
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 55

Session of
1997

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LEH, ROSS AND SERAFINI, JANUARY 28, 1997

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, NOVEMBER 18, 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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6 PROVIDING FOR THE TAX EXEMPTION OF INSTITUTIONS OF PURELY PUBLIC <—
7 CHARITY; EXEMPTING REAL PROPERTY OWNED BY STATE-RELATED
8 UNIVERSITIES OR FEDERAL GOVERNMENT INSTRUMENTALITIES FROM
9 TAXATION; PROVIDING FOR UNFAIR COMPETITION; IMPOSING
10 PENALTIES; AND MAKING REPEALS.

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28 The General Assembly of the Commonwealth of Pennsylvania

29 hereby enacts as follows:

30 ~~Section 1. Short title.~~ <—

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

1 ~~Section 2. Legislative intent.~~

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

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

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

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

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

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

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

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

13 ~~Section 3. State related universities.~~

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

1 ~~charges, fees or contributions for municipal services.~~

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

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

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

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

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

1 ~~its subsidiaries Temple University Hospital, Inc., and Temple~~
2 ~~University Children's Hospital, Inc., and Lincoln University.~~
3 ~~Section 4. Definitions.~~

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

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

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

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

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

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

30 ~~"Small business." Any self employed individual, sole~~

1 ~~proprietorship, firm, corporation, partnership, association or~~
2 ~~other entity that:~~

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

4 ~~(2) is subject to income taxation under the act of March~~
5 ~~4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~
6 ~~"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),~~
7 ~~known as the Tax Reform Code of 1971.~~

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

12 ~~Section 5.—Criteria.~~

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

20 ~~(1) Each subsidiary:~~

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

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

25 ~~(2) The parent:~~

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

27 ~~(ii) is duly qualified by the Internal Revenue~~
28 ~~Service as meeting the requirements of section 501(c)(3)~~
29 ~~of the Internal Revenue Code of 1986 (Public Law 99-514,~~
30 ~~26 U.S.C. § 501(c)(3));~~

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

7 ~~An institution of purely public charity shall meet all of the~~
8 ~~criteria contained in subsections (b), (c), (d), (e) and (f).~~
9 ~~Institutions of purely public charity which meet the criteria~~
10 ~~specified in this section shall be considered to be founded,~~
11 ~~endowed and maintained by public or private charity.~~

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

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

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

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

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

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

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

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

1 following:

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

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

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

18 ~~(d) Community service.—~~

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

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

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

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

30 ~~(C) The institution provides uncompensated goods~~

1 ~~or services at least equal to 75% of the~~
2 ~~institution's net operating income but not less than~~
3 ~~3% of the institution's total operating expenses.~~

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

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

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

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

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

1 ~~goods or services provided to them.~~

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

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

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

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

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

28 ~~(B) The institution provides goods or services~~
29 ~~to individuals with mental retardation, to~~
30 ~~individuals who need mental health services, to~~

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

11 ~~(I) Sections 1315(c) and 1905(d) of the~~
12 ~~Social Security Act (49 Stat. 620, 42 U.S.C. §§~~
13 ~~1396d(d) and 1396n(c)).~~

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

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

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

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

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

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

29 ~~(VIII) 55 Pa. Code Chs. 3170 (relating to~~
30 ~~allowable costs and procedures for county~~

1 children and youth), 3680 (relating to
2 administration and operation of a children and
3 youth social service agency) 4300 (relating to
4 county mental health and mental retardation
5 fiscal manual), 6400 (relating to community homes
6 for individuals with mental retardation), 6500
7 (relating to family living homes), 6210 (relating
8 to participation requirements for the
9 intermediate care facilities for the mentally
10 retarded program), 6211 (relating to allowable
11 cost reimbursement for non State operated
12 intermediate care facilities for the mentally
13 retarded) and 6600 (relating to intermediate care
14 facilities for the mentally retarded).

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

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

28 ~~(3) For the purposes of calculating the number of~~
29 ~~individuals for use in the percentage calculations in this~~
30 ~~subsection, educational institutions may use full time~~

1 ~~equivalent students as defined by the Department of~~
2 ~~Education.~~

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

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

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

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

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

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

1 ~~subparagraph, the following words and phrases shall have~~
2 ~~the following meanings:~~

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

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

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

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

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

30 ~~(viii) The reasonable value of any moneys, property,~~

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

9 ~~(c) Charity to persons.—~~

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

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

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

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

1 ~~antidiscrimination laws, such as the Civil Rights Act of 1964~~
2 ~~(Public Law 88-352, 78 Stat. 241) and the act of October 27,~~
3 ~~1955 (P.L. 744, No. 222), known as the Pennsylvania Human~~
4 ~~Relations Act.~~

