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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 640 Session of  
2017

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INTRODUCED BY BARRAR, DUNBAR, IRVIN, KAUFFMAN, LAWRENCE,  
MICCARELLI, NEILSON, PICKETT AND SAYLOR, FEBRUARY 27, 2017

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 27, 2017

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AN ACT

1 Amending Titles 11 (Cities), 18 (Crimes and Offenses), 37  
2 (Historical and Museums), 42 (Judiciary and Judicial  
3 Procedure), 45 (Legal Notices), 53 (Municipalities  
4 Generally), 68 (Real and Personal Property) and 75 (Vehicles)  
5 of the Pennsylvania Consolidated Statutes, eliminating the  
6 Pennsylvania Historical and Museum Commission and  
7 transferring the powers and duties of the commission to the  
8 Department of Conservation and Natural Resources; and making  
9 editorial changes.

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

12 Section 1. Section 12436 of Title 11 of the Pennsylvania  
13 Consolidated Statutes is amended to read:

14 § 12436. Historical property.

15 Council may acquire, by purchase or gift, repair, supervise,  
16 operate and maintain landmarks and other historical properties  
17 that are either eligible for listing or listed in the National  
18 Register of Historic Places or certified by the [Pennsylvania  
19 Historical and Museum Commission] Department of Conservation and  
20 Natural Resources as having historical significance.

21 Section 2. Sections 5509(b) and 7506(a) of Title 18 are

1 amended to read:

2 § 5509. Desecration, theft or sale of venerated objects.

3 \* \* \*

4 (b) Definitions.--As used in this section, the following  
5 words and phrases shall have the meanings given to them in this  
6 subsection:

7 "Desecrate." Defacing, damaging, polluting or otherwise  
8 physically mistreating in a way that the actor knows will  
9 outrage the sensibilities of persons likely to observe or  
10 discover the action.

11 "Historic burial lot." An individual burial site within a  
12 historic burial place.

13 "Historic burial place." A tract of land which has been:

14 (1) in existence as a burial ground for more than 100  
15 years; or

16 (2) listed in or eligible for the National Register of  
17 Historic Places as determined by the [Pennsylvania Historical  
18 and Museum Commission] Department of Conservation and  
19 National Resources.

20 § 7506. Violation of rules regarding conduct on Commonwealth  
21 property.

22 (a) Promulgation of rules and regulations.--The Department  
23 of Environmental Resources, Pennsylvania Game Commission and  
24 [Pennsylvania Historical and Museum Commission] Department of  
25 Conservation and Natural Resources may promulgate rules and  
26 regulations governing conduct, other than conduct regulated in  
27 section 7505 (relating to violation of governmental rules  
28 regarding traffic), on Commonwealth property within the  
29 jurisdiction of that agency. Such rules and regulations shall be  
30 reasonably related to the preservation and protection of such

1 property for its specified or intended use, or to promote the  
2 welfare, safety or protection of those persons using such  
3 property, shall be consistent with existing law and shall be  
4 posted in a manner reasonable likely to come to the attention of  
5 persons using such property.

6 \* \* \*

7 Section 3. Section 9540(a) of Title 18, added November 3,  
8 2016 (P.L.1016, No.131), is amended to read:

9 § 9540. Custody of records of independent counsel.

10 (a) Transfer of records.--Upon termination of the office of  
11 independent counsel, that independent counsel shall transfer to  
12 the [Bureau of the Pennsylvania State Archives of the  
13 Pennsylvania Historical and Museum Commission] Department of  
14 Conservation and Natural Resources all records which have been  
15 created or received by that office. Before this transfer, the  
16 independent counsel shall clearly identify which of these  
17 records are subject to the Pennsylvania Rules of Criminal  
18 Procedure as grand jury materials.

19 \* \* \*

20 Section 4. Section 102(2) of Title 37 is amended to read:

21 § 102. Declaration of policy.

22 It is hereby determined and declared as a matter of  
23 legislative finding and policy that:

24 \* \* \*

25 (2) The conservation of Pennsylvania's historic and  
26 natural heritage and the preservation of public records,  
27 historic documents and objects of historic interest, and the  
28 identification, restoration and preservation of  
29 architecturally and historically significant sites and  
30 structures are duties vested primarily in the [Pennsylvania

1 Historical and Museum Commission] Department of Conservation  
2 and Natural Resources.

3 \* \* \*

4 Section 5. The definitions of "commission," "executive  
5 director," "historic property," and "Pennsylvania Register of  
6 Historic Places" in section 103 of Title 37 are amended and the  
7 section is amended by adding definitions to read:

8 § 103. Definitions.

9 Subject to additional definitions contained in subsequent  
10 provisions of this title which are applicable to specific  
11 provisions of this title, the following words and phrases when  
12 used in this title shall have the meanings given to them in this  
13 section unless the context clearly indicates otherwise:

14 \* \* \*

15 ["Commission." The Pennsylvania Historical and Museum  
16 Commission of the Commonwealth.

17 "Executive director." The executive director of the  
18 commission.]

19 "Department." The Department of Conservation and Natural  
20 Resources of the Commonwealth.

21 \* \* \*

22 "Historic property." Any historical building, ground,  
23 monument or cultural remain committed by statute to the custody  
24 of the [commission] department.

25 \* \* \*

26 "Pennsylvania Register of Historic Places." A selected  
27 inventory of historic resources determined by the [commission]  
28 department to be significant in the history, architecture,  
29 archaeology or culture of this Commonwealth, its communities or  
30 the nation.

1 \* \* \*

2 "Secretary." The Secretary of Conservation and Natural  
3 Resources.

4 \* \* \*

5 Section 6. Section 104 of Title 37 is repealed:

6 [§ 104. Pennsylvania Historical and Museum Commission.

7 (a) Membership.--The Pennsylvania Historical and Museum  
8 Commission shall consist of the Secretary of Education, or his  
9 designee; nine residents of this Commonwealth appointed by the  
10 Governor with the advice and consent of a majority of the  
11 members elected to the Senate; and four members of the General  
12 Assembly, or their designees, two from the Senate, one of whom  
13 shall be appointed by the President pro tempore and one by the  
14 Minority Leader, and two from the House of Representatives, one  
15 of whom shall be appointed by the Speaker and one by the  
16 Minority Leader.

