

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 90 Session of  
2017

---

INTRODUCED BY GREENLEAF, EICHELBERGER, MENSCH AND RAFFERTY,  
JANUARY 13, 2017

---

REFERRED TO STATE GOVERNMENT, JANUARY 13, 2017

---

AN ACT

1 Amending Title 10 (Charities) of the Pennsylvania Consolidated  
2 Statutes, consolidating the Solicitation of Funds for  
3 Charitable Purposes Act and the Institutions of Purely Public  
4 Charity Act; and making related repeals.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 10 of the Pennsylvania Consolidated  
8 Statutes is amended by adding parts to read:

9 PART I

10 PRELIMINARY PROVISIONS

11 Chapter

12 1. General Provisions

13 CHAPTER 1

14 GENERAL PROVISIONS

15 Sec.

16 101. Short title of title.

17 § 101. Short title of title.

18 This title shall be known and may be cited as the Charities

19 Code.

1 PART II

2 GAMES

3 (Reserved)

4 PART III

5 OPERATION

6 Chapter

7 11. General Provisions (Reserved)

8 13. Solicitation of Funds for Charitable Purposes

9 CHAPTER 11

10 GENERAL PROVISIONS

11 (Reserved)

12 CHAPTER 13

13 SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES

14 Sec.

15 1301. Scope of chapter.

16 1302. Legislative intent.

17 1303. Definitions.

18 1304. Powers and duties of secretary.

19 1305. Registration of charitable organizations; financial  
20 reports; fees; failure to file.

21 1306. Exemptions from registration.

22 1307. Short form registration.

23 1308. Registration of professional fundraising counsel and  
24 contracts.

25 1309. Registration of professional solicitors and contracts.

26 1310. Contracts voidable by charitable organizations.

27 1311. Information filed to become public records.

28 1312. Records to be kept by charitable organizations,  
29 professional fundraising counsels and professional  
30 solicitors.

1 1313. Limitation on activities of charitable organizations and  
2 disclosure requirements.

3 1314. Reciprocal agreements.

4 1315. Prohibited acts.

5 1316. Investigation.

6 1317. Administrative enforcement and penalties.

7 1318. Criminal penalties.

8 1319. Civil penalties.

9 1320. Additional regulations by counties, municipalities or  
10 consolidated government.

11 1321. Charitable organizations deemed fiduciary.

12 1322. Prior registration unaffected.

13 1323. Regulations.

14 § 1301. Scope of chapter.

15 This chapter relates to solicitation of funds for charitable  
16 purposes.

17 § 1302. Legislative intent.

18 It is the intention of the General Assembly that this chapter  
19 shall not merely require proper registration of charitable  
20 organizations, professional fundraisers and professional  
21 solicitors, but shall protect the citizens of this Commonwealth  
22 by requiring full public disclosure of the identity of persons  
23 who solicit contributions from the public, the purposes for  
24 which the contributions are solicited and the manner in which  
25 they are actually used, by promoting consumer education about  
26 charitable concerns, by providing civil and criminal penalties  
27 for deception and dishonest statements and conduct in the  
28 solicitation and reporting of contributions for or in the name  
29 of charitable purposes and by publicizing matters relating to  
30 fraud, deception and misrepresentation perpetrated in the name

1 of charity. This chapter shall not be construed to be exclusive  
2 in its purview, and its application shall not operate as a bar  
3 or otherwise prevent the contemporaneous or subsequent  
4 application of other relevant acts.

5 § 1303. Definitions.

6 The following words and phrases when used in this chapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Administrative costs." Management and general costs of a  
10 charitable organization, not identifiable with a single program  
11 or fundraising activity, but indispensable to the conduct of the  
12 programs and activities and to an organization's existence,  
13 including expenses for the overall direction of the  
14 organization, business management, general recordkeeping,  
15 budgeting, financial reporting and related activities, salaries,  
16 rent, supplies, equipment and general overhead expenses.

17 "Affiliate." A chapter, branch, auxiliary or other  
18 subordinate unit of any charitable organization, however  
19 designated, whose policies, fundraising activities and  
20 expenditures are supervised or controlled by the parent  
21 organization.

22 "Bureau." The Bureau of Charitable Organizations of the  
23 Department of State.