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

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

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

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

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

20 ~~(i) the institution is not qualified under section~~
21 ~~501(c)(3) of the Internal Revenue Code of 1986; and~~

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

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

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

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

1 ~~(D) A business league, chamber of commerce, real~~
2 ~~estate board, board of trade or professional sports~~
3 ~~league.~~

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

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

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

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

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

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

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

27 ~~(g) Standards.—~~

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

1 ~~(2) No substantial part of the activities of an~~
2 ~~institution of purely public charity shall consist of~~
3 ~~carrying on propaganda or otherwise attempting to influence~~
4 ~~legislation, except as otherwise provided in section 501(h)~~
5 ~~of the Internal Revenue Code of 1986 or participating in or~~
6 ~~intervening in, including the publishing or distributing of~~
7 ~~statements, any political campaign on behalf of, or in~~
8 ~~opposition to, any candidate for public office as such~~
9 ~~limitations are interpreted under section 501 of the Internal~~
10 ~~Revenue Code of 1986.~~

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

26 ~~(4) Nothing in this act shall prohibit a political~~
27 ~~subdivision from filing challenges to or 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 ~~(5) No additional criteria shall be imposed on any~~
2 ~~organization in order to be recognized as an institution of~~
3 ~~purely public charity.~~

4 ~~Section 6. Multiple jurisdictions.~~

5 ~~(a) Intent.~~

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

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

30 ~~(b) Presumption. An organization possessing a valid~~

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

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

~~30 Section 7. Existing agreements.~~

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

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

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

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

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

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

30 ~~(2) The commercial business results in sales to the~~

1 ~~general public that are incidental or periodic rather than~~
2 ~~permanent and ongoing.~~

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

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

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

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

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

30 ~~(i) Remedies. Whenever the Attorney General receives a~~

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

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

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

23 ~~Section 9. Accountability and disclosure.~~

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

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

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

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 and a reference to any determination of its~~
22 ~~tax exempt status under the Internal Revenue Code of 1986,~~
23 ~~including, if applicable:~~

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

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

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

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

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

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

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

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

16 ~~(d) Exemption from filing.—~~

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

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

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

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

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

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

1 ~~(h) Definitions. As used in this section, the following~~
2 ~~words and phrases shall have the meanings given to them in this~~
3 ~~subsection:~~

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

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

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

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

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

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

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

5 ~~Section 11. Repeals.~~

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

11 ~~Section 12. Applicability.~~

12 ~~This act shall not apply to nor affect 40 Pa.C.S. § 6103 or~~
13 ~~6301 or the entities subject to those sections.~~

14 ~~Section 13. Effective date.~~

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

17 SECTION 1. SHORT TITLE.

<—

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

20 SECTION 2. LEGISLATIVE INTENT.

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

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

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

30 (3) BECAUSE INSTITUTIONS OF PURELY PUBLIC CHARITY

1 CONTRIBUTE TO THE COMMON GOOD OR LESSEN THE BURDEN OF
2 GOVERNMENT, THE HISTORIC POLICY OF EXEMPTING THESE
3 INSTITUTIONS FROM TAXATION SHOULD BE CONTINUED.

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

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

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

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

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

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

20 SECTION 3. DEFINITIONS.

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

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

30 "ANNUAL RETURN." THE ANNUAL INFORMATION RETURN REQUIRED TO BE

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

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

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

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

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

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

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

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

30 "NET OPERATING INCOME." THE AMOUNT OF FUNDS REMAINING AFTER

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

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

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

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

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

17 (2) IS SUBJECT TO INCOME TAXATION UNDER THE ACT OF MARCH
18 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

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

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

1 SECTION 4. STATE-RELATED UNIVERSITIES.

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

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

28 (C) EXCEPTION.--THIS SECTION SHALL NOT INCLUDE THE PROPERTY
29 OF A STATE-RELATED UNIVERSITY THE POSSESSION AND CONTROL OF
30 WHICH HAS BEEN TRANSFERRED TO A FOR-PROFIT ENTITY NOT OTHERWISE

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

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

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

16 "STATE-RELATED UNIVERSITIES." THE PENNSYLVANIA STATE
17 UNIVERSITY AND ITS AFFILIATE, THE PENNSYLVANIA COLLEGE OF
18 TECHNOLOGY, THE UNIVERSITY OF PITTSBURGH, TEMPLE UNIVERSITY AND
19 ITS SUBSIDIARIES TEMPLE UNIVERSITY HOSPITAL, INC., AND TEMPLE
20 UNIVERSITY CHILDREN'S HOSPITAL, INC., AND LINCOLN UNIVERSITY.