17 (b) Term of office.--A member appointed from the General  
18 Assembly shall serve for a term to expire with his concurrent  
19 term as a legislator and shall serve until a successor is  
20 appointed and qualified, unless he is not elected for the next  
21 succeeding term as a member of the General Assembly, in which  
22 case a vacancy shall occur. Members other than the members of  
23 the General Assembly shall serve for a term of four years and  
24 shall serve until a successor is appointed and qualified.

25 (c) Chairman.--One of the members shall be designated by the  
26 Governor to serve as chairman of the commission.

27 (d) Quorum.--Eight members shall constitute a quorum.

28 (e) Attendance at meetings.--A member who fails to attend  
29 three consecutive meetings shall forfeit his seat unless the  
30 chairman of the commission, upon written request from the

1 member, finds that the member should be excused from a meeting  
2 because of illness or the death of an immediate family member.

3 (f) Public hearings.--The commission shall hold public  
4 hearings in various locations throughout this Commonwealth at  
5 such places and times as it may deem appropriate.

6 (g) Executive director.--The commission shall appoint an  
7 executive director who shall attend to the administrative work  
8 of the commission. The executive director shall serve at the  
9 pleasure of the commission, which shall fix his compensation,  
10 subject to the approval of the Governor. No member of the  
11 commission or person who has served as a member of the  
12 commission within one year shall be eligible for appointment as  
13 executive director.

14 (h) Historical Preservation Fund.--The money collected by  
15 the commission from all fees, sales and other activities shall  
16 be paid into the State Treasury through the Department of  
17 Revenue and credited to the Historical Preservation Fund.  
18 Collections shall include the proceeds from the sale of historic  
19 properties. The money in the fund may be used by the commission  
20 and is hereby appropriated to it in exercising its powers and  
21 performing its duties as set forth in this title.]

22 Section 7. Title 37 is amended by adding a section to read:

23 § 105. Historical Preservation Fund.

24 The money collected by the department from all fees, sales  
25 and other activities shall be paid into the State Treasury  
26 through the Department of Revenue and credited to the Historical  
27 Preservation Fund. Collections shall include the proceeds from  
28 the sale of historic properties. The money in the fund may be  
29 used by the department and is hereby appropriated to it to  
30 exercise its powers and perform its duties as set forth in this

1 title.

2 Section 8. The heading of Chapter 3 and sections 301  
3 introductory paragraph and (2), 302 introductory paragraph, (1),  
4 (3), (5), (6), (8), (9), (10), (12) and (14), 303 introductory  
5 paragraph and (4), 304 introductory paragraph, (1), (3) and (4),  
6 305 introductory paragraph, (2), (3), (5) and (6), 306, 502  
7 heading, introductory paragraph and (2), 504(a), 505, 506, 507,  
8 508, 509, 510, 511, 512, 701, 702 introductory paragraph, 705  
9 and 903 of Title 37 are amended to read:

10 CHAPTER 3

11 POWERS AND DUTIES OF [PENNSYLVANIA

12 HISTORICAL AND MUSEUM COMMISSION] DEPARTMENT OF

13 CONSERVATION AND NATURAL RESOURCES

14 § 301. General powers and duties.

15 The [commission] department shall have the power and duty to:

16 \* \* \*

17 (2) Preserve public records, historical documents and  
18 objects of historical interest, possession and control of  
19 which have been transferred to the [commission] department.

20 \* \* \*

21 § 302. Specific powers and duties.

22 The [commission] department shall have the power and duty to:

23 (1) Pecuniary gifts.--Accept, on behalf of the  
24 Commonwealth, gifts and bequests, including securities, for  
25 the endowment of its work in accordance with the instructions  
26 of the donors and in conjunction with the Governor and State  
27 Treasurer, who shall, together with the [members of the  
28 commission] department, constitute a body of trustees for the  
29 care of these funds. These trustees shall invest the funds in  
30 bonds of the Commonwealth or any of its political

1 subdivisions and employ the interest and income from these  
2 investments for the purposes of the [commission] department  
3 or apply these funds to the uses specified by the respective  
4 donors of the funds. Any donor of money or other property may  
5 specify that the donation shall be held in the form acquired,  
6 or shall be invested in or converted into some other specific  
7 property or class of investment, in which case the trustees  
8 shall be relieved of all liability which may result from the  
9 imprudent investment of the money so long as they comply with  
10 the instructions of the donor.

11 (2) Independent and cooperative services or programs.--  
12 Upon its own initiative or in cooperation with historical  
13 societies or organizations, conduct investigations upon  
14 historical or archaeological matters relative to this  
15 Commonwealth and report the findings for public information;  
16 with the approval of the Governor, enter into agreements with  
17 responsible historical associations, foundations and similar  
18 private organizations or with Federal agencies or public  
19 agencies of other states in order to carry on services or  
20 programs.

21 (3) Archaeological and anthropological investigations.--  
22 Examine, or cause to be examined, research or excavate the  
23 occupation or activity sites or areas and the cultural  
24 material remains of Native American, Colonial American and  
25 more recent American cultures in this Commonwealth, under the  
26 professional direction of the [commission] department through  
27 the techniques of archaeology, anthropology and history;  
28 acquire, by purchase, gift or fieldwork, archaeological or  
29 anthropological collections of objects and data relative to  
30 the cultural history of this Commonwealth; conduct, or cause



1 to be conducted, archaeological site surveys to locate,  
2 catalog, assess and permanently record these historic  
3 resources throughout this Commonwealth; maintain a central  
4 repository for map locations and written descriptions of such  
5 sites and historic resources; conduct, or cause to be  
6 conducted, research upon the cultural objects and data  
7 related to the cultural history of this Commonwealth and  
8 interpret the results of the research in scientific and  
9 popular publications, exhibits and special educational  
10 programs for the public; and undertake appropriate  
11 conservation, research, restoration and storage of all  
12 material items and data relative to the cultural heritage of  
13 this Commonwealth, which accrue to the archaeological and  
14 anthropological collections of the [commission] department.

15 (4) Cooperation with qualified historical or  
16 archaeological societies.--Cooperate with any qualified  
17 historical or archaeological society in investigations of  
18 historical or archaeological matters relating to this  
19 Commonwealth and in arranging, cataloging, displaying and  
20 microfilming collections of historical papers and documents,  
21 and objects or materials relative to the natural or cultural  
22 history of this Commonwealth, and otherwise encourage their  
23 activities.