24 "Charitable organization." A person granted tax exempt  
25 status under section 501(c)(3) of the Internal Revenue Code of  
26 1986 or a person who is or holds himself out to be established  
27 for a charitable purpose or a person who in a manner employs a  
28 charitable appeal as the basis of any solicitation or an appeal  
29 which has a tendency to suggest that there is a charitable  
30 purpose to any solicitation. An affiliate of a charitable

1 organization which has its principal place of business outside  
2 this Commonwealth shall be a charitable organization for the  
3 purposes of this chapter. The term shall not be deemed to  
4 include:

5 (1) A bona fide duly constituted organization of law  
6 enforcement personnel, firefighters or other persons who  
7 protect the public safety whose stated purpose in the  
8 solicitation does not include a benefit to a person outside  
9 the actual active membership of the organization.

10 (2) Any bona fide duly constituted religious  
11 institutions and separate groups or corporations which form  
12 an integral part of religious institutions, provided that:

13 (i) Religious institutions, groups or corporations  
14 are tax exempt under the Internal Revenue Code of 1986.

15 (ii) No part of the institution, group or  
16 corporation's net income inures to the direct benefit of  
17 an individual.

18 (iii) The institution, group or corporation's  
19 conduct is primarily supported by government grants or  
20 contracts, funds solicited from their own memberships,  
21 congregations or previous donors and fees charged for  
22 services rendered.

23 "Charitable promotion." An advertising or sales campaign,  
24 event or performance, conducted, produced, promoted,  
25 underwritten, arranged or sponsored by a commercial coventurer,  
26 which represents that the purchase or use of goods or services  
27 or attendance at events or performances offered or sponsored by  
28 the commercial coventurer will benefit, in whole or in part, a  
29 charitable organization or purpose.

30 "Charitable purpose." A benevolent, educational,

1 philanthropic, humane, scientific, patriotic, social welfare or  
2 advocacy, public health, environmental conservation, civic or  
3 other eleemosynary objective, including an objective of a bona  
4 fide duly constituted organization of law enforcement personnel,  
5 firefighters or other persons who protect the public safety if a  
6 stated purpose of the solicitation includes a benefit to a  
7 person outside the actual active membership of the organization.

8 "Commercial coventurer." A person who for profit is  
9 regularly and primarily engaged in trade or commerce other than  
10 in connection with the raising of funds or any other thing of  
11 value when offered at the usual retail price comparable to  
12 similar goods or services in the market for a charitable  
13 organization and who advertises that the purchase or use of  
14 goods, services, entertainment or any other thing of value will  
15 benefit a charitable organization.

16 "Contribution." The promise, grant or pledge of money,  
17 credit, property, financial assistance or other thing of any  
18 kind or value, excluding volunteer services, in response to a  
19 solicitation, including the payment or promise to pay in  
20 consideration of a performance, event or sale of a good or  
21 service. Payment by members of an organization for membership  
22 fees, dues, fines or assessments or for services rendered to  
23 individual members, if the fees, dues, fines or assessments  
24 confer a bona fide right, privilege, professional standing,  
25 honor or other direct benefit, shall not be deemed  
26 contributions, provided that membership is not conferred solely  
27 as consideration for making a contribution in response to a  
28 solicitation. Government grants or contracts shall not be deemed  
29 a contribution.

30 "Department." The Department of State of the Commonwealth.

1 "Federated fundraising organization." A federation of  
2 independent charitable organizations which have voluntarily  
3 joined together, including, but not limited to, a united way or  
4 community chest, for purposes of raising and distributing money  
5 for and among themselves and where membership does not confer  
6 upon the federation operating authority and control of the  
7 individual agencies.

8 "Firefighter." A person who is or represents or holds itself  
9 out to represent, aid, train or otherwise benefit a paid or  
10 volunteer firefighter, active or retired, or the firefighter's  
11 family.

12 "Fundraising costs." Those costs incurred in inducing others  
13 to make contributions to a charitable organization for which the  
14 contributors will receive no direct economic benefit.  
15 Fundraising costs normally include, but are not limited to,  
16 salaries, rent, acquiring and maintaining mailing lists,  
17 printing, mailing and direct and indirect costs of soliciting,  
18 as well as the cost of unsolicited merchandise sent to encourage  
19 contributions. Fundraising costs do not include the direct cost  
20 of merchandise or goods sold or the direct cost of fundraising  
21 dinners, bazaars, shows, circuses, banquets, dinners, theater  
22 parties or any other form of benefit performances.