21 SECTION 5. CRITERIA FOR INSTITUTIONS OF PURELY PUBLIC CHARITY.

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

28 (B) CHARITABLE PURPOSE.--THE INSTITUTION MUST ADVANCE A
29 CHARITABLE PURPOSE. THIS CRITERION IS SATISFIED IF THE
30 INSTITUTION IS ORGANIZED AND OPERATED PRIMARILY TO FULFILL ANY

1 ONE OR COMBINATION OF THE FOLLOWING PURPOSES:

2 (1) RELIEF OF POVERTY.

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

5 (3) ADVANCEMENT OF RELIGION.

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

8 (5) GOVERNMENT OR MUNICIPAL PURPOSES.

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

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

17 (1) NEITHER THE INSTITUTION'S NET EARNINGS NOR DONATIONS
18 WHICH IT RECEIVES INURES TO THE BENEFIT OF PRIVATE
19 SHAREHOLDERS OR OTHER INDIVIDUALS, AS THE PRIVATE INUREMENT
20 STANDARD IS INTERPRETED UNDER SECTION 501(C)(3) OF THE
21 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
22 501(C)(3)).

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

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

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

8 (D) COMMUNITY SERVICE.--

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

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

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

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

20 (C) THE INSTITUTION PROVIDES UNCOMPENSATED GOODS
21 OR SERVICES AT LEAST EQUAL TO 75% OF THE
22 INSTITUTION'S NET OPERATING INCOME BUT NOT LESS THAN
23 3% OF THE INSTITUTION'S TOTAL OPERATING EXPENSES.

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

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

1 IF THE INSTITUTION CONSISTENTLY APPLIES A FORMULA TO
2 ALL INDIVIDUALS REQUESTING CONSIDERATION OF REDUCED
3 FEES WHICH IS IN PART BASED ON INDIVIDUAL OR FAMILY
4 INCOME.

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

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

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

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

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

1 THEM, AFTER CONSIDERATION OF ANY FINANCIAL ASSISTANCE
2 PROVIDED TO THEM BY THE INSTITUTION.

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

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

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

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

1 (I) SECTIONS 1315(C) AND 1905(D) OF THE
2 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. §§
3 1396D(D) AND 1396N(C)).

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

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

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

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

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

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

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

1 COST REIMBURSEMENT FOR NON-STATE OPERATED
2 INTERMEDIATE CARE FACILITIES FOR THE MENTALLY
3 RETARDED) AND 6600 (RELATING TO INTERMEDIATE CARE
4 FACILITIES FOR AND 6600 (RELATING TO INTERMEDIATE
5 CARE FACILITIES FOR THE MENTALLY RETARDED).

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

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

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

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

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

1 OR SERVICES, INCLUDING THE COST OF THE GOODS OR SERVICES
2 PROVIDED TO INDIVIDUALS UNABLE TO PAY.

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

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

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

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

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

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

1 INSTITUTION OF PURELY PUBLIC CHARITY.

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

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

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

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

22 (E) CHARITY TO PERSONS.--

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

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

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

1 PROVIDES FOR THEM.

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

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

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

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

11 (I) THE INSTITUTION IS NOT QUALIFIED UNDER SECTION
12 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C.
13 § 501(C)(3)); AND

14 (II) THE INSTITUTION IS QUALIFIED UNDER SECTION
15 501(C)(4), (5), (6), (7), (8) OR (9) OF THE INTERNAL
16 REVENUE CODE OF 1986 (26 U.S.C. § 501(C)(4), (5), (6),
17 (7), (8) OR (9)) AS ANY OF THE FOLLOWING:

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

21 (B) A LABOR ORGANIZATION.

22 (C) AN AGRICULTURAL OR HORTICULTURAL
23 ORGANIZATION.

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

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

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

30 (F) GOVERNMENT SERVICE.--THE INSTITUTION MUST RELIEVE THE

1 GOVERNMENT OF SOME OF ITS BURDEN. THIS CRITERION IS SATISFIED IF
2 THE INSTITUTION MEETS ANY ONE OF THE FOLLOWING:

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

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

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

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

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

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

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

30 (1) EACH SUBSIDIARY:

1 (I) IS A NONSTOCK CORPORATION OF WHICH THE NONPROFIT
2 PARENT CORPORATION IS THE ONLY MEMBER; AND

3 (II) MEETS THE REQUIREMENTS OF THIS SECTION.

