1 ~~institution of purely public charity shall consist of~~
2 ~~carrying on propaganda or otherwise attempting to influence~~
3 ~~legislation, except as otherwise provided in section 501(h)~~
4 ~~of the Internal Revenue Code of 1986 or participating in or~~
5 ~~intervening in, including the publishing or distributing of~~
6 ~~statements, any political campaign on behalf of, or in~~
7 ~~opposition to, any candidate for public office as such~~
8 ~~limitations are interpreted under section 501 of the Internal~~
9 ~~Revenue Code of 1986.~~

10 ~~(3) Nothing in this act shall affect, impair or hinder~~
11 ~~the responsibilities or prerogatives of the political~~
12 ~~subdivision responsible for maintaining real property~~
13 ~~assessment rolls to make a determination whether a parcel of~~
14 ~~property or a portion of a parcel of property is being used~~
15 ~~to advance the charitable purpose of an institution of purely~~
16 ~~public charity, or to assess the parcel or part of the parcel~~
17 ~~of property as taxable based on the use of the parcel or part~~
18 ~~of the parcel for purposes other than the charitable purpose~~
19 ~~of the institution. Such determination and assessment shall~~
20 ~~be made in accord with applicable status regarding the~~
21 ~~assessment of real property for taxation purposes and shall~~
22 ~~be made without regard to the corporate structure of the~~
23 ~~institution, the subsidiary nature of the use or the form or~~
24 ~~nature of ownership or acquisition of the property.~~

25 ~~(4) Nothing in this act shall prohibit a political~~
26 ~~subdivision from filing challenges to or making~~
27 ~~determinations as to whether a particular parcel of property~~
28 ~~is being used to advance the charitable purpose of an~~
29 ~~institution of purely public charity.~~

30 ~~(5) No additional criteria shall be imposed on any~~

1 ~~organization in order to be recognized as an institution of~~
2 ~~purely public charity.~~

3 ~~Section 6. Multiple jurisdictions.~~

4 ~~(a) Intent.~~

5 ~~(1) It is the intent of the General Assembly to foster~~
6 ~~uniformity in the application of the standards contained~~
7 ~~within this act for determining status as an institution of~~
8 ~~purely public charity. The General Assembly recognizes that~~
9 ~~multiple jurisdictions at different levels of government will~~
10 ~~be required to determine whether an organization requesting~~
11 ~~tax exemption meets such standards. Because many~~
12 ~~organizations will be required to seek and receive approval~~
13 ~~from different governmental entities, the General Assembly~~
14 ~~believes that an organization which demonstrates compliance~~
15 ~~with the standards at the State level shall be entitled to a~~
16 ~~rebuttable presumption that it has met those standards when~~
17 ~~determining qualification for local property tax exemptions.~~

18 ~~(2) The General Assembly, recognizing the interest of~~
19 ~~the taxpayers in a fair and equitable system of property tax~~
20 ~~assessment and the attendant statutory requirements for the~~
21 ~~political subdivision responsible for maintaining real~~
22 ~~property assessment roles to administer the system of~~
23 ~~property assessment, believes that such a presumption shall~~
24 ~~not in any way limit the responsibilities, prerogatives or~~
25 ~~abilities of counties or local jurisdictions with respect to~~
26 ~~the determination of, or challenges to, the taxable status of~~
27 ~~a parcel or part of a parcel of property based on the use of~~
28 ~~the parcel or part of the parcel of property.~~

29 ~~(b) Presumption. An organization possessing a valid~~
30 ~~exemption from the tax imposed by Article II of the Tax Reform~~

1 ~~Code, pursuant to administrative or judicial determination that~~
2 ~~the organization qualifies for exemption under section 204(10)~~
3 ~~of the Tax Reform Code, shall be entitled to assert a~~
4 ~~presumption that it meets the criteria contained in section~~
5 ~~5(b), (c), (d), (e) and (f), and any person challenging such~~
6 ~~presumption before any agency or court shall bear the burden, by~~
7 ~~the preponderance of evidence, of proving the contrary. The~~
8 ~~Department of Revenue shall furnish to any institution applying~~
9 ~~for exemption a written determination of the department's~~
10 ~~decision including specific information concerning how the~~
11 ~~applicant does or does not meet each of the criteria in section~~
12 ~~5. Any organization asserting such a presumption shall be deemed~~
13 ~~to have waived any right to confidentiality and consented to~~
14 ~~release of any information supporting the exemption from the tax~~
15 ~~imposed by Article II of the Tax Reform Code under section~~
16 ~~204(10), and such information, along with the written~~
17 ~~determination of the department's decision in support of that~~
18 ~~exemption, shall be public record which the department shall~~
19 ~~furnish to any person upon request. Any person challenging such~~
20 ~~presumption may request from the institution all relevant~~
21 ~~financial statements, records and documents used to obtain the~~
22 ~~exemption under section 204(10) of the Tax Reform Code. Failure~~
23 ~~by the institution to supply, or at its option, to permit~~
24 ~~inspection of such information in its possession within 30 days~~
25 ~~shall remove the presumption with respect to that challenge.~~

26 ~~(c) Applicability of presumption. The provisions of this~~
27 ~~section shall apply only to sales and use tax exemptions granted~~
28 ~~or renewed on or after the effective date of this act.~~

29 ~~Section 7. Existing agreements.~~

30 ~~Nothing in this act shall be construed to affect, impair,~~

~~1 terminate or supersede any contract, agreement or arrangement in
2 effect on or before the effective date of this act which
3 authorizes or requires payment of taxes, amounts in lieu of
4 taxes, or other charges or fees for the services of a political
5 subdivision of this Commonwealth. Further, nothing in this act
6 shall be construed to impair, or otherwise inhibit, the right or
7 ability of any institution or political subdivision to enter
8 into such agreements after the effective date of this act.~~

~~9 Section 8. Unfair competition with small businesses.~~

~~10 (a) Intent. It is the policy of this act that institutions
11 of purely public charity shall not use their tax exempt status
12 to compete unfairly with small business.~~

~~13 (b) Rule. An institution of purely public charity may not
14 fund, capitalize, guarantee the indebtedness of, lease
15 obligations of, or subsidize a commercial business that is
16 unrelated to the institution's charitable purpose as stated in
17 the institution's charter or governing legal documents.~~

~~18 (c) Exceptions. Institutions of purely public charity are
19 not in violation of subsection (b) if any of the following
20 apply:~~

~~21 (1) The commercial business is intended only for the use
22 of its employees, staff, alumni, faculty, members, students,
23 clients, volunteers, patients or residents. For purposes of
24 this paragraph, a person shall not be considered an employee,
25 staff, member, alumnus, faculty, student, client, volunteer,
26 patient or resident if the person's only relationship with
27 the institution is to receive products or services resulting
28 from the commercial business.~~

~~29 (2) The commercial business results in sales to the
30 general public that are incidental or periodic rather than~~

1 ~~permanent and ongoing.~~

2 ~~(d) Support for other charities. Nothing in this section~~
3 ~~shall be construed as prohibiting or limiting the ability of an~~
4 ~~institution of purely public charity to fund, capitalize,~~
5 ~~guarantee the indebtedness of or otherwise subsidize another~~
6 ~~institution of purely public charity.~~

7 ~~(e) Investments. An institution of purely public charity~~
8 ~~that invests in publicly traded stocks and bonds; real estate;~~
9 ~~or other investments is not in violation of subsection (b).~~

10 ~~(f) Educational functions. An institution of purely public~~
11 ~~charity that uses its facilities to host groups for educational~~
12 ~~purposes only is not in violation of subsection (b).~~

13 ~~(g) Government functions. An institution of purely public~~
14 ~~charity may engage in a new commercial business that may~~
15 ~~otherwise be in violation of subsection (b) if the institution~~
16 ~~is formally requested to do so by the Commonwealth or a~~
17 ~~political subdivision.~~

18 ~~(h) Existing arrangements. An institution of purely public~~
19 ~~charity that prior to the effective date of this act funded,~~
20 ~~capitalized, guaranteed the indebtedness of, leased obligations~~
21 ~~of or subsidized a commercial business may continue to own and~~
22 ~~operate such businesses without violating subsection (b) as long~~
23 ~~as the institution does not substantially expand the scope of~~
24 ~~the commercial business. In the event an injunction is issued~~
25 ~~under subsection (i), the effect of such injunction shall be~~
26 ~~limited to restraining the substantial expansion of the scope of~~
27 ~~the commercial business which was initiated after the effective~~
28 ~~date of this act.~~

29 ~~(i) Remedies. Whenever the Attorney General receives a~~
30 ~~complaint from an aggrieved small business or has reason to~~

1 ~~believe that any institution of purely public charity is~~
2 ~~violating this section and the proceedings would be in the~~
3 ~~public interest, the Attorney General may bring an action in the~~
4 ~~name of the Commonwealth against that institution to restrain~~
5 ~~such violation by temporary or permanent injunction. The~~
6 ~~Attorney General must either bring an action or issue a written~~
7 ~~determination to the aggrieved small business within 120 days of~~
8 ~~the filing of a complaint.~~

9 ~~(1) If the Attorney General fails to bring an action or~~
10 ~~to issue a written determination to a small business~~
11 ~~complainant within 120 days of the filing of a complaint, the~~
12 ~~small business may petition the Commonwealth Court for a writ~~
13 ~~of mandamus ordering the Attorney General either to bring an~~
14 ~~action under this section or to provide the reason or reasons~~
15 ~~why the Attorney General has declined to do so.~~

16 ~~(2) Nothing in this subsection shall preclude either an~~
17 ~~aggrieved small business or an institution of purely public~~
18 ~~charity that has been affected by a decision of the Attorney~~
19 ~~General from pursuing an appeal of that decision under 2~~
20 ~~Pa.C.S. Ch. 7 Subch. A (relating to judicial review of~~
21 ~~Commonwealth agency action).~~

22 ~~Section 9. Accountability and disclosure.~~

23 ~~(a) Intent. An institution which qualifies for a tax~~
24 ~~exemption by virtue of being designated an institution of purely~~
25 ~~public charity has a unique responsibility to periodically~~
26 ~~demonstrate to the public that it is fulfilling the purpose for~~
27 ~~which the exemption is granted. The citizens of this~~
28 ~~Commonwealth expect an organization which is granted tax~~
29 ~~exemption to adhere to a high standard of accountability and~~
30 ~~public disclosure. Therefore, the institution should make an~~

1 ~~annual report in which it makes available certain information~~
2 ~~about its organization and its charitable activities. The report~~
3 ~~should be made consistent with the desire of the General~~
4 ~~Assembly to avoid burdensome reporting requirements which unduly~~
5 ~~distract the organization from its charitable purposes.~~

6 ~~(b) Report required. It shall be the duty of the president,~~
7 ~~chairman or principal officer of an institution which files, or~~
8 ~~is required to file, an annual return with the Internal Revenue~~
9 ~~Service under the Internal Revenue Code of 1986 (Public Law 99-~~
10 ~~514, 26 U.S.C. § 1 et seq.) to file a report with the bureau no~~
11 ~~later than the date, including any extensions granted by the~~
12 ~~Internal Revenue Service, the institution files or is required~~
13 ~~to file an annual return with the Internal Revenue Service. The~~
14 ~~following information shall be included in the report required~~
15 ~~by this section and shall be in a format approved by the~~
16 ~~Secretary of the Commonwealth:~~

17 ~~(1) A copy of the annual return filed or required to be~~
18 ~~filed with the Internal Revenue Service.~~

19 ~~(2) The date the institution was organized under~~
20 ~~applicable law and a reference to any determination of its~~
21 ~~tax exempt status under the Internal Revenue Code of 1986,~~
22 ~~including, if applicable:~~

23 ~~(i) The institution's Internal Revenue tax exemption~~
24 ~~number and the tax exempt purposes as established by the~~
25 ~~Internal Revenue Service.~~

26 ~~(ii) A revocation of tax exempt status by the~~
27 ~~Internal Revenue Service.~~

28 ~~(3) The following information on each affiliate of the~~
29 ~~institution of purely public charity:~~

30 ~~(i) The name and type of organization.~~

1 ~~(ii) Whether the affiliate is organized on a for-~~
2 ~~profit or nonprofit basis.~~

3 ~~(iii) The relationship of each affiliate to the~~
4 ~~institution making the report.~~

5 ~~(4) The institution's relationship with any other~~
6 ~~nonprofit corporation or unincorporated association if the~~
7 ~~relationship involves formal governance or the sharing of~~
8 ~~revenue.~~

9 ~~(c) Amendments to annual returns. It shall be the duty of~~
10 ~~the president, chairman or principal officer of any institution~~
11 ~~which files an amended annual return with the Internal Revenue~~
12 ~~Service to file a copy of the amended annual return with the~~
13 ~~bureau within ten days of its filing with the Internal Revenue~~
14 ~~Service.~~

15 ~~(d) Exemption from filing.—~~

16 ~~(1) An institution which is not required to file an~~
17 ~~annual return with the Internal Revenue Service shall be~~
18 ~~exempt from the requirements of this section.~~