24 (5) Historical commemorations.--Develop, coordinate and  
25 carry out plans for celebrations commemorating important  
26 historical events, which shall be selected by the  
27 [commission] department or the General Assembly upon passage  
28 of a concurrent resolution, in cooperation with qualified  
29 historical or archaeological societies and other responsible  
30 organizations.

1           (6) Geographic names.--Determine all unsettled questions  
2 concerning geographic names which arise in any department and  
3 determine the names of mountains, rivers, creeks and other  
4 topographic features in this Commonwealth. In the exercise of  
5 its powers and the performance of its duties under this  
6 paragraph, the [commission] department shall cooperate with  
7 the United States Board on Geographic Names.

8           (7) Procurement of expert advice.--Consult with or  
9 procure the advice of experts in archaeology, anthropology,  
10 history, historical restoration, archival management, museum  
11 work or other fields related to its activities, compensate  
12 them for their services and establish committees of experts  
13 as needed to procure the advice.

14           (8) Museum assistance and local history grant program.--  
15 Establish and administer the museum assistance and local  
16 history grant program. The [commission] department shall be  
17 required to approve all individual grants. All such grants  
18 shall be subject to audit review by the [commission]  
19 department.

20           (9) Advisory boards.--Create such advisory boards as the  
21 [commission] department may deem appropriate to perform  
22 duties designated by the [commission] department. The names  
23 of proposed members of such advisory boards shall be  
24 submitted to the Governor for approval.

25           (10) Police powers.--Exercise the police powers  
26 necessary to enforce the law, including the rules and  
27 regulations of the [commission] department. Authorized  
28 employees shall have full power to make arrests, with or  
29 without warrant, for all violations of law which they may  
30 witness upon the premises of any historic property to which

1 they are assigned and may serve and execute warrants issued  
2 by proper authorities for any violation of law committed  
3 thereon.

4 (11) Rules and regulations.--Promulgate rules and  
5 regulations necessary for the implementation of its powers  
6 and duties.

7 (12) Annual reports.--Annually transmit to the State  
8 Government Committees of the House of Representatives and the  
9 Senate a report which includes the following:

10 (i) A summary of the overall condition of museums  
11 and historic sites and holdings, including staffing  
12 levels and site visits by senior management personnel.

13 (ii) A report on the operation of the Conservation  
14 Center.

15 (iii) A summary of all publications completed by the  
16 [commission] department during the prior year.

17 (iv) A summary of collection deaccessioning  
18 activities.

19 (v) A summary of the progress in computerization of  
20 collections and inventories.

21 (13) Hold harmless authority.--Hold the Federal  
22 Government harmless from damages due to construction,  
23 operation and maintenance of the Erie Harbor East Canal Basin  
24 dredging project under the Water Resources Development Act of  
25 1986 (Public Law 99-662, 33 U.S.C. § 2213(j)), except for  
26 damages due to the fault or negligence of the Federal  
27 Government or its contractors.

28 (14) Publications.--To sell to the public, at a store or  
29 by other methods, any publications selected by the  
30 [commission] department for sale and published by any

1 department, board, commission or officer of the Commonwealth,  
2 except documents published for the Governor and the General  
3 Assembly which shall be distributed by the Governor and the  
4 General Assembly without charge. To administer this  
5 paragraph, the [commission] department may publish, for free  
6 distribution, a price list showing the publications which the  
7 [commission] department is prepared to sell to the public and  
8 the charges for each publication. The [commission] department  
9 shall transfer at least annually, to the fund from which the  
10 cost of the publication was paid, the actual cost of  
11 production of any publications sold during that period. Any  
12 remaining proceeds from the sale of a publication by the  
13 [commission] department shall be deposited in the Historical  
14 Preservation Fund.

15 § 303. Sites.

16 The [commission] department shall have the power and duty to:

17 \* \* \*

18 (4) Preservation and restoration of historical and  
19 archaeological sites.--Undertake the preservation or  
20 restoration of public buildings, military sites or monuments  
21 connected with the history of this Commonwealth; contract  
22 with political subdivisions, historical societies or other  
23 associations, with proper bond or security, for the  
24 maintenance of these building sites or monuments as a  
25 consideration for assistance in their erection, restoration,  
26 preservation or marking by the [commission] department; and  
27 take title to sites of historical markers in the name of the  
28 Commonwealth.

29 \* \* \*

30 § 304. Personal property.

1 The [commission] department shall have the power and duty to:

2 (1) Historical artifacts.--Acquire or accept on behalf  
3 of the Commonwealth through gifts or bequests, objects or  
4 other articles of historical, archaeological, maritime,  
5 natural or geological interest which shall be deposited in  
6 the State Museum or, at the discretion of the [commission]  
7 department, at historic sites and museums committed to its  
8 custody or in any other storage facilities as are available  
9 to and approved by the [commission] department. The  
10 [commission] department may inspect surplus property in the  
11 possession of other Commonwealth agencies and receive this  
12 property as an historic resource.

13 (2) Exhibition of objects.--Conduct under accepted  
14 professional practices the management and exhibition of  
15 objects; acquire by purchase, gift, loan, bequest or other  
16 lawful transfer objects relating to the culture of this  
17 Commonwealth and examine, research, catalog and preserve  
18 them; manage, care and exhibit these objects in the areas of  
19 natural history, geology, military history, decorative arts,  
20 history, maritime history, fine arts, science, industry and  
21 technology; select and designate the objects to be exhibited  
22 in museums and historic sites in this Commonwealth, including  
23 the State Museum; interpret the results of such management  
24 and exhibition of objects in museum and academic  
25 publications, exhibits and special educational programs for  
26 the public; and undertake appropriate professional  
27 conservation, restoration and storage of all objects and  
28 material items relative to the history of this Commonwealth.

29 (3) Lending historic resources.--Lend to any other  
30 museum, archival repository, historical society or other

1 reliable organized group of an educational nature any  
2 objects, articles of historical interest, manuscripts,  
3 documents or other material committed to its custody. The  
4 [commission] department shall adopt rules and regulations to  
5 provide adequate security for the safe return of the  
6 material, which shall include provision for full insurance  
7 protection of the loaned material.