4 (2) THE PARENT:

5 (I) IS A NONSTOCK CORPORATION;

6 (II) IS QUALIFIED BY THE INTERNAL REVENUE SERVICE AS
7 MEETING THE REQUIREMENTS OF SECTION 501(C)(3) OF THE
8 INTERNAL REVENUE CODE OF 1986 (26 U.S.C. § 501(C)(3));

9 (III) MEETS THE REQUIREMENTS OF SUBSECTION (B) AND
10 (C); AND

11 (IV) EXCEPT FOR SERVICES THAT MEET THE REQUIREMENTS
12 OF THIS SECTION, DOES NOT RENDER SERVICES FOR A FEE TO AN
13 INDIVIDUAL OR ENTITY THAT DOES NOT MEET THE REQUIREMENTS
14 OF PARAGRAPH (1).

15 (H) PARCEL REVIEW.--

16 (1) NOTHING IN THIS ACT SHALL AFFECT, IMPAIR OR HINDER
17 THE RESPONSIBILITIES OR PREROGATIVES OF THE POLITICAL
18 SUBDIVISION RESPONSIBLE FOR MAINTAINING REAL PROPERTY
19 ASSESSMENT ROLLS TO MAKE A DETERMINATION WHETHER A PARCEL OF
20 PROPERTY OR A PORTION OF A PARCEL OF PROPERTY IS BEING USED
21 TO ADVANCE THE CHARITABLE PURPOSE OF AN INSTITUTION OF PURELY
22 PUBLIC CHARITY, OR TO ASSESS THE PARCEL OR PART OF THE PARCEL
23 OF PROPERTY AS TAXABLE BASED ON THE USE OF THE PARCEL OR PART
24 OF THE PARCEL FOR PURPOSES OTHER THAN THE CHARITABLE PURPOSE
25 OF THAT INSTITUTION.

26 (2) NOTHING IN THIS ACT SHALL PROHIBIT ~~AN AGGRIEVED~~ <—
27 ~~PERSON OR~~ A POLITICAL SUBDIVISION FROM FILING CHALLENGES ~~TO,~~ <—
28 ~~OR PROHIBIT A POLITICAL SUBDIVISION FROM MAKING~~ <—
29 DETERMINATIONS AS ~~TO,~~ WHETHER A PARTICULAR PARCEL OF PROPERTY <—
30 IS BEING USED TO ADVANCE THE CHARITABLE PURPOSE OF AN

1 INSTITUTION OF PURELY PUBLIC CHARITY.

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

13 SECTION 6. PRESUMPTION PROCESS.

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

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

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

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

1 (II) THE INSTITUTION HAS A VOLUNTARY AGREEMENT AS
2 PROVIDED UNDER SECTION 7 WITH A POLITICAL SUBDIVISION IN
3 WHICH THAT INSTITUTION CONDUCTS SUBSTANTIAL BUSINESS
4 OPERATIONS.

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

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

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

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

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

1 INCLUDE SPECIFIC INFORMATION CONCERNING THAT INSTITUTION'S
2 FAILURE TO COMPLY WITH AT LEAST ONE OF THE CRITERIA UNDER
3 SECTION 5.

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

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

26 SECTION 7. VOLUNTARY AGREEMENTS.

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

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

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

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

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

30 (2) IF THE REASONABLE VALUE OF THE INSTITUTION'S

1 CONTRIBUTION IS GREATER THAN 0.15% BUT LESS THAN 0.25% OF ITS
2 PROGRAM SERVICE REVENUE, THE INSTITUTION MAY CREDIT THE
3 ENTIRE CONTRIBUTION AT 250% OF ITS VALUE.

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

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

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

21 SECTION 8. UNFAIR COMPETITION WITH SMALL BUSINESSES.

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

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

30 (C) EXCEPTIONS.--INSTITUTIONS OF PURELY PUBLIC CHARITY ARE

1 NOT IN VIOLATION OF SUBSECTION (B) IF ANY OF THE FOLLOWING
2 APPLY:

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

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

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

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

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

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

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

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

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

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

30 (3) WITHIN 30 DAYS FOLLOWING THE PERIOD OF TIME ALLOTTED

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

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

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

27 (6) THE ARBITRATOR SHALL DETERMINE IF THE ACTIVITY OF
28 THE INSTITUTION OF PURELY PUBLIC CHARITY IS IN VIOLATION OF
29 THIS SECTION. IN MAKING THIS DETERMINATION, THE ARBITRATOR
30 SHALL REVIEW ALL RELEVANT LAW, INCLUDING PREVIOUS

1 ARBITRATORS' DECISIONS; REGULATIONS; AND THE CHARTER OR
2 GOVERNING LEGAL DOCUMENTS OF THE INSTITUTION OF PURELY PUBLIC
3 CHARITY.