19 ~~(2) An institution which files a consolidated annual~~
20 ~~return with the Internal Revenue Service shall not be~~
21 ~~required to file any report except as otherwise required by~~
22 ~~this subsection. The institution shall file with the bureau a~~
23 ~~statement giving the name and tax exempt number of the~~
24 ~~organization filing the consolidated annual return.~~

25 ~~(e) Paperwork reduction. The Secretary of the Commonwealth~~
26 ~~shall implement procedures and may modify the reporting~~
27 ~~requirements of this section in order to reduce or eliminate~~
28 ~~duplicate filing by institutions subject to this section. The~~
29 ~~Secretary of the Commonwealth shall allow the president,~~
30 ~~chairman or principal officer of an institution subject to this~~

1 ~~section to substitute the registration statement required under~~
2 ~~section 5 of the act of December 19, 1990 (P.L.1200, No.202),~~
3 ~~known as the Solicitation of Funds for Charitable Purposes Act,~~
4 ~~for those portions of the report required under subsection (b)~~
5 ~~which duplicate the information required under section 5 of the~~
6 ~~Solicitation of Funds for Charitable Purposes Act. The Secretary~~
7 ~~of the Commonwealth shall allow the institution to certify that~~
8 ~~the information required in subsection (b)(2), (3) or (4) has~~
9 ~~not changed since the prior report in lieu of providing the same~~
10 ~~information in the report required by subsection (b). The~~
11 ~~Secretary of the Commonwealth may obtain from the Internal~~
12 ~~Revenue Service copies of annual returns of institutions which~~
13 ~~file annual returns with the Internal Revenue Service on~~
14 ~~computer disk or other electronic or paper media.~~

15 ~~(f) Retention of records. The Secretary of the Commonwealth~~
16 ~~shall retain the reporting information required by this section~~
17 ~~for three years after the reports are required to be filed.~~

18 ~~(g) Utilization of reports. The Secretary of the~~
19 ~~Commonwealth shall make reports submitted under this section~~
20 ~~available for public inspection to the extent that the~~
21 ~~information is available for public inspection under section~~
22 ~~6104 of the Internal Revenue Code of 1986. The Secretary of the~~
23 ~~Commonwealth shall provide any government agency a copy of the~~
24 ~~report filed under this section upon request. Nothing in this~~
25 ~~subsection shall prevent a government agency from requiring any~~
26 ~~organization seeking exemption as an institution of purely~~
27 ~~public charity to provide the information described in~~
28 ~~subsection (b) to that agency as part of a determination of the~~
29 ~~tax exempt status of the institution.~~

30 ~~(h) Definitions. As used in this section, the following~~

1 ~~words and phrases shall have the meanings given to them in this~~
2 ~~subsection:~~

3 ~~"Affiliate." A domestic or foreign corporation, association,~~
4 ~~trust or other organization which owns a 10% or greater interest~~
5 ~~in the institution. A domestic or foreign corporation,~~
6 ~~association, trust or other organization in which the~~
7 ~~institution owns a 10% or greater interest.~~

8 ~~"Annual return." The annual information return required to be~~
9 ~~filed with the Internal Revenue Service by organizations exempt~~
10 ~~from tax by virtue of section 501(a) of the Internal Revenue~~
11 ~~Code of 1986 (Public Law 99-514, 26 U.S.C. §1, et seq.). The~~
12 ~~annual information return consists of Internal Revenue Service~~
13 ~~Form 990 or Form 990EZ and Schedule A.~~

14 ~~"Bureau." The Bureau of Charitable Organizations of the~~
15 ~~Department of State of the Commonwealth.~~

16 ~~"Institution." A domestic or foreign nonprofit corporation,~~
17 ~~association, trust or other organization which qualifies as an~~
18 ~~institution of purely public charity under the provisions of~~
19 ~~this act and which receives or claims exemption from the real~~
20 ~~property tax imposed by any political subdivision in this~~
21 ~~Commonwealth or which receives or claims exemption from the tax~~
22 ~~imposed by Article II of the Tax Reform Code.~~

23 ~~Section 10. Exemption for Federal Government instrumentality.~~

24 ~~It is the intent of the General Assembly to affirm that all~~
25 ~~real property owned by any corporation established by an act of~~
26 ~~the Congress of the United States, that is required to submit~~
27 ~~annual reports of its activities to Congress containing itemized~~
28 ~~accounts of all receipts and expenditures after being fully~~
29 ~~audited by the Department of Defense, for purposes of the~~
30 ~~Constitution of Pennsylvania and the laws of this Commonwealth~~

1 ~~relating to the assessment and taxation of real estate, is~~
2 ~~property of a Federal Government instrumentality and thus exempt~~
3 ~~from all State and local taxation.~~

4 ~~Section 11. Repeals.~~

5 ~~All acts and parts of acts are repealed insofar as they are~~
6 ~~inconsistent with this act except for section 204(a)(3) of the~~
7 ~~act of May 22, 1933 (P.L.853, No.155), known as The General~~
8 ~~County Assessment Law, as it applies to charitable organizations~~
9 ~~providing residential housing services.~~

10 ~~Section 12. Applicability.~~

11 ~~This act shall not apply to nor affect 40 Pa.C.S. § 6103 or~~
12 ~~6301 or the entities subject to those sections.~~

13 ~~Section 13. Effective date.~~

14 ~~This act shall take effect January 1, next following the date~~
15 ~~of final enactment.~~

16 SECTION 1. SHORT TITLE.

<—

17 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE INSTITUTIONS
18 OF PURELY PUBLIC CHARITY ACT.

19 SECTION 2. LEGISLATIVE INTENT.

20 (A) FINDINGS.--THE GENERAL ASSEMBLY FINDS AND DECLARES AS
21 FOLLOWS:

22 (1) IT IS IN THE BEST INTEREST OF THIS COMMONWEALTH AND
23 ITS CITIZENS THAT THE RECOGNITION OF TAX-EXEMPT STATUS BE
24 ACCOMPLISHED IN AN ORDERLY, UNIFORM AND ECONOMICAL MANNER.

25 (2) FOR MORE THAN 100 YEARS, IT HAS BEEN THE POLICY OF
26 THIS COMMONWEALTH TO FOSTER THE ORGANIZATION AND OPERATION OF
27 INSTITUTIONS OF PURELY PUBLIC CHARITY BY EXEMPTING THEM FROM
28 TAXATION.

29 (3) BECAUSE INSTITUTIONS OF PURELY PUBLIC CHARITY
30 CONTRIBUTE TO THE COMMON GOOD OR LESSEN THE BURDEN OF

1 GOVERNMENT, THE HISTORIC POLICY OF EXEMPTING THESE
2 INSTITUTIONS FROM TAXATION SHOULD BE CONTINUED.

3 (4) LACK OF SPECIFIC LEGISLATIVE STANDARDS DEFINING THE
4 TERM "INSTITUTIONS OF PURELY PUBLIC CHARITY" HAS LED TO
5 INCREASING CONFUSION AND CONFRONTATION AMONG TRADITIONALLY
6 TAX-EXEMPT INSTITUTIONS AND POLITICAL SUBDIVISIONS TO THE
7 DETRIMENT OF THE PUBLIC.

8 (5) THERE IS INCREASING CONCERN THAT THE ELIGIBILITY
9 STANDARDS FOR CHARITABLE TAX EXEMPTIONS ARE BEING APPLIED
10 INCONSISTENTLY, WHICH MAY VIOLATE THE UNIFORMITY PROVISION OF
11 THE CONSTITUTION OF PENNSYLVANIA.

12 (6) RECOGNIZING THE INTEREST OF THE TAXPAYERS IN A FAIR
13 AND EQUITABLE SYSTEM OF PROPERTY TAX ASSESSMENT AND THE
14 ATTENDANT STATUTORY REQUIREMENTS FOR THE POLITICAL
15 SUBDIVISION RESPONSIBLE FOR MAINTAINING REAL PROPERTY
16 ASSESSMENT ROLES TO ADMINISTER THE SYSTEM OF PROPERTY
17 ASSESSMENT, THIS ACT SHALL NOT IN ANY WAY LIMIT THE
18 RESPONSIBILITIES, PREROGATIVES OR ABILITIES OF POLITICAL
19 SUBDIVISIONS WITH RESPECT TO THE DETERMINATION OF, OR
20 CHALLENGES TO, THE TAXABLE STATUS OF A PARCEL OF PROPERTY
21 BASED ON THE USE OF THE PARCEL OR PART OF THE PARCEL OF
22 PROPERTY.

23 (7) INSTITUTIONS OF PURELY PUBLIC CHARITY BENEFIT
24 SUBSTANTIALLY FROM LOCAL GOVERNMENT SERVICES. THESE
25 INSTITUTIONS HAVE SIGNIFICANT VALUE TO THE COMMONWEALTH AND
26 ITS CITIZENS AND THE NEED EXISTS FOR REVENUES TO MAINTAIN
27 LOCAL GOVERNMENT SERVICES PROVIDED FOR THE BENEFIT OF ALL
28 CITIZENS, INCLUDING INSTITUTIONS OF PURELY PUBLIC CHARITY. IT
29 IS THE INTENT OF THIS ACT TO ENCOURAGE FINANCIALLY SECURE
30 INSTITUTIONS OF PURELY PUBLIC CHARITY TO ENTER INTO VOLUNTARY

1 AGREEMENTS OR MAINTAIN EXISTING OR CONTINUING AGREEMENTS FOR
2 THE PURPOSE OF DEFRAYING SOME OF THE COST OF VARIOUS LOCAL
3 GOVERNMENT SERVICES. PAYMENTS MADE UNDER SUCH AGREEMENTS
4 SHALL BE DEEMED TO BE IN COMPLIANCE WITH ANY FIDUCIARY
5 OBLIGATION PERTAINING TO SUCH INSTITUTIONS OF PURELY PUBLIC
6 CHARITY, ITS OFFICERS OR DIRECTORS.

7 (B) INTENT.--IT IS THE INTENT OF THE GENERAL ASSEMBLY TO
8 ELIMINATE INCONSISTENT APPLICATION OF ELIGIBILITY STANDARDS FOR
9 CHARITABLE TAX EXEMPTIONS, REDUCE CONFUSION AND CONFRONTATION
10 AMONG TRADITIONALLY TAX-EXEMPT INSTITUTIONS AND POLITICAL
11 SUBDIVISIONS AND ENSURE THAT CHARITABLE AND PUBLIC FUNDS ARE NOT
12 UNNECESSARILY DIVERTED FROM THE PUBLIC GOOD TO LITIGATE
13 ELIGIBILITY FOR TAX-EXEMPT STATUS BY PROVIDING STANDARDS TO BE
14 APPLIED UNIFORMLY IN ALL PROCEEDINGS THROUGHOUT THIS
15 COMMONWEALTH FOR DETERMINING ELIGIBILITY FOR EXEMPTION FROM
16 STATE AND LOCAL TAXATION WHICH ARE CONSISTENT WITH TRADITIONAL
17 LEGISLATIVE AND JUDICIAL APPLICATIONS OF THE CONSTITUTIONAL TERM
18 "INSTITUTIONS OF PURELY PUBLIC CHARITY."

19 SECTION 3. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
21 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "AFFILIATE." A DOMESTIC OR FOREIGN CORPORATION, ASSOCIATION,
24 TRUST OR OTHER ORGANIZATION WHICH OWNS A 10% OR GREATER INTEREST
25 IN AN INSTITUTION OF PURELY PUBLIC CHARITY. A DOMESTIC OR
26 FOREIGN CORPORATION, ASSOCIATION, TRUST OR OTHER ORGANIZATION IN
27 WHICH AN INSTITUTION OF PURELY PUBLIC CHARITY OWNS A 10% OR
28 GREATER INTEREST.

29 "ANNUAL RETURN." THE ANNUAL INFORMATION RETURN REQUIRED TO BE
30 FILED WITH THE INTERNAL REVENUE SERVICE BY INSTITUTIONS EXEMPT

1 FROM TAX UNDER SECTION 501(A) OF THE INTERNAL REVENUE CODE OF
2 1986 (PUBLIC LAW 99-514, 26 U.S.C. §1, ET SEQ.). THE ANNUAL
3 INFORMATION RETURN CONSISTS OF INTERNAL REVENUE SERVICE FORM 990
4 OR FORM 990EZ AND SCHEDULE A OR ANY SUCCEEDING FORM USED FOR THE
5 SAME OR SIMILAR PURPOSE. FOR AN INSTITUTION, WHICH IS NOT
6 REQUIRED TO FILE SUCH RETURNS, THE INSTITUTION'S ANNUAL
7 FINANCIAL STATEMENT WITH REPORTED INCOME SHALL CONSTITUTE ITS
8 ANNUAL RETURN.

9 "BUREAU." THE BUREAU OF CHARITABLE ORGANIZATIONS OF THE
10 DEPARTMENT OF STATE OF THE COMMONWEALTH.

11 "COMMERCIAL BUSINESS." THE SALE OF PRODUCTS OR SERVICES THAT
12 ARE PRINCIPALLY THE SAME AS THOSE OFFERED BY AN EXISTING SMALL
13 BUSINESS IN THE SAME COMMUNITY.