8 (4) Sale or other disposition.--Exchange or otherwise  
9 dispose of material with other museums, archival  
10 repositories, historical societies or other reliable  
11 organized groups of an educational nature; and sell at public  
12 auction historical artifacts, pursuant to its rules and  
13 regulations, provided that an historical artifact shall not  
14 be sold at public auction unless the [commission] department  
15 has determined that the exchange or disposal of that artifact  
16 by the other means authorized by this paragraph is not  
17 feasible and that the property would not be beneficial to the  
18 [commission] department if it were used other than as an  
19 artifact. If the original donor was an individual, the  
20 original donor shall be notified, if he can be located, and,  
21 if the original donor is deceased, his children shall be  
22 notified, if they can be located, and be given an opportunity  
23 to reacquire the object, prior to its being offered at  
24 auction. If the original donor was not an individual, the  
25 original donor shall be notified, if it or its successor can  
26 be located, and be given an opportunity to reacquire the  
27 object, prior to its being offered at auction. The  
28 opportunity of an original donor to reacquire an object shall  
29 not be construed to diminish the [commission's] department's  
30 control over an historical artifact subsequent to its

1 acquisition by the [commission] department and prior to its  
2 disposition. These sales shall be conducted by the Department  
3 of General Services. Income produced through these sales  
4 shall be paid into the State Treasury through the Department  
5 of Revenue and credited to the Historical Preservation Fund  
6 and allocated solely for collection acquisition or  
7 conservation purposes. No unique object, article, manuscript,  
8 document or other material, which is of special significance  
9 to the history of this Commonwealth, shall be sold.

10 (5) Notice requirements.--Give written notice of the  
11 proposed sale, including a description of the artifact and  
12 its condition, and the name and last known address of the  
13 donor shall be transmitted to the chairmen of the State  
14 Government Committees of the House of Representatives and of  
15 the Senate, respectively, before any historic artifact shall  
16 be sold pursuant to paragraph (4).

17 § 305. Documents.

18 The [commission] department shall have the power and duty to:

19 (1) Research on Commonwealth documents.--Examine and  
20 copy or microfilm any public records within the control of a  
21 Commonwealth agency for the purposes of historical research.

22 (2) Preservation of public records.--Preserve all public  
23 records throughout this Commonwealth and give special  
24 attention to the preservation of all records of the  
25 Commonwealth not in current use and of historical value;  
26 negotiate for the transfer and receipt of public records from  
27 any Commonwealth agency or political subdivision; and provide  
28 for the disposition of records not needed or useful in the  
29 transaction of current or anticipated future work of the  
30 Commonwealth under section 524 of the act of April 9, 1929

1 (P.L.177, No.175), known as The Administrative Code of 1929.  
2 The [commission] department shall be the legal custodian of  
3 any public records transferred to it by any Commonwealth  
4 agency or political subdivision. The head of any Commonwealth  
5 agency or political subdivision may transfer to the  
6 [commission] department public records legally in his custody  
7 not needed for the transaction of the business of the office  
8 whenever the [commission] department is willing to receive  
9 and care for them.

10 (3) Management of historical documents.--Collect,  
11 classify, preserve and make available for reference all  
12 records which may come into its possession with the  
13 exceptions indicated by the [commission] department; and  
14 examine the condition of the public records, books,  
15 pamphlets, documents, manuscripts, archives, maps and papers  
16 filed or recorded in any Commonwealth agency or political  
17 subdivision. The [executive director] secretary or any  
18 employees authorized by him shall have reasonable access to  
19 all public records in this Commonwealth for the purpose of  
20 examining them and shall report to the [commission]  
21 department on their condition.

22 (4) Regulation of Commonwealth records.--Recommend such  
23 action be taken by the persons having the care and custody of  
24 public records as may be necessary to secure their safety and  
25 preservation; cause all laws relating to public records to be  
26 enforced; and recommend and enforce uniform standards  
27 governing the use of paper, ink and filing procedure for all  
28 records and papers of Commonwealth agencies and political  
29 subdivisions that are considered of permanent historical  
30 importance.



1 (5) Certificates relating to public records.--Furnish  
2 certificates relating to public records, or copies thereof,  
3 upon the payment of fees established by the [commission]  
4 department or otherwise fixed by law.

5 (6) Land records.--Maintain and preserve:

6 (i) Records of the first titles acquired by the  
7 proprietaries and the Commonwealth to all the lands  
8 within its boundaries.

9 (ii) Records of all lands and conveyances from the  
10 proprietaries and the Commonwealth to the purchasers of  
11 the land.

12 (iii) Papers relating to the surveys of this  
13 Commonwealth and county lines and the reports of  
14 [commissioners] the department relating to the boundary  
15 lines of this Commonwealth.

16 (iv) Maps and other papers pertaining to the  
17 colonial history of this Commonwealth.

18 (v) Contracts, section profile maps and other  
19 records relating to public works.

20 (vi) All other relevant records relating to titles  
21 of real estate acquired by the Commonwealth.

22 § 306. Publications and reproductions.

23 The [commission] department shall have the power and duty to:

24 (1) General.--Publish or republish, either through the  
25 Department of General Services or cooperatively by and with  
26 private historical organizations, materials of historical or  
27 archaeological interest; compile, edit and print these  
28 publications; enter into agreements with publishers to  
29 subsidize the publication of books on Pennsylvania history,  
30 archaeology, anthropology, art, cartography, folklore and

1 other cultural elements of Pennsylvania's heritage by  
2 agreeing to purchase a sufficient number to make publication  
3 possible, but these agreements shall be subject to the  
4 approval of the Governor and the State Treasurer; produce or  
5 reproduce facsimiles of historical material and enter into  
6 agreements to subsidize the manufacture of facsimiles of  
7 historical material by agreeing to purchase a sufficient  
8 number to make manufacture possible, but these agreements  
9 shall be subject to the approval of the Governor and the  
10 State Treasurer; sell publications, reprints of publications,  
11 reproductions or replicas, postcards and souvenirs of an  
12 historical nature at the State Museum and at the other  
13 historic properties and museums administered by the  
14 [commission] department; and sell to the public any  
15 publications selected by the [commission] department for sale  
16 and published by any department, board, commission or officer  
17 of the Commonwealth.