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

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

18 (9) EITHER PARTY MAY INITIATE A DE NOVO APPEAL FROM THE
19 ARBITRATOR'S DECISION IN THE COURT OF COMMON PLEAS OF THE
20 JUDICIAL DISTRICT IN WHICH THE ARBITRATION TOOK PLACE WITHIN
21 30 DAYS OF THE ARBITRATOR'S DECISION.

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

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

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

1 (13) EXCEPT AS SET FORTH IN THIS SECTION OR IN
2 REGULATIONS PROMULGATED BY THE DEPARTMENT UNDER THIS SECTION,
3 THE ARBITRATION SHALL BE GOVERNED BY 42 PA.C.S. CH. 73 SUBCH.
4 A (RELATING TO STATUTORY ARBITRATION).

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

8 SECTION 9. ACCOUNTABILITY AND DISCLOSURE.

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

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

21 (2) THE DATE THE INSTITUTION OF PURELY PUBLIC CHARITY
22 WAS ORGANIZED UNDER APPLICABLE LAW. <---

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

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

27 (I) THE NAME AND TYPE OF ORGANIZATION.

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

30 (III) THE RELATIONSHIP OF EACH AFFILIATE TO THE

1 INSTITUTION OF PURELY PUBLIC CHARITY MAKING THE REPORT.

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

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

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

16 (D) EXEMPTION FROM FILING.--EACH OF THE FOLLOWING
17 INSTITUTIONS OF PURELY PUBLIC CHARITY SHALL BE EXEMPT FROM THE <—
18 REPORTING REQUIREMENTS OF THIS SECTION:

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

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

28 (E) FILING FEE.--AN INSTITUTION OF PURELY PUBLIC CHARITY
29 WHICH IS REQUIRED TO FILE A REPORT UNDER SUBSECTION (A) SHALL
30 PAY AN ANNUAL FILING FEE OF \$15. ALL FEES COLLECTED UNDER THIS

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

8 (1) AMOUNTS COLLECTED BY THE BUREAU SHALL BE PAID TO THE
9 STATE TREASURY.

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

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

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

25 (H) UTILIZATION OF REPORTS.--THE DEPARTMENT SHALL MAKE
26 REPORTS SUBMITTED UNDER THIS SECTION AVAILABLE FOR PUBLIC
27 INSPECTION TO THE EXTENT THAT THE INFORMATION IS AVAILABLE FOR
28 PUBLIC INSPECTION UNDER SECTION 6104 OF THE INTERNAL REVENUE
29 CODE OF 1986 (26 U.S.C. § 6104). THE DEPARTMENT SHALL PROVIDE
30 ANY GOVERNMENT AGENCY A COPY OF THE REPORT FILED UNDER THIS

1 SECTION UPON REQUEST. NOTHING IN THIS SUBSECTION SHALL PREVENT A
2 GOVERNMENT AGENCY FROM REQUIRING ANY INSTITUTION SEEKING
3 EXEMPTION AS AN INSTITUTION OF PURELY PUBLIC CHARITY TO PROVIDE
4 THE INFORMATION DESCRIBED IN SUBSECTION (A) TO THAT AGENCY AS
5 PART OF A DETERMINATION OF THE TAX EXEMPT STATUS OF THE
6 INSTITUTION.

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

10 (1) KNOWINGLY FAILING TO FILE THE REPORT REQUIRED BY
11 THIS SECTION.

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

14 SECTION 10. EXEMPTION FOR FEDERAL GOVERNMENT INSTRUMENTALITY.

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

24 SECTION 11. PROHIBITED ACT.

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

29 SECTION 12. COMPLIANCE.

30 INSTITUTIONS OF PURELY PUBLIC CHARITY SHALL COMPLY WITH THE

1 PROVISIONS OF THIS ACT AND WITH THE PROVISIONS OF ARTICLE II OF
2 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM
3 CODE OF 1971.

4 SECTION 13. CIVIL PENALTY.

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

11 SECTION 14. REPEALS.

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

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

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

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

1 (C) PRESUMPTION.--NO INSTITUTION OF PURELY PUBLIC CHARITY
2 MAY ASSERT A PRESUMPTION PURSUANT TO SECTION 6 UNTIL THAT
3 INSTITUTION'S EXEMPTION UNDER SECTION 204(10) OF THE TAX REFORM
4 CODE OF 1971 IS GRANTED OR RENEWED ON OR AFTER THE EFFECTIVE
5 DATE OF THIS SECTION.

6 SECTION 16. EFFECTIVE DATE.

7 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

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

9 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
10 IMMEDIATELY.