14 "CONTRIBUTION." THE PROMISE, GRANT, PLEDGE OR GIFT OF MONEY,
15 PROPERTY, GOODS, SERVICES, FINANCIAL ASSISTANCE OR OTHER SIMILAR
16 REMITTANCE.

17 "GOODS OR SERVICES." GOODS OR SERVICES WHICH PROMOTE ANY OF
18 THE ENUMERATED PURPOSES UNDER SECTION 5(B) AND WHICH ARE VALUED
19 IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
20 APPLICABLE TO THE INSTITUTION.

21 "GOVERNMENT AGENCY." ANY COMMONWEALTH AGENCY OR ANY
22 POLITICAL SUBDIVISION OR MUNICIPAL OR OTHER LOCAL AUTHORITY OR
23 ANY OFFICER OR AGENCY OF ANY POLITICAL SUBDIVISION OR LOCAL
24 AUTHORITY.

25 "INSTITUTION." A DOMESTIC OR FOREIGN NONPROFIT CORPORATION,
26 ASSOCIATION OR TRUST OR OTHER SIMILAR ENTITY.

27 "INSTITUTION OF PURELY PUBLIC CHARITY." AN INSTITUTION WHICH
28 MEETS THE CRITERIA UNDER SECTION 5.

29 "NET OPERATING INCOME." THE AMOUNT OF FUNDS REMAINING AFTER
30 ALL OPERATING EXPENSES RELATED TO THE PROVISION OF GOODS OR

1 SERVICES ASSOCIATED WITH THE INSTITUTION'S CHARITABLE PURPOSE
2 ARE DEDUCTED FROM PAYMENTS RECEIVED FOR PROVIDING THESE GOODS OR
3 SERVICES, AS DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED
4 ACCOUNTING PRINCIPLES APPLICABLE TO THE INSTITUTION.

5 "POLITICAL SUBDIVISION." ANY COUNTY, CITY, BOROUGH, TOWN,
6 TOWNSHIP, SCHOOL DISTRICT, VOCATIONAL SCHOOL DISTRICT AND COUNTY
7 INSTITUTION DISTRICT.

8 "PROGRAM SERVICE REVENUE." INCOME EARNED FROM THE PROVISION
9 OF GOODS OR SERVICES, INCLUDING GOVERNMENT FEES AND CONTRACTS
10 ASSOCIATED WITH THE INSTITUTION'S CHARITABLE PURPOSE, WHICH IS
11 REPORTED ON THE ANNUAL RETURN.

12 "SMALL BUSINESS." ANY SELF-EMPLOYED INDIVIDUAL, SOLE
13 PROPRIETORSHIP, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION OR
14 OTHER ENTITY THAT:

15 (1) HAS FEWER THAN 101 FULL-TIME EMPLOYEES; AND

16 (2) IS SUBJECT TO INCOME TAXATION UNDER THE ACT OF MARCH
17 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

18 "TOTAL OPERATING EXPENSES." THE COSTS RELATED TO THE
19 PROVISION OF GOODS OR SERVICES ASSOCIATED WITH THE INSTITUTION'S
20 CHARITABLE PURPOSE, AS DETERMINED IN ACCORDANCE WITH GENERALLY
21 ACCEPTED ACCOUNTING PRINCIPLES APPLICABLE TO THE INSTITUTION.

22 "VOLUNTARY AGREEMENT." AN AGREEMENT, CONTRACT OR OTHER
23 ARRANGEMENT FOR THE PURPOSE OF RECEIVING CONTRIBUTIONS PURSUANT
24 TO SECTION 7 BETWEEN A POLITICAL SUBDIVISION AND AN INSTITUTION
25 SEEKING OR POSSESSING AN EXEMPTION AS AN INSTITUTION OF PURELY
26 PUBLIC CHARITY. THESE CONTRIBUTIONS ARE FOR THE PURPOSE OF
27 DEFRAYING SOME OF THE COST OF VARIOUS LOCAL GOVERNMENT SERVICES.
28 THE TERM INCLUDES THE ESTABLISHMENT OF PUBLIC SERVICE
29 FOUNDATIONS BY INSTITUTIONS OF PURELY PUBLIC CHARITY.
30 SECTION 4. STATE-RELATED UNIVERSITIES.

1 (A) GENERAL RULE.--IT IS THE INTENT OF THE GENERAL ASSEMBLY
2 TO RECOGNIZE THAT THE STATE-RELATED UNIVERSITIES PROVIDE A
3 DIRECT PUBLIC BENEFIT AND SERVE THE PUBLIC PURPOSES OF THIS
4 COMMONWEALTH BY DECLARING THE REAL PROPERTY OF STATE-RELATED
5 UNIVERSITIES TO BE PUBLIC PROPERTY FOR PURPOSES OF EXEMPTION
6 FROM STATE AND LOCAL TAXATION WHEN THE PROPERTY IS ACTUALLY AND
7 REGULARLY USED FOR PUBLIC PURPOSES, PROVIDED THAT NOTHING IN
8 THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO AFFECT THE
9 TITLE TO REAL PROPERTY OF STATE-RELATED UNIVERSITIES OR THE
10 POWER AND AUTHORITY OF THE GOVERNING BODIES OF STATE-RELATED
11 UNIVERSITIES WITH RESPECT TO SUCH REAL PROPERTY. FURTHER,
12 NOTHING IN THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO
13 AFFECT, IMPAIR OR TERMINATE ANY CONTRACT OR AGREEMENT IN EFFECT
14 ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION BY AND BETWEEN A
15 STATE-RELATED UNIVERSITY AND ANY POLITICAL SUBDIVISION WHEREIN
16 THE STATE-RELATED UNIVERSITY PAYS REAL ESTATE TAXES, AMOUNTS IN
17 LIEU OF REAL ESTATE TAXES OR OTHER CHARGES, FEES OR
18 CONTRIBUTIONS FOR GOVERNMENT SERVICES.

19 (B) REAL PROPERTY.--ALL REAL PROPERTY OWNED BY STATE-RELATED
20 UNIVERSITIES, OR OWNED BY THE COMMONWEALTH AND USED BY A STATE-
21 RELATED UNIVERSITY, IS AND SHALL BE DEEMED PUBLIC PROPERTY FOR
22 PURPOSES OF THE CONSTITUTION OF PENNSYLVANIA AND THE LAWS OF
23 THIS COMMONWEALTH RELATING TO THE ASSESSMENT, TAXATION AND
24 EXEMPTION OF REAL ESTATE AND SHALL BE EXEMPT FROM ALL STATE AND
25 LOCAL TAXATION WHEN ACTUALLY AND REGULARLY USED FOR PUBLIC
26 PURPOSES.

27 (C) EXCEPTION.--THIS SECTION SHALL NOT INCLUDE THE PROPERTY
28 OF A STATE-RELATED UNIVERSITY THE POSSESSION AND CONTROL OF
29 WHICH HAS BEEN TRANSFERRED TO A FOR-PROFIT ENTITY NOT OTHERWISE
30 ENTITLED TO TAX-EXEMPT STATUS, IRRESPECTIVE OF WHETHER THAT

1 ENTITY IS AFFILIATED WITH THE UNIVERSITY. THE EXECUTION OF A
2 MANAGEMENT SERVICES CONTRACT WITH A THIRD PARTY ENTITY TO
3 PROVIDE OPERATIONAL SERVICES TO THE UNIVERSITY WHICH WOULD
4 OTHERWISE BE PROVIDED OR CONDUCTED DIRECTLY BY THE UNIVERSITY
5 SHALL NOT, HOWEVER, BE CONSIDERED A TRANSFER OF POSSESSION AND
6 CONTROL OF REAL PROPERTY WITHIN THE MEANING OF THIS SECTION.

7 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
8 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
9 SUBSECTION:

10 "PUBLIC PURPOSES." ALL ACTIVITIES RELATING TO THE
11 EDUCATIONAL MISSION OF STATE-RELATED UNIVERSITIES, INCLUDING
12 TEACHING, RESEARCH, SERVICE AND ACTIVITIES INCIDENT OR ANCILLARY
13 THERETO WHICH PROVIDE SERVICES TO OR FOR STUDENTS, EMPLOYEES OR
14 THE PUBLIC.

15 "STATE-RELATED UNIVERSITIES." THE PENNSYLVANIA STATE
16 UNIVERSITY AND ITS AFFILIATE, THE PENNSYLVANIA COLLEGE OF
17 TECHNOLOGY, THE UNIVERSITY OF PITTSBURGH, TEMPLE UNIVERSITY AND
18 ITS SUBSIDIARIES TEMPLE UNIVERSITY HOSPITAL, INC., AND TEMPLE
19 UNIVERSITY CHILDREN'S HOSPITAL, INC., AND LINCOLN UNIVERSITY.
20 SECTION 5. CRITERIA FOR INSTITUTIONS OF PURELY PUBLIC CHARITY.

21 (A) GENERAL RULE.--AN INSTITUTION OF PURELY PUBLIC CHARITY
22 IS AN INSTITUTION WHICH MEETS THE CRITERIA SET FORTH IN
23 SUBSECTIONS (B), (C), (D), (E) AND (F). AN INSTITUTION WHICH
24 MEETS THE CRITERIA SPECIFIED IN THIS SECTION SHALL BE CONSIDERED
25 TO BE FOUNDED, ENDOWED AND MAINTAINED BY PUBLIC OR PRIVATE
26 CHARITY.

27 (B) CHARITABLE PURPOSE.--THE INSTITUTION MUST ADVANCE A
28 CHARITABLE PURPOSE. THIS CRITERION IS SATISFIED IF THE
29 INSTITUTION IS ORGANIZED AND OPERATED PRIMARILY TO FULFILL ANY
30 ONE OR COMBINATION OF THE FOLLOWING PURPOSES:

1 (1) RELIEF OF POVERTY.

2 (2) ADVANCEMENT AND PROVISION OF EDUCATION. THIS
3 PARAGRAPH INCLUDES POSTSECONDARY EDUCATION.

4 (3) ADVANCEMENT OF RELIGION.

5 (4) PREVENTION AND TREATMENT OF DISEASE OR INJURY,
6 INCLUDING MENTAL RETARDATION AND MENTAL DISORDERS.

7 (5) GOVERNMENT OR MUNICIPAL PURPOSES.

8 (6) ACCOMPLISHMENT OF A PURPOSE WHICH IS RECOGNIZED AS
9 IMPORTANT AND BENEFICIAL TO THE PUBLIC AND WHICH ADVANCES
10 SOCIAL, MORAL OR PHYSICAL OBJECTIVES.

11 (C) PRIVATE PROFIT MOTIVE.--THE INSTITUTION MUST OPERATE
12 ENTIRELY FREE FROM PRIVATE PROFIT MOTIVE. NOTWITHSTANDING
13 WHETHER THE INSTITUTION'S REVENUES EXCEED ITS EXPENSES, THIS
14 CRITERION IS SATISFIED IF THE INSTITUTION MEETS ALL OF THE
15 FOLLOWING:

16 (1) NEITHER THE INSTITUTION'S NET EARNINGS NOR DONATIONS
17 WHICH IT RECEIVES INURES TO THE BENEFIT OF PRIVATE
18 SHAREHOLDERS OR OTHER INDIVIDUALS, AS THE PRIVATE INUREMENT
19 STANDARD IS INTERPRETED UNDER SECTION 501(C)(3) OF THE
20 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
21 501(C)(3)).

22 (2) THE INSTITUTION APPLIES OR RESERVES ALL REVENUE,
23 INCLUDING CONTRIBUTIONS, IN EXCESS OF EXPENSES IN FURTHERANCE
24 OF ITS CHARITABLE PURPOSE OR TO FUNDING OF OTHER INSTITUTIONS
25 WHICH MEET THE PROVISIONS OF THIS SUBSECTION AND SUBSECTION
26 (B).

27 (3) COMPENSATION, INCLUDING BENEFITS, OF ANY DIRECTOR,
28 OFFICER OR EMPLOYEE, IS NOT BASED PRIMARILY UPON THE
29 FINANCIAL PERFORMANCE OF THE INSTITUTION.

30 (4) THE GOVERNING BODY OF THE INSTITUTION OF PURELY

1 PUBLIC CHARITY HAS ADOPTED, AS PART OF ITS ARTICLES OF
2 INCORPORATION, OR IF UNINCORPORATED, OTHER GOVERNING LEGAL
3 DOCUMENTS, A PROVISION THAT EXPRESSLY PROHIBITS THE USE OF
4 ANY SURPLUS FUNDS FOR PRIVATE INUREMENT TO ANY PERSON IN THE
5 EVENT OF A SALE OR DISSOLUTION OF THE INSTITUTION OF PURELY
6 PUBLIC CHARITY.