18 (2) Official repositories.--Establish one official  
19 repository for its publications from among the qualified  
20 historical or archaeological societies within each of the  
21 geographic areas established and defined by the Department of  
22 Community Affairs as "Standard Regions." The Pennsylvania  
23 State Library and the Library of Congress shall also be  
24 official repositories for [commission] department  
25 publications.

26 (3) Disposition of [commission] department  
27 publications.--Make one copy of each [commission] department  
28 publication available at cost to all qualified historical or  
29 archaeological societies; and deliver one copy of each  
30 [commission] department publication without charge to each

1 official repository. [The commission] For the purposes of  
2 this title, the department is excluded from the provisions of  
3 section 2406 of the act of April 9, 1929 (P.L.177, No.175),  
4 known as The Administrative Code of 1929.

5 (4) Proprietary rights to subscription lists.--Maintain  
6 proprietary rights over subscriber, membership or address  
7 lists that it creates which are excluded from provisions of  
8 the act of June 21, 1957 (P.L.390, No.212), referred to as  
9 the Right-to-Know Law.

10 § 502. Powers and duties of [commission] department.

11 In addition to the powers and duties provided in Chapter 3  
12 (relating to powers and duties of [Pennsylvania Historical and  
13 Museum Commission] Department of Conservation and Natural  
14 Resources), the [commission] department shall have the power and  
15 duty to:

16 \* \* \*

17 (2) Compile, maintain, revise and publish a selected  
18 inventory of significant historic resources in this  
19 Commonwealth, to be known as the Pennsylvania Register of  
20 Historic Places, pursuant to criteria of significance  
21 approved by the [commission] department.

22 \* \* \*

23 § 504. Historic Preservation Board.

24 (a) Membership.--The board shall be composed of no less than  
25 nine residents designated by the [commission] department,  
26 pursuant to recommendations by the [executive director]  
27 secretary with the approval of the Governor. The board shall  
28 include at least one member with demonstrated competence in each  
29 of the following disciplines: architecture, archaeology,  
30 architectural history, history and historic preservation.

1 \* \* \*

2 § 505. Powers and duties of board.

3 The Historic Preservation Board shall have the power and duty  
4 to:

5 (1) Advise the [commission] department on criteria of  
6 significance for inclusion of historic resources on the  
7 Pennsylvania Register of Historic Places.

8 (2) Review and recommend nominations of historic  
9 resources to the National Register of Historic Places.

10 (3) Review and comment upon the [commission's]  
11 department's comprehensive preservation plan for historic  
12 resources within this Commonwealth.

13 (4) Undertake any other activity determined by the  
14 [commission] department to be necessary or desirable for the  
15 preservation of historic resources.

16 § 506. Archaeological field investigations on Commonwealth  
17 land.

18 (a) Right to conduct field investigations.--The Commonwealth  
19 reserves the exclusive right to conduct archaeological field  
20 investigations on archaeological resources owned or controlled  
21 by it, in order to protect and preserve archaeological specimens  
22 and information. The specimens and information shall remain the  
23 property of the Commonwealth and shall be utilized for  
24 scientific and public educational purposes.

25 (b) Responsibility of [commission] department.--The  
26 [commission] department shall be responsible for the  
27 preservation, protection and proper investigation of  
28 archaeological resources located on land owned or controlled by  
29 the Commonwealth, including any submerged land owned or  
30 controlled by the Commonwealth.

1 (c) Survey of archaeological resources.--The [commission]  
2 department shall conduct surveys and prepare maps of  
3 archaeological resources located on lands in this Commonwealth  
4 and may make available the results of these surveys to the  
5 Federal Government, Commonwealth agencies and political  
6 subdivisions conducting activities which would affect these  
7 archaeological resources. The [commission] department shall have  
8 and maintain proprietary rights over the maps and surveys  
9 indicating the location of archaeological resources or  
10 archaeological field investigations that have been inventoried  
11 or surveyed. These maps and surveys are excluded from the  
12 provisions of the act of June 21, 1957 (P.L.390, No.212),  
13 referred to as the Right-to-Know Law. The [commission]  
14 department shall make available in writing, within 30 days of a  
15 request, site location information based on recorded material  
16 evidence of the [commission] department to Commonwealth  
17 agencies, political subdivisions, owners of the site, potential  
18 buyers of the site and agents of the site owner with a  
19 demonstrated need to know. The failure of the [commission]  
20 department to provide this written response shall release the  
21 requestor from any further duties under this [act] title.

22 (d) Permits for field investigations.--The [commission]  
23 department may issue permits for archaeological field  
24 investigations, subject to any restraints and conditions it  
25 prescribes, if the investigation is undertaken with the purpose  
26 of disseminating the knowledge gained and if the applicant  
27 agrees to submit to the [commission] department a summary  
28 written report of the investigation, containing relevant maps,  
29 documents, drawings and photographs. All archaeological  
30 specimens collected pursuant to a permit issued under this

1 subsection shall be the exclusive property of the Commonwealth,  
2 and the [commission] department shall make appropriate  
3 arrangements for their disposition and study.

4 § 507. Cooperation by public officials with the [commission]  
5 department.

6 (a) General rule.--Commonwealth agencies, political  
7 subdivisions and municipal authorities shall cooperate fully  
8 with the [commission] department in the preservation, protection  
9 and investigation of archaeological resources and to that end  
10 shall:

11 (1) Notify the [commission] department before  
12 undertaking any Commonwealth or Commonwealth-assisted  
13 permitted or contracted projects that may affect  
14 archaeological sites.

15 (2) Notify the [commission] department when they become  
16 aware of any undertaking in connection with any Commonwealth  
17 or Commonwealth-assisted permitted or contracted project,  
18 activity or program which affects or may affect an  
19 archaeological site, and provide the [commission] department  
20 with information concerning the project, program or activity.

21 (b) Survey or investigation by [commission] department.--

22 (1) Upon a determination by the [commission] department  
23 that any Commonwealth or Commonwealth-assisted permitted or  
24 contracted project may adversely affect an archaeological  
25 site, the [commission] department may conduct or cause to be  
26 conducted through an agent, subcontractor or other person an  
27 archaeological survey only when the [commission] department,  
28 based on recorded material evidence, determines that the site  
29 is a significant archaeological site. A written determination  
30 shall be made by the [commission] department within 15 days

1 of receipt of a notification by a Commonwealth agency under  
2 subsection (a), provided that until January 1, 1997, such  
3 written determination shall be made by the [commission]  
4 department within 30 days of receipt of such notification.

