

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 43 Session of 2013

INTRODUCED BY FERLO, TARTAGLIONE, BREWSTER, WASHINGTON AND RAFFERTY, JANUARY 4, 2013

REFERRED TO FINANCE, JANUARY 4, 2013

AN ACT

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

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

11 Section 1. Section 5(c) of the act of November 26, 1997  
 12 (P.L.508, No.55), known as the Institutions of Purely Public  
 13 Charity Act, is amended to read:

14 Section 5. Criteria for institutions of purely public charity.

15 \* \* \*

16 (c) Private profit motive.--The institution must operate  
 17 entirely free from private profit motive. Notwithstanding  
 18 whether the institution's revenues exceed its expenses, this  
 19 criterion is satisfied if the institution meets all of the  
 20 following:

21 (1) Neither the institution's net earnings nor donations

1 which it receives inures to the benefit of private  
2 shareholders or other individuals, as the private inurement  
3 standard is interpreted under section 501(c)(3) of the  
4 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
5 501(c)(3)).

6 (2) The institution applies or reserves all revenue,  
7 including contributions, in excess of expenses in furtherance  
8 of its charitable purpose or to funding of other institutions  
9 which meet the provisions of this subsection and subsection  
10 (b).

11 (3) Compensation, including benefits, of any director,  
12 officer or employee is not based primarily upon the financial  
13 performance of the institution.

14 (4) The governing body of the institution of purely  
15 public charity has adopted as part of its articles of  
16 incorporation or, if unincorporated, other governing legal  
17 documents a provision that expressly prohibits the use of any  
18 surplus funds for private inurement to any person in the  
19 event of a sale or dissolution of the institution of purely  
20 public charity.

21 (5) In any taxable year, the institution does not enter  
22 into a contract for services that will be provided by  
23 individuals located outside of this Commonwealth if the  
24 services could otherwise be provided by the institution's  
25 employees or through a contract with an entity or individuals  
26 located in this Commonwealth.

27 \* \* \*

28 Section 2. This act shall take effect in 60 days.