7 (D) COMMUNITY SERVICE.--

8 (1) THE INSTITUTION MUST DONATE OR RENDER GRATUITOUSLY A
9 SUBSTANTIAL PORTION OF ITS SERVICES. THIS CRITERION IS
10 SATISFIED IF THE INSTITUTION BENEFITS THE COMMUNITY BY
11 ACTUALLY PROVIDING ANY ONE OF THE FOLLOWING:

12 (I) GOODS OR SERVICES TO ALL WHO SEEK THEM WITHOUT
13 REGARD TO THEIR ABILITY TO PAY FOR WHAT THEY RECEIVE IF
14 ALL OF THE FOLLOWING APPLY:

15 (A) THE INSTITUTION HAS A WRITTEN POLICY TO THIS
16 EFFECT.

17 (B) THE INSTITUTION HAS PUBLISHED THIS POLICY IN
18 A REASONABLE MANNER.

19 (C) THE INSTITUTION PROVIDES UNCOMPENSATED GOODS
20 OR SERVICES AT LEAST EQUAL TO 75% OF THE
21 INSTITUTION'S NET OPERATING INCOME BUT NOT LESS THAN
22 3% OF THE INSTITUTION'S TOTAL OPERATING EXPENSES.

23 (II) GOODS OR SERVICES FOR FEES THAT ARE BASED UPON
24 THE RECIPIENT'S ABILITY TO PAY FOR THEM IF ALL OF THE
25 FOLLOWING APPLY:

26 (A) THE INSTITUTION CAN DEMONSTRATE THAT IT HAS
27 IMPLEMENTED A WRITTEN POLICY AND A WRITTEN SCHEDULE
28 OF FEES BASED ON INDIVIDUAL OR FAMILY INCOME. AN
29 INSTITUTION WILL MEET THE REQUIREMENT OF THIS CLAUSE
30 IF THE INSTITUTION CONSISTENTLY APPLIES A FORMULA TO

1 ALL INDIVIDUALS REQUESTING CONSIDERATION OF REDUCED
2 FEES WHICH IS IN PART BASED ON INDIVIDUAL OR FAMILY
3 INCOME.

4 (B) AT LEAST 20% OF THE INDIVIDUALS RECEIVING
5 GOODS OR SERVICES FROM THE INSTITUTION PAY NO FEE OR
6 A FEE WHICH IS LOWER THAN THE COST OF THE GOODS OR
7 SERVICES PROVIDED BY THE INSTITUTION.

8 (C) AT LEAST 10% OF THE INDIVIDUALS RECEIVING
9 GOODS OR SERVICES FROM THE INSTITUTION RECEIVE A
10 REDUCTION IN FEES OF AT LEAST 10% OF THE COST OF THE
11 GOODS OR SERVICES PROVIDED TO THEM.

12 (D) NO INDIVIDUAL RECEIVING GOODS OR SERVICES
13 FROM THE INSTITUTION PAYS A FEE WHICH IS EQUAL TO OR
14 GREATER THAN THE COST OF THE GOODS OR SERVICES
15 PROVIDED TO THEM, OR THE GOODS OR SERVICES PROVIDED
16 TO THE INDIVIDUALS DESCRIBED IN CLAUSE (B) ARE
17 COMPARABLE IN QUALITY AND QUANTITY TO THE GOODS OR
18 SERVICES PROVIDED TO THOSE INDIVIDUALS WHO PAY A FEE
19 WHICH IS EQUAL TO OR GREATER THAN THE COST OF THE
20 GOODS OR SERVICES PROVIDED TO THEM.

21 (III) WHOLLY GRATUITOUS GOODS OR SERVICES TO AT
22 LEAST 5% OF THOSE RECEIVING SIMILAR GOODS OR SERVICES
23 FROM THE INSTITUTION.

24 (IV) FINANCIAL ASSISTANCE OR UNCOMPENSATED GOODS OR
25 SERVICES TO AT LEAST 20% OF THOSE RECEIVING SIMILAR GOODS
26 OR SERVICES FROM THE INSTITUTION IF AT LEAST 10% OF THE
27 INDIVIDUALS RECEIVING GOODS OR SERVICES FROM THE
28 INSTITUTION EITHER PAID NO FEES OR FEES WHICH WERE 90% OR
29 LESS OF THE COST OF THE GOODS OR SERVICES PROVIDED TO
30 THEM, AFTER CONSIDERATION OF ANY FINANCIAL ASSISTANCE

1 PROVIDED TO THEM BY THE INSTITUTION.

2 (V) UNCOMPENSATED GOODS OR SERVICES WHICH, IN THE
3 AGGREGATE, ARE EQUAL TO AT LEAST 5% OF THE INSTITUTION'S
4 COSTS OF PROVIDING GOODS OR SERVICES.

5 (VI) GOODS OR SERVICES AT NO FEE OR REDUCED FEES TO
6 GOVERNMENT AGENCIES OR GOODS OR SERVICES TO INDIVIDUALS
7 ELIGIBLE FOR GOVERNMENT PROGRAMS IF ANY ONE OF THE
8 FOLLOWING APPLIES:

9 (A) THE INSTITUTION RECEIVES 75% OR MORE OF ITS
10 GROSS OPERATING REVENUE FROM GRANTS OR FEE-FOR-
11 SERVICE PAYMENTS BY GOVERNMENT AGENCIES AND IF THE
12 AGGREGATE AMOUNT OF FEE-FOR-SERVICE PAYMENTS FROM
13 GOVERNMENT AGENCIES DOES NOT EXCEED 95% OF THE
14 INSTITUTION'S COSTS OF PROVIDING GOODS OR SERVICES TO
15 THE INDIVIDUALS FOR WHOM THE FEE-FOR-SERVICES
16 PAYMENTS ARE MADE.

17 (B) THE INSTITUTION PROVIDES GOODS OR SERVICES
18 TO INDIVIDUALS WITH MENTAL RETARDATION, TO
19 INDIVIDUALS WHO NEED MENTAL HEALTH SERVICES, TO
20 MEMBERS OF AN INDIVIDUAL'S FAMILY OR GUARDIAN IN
21 SUPPORT OF SUCH GOODS OR SERVICES OR TO INDIVIDUALS
22 WHO ARE DEPENDENT, NEGLECTED OR DELINQUENT CHILDREN,
23 AS LONG AS THE INSTITUTION PERFORMS DUTIES THAT WOULD
24 OTHERWISE BE THE RESPONSIBILITY OF GOVERNMENT AND THE
25 INSTITUTION IS RESTRICTED IN ITS ABILITY TO RETAIN
26 REVENUE OVER EXPENSES OR VOLUNTARY CONTRIBUTIONS BY
27 ANY ONE OF THE FOLLOWING STATUTES OR REGULATIONS OR
28 BY CONTRACTUAL LIMITATIONS WITH COUNTY CHILDREN AND
29 YOUTH OFFICES IN THIS COMMONWEALTH:

30 (I) SECTIONS 1315(C) AND 1905(D) OF THE

1 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. §§
2 1396D(D) AND 1396N(C)).

3 (II) 42 CFR 440.150 (RELATING TO
4 INTERMEDIATE CARE FACILITY (ICF/MR) SERVICES.

5 (III) 42 CFR PT. 483 SUBPT. I (RELATING TO
6 CONDITIONS OF PARTICIPATION FOR INTERMEDIATE CARE
7 FACILITIES FOR THE MENTALLY RETARDED).

8 (IV) THE ACT OF OCTOBER 20, 1966 (3RD
9 SP.SESS., P.L.96, NO.6), KNOWN AS THE MENTAL
10 HEALTH AND MENTAL RETARDATION ACT OF 1966.

11 (V) ARTICLES II, VII, IX AND X OF THE ACT OF
12 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE
13 PUBLIC WELFARE CODE.

14 (VI) 23 PA.C.S. CH. 63 (RELATING TO CHILD
15 PROTECTIVE SERVICES).

16 (VII) 42 PA.C.S. CH. 63 (RELATING TO
17 JUVENILE MATTERS).

18 (VIII) 55 PA. CODE CHS. 3170 (RELATING TO
19 ALLOWABLE COSTS AND PROCEDURES FOR COUNTY
20 CHILDREN AND YOUTH), 3680 (RELATING TO
21 ADMINISTRATION AND OPERATION OF A CHILDREN AND
22 YOUTH SOCIAL SERVICE AGENCY) 4300 (RELATING TO
23 COUNTY MENTAL HEALTH AND MENTAL RETARDATION
24 FISCAL MANUAL), 6400 (RELATING TO COMMUNITY HOMES
25 FOR INDIVIDUALS WITH MENTAL RETARDATION), 6500
26 (RELATING TO FAMILY LIVING HOMES), 6210 (RELATING
27 TO PARTICIPATION REQUIREMENTS FOR THE
28 INTERMEDIATE CARE FACILITIES FOR THE MENTALLY
29 RETARDED PROGRAM), 6211 (RELATING TO ALLOWABLE
30 COST REIMBURSEMENT FOR NON-STATE OPERATED

1 INTERMEDIATE CARE FACILITIES FOR THE MENTALLY
2 RETARDED) AND 6600 (RELATING TO INTERMEDIATE CARE
3 FACILITIES FOR AND 6600 (RELATING TO INTERMEDIATE
4 CARE FACILITIES FOR THE MENTALLY RETARDED).

5 (VII) FUNDRAISING ON BEHALF OF, OR GRANTS TO, AN
6 INSTITUTION OF PURELY PUBLIC CHARITY, AN ENTITY SIMILARLY
7 RECOGNIZED BY ANOTHER STATE OR FOREIGN JURISDICTION, A
8 QUALIFYING RELIGIOUS ORGANIZATION OR A GOVERNMENT AGENCY
9 AND ACTUAL CONTRIBUTION OF A SUBSTANTIAL PORTION OF THE
10 FUNDS RAISED OR CONTRIBUTIONS RECEIVED TO AN INSTITUTION
11 OF PURELY PUBLIC CHARITY, AN ENTITY SIMILARLY RECOGNIZED
12 BY ANOTHER STATE OR FOREIGN JURISDICTION, A QUALIFYING
13 RELIGIOUS ORGANIZATION OR A GOVERNMENT AGENCY.

14 (2) THE INSTITUTION MAY ELECT TO AVERAGE THE APPLICABLE
15 DATA FOR ITS FIVE MOST RECENTLY COMPLETED FISCAL YEARS FOR
16 THE PURPOSES OF CALCULATING ANY FORMULA OR MEETING ANY
17 QUANTITATIVE STANDARD IN PARAGRAPH (1).

18 (3) FOR THE PURPOSES OF CALCULATING THE NUMBER OF
19 INDIVIDUALS FOR USE IN THE PERCENTAGE CALCULATIONS IN THIS
20 SUBSECTION, EDUCATIONAL INSTITUTIONS MAY USE FULL TIME
21 EQUIVALENT STUDENTS AS DEFINED BY THE DEPARTMENT OF
22 EDUCATION.

23 (4) FOR PURPOSES OF THIS SUBSECTION, THE TERM
24 "UNCOMPENSATED GOODS OR SERVICES" SHALL BE LIMITED TO ANY OF
25 THE FOLLOWING:

26 (I) THE FULL COST OF ALL GOODS OR SERVICES PROVIDED
27 BY THE INSTITUTION FOR WHICH THE INSTITUTION HAS NOT
28 RECEIVED MONETARY COMPENSATION OR THE DIFFERENCE BETWEEN
29 THE FULL COST AND ANY LESSER FEE RECEIVED FOR THE GOODS
30 OR SERVICES, INCLUDING THE COST OF THE GOODS OR SERVICES

1 PROVIDED TO INDIVIDUALS UNABLE TO PAY.

2 (II) THE DIFFERENCE BETWEEN THE FULL COST OF
3 EDUCATION AND RESEARCH PROGRAMS PROVIDED BY OR
4 PARTICIPATED IN BY THE INSTITUTION AND THE PAYMENT MADE
5 TO THE INSTITUTION TO SUPPORT THE EDUCATION AND RESEARCH
6 PROGRAMS.

7 (III) THE DIFFERENCE BETWEEN THE FULL COST OF
8 PROVIDING THE GOODS OR SERVICES AND THE PAYMENT MADE TO
9 THE INSTITUTION UNDER ANY GOVERNMENT PROGRAM, INCLUDING
10 INDIVIDUALS COVERED BY MEDICARE OR MEDICAID.

11 (IV) THE DIFFERENCE BETWEEN THE FULL COST OF THE
12 COMMUNITY SERVICES WHICH THE INSTITUTION PROVIDES OR
13 PARTICIPATES IN AND THE PAYMENT MADE TO THE INSTITUTION
14 TO SUPPORT SUCH COMMUNITY SERVICES.

15 (V) THE REASONABLE VALUE OF ANY MONEYS, PROPERTY,
16 GOODS OR SERVICES DONATED BY A PRIMARY DONOR TO AN
17 INSTITUTION OF PURELY PUBLIC CHARITY OR TO A GOVERNMENT
18 AGENCY OR THE REASONABLE VALUE OF THE NET DONATION MADE
19 BY A SECONDARY DONOR TO A PRIMARY DONOR. AS USED IN THIS
20 SUBPARAGRAPH, THE FOLLOWING WORDS AND PHRASES SHALL HAVE
21 THE FOLLOWING MEANINGS:

22 "NET DONATION." IN THE CASE OF A DONATION OF MONEY,
23 PROPERTY OR IDENTICAL GOODS AND SERVICES MADE BY A
24 SECONDARY DONOR, THE DIFFERENCE BETWEEN THE VALUE OF THE
25 DONATION MADE BY THE SECONDARY DONOR AND THE VALUE OF THE
26 DONATION MADE BY THE PRIMARY DONOR, PROVIDED SUCH VALUE
27 IS POSITIVE.