23 "Internal Revenue Code of 1986." The Internal Revenue Code  
24 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

25 "Law enforcement personnel." A person who is or represents  
26 or holds itself out to represent, aid, train or otherwise  
27 benefit a police officer, sheriff or deputy sheriff, constable  
28 or deputy constable, county detective, fire police or other  
29 person who is empowered to make arrests, serve warrants, issue  
30 summons or otherwise enforce the laws of this Commonwealth to

1 include retired law enforcement personnel and the families of  
2 law enforcement personnel.

3 "Net proceeds." The total proceeds received from the  
4 solicitation of contributions reduced by the direct cost of  
5 merchandise or other goods sold or fundraising events of any  
6 kind.

7 "Owner." A person who has a direct or indirect interest in a  
8 professional fundraising counsel or professional solicitor.

9 "Parent organization." That part of a charitable  
10 organization which coordinates, supervises or exercises control  
11 of policy, fundraising and expenditure, or assists or receives  
12 funds from or advises one or more affiliates.

13 "Person." An individual, organization, corporation,  
14 association, partnership, trust, foundation or any other entity  
15 however styled.

16 "Professional fundraising counsel." A person who is retained  
17 by a charitable organization for a fixed fee or rate under a  
18 written agreement to plan, manage, advise, consult or prepare  
19 material for or with respect to the solicitation in this  
20 Commonwealth of contributions for a charitable organization, but  
21 who does not solicit contributions or employ, procure or engage  
22 a compensated person to solicit contributions and who does not  
23 have custody or control of contributions. A bona fide salaried  
24 officer or regular, nontemporary employee of a charitable  
25 organization shall not be deemed to be a professional  
26 fundraising counsel, provided that the individual is not  
27 employed or engaged as professional fundraising counsel or as a  
28 professional solicitor by another person.

29 "Professional solicitor." Any person who is retained for  
30 financial or other consideration by a charitable organization to



1 solicit in this Commonwealth contributions for charitable  
2 purposes directly or in the form of payment for goods, services  
3 or admission to fundraising events, whether the solicitation is  
4 performed personally or through the person's agents, servants or  
5 employees or through agents, servants or employees especially  
6 employed by or for a charitable organization who are engaged in  
7 the solicitation of contributions, the sale of goods or services  
8 or the production of fundraising events under the direction of  
9 the person, or a person who plans, conducts, manages, carries  
10 on, advises, consults, whether directly or indirectly, in  
11 connection with the solicitation of contributions, sale of goods  
12 or services or the production of fundraising events for or on  
13 behalf of any charitable organization, but does not qualify as a  
14 professional fundraising counsel within the meaning of this  
15 chapter. A person who is otherwise a professional fundraising  
16 counsel shall be deemed a professional solicitor if the person's  
17 compensation is related to the amount of contributions received.  
18 A bona fide salaried officer or regular, nontemporary employee  
19 of a charitable organization shall not be deemed to be a  
20 professional solicitor, provided that the individual is not  
21 employed or engaged as professional fundraising counsel or as a  
22 professional solicitor by any other person.

23 "Secretary." The Secretary of State of the Commonwealth.

24 "Solicitation." A direct or indirect request for a  
25 contribution on the representation that the contribution will be  
26 used in whole or in part for a charitable purpose, including,  
27 but not limited to, any of the following:

28 (1) An oral request that is made in person, by  
29 telephone, radio or television or other advertising or  
30 communication media.

1       (2) A written or otherwise recorded or published request  
2 that is mailed, sent, delivered, circulated, distributed,  
3 posted in a public place or advertised or communicated by  
4 press, telegraph, television or other media.

5       (3) A sale of, offer or attempt to sell an  
6 advertisement, advertising space, sponsorship, book, card,  
7 chance, coupon, device, food, magazine, merchandise,  
8 newspaper, subscription, ticket or other service or tangible  
9 good, thing or item of value.

10       (4) An announcement requesting the public to attend an  
11 appeal, assemblage, athletic or competitive event, carnival,  
12 circus, concert, contest, dance, entertainment, exhibition,  
13 exposition, game, lecture, meal, party, show, social  
14 gathering or other performance or event of any kind.

15 § 1304. Powers and duties of secretary.

16 The secretary shall have the following powers and duties to:

17       (1) Provide for and regulate the registration of  
18 charitable organizations, professional fundraising counselors  
19 and professional solicitors.

20       (2) Decide matters relating to the issuance, renewal,  
21 suspension or revocation of registrations.

22       (3) Promulgate, adopt and enforce the rules and  
23 regulations necessary to carry out this chapter.