5 (2) If an archaeological survey is determined necessary  
6 by the [commission] department, it shall be completed within  
7 60 days of the determination, except that the [commission]  
8 department may notify the project applicant that an  
9 additional 30 days may be required when the determination is  
10 made during the months of December, January and February.

11 (3) No later than 15 days after completion of an  
12 archaeological survey and only in exceptional circumstances,  
13 the [commission] department may determine in writing that an  
14 archaeological field investigation, also known as phase three  
15 archaeological research or data recovery, is necessary to  
16 recover archaeological data. The archaeological field  
17 investigation shall be completed within 90 days of the  
18 determination required under this paragraph, except that an  
19 additional 30 days may be required when the determination is  
20 made during the months of December, January and February.

21 (4) Failure of the [commission] department to render a  
22 determination within the period allowed in either paragraph  
23 (1) or (3) shall be deemed to be a determination that a  
24 survey or investigation is not necessary. The failure of the  
25 [commission] department to complete an archaeological survey  
26 or field investigation within the time limits specified in  
27 paragraphs (2) and (3) shall release the project applicant  
28 from any further duties under this title, unless the  
29 applicant agrees in writing to a specific time extension.

30 (5) The [commission] department shall conduct or cause

1 to be conducted through an agent, subcontractor or other  
2 person and pay any costs associated with an archaeological  
3 survey or field investigation determined necessary by the  
4 [commission] department under this section, except for the  
5 following:

6 (i) Projects of other State agencies and  
7 instrumentalities.

8 (ii) Projects on Commonwealth lands.

9 (iii) Projects of publicly regulated utilities.

10 (iv) Archaeological surveys and field investigations  
11 required under Federal law.

12 (6) The [commission] department shall pay the political  
13 subdivision's and municipal authority's share of any costs  
14 associated with any archaeological survey or field  
15 investigation conducted or required by the [commission]  
16 department on locally owned highways and bridge projects if  
17 the project is being undertaken solely with State or local  
18 funds.

19 (7) The [commission] department under no circumstances  
20 shall require, conduct or cause to be conducted through an  
21 agent, subcontractor or other person an archaeological survey  
22 or field investigation on private property without the  
23 consent of the property owner and only under the notice and  
24 deadline procedures established under this section.

25 (8) All determinations by the [commission] department  
26 under this section shall be subject to the provisions of  
27 Title 2 (relating to administrative law and procedure).

28 § 508. Interagency cooperation.

29 (a) Responsibilities of Commonwealth agencies.--Commonwealth  
30 agencies shall:



1           (1) Consult the [commission] department before  
2 demolishing, altering or transferring any property under  
3 their ownership or control that is or may be of historical,  
4 architectural or archaeological significance.

5           (2) Seek the advice of the [commission] department on  
6 possible alternatives to the demolition, alteration or  
7 transfer of property under their ownership or control that is  
8 on or may be eligible for the Pennsylvania Register of  
9 Historic Places.

10          (3) Initiate measures and procedures to provide for the  
11 maintenance by means of preservation, rehabilitation or  
12 restoration of historic resources under their ownership or  
13 control that are listed on or are eligible for the  
14 Pennsylvania Register of Historic Places.

15          (4) Institute procedures and policies to assure that  
16 their plans, programs, codes, regulations and activities  
17 contribute to the preservation and enhancement of all  
18 historic resources in this Commonwealth. However, nothing in  
19 this title shall be construed as conferring on the  
20 [commission] department the authority to delay, deny,  
21 condition or limit or cause to be delayed, denied,  
22 conditioned or limited any permits which would otherwise be  
23 issued by a Commonwealth agency beyond those time frames  
24 specified in section 507 (relating to cooperation by public  
25 officials with the [commission] department), unless the  
26 applicant agrees in writing to such condition, limit or time  
27 extension. An applicant is prohibited from utilizing a permit  
28 or license in any manner that would impair or interfere with  
29 the performance of an archaeological survey or field  
30 investigation until the expiration of the time frames in

1 section 507 or until receiving written notification from the  
2 [commission] department that its archaeological survey or  
3 investigation is completed, whichever is sooner. Commonwealth  
4 agencies likewise are, in the absence of specific statutory  
5 language in their enabling or regulatory statutes, prohibited  
6 from stopping the processing or denying a permit solely  
7 because of the possible or actual presence of archaeological  
8 resources.

9 (5) Submit the procedures and policies described in  
10 paragraphs (3) and (4) to the [commission] department for  
11 review and comment.

12 (b) Limitation.--Nothing under this [act] title shall confer  
13 power upon a political subdivision or municipal authority to  
14 delay, deny, condition or limit or cause to be delayed, denied,  
15 conditioned or limited any permit or approval because of failure  
16 to comply with this [act] title.

17 § 509. Transfer of Commonwealth land involving historic  
18 resources.

19 Commonwealth agencies shall give the [commission] department  
20 timely notice of proposed transfers of real property owned or  
21 controlled by the Commonwealth. Upon recommendation of the  
22 [commission] department, Commonwealth agencies may condition the  
23 transfer and may execute covenants, deed restrictions or other  
24 contractual arrangements which will most likely result in the  
25 preservation of any historic resources located on or under the  
26 property to be transferred.

27 § 510. Approval of construction affecting historic resources.

28 The [commission] department shall be consulted on the design  
29 and proposed location of any project, building or other  
30 undertaking financed in whole or in part by Commonwealth funds

1 which may affect the preservation and development of a district,  
2 site or building listed on or eligible for the Pennsylvania  
3 Register of Historic Places.

4 § 511. Criminal penalties.

5 A person who conducts a field investigation on any land or  
6 submerged land owned or controlled by the Commonwealth, without  
7 first obtaining a permit from the [commission] department, or a  
8 person who appropriates, defaces, destroys or otherwise alters  
9 any archaeological site or specimen located upon lands owned or  
10 controlled by the Commonwealth, except in the course of  
11 activities pursued under the authority of a permit granted by  
12 the [commission] department, commits a misdemeanor of the third  
13 degree and shall, upon conviction, be sentenced to pay a fine of  
14 not more than \$2,500 or to imprisonment for not more than one  
15 year, or both. In addition, such person shall forfeit to the  
16 Commonwealth all archaeological specimens collected or excavated  
17 together with any photographs and records relating to such  
18 specimens.