28 "PRIMARY DONOR." AN INSTITUTION WHICH MAKES A
29 DONATION OF ANY MONEY, PROPERTY, GOODS OR SERVICES TO AN
30 INSTITUTION OF PURELY PUBLIC CHARITY.

1 "SECONDARY DONOR." AN INSTITUTION WHICH RECEIVES A
2 DONATION OF ANY MONEY, PROPERTY, GOODS OR SERVICES FROM A
3 PRIMARY DONOR AND THEN MAKES A DONATION BACK TO THAT
4 PRIMARY DONOR WITHIN THREE YEARS OF HAVING RECEIVED SUCH
5 DONATION.

6 (VI) THE REASONABLE VALUE OF VOLUNTEER ASSISTANCE
7 DONATED BY INDIVIDUALS WHO ARE INVOLVED OR ASSIST IN THE
8 PROVISION OF GOODS OR SERVICES BY THE INSTITUTION. THE
9 REASONABLE VALUE OF VOLUNTEER ASSISTANCE, COMPUTED ON AN
10 HOURLY BASIS, SHALL NOT EXCEED THE "STATEWIDE AVERAGE
11 WEEKLY WAGE" AS DEFINED IN SECTION 105.1 OF THE ACT OF
12 JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS THE WORKERS'
13 COMPENSATION ACT DIVIDED BY 40.

14 (VII) THE COST OF GOODS OR SERVICES PROVIDED BY AN
15 INSTITUTION LICENSED BY THE DEPARTMENT OF HEALTH OR THE
16 DEPARTMENT OF PUBLIC WELFARE TO INDIVIDUALS WHO ARE
17 UNABLE TO PAY PROVIDED THAT REASONABLE AND CUSTOMARY
18 COLLECTION EFFORTS HAVE BEEN MADE BY THE INSTITUTION.

19 (VIII) THE VALUE OF ANY VOLUNTARY AGREEMENT AS SET
20 FORTH IN SECTION 7(C).

21 (E) CHARITY TO PERSONS.--

22 (1) THE INSTITUTION MUST BENEFIT A SUBSTANTIAL AND
23 INDEFINITE CLASS OF PERSONS WHO ARE LEGITIMATE SUBJECTS OF
24 CHARITY.

25 (2) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND
26 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 PARAGRAPH:

28 "LEGITIMATE SUBJECTS OF CHARITY." THOSE INDIVIDUALS WHO
29 ARE UNABLE TO PROVIDE THEMSELVES WITH WHAT THE INSTITUTION
30 PROVIDES FOR THEM.

1 "SUBSTANTIAL AND INDEFINITE CLASS OF PERSONS." PERSONS
2 NOT PREDETERMINED IN NUMBER, PROVIDED THAT, WHERE THE GOODS
3 OR SERVICES ARE RECEIVED PRIMARILY BY MEMBERS OF THE
4 INSTITUTION, MEMBERSHIP CANNOT BE PREDETERMINED IN NUMBER AND
5 CANNOT BE ARBITRARILY DENIED BY A VOTE OF THE EXISTING
6 MEMBERS. THIS SUBSECTION SPECIFICALLY RECOGNIZES THAT THE USE
7 OF ADMISSIONS CRITERIA AND ENROLLMENT LIMITATIONS BY
8 EDUCATIONAL INSTITUTIONS DO NOT CONSTITUTE PREDETERMINED
9 MEMBERSHIP OR ARBITRARY RESTRICTIONS ON MEMBERSHIP SO AS TO
10 VIOLATE THIS SECTION AND RECOGNIZES THAT AN INSTITUTION MAY
11 REASONABLY DENY MEMBERSHIP BASED ON THE TYPES OF SERVICES IT
12 PROVIDES, AS LONG AS DENIAL IS NOT IN VIOLATION OF FEDERAL OR
13 STATE ANTIDISCRIMINATION LAWS, SUCH AS THE CIVIL RIGHTS ACT
14 OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241) AND THE ACT OF
15 OCTOBER 27, 1955 (P.L.744, NO.222), KNOWN AS THE PENNSYLVANIA
16 HUMAN RELATIONS ACT.

17 (3) AN INSTITUTION SHALL BE CONSIDERED TO BENEFIT A
18 SUBSTANTIAL AND INDEFINITE CLASS OF PERSONS WHO ARE
19 LEGITIMATE SUBJECTS OF CHARITY IF THE INSTITUTION IS
20 PRIMARILY ENGAGED IN FUNDRAISING ON BEHALF OF OR MAKING
21 GRANTS TO AN INSTITUTION OF PURELY PUBLIC CHARITY, AN ENTITY
22 SIMILARLY RECOGNIZED BY ANOTHER STATE OR FOREIGN
23 JURISDICTION, A QUALIFYING RELIGIOUS ORGANIZATION OR A
24 GOVERNMENT AGENCY AND THERE IS ACTUAL CONTRIBUTION OF A
25 SUBSTANTIAL PORTION OF THE FUNDS RAISED OR CONTRIBUTIONS
26 RECEIVED TO AN INSTITUTION OF PURELY PUBLIC CHARITY, AN
27 ENTITY SIMILARLY RECOGNIZED BY ANOTHER STATE OR FOREIGN
28 JURISDICTION, A QUALIFYING RELIGIOUS ORGANIZATION OR A
29 GOVERNMENT AGENCY.

30 (4) AN INSTITUTION WHICH OPERATES EXCLUSIVELY ON A

1 VOLUNTARY BASIS TO PROVIDE EMERGENCY HEALTH AND SAFETY
2 SERVICES TO THE COMMUNITY OR AN INSTITUTION WHICH PROVIDES
3 FUNDS AND SUPPORT EXCLUSIVELY TO VOLUNTEER INSTITUTIONS WHICH
4 PROVIDE EMERGENCY HEALTH AND SAFETY SERVICES TO THE COMMUNITY
5 SHALL BE CONSIDERED TO BENEFIT A SUBSTANTIAL AND INDEFINITE
6 CLASS OF PERSONS WHO ARE LEGITIMATE SUBJECTS OF CHARITY.

7 (5) AN INSTITUTION SHALL NOT BE CONSIDERED TO BENEFIT A
8 SUBSTANTIAL AND INDEFINITE CLASS OF PERSONS WHO ARE
9 LEGITIMATE SUBJECTS OF CHARITY IF:

10 (I) THE INSTITUTION IS NOT QUALIFIED UNDER SECTION
11 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C.
12 § 501(C)(3)); AND

13 (II) THE INSTITUTION IS QUALIFIED UNDER SECTION
14 501(C)(4), (5), (6), (7), (8) OR (9) OF THE INTERNAL
15 REVENUE CODE OF 1986 (26 U.S.C. § 501(C)(4), (5), (6),
16 (7), (8) OR (9)) AS ANY OF THE FOLLOWING:

17 (A) AN ASSOCIATION OF EMPLOYEES, THE MEMBERSHIP
18 OF WHICH IS LIMITED TO THE EMPLOYEES OF A DESIGNATED
19 PERSON OR PERSONS.

20 (B) A LABOR ORGANIZATION.

21 (C) AN AGRICULTURAL OR HORTICULTURAL
22 ORGANIZATION.

23 (D) A BUSINESS LEAGUE, CHAMBER OF COMMERCE, REAL
24 ESTATE BOARD, BOARD OF TRADE OR PROFESSIONAL SPORTS
25 LEAGUE.

26 (E) A CLUB ORGANIZED FOR PLEASURE OR RECREATION.

27 (F) A FRATERNAL BENEFICIARY SOCIETY, ORDER OR
28 ASSOCIATION.

29 (F) GOVERNMENT SERVICE.--THE INSTITUTION MUST RELIEVE THE
30 GOVERNMENT OF SOME OF ITS BURDEN. THIS CRITERION IS SATISFIED IF

1 THE INSTITUTION MEETS ANY ONE OF THE FOLLOWING:

2 (1) PROVIDES A SERVICE TO THE PUBLIC THAT THE GOVERNMENT
3 WOULD OTHERWISE BE OBLIGED TO FUND OR TO PROVIDE DIRECTLY OR
4 INDIRECTLY OR TO ASSURE THAT A SIMILAR INSTITUTION EXISTS TO
5 PROVIDE THE SERVICE.

6 (2) PROVIDES SERVICES IN FURTHERANCE OF ITS CHARITABLE
7 PURPOSE WHICH ARE EITHER THE RESPONSIBILITY OF THE GOVERNMENT
8 BY LAW OR WHICH HISTORICALLY HAVE BEEN ASSUMED OR OFFERED OR
9 FUNDED BY THE GOVERNMENT.

10 (3) RECEIVES ON A REGULAR BASIS PAYMENTS FOR SERVICES
11 RENDERED UNDER A GOVERNMENT PROGRAM IF THE PAYMENTS ARE LESS
12 THAN THE FULL COSTS INCURRED BY THE INSTITUTION, AS
13 DETERMINED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

14 (4) PROVIDES A SERVICE TO THE PUBLIC WHICH DIRECTLY OR
15 INDIRECTLY REDUCES DEPENDENCE ON GOVERNMENT PROGRAMS OR
16 RELIEVES OR LESSENS THE BURDEN BORNE BY GOVERNMENT FOR THE
17 ADVANCEMENT OF SOCIAL, MORAL, EDUCATIONAL OR PHYSICAL
18 OBJECTIVES.

19 (5) ADVANCES OR PROMOTES RELIGION AND IS OWNED AND
20 OPERATED BY A CORPORATION OR OTHER ENTITY AS A RELIGIOUS
21 MINISTRY AND OTHERWISE SATISFIES THE CRITERIA SET FORTH IN
22 SECTION 5.

23 (6) HAS A VOLUNTARY AGREEMENT UNDER SECTION 7.

24 (G) OTHER NONPROFIT ENTITIES.--A NONPROFIT PARENT
25 CORPORATION, TOGETHER WITH ALL OF ITS SUBSIDIARY NONPROFIT
26 CORPORATIONS, MAY ELECT TO BE CONSIDERED AS A SINGLE INSTITUTION
27 IN MEETING THE CRITERIA SET FORTH IN THIS SECTION AS LONG AS ALL
28 OF THE FOLLOWING ARE MET:

29 (1) EACH SUBSIDIARY:

30 (I) IS A NONSTOCK CORPORATION OF WHICH THE NONPROFIT

1 PARENT CORPORATION IS THE ONLY MEMBER; AND
2 (II) MEETS THE REQUIREMENTS OF THIS SECTION.
3 (2) THE PARENT:
4 (I) IS A NONSTOCK CORPORATION;
5 (II) IS QUALIFIED BY THE INTERNAL REVENUE SERVICE AS
6 MEETING THE REQUIREMENTS OF SECTION 501(C)(3) OF THE
7 INTERNAL REVENUE CODE OF 1986 (26 U.S.C. § 501(C)(3));
8 (III) MEETS THE REQUIREMENTS OF SUBSECTION (B) AND
9 (C); AND
10 (IV) EXCEPT FOR SERVICES THAT MEET THE REQUIREMENTS
11 OF THIS SECTION, DOES NOT RENDER SERVICES FOR A FEE TO AN
12 INDIVIDUAL OR ENTITY THAT DOES NOT MEET THE REQUIREMENTS
13 OF PARAGRAPH (1).
14 (H) PARCEL REVIEW.--
15 (1) NOTHING IN THIS ACT SHALL AFFECT, IMPAIR OR HINDER
16 THE RESPONSIBILITIES OR PREROGATIVES OF THE POLITICAL
17 SUBDIVISION RESPONSIBLE FOR MAINTAINING REAL PROPERTY
18 ASSESSMENT ROLLS TO MAKE A DETERMINATION WHETHER A PARCEL OF
19 PROPERTY OR A PORTION OF A PARCEL OF PROPERTY IS BEING USED
20 TO ADVANCE THE CHARITABLE PURPOSE OF AN INSTITUTION OF PURELY
21 PUBLIC CHARITY, OR TO ASSESS THE PARCEL OR PART OF THE PARCEL
22 OF PROPERTY AS TAXABLE BASED ON THE USE OF THE PARCEL OR PART
23 OF THE PARCEL FOR PURPOSES OTHER THAN THE CHARITABLE PURPOSE
24 OF THAT INSTITUTION.
25 (2) NOTHING IN THIS ACT SHALL PROHIBIT AN AGGRIEVED
26 PERSON OR A POLITICAL SUBDIVISION FROM FILING CHALLENGES TO,
27 OR PROHIBIT A POLITICAL SUBDIVISION FROM MAKING
28 DETERMINATIONS AS TO, WHETHER A PARTICULAR PARCEL OF PROPERTY
29 IS BEING USED TO ADVANCE THE CHARITABLE PURPOSE OF AN
30 INSTITUTION OF PURELY PUBLIC CHARITY.

1 (I) STANDARDS.--AN INSTITUTION OF PURELY PUBLIC CHARITY MAY
2 CONDUCT ACTIVITIES INTENDED TO INFLUENCE LEGISLATION PROVIDED
3 THAT NO SUBSTANTIAL PART OF THE ACTIVITIES OF AN INSTITUTION OF
4 PURELY PUBLIC CHARITY SHALL CONSIST OF CARRYING ON PROPAGANDA,
5 EXCEPT AS OTHERWISE PROVIDED IN SECTION 501(H) OF THE INTERNAL
6 REVENUE CODE OF 1986 (26 U.S.C. § 501(H)) OR PARTICIPATING IN OR
7 INTERVENING IN, INCLUDING THE PUBLISHING OR DISTRIBUTING OF
8 STATEMENTS, ANY POLITICAL CAMPAIGN ON BEHALF OF, OR IN
9 OPPOSITION TO, ANY CANDIDATE FOR PUBLIC OFFICE AS SUCH
10 LIMITATIONS ARE INTERPRETED UNDER SECTION 501 OF THE INTERNAL
11 REVENUE CODE OF 1986 (26 U.S.C. § 501).

12 SECTION 6. PRESUMPTION PROCESS.

13 (A) PRESUMPTION DETERMINATION.--AN INSTITUTION OF PURELY
14 PUBLIC CHARITY POSSESSING A VALID EXEMPTION FROM THE TAX IMPOSED
15 BY ARTICLE II OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN
16 AS THE TAX REFORM CODE OF 1971, SHALL BE ENTITLED TO ASSERT A
17 REBUTTABLE PRESUMPTION REGARDING THAT INSTITUTION'S COMPLIANCE
18 WITH THE CRITERIA SET FORTH IN SECTION 5 AS FOLLOWS:

19 (1) AN INSTITUTION OF PURELY PUBLIC CHARITY THAT HAS
20 ANNUAL PROGRAM SERVICE REVENUE LESS THAN \$10,000,000 SHALL BE
21 ENTITLED TO ASSERT THE PRESUMPTION IF THE INSTITUTION
22 POSSESSES A VALID EXEMPTION UNDER SECTION 204(10) OF THE TAX
23 REFORM CODE OF 1971.

24 (2) AN INSTITUTION OF PURELY PUBLIC CHARITY THAT HAS
25 ANNUAL PROGRAM SERVICE REVENUE EQUAL TO OR EXCEEDING
26 \$10,000,000 SHALL BE ENTITLED TO ASSERT THE PRESUMPTION IF
27 ALL OF THE FOLLOWING APPLY:

28 (I) THE INSTITUTION POSSESSES A VALID EXEMPTION
29 UNDER SECTION 204(10) OF THE TAX REFORM CODE OF 1971; AND

30 (II) THE INSTITUTION HAS A VOLUNTARY AGREEMENT AS

1 PROVIDED UNDER SECTION 7 WITH A POLITICAL SUBDIVISION IN
2 WHICH THAT INSTITUTION CONDUCTS SUBSTANTIAL BUSINESS
3 OPERATIONS.

4 (3) THE PRESUMPTION PURSUANT TO PARAGRAPH (2) MAY BE
5 ASSERTED BY AN INSTITUTION OF PURELY PUBLIC CHARITY ONLY WITH
6 REGARD TO A CHALLENGE MADE CONCERNING OR BY A POLITICAL
7 SUBDIVISION WITH WHICH THAT INSTITUTION HAS A VOLUNTARY
8 AGREEMENT IN EFFECT PURSUANT TO SECTION 7.

9 (4) FOR THE PURPOSE OF CALCULATING ANNUAL PROGRAM
10 SERVICE REVENUE UNDER THIS SECTION, AN INSTITUTION OF PURELY
11 PUBLIC CHARITY MAY ELECT TO AVERAGE ANNUAL PROGRAM SERVICE
12 REVENUE FOR ITS TWO MOST RECENTLY COMPLETED FISCAL YEARS.

13 (5) COMMENCING JULY 1, 1999, AND EVERY YEAR THEREAFTER,
14 THE DEPARTMENT OF REVENUE SHALL INCREASE THE AMOUNT SET FORTH
15 IN PARAGRAPHS (1) AND (2) BY 1%. THE DEPARTMENT SHALL
16 TRANSMIT NOTICE OF THE ADJUSTMENT TO THE LEGISLATIVE
17 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA
18 BULLETIN.

19 (B) BURDEN OF PROOF.--IF AN INSTITUTION OF PURELY PUBLIC
20 CHARITY ASSERTS A PRESUMPTION UNDER SUBSECTION (A), AN AGGRIEVED
21 PERSON OR A POLITICAL SUBDIVISION CHALLENGING THAT INSTITUTION
22 BEFORE A GOVERNMENT AGENCY OR COURT SHALL BEAR THE BURDEN, BY A
23 PREPONDERANCE OF THE EVIDENCE, OF PROVING THAT THE INSTITUTION
24 OF PURELY PUBLIC CHARITY DOES NOT COMPLY WITH THE REQUIREMENTS
25 OF SECTION 5.

26 (C) ISSUANCE OF WRITTEN ORDER.--THE DEPARTMENT SHALL FURNISH
27 A WRITTEN ORDER TO ANY INSTITUTION APPLYING FOR EXEMPTION UNDER
28 SECTION 204(10) OF THE TAX REFORM CODE OF 1971 APPROVING OR
29 DENYING THE EXEMPTION. AN ORDER DENYING AN EXEMPTION SHALL
30 INCLUDE SPECIFIC INFORMATION CONCERNING THAT INSTITUTION'S

1 FAILURE TO COMPLY WITH AT LEAST ONE OF THE CRITERIA UNDER
2 SECTION 5.

3 (D) WAIVER OF CONFIDENTIALITY.--AN INSTITUTION OF PURELY
4 PUBLIC CHARITY ASSERTING A PRESUMPTION UNDER SUBSECTION (A)
5 SHALL BE DEEMED TO HAVE WAIVED ANY RIGHT TO CONFIDENTIALITY WITH
6 REGARD TO ALL RECORDS IN THE POSSESSION OF THE DEPARTMENT
7 RELATING TO THE APPLICATION FOR EXEMPTION. THESE RECORDS SHALL
8 BE DEEMED PUBLIC RECORDS THAT THE DEPARTMENT MUST FURNISH TO ANY
9 PERSON UPON REQUEST. A POLITICAL SUBDIVISION CHALLENGING SUCH
10 PRESUMPTION MAY REQUEST FROM THE INSTITUTION OF PURELY PUBLIC
11 CHARITY ALL RELEVANT FINANCIAL STATEMENTS, RECORDS AND DOCUMENTS
12 USED TO OBTAIN THE EXEMPTION UNDER SECTION 204(10) OF THE TAX
13 REFORM CODE OF 1971. FAILURE BY THAT INSTITUTION TO SUPPLY OR,
14 AT ITS OPTION, TO PERMIT INSPECTION OF SUCH INFORMATION IN ITS
15 POSSESSION WITHIN 30 DAYS SHALL ELIMINATE THE PRESUMPTION WITH
16 RESPECT TO THAT CHALLENGE.

17 (E) DEPARTMENT INVOLVEMENT.--A DETERMINATION MADE UNDER THIS
18 SECTION SHALL NOT, IN ANY WAY, SUBJECT THE DEPARTMENT TO
19 PARTICIPATION IN ANY CONTROVERSY, DISCOVERY OR LITIGATION
20 BETWEEN AN AGGRIEVED PERSON OR A POLITICAL SUBDIVISION AND AN
21 INSTITUTION CLAIMING THE EXEMPTION AS AN INSTITUTION OF PURELY
22 PUBLIC CHARITY, OTHER THAN PROVIDING A COPY OF ITS WRITTEN ORDER
23 AND ANY SUPPORTING DOCUMENTATION SUPPLIED TO THE DEPARTMENT BY
24 THAT INSTITUTION.

25 SECTION 7. VOLUNTARY AGREEMENTS.

26 (A) GENERAL RULE.--A POLITICAL SUBDIVISION MAY EXECUTE A
27 VOLUNTARY AGREEMENT WITH AN INSTITUTION THAT OWNS REAL PROPERTY
28 WITHIN THE POLITICAL SUBDIVISION. ALL CONTRIBUTIONS RECEIVED
29 FROM SUCH VOLUNTARY AGREEMENTS SHALL BE USED TO HELP ENSURE THAT
30 ESSENTIAL GOVERNMENTAL, PUBLIC OR COMMUNITY SERVICES WILL

1 CONTINUE TO BE PROVIDED IN A MANNER THAT WILL PERMIT AN
2 INSTITUTION TO CONTINUE TO FULFILL ITS CHARITABLE MISSION.
3 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A
4 POLITICAL SUBDIVISION FROM SHARING WITH ANOTHER POLITICAL
5 SUBDIVISION A PORTION OF THE PROCEEDS DERIVED FROM A VOLUNTARY
6 AGREEMENT UPON THE MUTUAL AGREEMENT OF ALL AFFECTED PARTIES.

7 (B) PUBLIC SERVICE FOUNDATIONS.--INSTITUTIONS OF PURELY
8 PUBLIC CHARITY MAY ESTABLISH A PUBLIC SERVICE FOUNDATION, UPON
9 MUTUAL AGREEMENT WITH A POLITICAL SUBDIVISION, FOR THE PURPOSE
10 OF RECEIVING CONTRIBUTIONS FROM INSTITUTIONS OF PURELY PUBLIC
11 CHARITY. UPON AGREEMENT, THE FOUNDATION SHALL MAKE DISTRIBUTIONS
12 OR GRANTS TO A PARTICIPATING POLITICAL SUBDIVISION TO HELP
13 ENSURE THAT ESSENTIAL GOVERNMENTAL, PUBLIC OR COMMUNITY SERVICES
14 WILL CONTINUE TO BE PROVIDED IN A MANNER THAT WILL PERMIT AN
15 INSTITUTION TO CONTINUE TO FULFILL ITS CHARITABLE MISSION. A
16 POLITICAL SUBDIVISION WHICH RECEIVES A DISTRIBUTION OR GRANT
17 FROM A PUBLIC SERVICE FOUNDATION SHALL NOT ASSESS OR SEEK A
18 SEPARATE CONTRIBUTION FOR SERVICES FROM INSTITUTIONS OF PURELY
19 PUBLIC CHARITY PARTICIPATING IN A FOUNDATION.

20 (C) ADDITIONAL CREDIT FOR VOLUNTARY AGREEMENTS.--AN
21 INSTITUTION WHICH HAS ENTERED INTO A VOLUNTARY AGREEMENT MAY
22 CREDIT THE FOLLOWING PERCENTAGE OF THE REASONABLE VALUE OF ITS
23 CONTRIBUTION FOR PURPOSES OF COMPUTING THE COMMUNITY SERVICE
24 CRITERIA SET FORTH IN SECTION 5(D)(4)(VIII):

25 (1) IF THE REASONABLE VALUE OF THE INSTITUTION'S
26 CONTRIBUTION IS EQUAL TO OR LESS THAN 0.15% OF ITS PROGRAM
27 SERVICE REVENUE, THE INSTITUTION MAY CREDIT THE ENTIRE
28 CONTRIBUTION AT 150% OF ITS VALUE.

29 (2) IF THE REASONABLE VALUE OF THE INSTITUTION'S
30 CONTRIBUTION IS GREATER THAN 0.15% BUT LESS THAN 0.25% OF ITS

1 PROGRAM SERVICE REVENUE, THE INSTITUTION MAY CREDIT THE
2 ENTIRE CONTRIBUTION AT 250% OF ITS VALUE.

3 (3) IF THE REASONABLE VALUE OF THE INSTITUTION'S
4 CONTRIBUTION IS EQUAL TO OR GREATER THAN 0.25% OF ITS PROGRAM
5 SERVICE REVENUE, THE INSTITUTION MAY CREDIT THE ENTIRE
6 CONTRIBUTION AT 350% OF ITS VALUE.

7 (D) EXISTING AGREEMENTS.--NOTHING IN THIS ACT SHALL BE
8 CONSTRUED TO AFFECT, IMPAIR, TERMINATE OR SUPERSEDE ANY
9 CONTRACT, AGREEMENT OR OTHER ARRANGEMENT IN EFFECT ON OR BEFORE
10 THE EFFECTIVE DATE OF THIS SECTION BETWEEN AN INSTITUTION AND A
11 POLITICAL SUBDIVISION, WHICH AUTHORIZES OR REQUIRES PAYMENT OF
12 TAXES, AMOUNTS IN LIEU OF TAXES OR OTHER CHARGES OR FEES FOR THE
13 SERVICES OF A POLITICAL SUBDIVISION.

14 (E) NEW AGREEMENTS.--NOTHING IN THIS ACT SHALL BE CONSTRUED
15 TO IMPAIR OR OTHERWISE INHIBIT THE RIGHT OR ABILITY OF ANY
16 INSTITUTION SEEKING OR POSSESSING AN EXEMPTION AS AN INSTITUTION
17 OF PURELY PUBLIC CHARITY, A PUBLIC SERVICE FOUNDATION OR A
18 POLITICAL SUBDIVISION FROM EXECUTING VOLUNTARY AGREEMENTS AFTER
19 THE EFFECTIVE DATE OF THIS SECTION.