19 § 512. Enforcement of historic preservation laws and policies.

20 The Attorney General, the [commission] department, any  
21 political subdivision, person or other legal entity may maintain  
22 an action in an administrative tribunal or court for the  
23 protection or preservation of any historic resource in this  
24 Commonwealth.

25 § 701. Title to historic property.

26 (a) General rule.--Unless otherwise provided by statute with  
27 respect to particular historic property, the title to historic  
28 property shall be taken in the name of this Commonwealth and  
29 shall, before its acquisition, be certified by counsel for the  
30 [commission] department.

1 (b) Leases.--

2 (1) For purposes of historic preservation, or for  
3 educational, recreational or agricultural purposes, or for  
4 parking areas or concessions for the convenience and comfort  
5 of the public, the [commission] department may lease historic  
6 property for a period not to exceed five years to any person  
7 or organization of the Commonwealth. The [commission]  
8 department shall lease the property in the following manner:

9 (i) Those sites and museums which have nonprofit  
10 allied groups whose purpose is related to the educational  
11 mission of a particular property shall receive special  
12 contract preference. In those instances where the above  
13 criteria is met, the [commission] department shall be  
14 permitted to enter into a lease without competitive  
15 bidding.

16 (ii) When the criteria enumerated in subparagraph  
17 (i) are not met, sites and museums are to be leased in  
18 accordance with competitive bidding procedures, i.e. open  
19 to all profit and nonprofit organizations. All requests  
20 for bid proposals, as well as the leases, shall contain  
21 restrictions protecting the historical integrity of the  
22 site, insuring that appropriate historical preservation  
23 standards are maintained and require appropriate  
24 insurance coverage by the lessee.

25 (2) If a substantial capital investment is involved, the  
26 [commission] department may, with the approval of the  
27 Governor, enter into such leases for that period required  
28 under sections 48(g)(2)(B)(vi) and 168(c) of the Internal  
29 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 48,  
30 168) relating to investment tax credit for historic

1 preservation.

2 (3) The [commission] department shall monitor those  
3 leased properties to insure they are being managed in  
4 accordance with State law.

5 (4) The [commission] department may lease historic  
6 property to a political subdivision willing to assume total  
7 fiscal and management responsibility for a period of time up  
8 to 99 years, provided that such leases contain restrictions  
9 protecting the historical integrity of the site, insuring  
10 that appropriate historical preservation standards are  
11 maintained and require appropriate insurance coverage by the  
12 lessee.

13 § 702. Powers over certain historic property.

14 In addition to all other powers vested in the [commission]  
15 department by this title or other statute, the [commission]  
16 department shall exercise all powers conferred on it by law with  
17 respect to the historic properties known as:

18 \* \* \*

19 § 705. United States Brig Niagara.

20 (a) Official flagship of Pennsylvania.--The restored United  
21 States Brig Niagara shall be the official flagship of  
22 Pennsylvania. It shall be known as the "Flagship of  
23 Pennsylvania" and its home port shall be Erie, Pennsylvania.

24 (b) Powers and duties of the [commission] department.--The  
25 [commission] department shall have the power and duty to:

26 (1) Cooperate with the Department of Military Affairs,  
27 the United States Navy and other appropriate organizations in  
28 commemorating significant events of our naval and maritime  
29 heritage.

30 (2) Sail the United States Brig Niagara, within the

1 means at its command, to various ports of call and  
2 commemorative events as the official sailing ambassador for  
3 Pennsylvania.

4 (3) Charge whatever fees are necessary to maintain the  
5 vessel and to encourage private financial support as  
6 appropriate in order to support the United States Brig  
7 Niagara and its sailing program.

8 (c) Cooperation by public officials with the [commission]  
9 department.--Commonwealth agencies and political subdivisions  
10 shall cooperate fully with the [commission] department in  
11 support of its naval and maritime history program and, to that  
12 end, shall:

13 (1) Include the [commission] department in any planning  
14 efforts for the commemoration of significant events of our  
15 naval and maritime history.

16 (2) Develop plans with the [commission] department which  
17 will utilize the United States Brig Niagara as the official  
18 flagship of Pennsylvania.

19 § 903. Transfer of personal property.

20 In any case where the Commonwealth has heretofore transferred  
21 land to the United States for use as a national park, the  
22 transfer shall also include the transfer to the United States of  
23 such personal property as may be included in a written agreement  
24 between the [Pennsylvania Historical and Museum Commission]  
25 department and the National Park Service.

26 Section 9. Section 4322(b) of Title 42 is amended to read:

27 § 4322. Destruction and disposition of obsolete records.

28 \* \* \*

29 (b) Historical documents.--Any original records which are of  
30 historical value as may be determined by the City Archivist, in

1 the case of City and County of Philadelphia, or by the  
2 [Pennsylvania Historical and Museum Commission] Department of  
3 Conservation and Natural Resources, in the case of any other  
4 county, shall be transferred to the [Pennsylvania Historical and  
5 Museum Commission] Department of Conservation and Natural  
6 Resources or to such other depositories as may be designated by  
7 the [commission] department.

8 Section 10. Section 722(b) of Title 45 is amended to read:

9 § 722. Deposit of documents required.

10 \* \* \*

11 (b) Disposition of copies.--Upon such filing one copy shall  
12 be immediately available for public inspection and copying under  
13 regulations promulgated by the joint committee, which copy shall  
14 be retained by the bureau for one year after the publication  
15 thereof, whereupon it shall be forwarded to the [Pennsylvania  
16 Historical and Museum Commission] Department of Conservation and  
17 Natural Resources for preservation in the Commonwealth archives.  
18 The other copy shall be processed for publication as provided in  
19 this subchapter.

20 \* \* \*

21 Section 11. The definition of "commission" in section 1382  
22 of Title 53 is amended and the section is amended by adding a  
23 definition to read:

24 § 1382. Definitions.

25 The following words and phrases when used in this subchapter  
26 shall have the meanings given to them in this section unless the  
27 context clearly indicates otherwise:

28 ["Commission." The Pennsylvania Historical and Museum  
29 Commission.]

30 \* \* \*

1       "Department." The Department of Conservation and Natural  
2 Resources of the Commonwealth.