20 SECTION 8. UNFAIR COMPETITION WITH SMALL BUSINESSES.

21 (A) INTENT.--IT IS THE POLICY OF THIS ACT THAT INSTITUTIONS
22 OF PURELY PUBLIC CHARITY SHALL NOT USE THEIR TAX-EXEMPT STATUS
23 TO COMPETE UNFAIRLY WITH SMALL BUSINESS.

24 (B) GENERAL RULE.--AN INSTITUTION OF PURELY PUBLIC CHARITY
25 MAY NOT FUND, CAPITALIZE, GUARANTEE THE INDEBTEDNESS OF, LEASE
26 OBLIGATIONS OF, OR SUBSIDIZE A COMMERCIAL BUSINESS THAT IS
27 UNRELATED TO THE INSTITUTION'S CHARITABLE PURPOSE AS STATED IN
28 THE INSTITUTION'S CHARTER OR GOVERNING LEGAL DOCUMENTS.

29 (C) EXCEPTIONS.--INSTITUTIONS OF PURELY PUBLIC CHARITY ARE
30 NOT IN VIOLATION OF SUBSECTION (B) IF ANY OF THE FOLLOWING

1 APPLY:

2 (1) THE COMMERCIAL BUSINESS IS INTENDED ONLY FOR THE USE
3 OF ITS EMPLOYEES, STAFF, ALUMNI, FACULTY, MEMBERS, STUDENTS,
4 CLIENTS, VOLUNTEERS, PATIENTS OR RESIDENTS. FOR PURPOSES OF
5 THIS PARAGRAPH, A PERSON SHALL NOT BE CONSIDERED AN EMPLOYEE,
6 STAFF, MEMBER, ALUMNUS, FACULTY, STUDENT, CLIENT, VOLUNTEER,
7 PATIENT OR RESIDENT IF THE PERSON'S ONLY RELATIONSHIP WITH
8 THE INSTITUTION OF PURELY PUBLIC CHARITY IS TO RECEIVE
9 PRODUCTS OR SERVICES RESULTING FROM THE COMMERCIAL BUSINESS.

10 (2) THE COMMERCIAL BUSINESS RESULTS IN SALES TO THE
11 GENERAL PUBLIC THAT ARE INCIDENTAL OR PERIODIC RATHER THAN
12 PERMANENT AND ONGOING.

13 (D) SUPPORT FOR OTHER CHARITIES.--NOTHING IN THIS SECTION
14 SHALL BE CONSTRUED AS PROHIBITING OR LIMITING THE ABILITY OF AN
15 INSTITUTION OF PURELY PUBLIC CHARITY TO FUND, CAPITALIZE,
16 GUARANTEE THE INDEBTEDNESS OF OR OTHERWISE SUBSIDIZE ANOTHER
17 INSTITUTION OF PURELY PUBLIC CHARITY.

18 (E) INVESTMENTS.--THE INVESTMENT IN PUBLICLY TRADED STOCKS
19 AND BONDS; REAL ESTATE, WHETHER DIRECTLY OR INDIRECTLY; OR OTHER
20 INVESTMENTS BY AN INSTITUTION OF PURELY PUBLIC CHARITY DOES NOT
21 VIOLATE SUBSECTION (B).

22 (F) EDUCATIONAL FUNCTIONS.--USE OF FACILITIES TO HOST GROUPS
23 FOR EDUCATIONAL PURPOSES BY AN INSTITUTION OF PURELY PUBLIC
24 CHARITY DOES NOT VIOLATE SUBSECTION (B).

25 (G) GOVERNMENT FUNCTIONS.--AN INSTITUTION OF PURELY PUBLIC
26 CHARITY MAY ENGAGE IN A NEW COMMERCIAL BUSINESS THAT MAY
27 OTHERWISE BE IN VIOLATION OF SUBSECTION (B) IF THE INSTITUTION
28 IS FORMALLY REQUESTED TO DO SO BY THE COMMONWEALTH OR A
29 POLITICAL SUBDIVISION.

30 (H) EXISTING BUSINESS ARRANGEMENTS.--AN INSTITUTION OF

1 PURELY PUBLIC CHARITY THAT PRIOR TO THE EFFECTIVE DATE OF THIS
2 SECTION FUNDED, CAPITALIZED, GUARANTEED THE INDEBTEDNESS OF,
3 LEASED OBLIGATIONS OF OR SUBSIDIZED A COMMERCIAL BUSINESS MAY
4 CONTINUE TO OWN AND OPERATE SUCH BUSINESSES WITHOUT VIOLATING
5 SUBSECTION (B) AS LONG AS THE INSTITUTION DOES NOT SUBSTANTIALLY
6 EXPAND THE SCOPE OF THE COMMERCIAL BUSINESS. IN THE EVENT AN
7 INJUNCTION IS ISSUED UNDER SUBSECTION (I), THE EFFECT OF SUCH
8 INJUNCTION SHALL BE LIMITED TO RESTRAINING THE SUBSTANTIAL
9 EXPANSION OF THE SCOPE OF THE COMMERCIAL BUSINESS WHICH WAS
10 INITIATED AFTER THE EFFECTIVE DATE OF THIS SECTION.

11 (I) REMEDIES.--THE DEPARTMENT OF STATE SHALL ESTABLISH A
12 SYSTEM OF MANDATORY ARBITRATION FOR THE PURPOSE OF RECEIVING ALL
13 COMPLAINTS FROM AGGRIEVED SMALL BUSINESSES RELATING TO AN
14 INSTITUTION OF PURELY PUBLIC CHARITY'S ALLEGED VIOLATION OF
15 THIS SECTION. UPON RECEIPT OF SUCH COMPLAINT, THE DEPARTMENT
16 SHALL DIRECT THAT THE COMPLAINT BE RESOLVED AS PROVIDED IN THIS
17 SUBSECTION.

18 (1) ALL COMPLAINTS SHALL BE IN THE FORM OF A SWORN
19 STATEMENT SETTING FORTH ALL ALLEGATIONS AND REQUESTS FOR
20 RELIEF, AND SHALL BE FILED WITH THE DEPARTMENT, TOGETHER WITH
21 A FEE AS PRESCRIBED BY THE DEPARTMENT.

22 (2) WITHIN TEN DAYS OF FILING THE COMPLAINT WITH THE
23 DEPARTMENT, THE AGGRIEVED SMALL BUSINESS SHALL SERVE A COPY
24 OF THE COMPLAINT ON THE INSTITUTION OF PURELY PUBLIC CHARITY
25 AGAINST WHICH THE COMPLAINT IS FILED. THE INSTITUTION OF
26 PURELY PUBLIC CHARITY MUST RESPOND TO THE COMPLAINT WITHIN 30
27 DAYS OF ITS RECEIPT BY THE INSTITUTION OF THE PURELY PUBLIC
28 CHARITY.

29 (3) WITHIN 30 DAYS FOLLOWING THE PERIOD OF TIME ALLOTTED
30 TO THE INSTITUTION OF PURELY PUBLIC CHARITY TO RESPOND TO THE

1 COMPLAINT, THE DEPARTMENT SHALL PROVIDE AN UNBIASED AND
2 QUALIFIED ARBITRATOR WHO POSSESSES SUFFICIENT KNOWLEDGE
3 REGARDING SUCH INSTITUTIONS TO ADJUDICATE THE MATTER. IF THE
4 INSTITUTION OF PURELY PUBLIC CHARITY DOES NOT PARTICIPATE IN
5 THE ARBITRATION, THE ARBITRATOR MAY ISSUE AN ORDER TO COMPEL
6 SUCH PARTICIPATION. SUCH AN ORDER SHALL BE ENFORCEABLE BY THE
7 COURT OF COMMON PLEAS IN THE JUDICIAL DISTRICT WHERE THE
8 ARBITRATION TAKES PLACE.

9 (4) THE ARBITRATION SHALL TAKE PLACE IN THE JUDICIAL
10 DISTRICT IN WHICH THE INSTITUTION OF PURELY PUBLIC CHARITY IS
11 LOCATED. THE DEPARTMENT SHALL PROVIDE THE ARBITRATOR ALL
12 RELEVANT MATERIAL REGARDING THE COMPLAINT, INCLUDING THE
13 ORIGINAL COMPLAINT, THE INSTITUTION OF PURELY PUBLIC
14 CHARITY'S RESPONSE TO THE COMPLAINT AND COPIES OF ANY OTHER
15 RELEVANT INFORMATION WHICH THE DEPARTMENT MAY POSSESS. THE
16 ARBITRATION SHALL BE COMPLETED WITHIN ONE YEAR FROM THE DATE
17 ON WHICH THE ARBITRATOR WAS ASSIGNED.

18 (5) WITHIN 30 DAYS OF THE ARBITRATOR'S ASSIGNMENT, THE
19 ARBITRATOR SHALL DETERMINE IF THE COMPLAINT SETS FORTH PRIMA
20 FACIE EVIDENCE THAT A VIOLATION OF THIS SECTION HAS OCCURRED.
21 IF THE ARBITRATOR DETERMINES THAT THE COMPLAINT DOES NOT
22 CONTAIN PRIMA FACIE EVIDENCE, THE ARBITRATOR SHALL ISSUE A
23 WRITTEN REPORT DETAILING THE FINDINGS AND SHALL TERMINATE THE
24 ARBITRATION. A SMALL BUSINESS MAY APPEAL SUCH A DETERMINATION
25 AS PROVIDED IN PARAGRAPH (9).

26 (6) THE ARBITRATOR SHALL DETERMINE IF THE ACTIVITY OF
27 THE INSTITUTION OF PURELY PUBLIC CHARITY IS IN VIOLATION OF
28 THIS SECTION. IN MAKING THIS DETERMINATION, THE ARBITRATOR
29 SHALL REVIEW ALL RELEVANT LAW, INCLUDING PREVIOUS
30 ARBITRATORS' DECISIONS; REGULATIONS; AND THE CHARTER OR

1 GOVERNING LEGAL DOCUMENTS OF THE INSTITUTION OF PURELY PUBLIC
2 CHARITY.

3 (7) THE DECISION OF THE ARBITRATOR SHALL BE SET FORTH IN
4 A WRITTEN DECISION ISSUED TO EACH PARTY, SPECIFYING FINDINGS
5 OF FACT AND CONCLUSIONS OF LAW. IF THE ARBITRATOR FINDS A
6 VIOLATION OF THIS SECTION, THE ARBITRATOR MAY INCLUDE AN
7 ORDER OR INJUNCTION AS PART OF THE DECISION, PROVIDED THAT NO
8 DAMAGES MAY BE ASSESSED AGAINST AN INSTITUTION OF PURELY
9 PUBLIC CHARITY.

10 (8) UPON AGREEMENT OF THE PARTIES, THE DECISION OF THE
11 ARBITRATOR SHALL BE FINAL AND BINDING AS TO ALL MATTERS OF
12 FACT AND LAW AND SHALL BE ENTERED BY THE ARBITRATOR AS A
13 FINAL JUDGMENT IN THE COURT OF COMMON PLEAS OF THE JUDICIAL
14 DISTRICT IN WHICH THE ARBITRATION TOOK PLACE. A COPY OF THE
15 ARBITRATOR'S FINAL DECISION SHALL ALSO BE FILED WITH THE
16 DEPARTMENT.

17 (9) EITHER PARTY MAY INITIATE A DE NOVO APPEAL FROM THE
18 ARBITRATOR'S DECISION IN THE COURT OF COMMON PLEAS OF THE
19 JUDICIAL DISTRICT IN WHICH THE ARBITRATION TOOK PLACE WITHIN
20 30 DAYS OF THE ARBITRATOR'S DECISION.

21 (10) THE DEPARTMENT MAY PROVIDE FOR THE SYSTEM OF
22 ARBITRATION BY MAINTAINING A LIST OF QUALIFIED ARBITRATORS OR
23 BY CONTRACTING FOR QUALIFIED ARBITRATION SERVICES.

24 (11) THE DEPARTMENT MAY ADOPT REGULATIONS NECESSARY TO
25 IMPLEMENT THIS SECTION.

26 (12) THE COST OF AN ARBITRATION PROCEEDING, INCLUDING
27 THE ARBITRATOR'S FEE, SHALL BE BORNE BY THE COMPLAINANT,
28 UNLESS THE ARBITRATOR DIRECTS OTHERWISE. EACH PARTY SHALL BE
29 RESPONSIBLE FOR ITS ATTORNEY FEES AND OTHER COSTS INCURRED.

30 (13) EXCEPT AS SET FORTH IN THIS SECTION OR IN

1 REGULATIONS PROMULGATED BY THE DEPARTMENT UNDER THIS SECTION,
2 THE ARBITRATION SHALL BE GOVERNED BY 42 PA.C.S. CH. 73 SUBCH.
3 A (RELATING TO STATUTORY ARBITRATION).