3       \* \* \*

4       Section 12. Sections 1384, 1385(a) and 1386 of Title 53 are  
5 amended to read:

6 § 1384. Proposed retention and disposal schedules.

7       The [commission] department, in cooperation with the several  
8 associations of municipal officials and related Commonwealth  
9 agencies, shall make a study of public records and shall prepare  
10 proposed retention and disposition schedules for submission to  
11 the committee for its approval and advise each of them of all  
12 applicable operative schedules and prepare updates of these  
13 schedules as needed. No such schedule shall be operative unless  
14 approved by the committee.

15 § 1385. Local Government Records Committee.

16       (a) Establishment.--There shall be established under the  
17 [commission] department the Local Government Records Committee  
18 which shall consist of the Auditor General, the State Treasurer,  
19 the General Counsel, the [Executive Director of the Pennsylvania  
20 Historical and Museum Commission] Secretary of Conservation and  
21 Natural Resources, the Secretary of Community and Economic  
22 Development and five other members to be appointed by the  
23 Governor to represent each of the following municipal  
24 associations: the League of Cities, the State Association of  
25 Boroughs, the State Association of Township Commissioners, the  
26 State Association of Township Supervisors and the Municipal  
27 Authorities' Association. Each ex officio member of the  
28 committee may designate in writing a representative to act in  
29 place of the member. The Secretary of Community and Economic  
30 Development shall serve as chairman, and the [executive director



1 of the commission] Secretary of Conservation and Natural  
2 Resources shall serve as secretary. Meetings of the committee  
3 shall be at the call of the chairman.

4 \* \* \*

5 § 1386. Effect of approval of schedule.

6 (a) Disposition generally.--Whenever a schedule is approved  
7 by the committee, a copy shall be filed with the [commission]  
8 department which shall, through appropriate means, notify the  
9 entities that the schedule has been approved. Upon such  
10 notification, the schedule becomes effective and may be acted  
11 upon by them until superseded by a subsequent duly approved  
12 schedule. Each entity shall declare its intent to follow the  
13 schedule by ordinance or resolution. Each individual act of  
14 disposition shall be approved by resolution of the governing  
15 body.

16 (b) Disposition of permanent retention records.--Original  
17 records scheduled for permanent retention may be disposed of if,  
18 in addition to the procedures listed in this section, the entity  
19 generates and maintains a copy of the original in conformance  
20 with section 1388 (relating to recording and copying records)  
21 and receives written permission from the [commission] department  
22 to dispose of the records. Written permission from the  
23 [commission] department is required only for disposition actions  
24 involving records scheduled for permanent retention, records not  
25 listed on the schedules and records selected for transfer to the  
26 State Archives.

27 Section 13. The definition of "commission" in section 6101  
28 of Title 68 is repealed:

29 § 6101. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 \* \* \*

4 ["Commission." The Pennsylvania Historical and Museum  
5 Commission.]

6 \* \* \*

7 Section 14. Sections 6102 heading, introductory paragraph  
8 and (2)(iii), 6103(c) and 6110 of Title 68 are amended to read:

9 § 6102. Duties of [commission] department.

10 The [commission] department has the following powers and  
11 duties:

12 \* \* \*

13 (ii) reports of [commissioners] the department  
14 relating to the boundary lines of this Commonwealth;

15 \* \* \*

16 § 6103. Application.

17 \* \* \*

18 (c) Investigation.--The department[, with the cooperation of  
19 the commission,] shall investigate to determine whether office  
20 rights have been granted for a tract of land and whether the  
21 tract of land is vacant or unappropriated if an applicant does  
22 all of the following:

23 (1) Completes an application prescribed by the  
24 department.

25 (2) Gives 30 days' notice of the filing of the  
26 application by publication once a week for three successive  
27 weeks in a newspaper of general circulation in the area where  
28 the land is situate. The applicant must furnish proof of  
29 publication to the department.

30 (3) Submits a certified abstract of title.

1 (4) Submits the survey under subsection (b).

2 § 6110. Issuance of patents for unappropriated lands.

3 The department shall, upon the presentation and approval of  
4 an application with satisfactory proof of ownership, including  
5 current survey and abstract of title, and the payment of patent  
6 fees amounting to \$25, with the approval of the Governor, grant  
7 a patent if all of the following apply:

8 (1) The records of the [commission] department  
9 demonstrate that there have been warrants granted by the  
10 Commonwealth for lands authorized to be sold by statute or by  
11 [statutorily appointed commissioners] the secretary.

12 (2) Titles to the warrants under paragraph (1) have not  
13 been completed by the granting of patents.

14 Section 15. Section 1353 of Title 75 is amended to read:

15 § 1353. Preserve our heritage registration plate.

16 The department, in consultation with the [Pennsylvania  
17 Historical and Museum Commission] Department of Conservation and  
18 Natural Resources, shall design a special preserve our heritage  
19 registration plate. Upon receipt of an application, accompanied  
20 by a fee of \$54 which shall be in addition to the annual  
21 registration fee, the department shall issue the plate for a  
22 passenger car, motor home, trailer or truck with a registered  
23 gross weight of not more than 14,000 pounds. The Historical  
24 Preservation Fund shall receive \$23 of each additional fee for  
25 this plate.

26 Section 16. The Department of Conservation and Natural  
27 Resources may continue to use the name "Pennsylvania Historical  
28 and Museum Commission" on contracts, licenses, stationery or any  
29 other official documents or emblems until existing supplies are  
30 exhausted. Contracts, deeds and other official actions shall not

1 be affected by the use of the designation of "Pennsylvania  
2 Historical and Museum Commission."

3 Section 17. All activities initiated under 37 Pa.C.S. prior  
4 to the effective date of this section shall continue and remain  
5 in full force and effect and may be completed under 37 Pa.C.S.  
6 Orders, regulations, rules and decisions that were made under 37  
7 Pa.C.S. and that are in effect on the effective date of this  
8 section shall remain in full force and effect until revoked,  
9 vacated or modified under 37 Pa.C.S. Contracts, obligations and  
10 collective bargaining agreements entered into under 37 Pa.C.S.  
11 prior to the effective date of this section are not affected nor  
12 impaired by the amendment of 37 Pa.C.S.

13 Section 18. This act shall take effect in 60 days.