4 (14) THE REMEDIES SET FORTH IN THIS SUBSECTION SHALL BE
5 THE EXCLUSIVE REMEDIES AVAILABLE TO AN AGGRIEVED SMALL
6 BUSINESS.

7 SECTION 9. ACCOUNTABILITY AND DISCLOSURE.

8 (A) REPORTING.--AN INSTITUTION OF PURELY PUBLIC CHARITY THAT
9 DOES NOT REGISTER WITH THE DEPARTMENT OF STATE UNDER THE ACT OF
10 DECEMBER 19, 1990 (P.L.1200, NO.202), KNOWN AS THE SOLICITATION
11 OF FUNDS FOR CHARITABLE PURPOSES ACT, INCLUDING INSTITUTIONS
12 EXEMPTED FROM REGISTRATION UNDER SECTION 6(A) OF THE
13 SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES ACT, SHALL FILE AN
14 ANNUAL REPORT WITH THE BUREAU. THE REPORT SHALL BE FILED WITHIN
15 135 DAYS AFTER THE CLOSE OF THE INSTITUTION'S FISCAL YEAR UNLESS
16 AN EXTENSION IS GRANTED BY THE DEPARTMENT. THE REPORT SHALL BE
17 IN A FORMAT APPROVED BY THE DEPARTMENT AND SHALL INCLUDE:

18 (1) A COPY OF THE ANNUAL RETURN FILED OR REQUIRED TO BE
19 FILED WITH THE INTERNAL REVENUE SERVICE.

20 (2) THE DATE THE INSTITUTION WAS ORGANIZED UNDER
21 APPLICABLE LAW.

22 (3) ANY REVOCATION OF TAX-EXEMPT STATUS BY THE INTERNAL
23 REVENUE SERVICE.

24 (4) THE FOLLOWING INFORMATION ON EACH AFFILIATE OF THE
25 INSTITUTION OF PURELY PUBLIC CHARITY:

26 (I) THE NAME AND TYPE OF ORGANIZATION.

27 (II) WHETHER THE AFFILIATE IS ORGANIZED ON A FOR-
28 PROFIT OR NONPROFIT BASIS.

29 (III) THE RELATIONSHIP OF EACH AFFILIATE TO THE
30 INSTITUTION OF PURELY PUBLIC CHARITY MAKING THE REPORT.

1 (5) THE RELATIONSHIP OF THE INSTITUTION OF PURELY PUBLIC
2 CHARITY WITH ANY OTHER NONPROFIT CORPORATION OR
3 UNINCORPORATED ASSOCIATION IF THE RELATIONSHIP INVOLVES
4 FORMAL GOVERNANCE OR THE SHARING OF REVENUE.

5 (B) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE
6 REGULATIONS TO REQUIRE INSTITUTIONS OF PURELY PUBLIC CHARITY
7 WHICH REGISTER UNDER SECTION 5 OF THE SOLICITATION OF FUNDS FOR
8 CHARITABLE PURPOSES ACT TO INCLUDE THE INFORMATION SET FORTH IN
9 SUBSECTION (A).

10 (C) AMENDMENTS TO ANNUAL RETURNS.--AN INSTITUTION WHICH
11 FILES AN AMENDED ANNUAL RETURN WITH THE INTERNAL REVENUE SERVICE
12 SHALL FILE A COPY OF THE AMENDED ANNUAL RETURN WITH THE BUREAU
13 WITHIN TEN DAYS OF ITS FILING WITH THE INTERNAL REVENUE SERVICE.

14 (D) EXEMPTION FROM FILING.--EACH OF THE FOLLOWING
15 INSTITUTIONS SHALL BE EXEMPT FROM THE REPORTING REQUIREMENTS OF
16 THIS SECTION:

17 (1) A BONA FIDE DULY CONSTITUTED RELIGIOUS INSTITUTION
18 AND SUCH SEPARATE GROUPS OR CORPORATIONS WHICH FORM AN
19 INTEGRAL PART OF A RELIGIOUS INSTITUTION AND ARE EXEMPT FROM
20 FILING AN ANNUAL RETURN PURSUANT TO THE INTERNAL REVENUE CODE
21 OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.).

22 (2) AN INSTITUTION OF PURELY PUBLIC CHARITY WHICH
23 RECEIVES CONTRIBUTIONS OF LESS THAN \$25,000 PER YEAR PROVIDED
24 THAT THE INSTITUTION'S PROGRAM SERVICE REVENUE DOES NOT EQUAL
25 OR EXCEED \$5,000,000.

26 (E) FILING FEE.--AN INSTITUTION OF PURELY PUBLIC CHARITY
27 WHICH IS REQUIRED TO FILE A REPORT UNDER SUBSECTION (A) SHALL
28 PAY AN ANNUAL FILING FEE OF \$15. ALL FEES COLLECTED UNDER THIS
29 ACT AND UNDER THE SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES
30 ACT SHALL BE DEPOSITED IN THE STATE TREASURY. THE AMOUNT OF THE

1 FILING FEE UNDER THIS SUBSECTION MAY BE ADJUSTED BY THE
2 DEPARTMENT BY REGULATION. ALL FINES, PENALTIES, ATTORNEY FEES
3 AND COSTS OF INVESTIGATION COLLECTED UNDER THIS ACT AND UNDER
4 THE SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES ACT SHALL BE
5 PAID AS FOLLOWS:

6 (1) AMOUNTS COLLECTED BY THE BUREAU SHALL BE PAID TO THE
7 STATE TREASURY.

8 (2) AMOUNTS COLLECTED BY THE ACTION OR LITIGATION OF
9 ANOTHER GOVERNMENT AGENCY SHALL BE PAID DIRECTLY TO THAT
10 AGENCY.

11 (F) PAPERWORK REDUCTION.--THE DEPARTMENT SHALL ALLOW AN
12 INSTITUTION OF PURELY PUBLIC CHARITY TO CERTIFY THAT THE
13 INFORMATION REQUIRED IN SUBSECTION (A)(2) THROUGH (5) HAS NOT
14 CHANGED SINCE THE PRIOR REPORT IN LIEU OF PROVIDING THE SAME
15 INFORMATION IN THE REPORT REQUIRED BY SUBSECTION (A). THE
16 DEPARTMENT MAY OBTAIN FROM THE INTERNAL REVENUE SERVICE COPIES
17 OF ANNUAL RETURNS OF INSTITUTIONS WHICH FILE ANNUAL RETURNS WITH
18 THE INTERNAL REVENUE SERVICE ON COMPUTER DISK OR OTHER
19 ELECTRONIC OR PAPER MEDIA.

20 (G) RETENTION OF RECORDS.--THE DEPARTMENT SHALL RETAIN THE
21 REPORTING INFORMATION REQUIRED BY THIS SECTION FOR THREE YEARS
22 FROM THE DATE THE REPORTS ARE REQUIRED TO BE FILED.

23 (H) UTILIZATION OF REPORTS.--THE DEPARTMENT SHALL MAKE
24 REPORTS SUBMITTED UNDER THIS SECTION AVAILABLE FOR PUBLIC
25 INSPECTION TO THE EXTENT THAT THE INFORMATION IS AVAILABLE FOR
26 PUBLIC INSPECTION UNDER SECTION 6104 OF THE INTERNAL REVENUE
27 CODE OF 1986 (26 U.S.C. § 6104). THE DEPARTMENT SHALL PROVIDE
28 ANY GOVERNMENT AGENCY A COPY OF THE REPORT FILED UNDER THIS
29 SECTION UPON REQUEST. NOTHING IN THIS SUBSECTION SHALL PREVENT A
30 GOVERNMENT AGENCY FROM REQUIRING ANY INSTITUTION SEEKING

1 EXEMPTION AS AN INSTITUTION OF PURELY PUBLIC CHARITY TO PROVIDE
2 THE INFORMATION DESCRIBED IN SUBSECTION (A) TO THAT AGENCY AS
3 PART OF A DETERMINATION OF THE TAX EXEMPT STATUS OF THE
4 INSTITUTION.

5 (I) ADMINISTRATIVE PENALTY.--THE DEPARTMENT MAY IMPOSE AN
6 ADMINISTRATIVE PENALTY NOT TO EXCEED \$500 FOR ANY OF THE
7 FOLLOWING:

8 (1) KNOWINGLY FAILING TO FILE THE REPORT REQUIRED BY
9 THIS SECTION.

10 (2) KNOWINGLY MAKING A FALSE STATEMENT WHICH IS MATERIAL
11 IN A REPORT REQUIRED BY THIS SECTION.

12 SECTION 10. EXEMPTION FOR FEDERAL GOVERNMENT INSTRUMENTALITY.

13 ALL REAL PROPERTY OWNED BY ANY CORPORATION ESTABLISHED BY AN
14 ACT OF THE CONGRESS OF THE UNITED STATES, THAT IS REQUIRED TO
15 SUBMIT ANNUAL REPORTS OF ITS ACTIVITIES TO CONGRESS CONTAINING
16 ITEMIZED ACCOUNTS OF ALL RECEIPTS AND EXPENDITURES AFTER BEING
17 FULLY AUDITED BY THE DEPARTMENT OF DEFENSE, FOR PURPOSES OF THE
18 CONSTITUTION OF PENNSYLVANIA AND THE LAWS OF THIS COMMONWEALTH
19 RELATING TO THE ASSESSMENT AND TAXATION OF REAL ESTATE, IS
20 DEEMED TO BE PROPERTY OF A FEDERAL GOVERNMENT INSTRUMENTALITY
21 AND THUS EXEMPT FROM ALL STATE AND LOCAL TAXATION.

22 SECTION 11. PROHIBITED ACT.

23 NO INSTITUTION MAY CLAIM AN EXEMPTION FROM SALES AND USE TAX
24 AS AN INSTITUTION OF PURELY PUBLIC CHARITY UNLESS THE
25 INSTITUTION HAS RECEIVED AN ORDER FROM THE DEPARTMENT OF REVENUE
26 APPROVING AND AUTHORIZING THE EXEMPTION.

27 SECTION 12. COMPLIANCE.

28 INSTITUTIONS OF PURELY PUBLIC CHARITY SHALL COMPLY WITH THE
29 PROVISIONS OF THIS ACT AND WITH THE PROVISIONS OF ARTICLE II OF
30 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM

1 CODE OF 1971.

2 SECTION 13. CIVIL PENALTY.

3 IN ADDITION TO ANY PENALTIES AUTHORIZED BY THE ACT OF MARCH
4 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, FOR
5 VIOLATIONS OF THAT ACT, THE DEPARTMENT OF REVENUE MAY IMPOSE AN
6 ADMINISTRATIVE PENALTY NOT TO EXCEED \$500 FOR ANY WILLFUL AND
7 KNOWING VIOLATION OF THIS ACT. THIS SECTION SHALL NOT APPLY TO
8 ANY VIOLATION OF SECTION 8.

9 SECTION 14. REPEALS.

10 (A) ABSOLUTE.--SECTION 24 OF THE ACT OF DECEMBER 19, 1990
11 (P.L.1200, NO. 202), KNOWN AS THE SOLICITATION OF FUNDS FOR
12 CHARITABLE PURPOSES ACT, IS REPEALED.

13 (B) GENERAL.--ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED
14 INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT EXCEPT FOR
15 SECTION 204(A)(3) OF THE ACT OF MAY 22, 1933 (P.L.853, NO.155),
16 KNOWN AS THE GENERAL COUNTY ASSESSMENT LAW, AS IT APPLIES TO
17 CHARITABLE ORGANIZATIONS PROVIDING RESIDENTIAL HOUSING SERVICES.
18 SECTION 15. APPLICABILITY.

19 (A) GENERAL.--THIS ACT SHALL NOT APPLY TO NOR AFFECT 40
20 P.A.C.S. § 6103 (RELATING TO EXEMPTIONS APPLICABLE TO CERTIFIED
21 HOSPITAL PLAN CORPORATIONS) OR 6307 (RELATING TO EXEMPTIONS
22 APPLICABLE TO CERTIFICATED PROFESSIONAL HEALTH SERVICE
23 CORPORATIONS) OR THE ENTITIES SUBJECT TO THOSE SECTIONS.

24 (B) EXISTING SALES AND USE TAX EXEMPTIONS.--AN EXEMPTION
25 FROM TAX UNDER SECTION 204(10) OF THE ACT OF MARCH 4, 1971
26 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, EXISTING ON
27 THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL
28 THE EXPIRATION OF THAT EXEMPTION.

29 (C) PRESUMPTION.--NO INSTITUTION OF PURELY PUBLIC CHARITY
30 MAY ASSERT A PRESUMPTION PURSUANT TO SECTION 6 UNTIL THAT

1 INSTITUTION'S EXEMPTION UNDER SECTION 204(10) OF THE TAX REFORM
2 CODE OF 1971 IS GRANTED OR RENEWED ON OR AFTER THE EFFECTIVE
3 DATE OF THIS SECTION.

4 SECTION 16. EFFECTIVE DATE.

5 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

6 (1) SECTIONS 8 AND 9 SHALL TAKE EFFECT IN 120 DAYS.

7 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
8 IMMEDIATELY.