24       (4) Promulgate regulations altering fees and fines  
25 established in this chapter sufficient to meet expenditures  
26 of the bureau.

27       (5) Take appropriate action to initiate civil or  
28 criminal proceedings necessary to enforce this chapter, in  
29 accordance with the act of October 15, 1980 (P.L.950,  
30 No.164), known as the Commonwealth Attorneys Act.

1           (6) Conduct hearings and make adjudications.

2           (7) Keep a record showing the names and addresses of all  
3 registered charitable organizations, professional fundraising  
4 counsels and professional solicitors.

5           (8) Submit annually, on or before September 30, to the  
6 Governor, the State Government Committee of the Senate and  
7 the State Government Committee of the House of  
8 Representatives, as well as to interested parties, a report  
9 on the number of registered charities, the number of  
10 charities ordered to cease and desist solicitation, the  
11 number of charities contracting with professional solicitors  
12 and the compensation of professional solicitors for each  
13 solicitation campaign in relation to the funds raised and  
14 administrative costs.

15           (9) Delegate to a division director of the office the  
16 powers and duties under this chapter as the secretary may  
17 deem appropriate.

18           (10) Exercise other authority accorded to the secretary  
19 by this chapter.

20 § 1305. Registration of charitable organizations; financial  
21 reports; fees; failure to file.

22           (a) Registration and approval required.--A charitable  
23 organization, unless exempted from registration requirements  
24 under section 1306 (relating to exemptions from registration),  
25 shall file a registration statement with the department. This  
26 statement must be refiled annually within 135 days after the  
27 close of its fiscal year in which the charitable organization  
28 was engaged in solicitation activities. The department shall  
29 review the statement under subsection (r). No charitable  
30 organization shall solicit contributions or have contributions

1 solicited on its behalf before approval of its registration  
2 statement by the department.

3 (b) Filing of statement.--It shall be the duty of the  
4 president, chairperson or principal officer of each charitable  
5 organization to file the registration statement, financial  
6 report and fee required under this section. The registration  
7 statement shall be made by two authorized officers subject to 18  
8 Pa.C.S. § 4904 (relating to unsworn falsification to  
9 authorities), including the chief fiscal officer of the  
10 organization, and shall contain the following information:

11 (1) The name of the organization and any other name or  
12 names under which it intends to solicit contributions.

13 (2) The principal address and telephone number of the  
14 organization and the addresses and telephone numbers of  
15 offices in this Commonwealth. If the organization does not  
16 maintain an office, the name and address of the individual  
17 having custody of its financial records.

18 (3) The names and addresses of any affiliates which  
19 share in the contributions or other revenue raised in this  
20 Commonwealth.

21 (4) The names and addresses of the officers, directors  
22 and trustees and the principal salaried executive staff  
23 officers.

24 (5) A copy of the financial report required under  
25 subsection (e).

26 (6) A copy of any determination of the organization's  
27 tax-exempt status under the Internal Revenue Code of 1986  
28 and, for organizations granted tax-exempt status under  
29 section 501(c)(3) of the Internal Revenue Code of 1986, a  
30 copy of the last filed Internal Revenue Service Form 990 and

1 Schedule A for every charitable organization and parent  
2 organization.

3 (7) The date when the organization's fiscal year begins.

4 (8) Whether:

5 (i) The organization is authorized by any other  
6 governmental authority to solicit contributions.

7 (ii) The organization or any of its present  
8 officers, directors, executive personnel or trustees are  
9 or have ever been enjoined in any jurisdiction from  
10 soliciting contributions or have been found to have  
11 engaged in unlawful practices in the solicitation of  
12 contributions or administration of charitable assets.

13 (iii) The organization's registration or license has  
14 been denied, suspended or revoked by any governmental  
15 agency, together with the reasons for the denial,  
16 suspension or revocation.

17 (iv) The organization has voluntarily entered into  
18 an assurance of voluntary discontinuance or agreement  
19 similar to that set forth in section 1319(b) (relating to  
20 civil penalties), together with a copy of that agreement.

21 (9) A clear description of the specific programs for  
22 which contributions will be used and a statement whether the  
23 programs are planned or in existence.

24 (10) The names and addresses of professional solicitors,  
25 professional fundraising counsels and commercial coventurers  
26 who are acting or have agreed to act on behalf of the  
27 organization.

28 (11) The names of the individuals or officers of the  
29 organization who are in charge of any solicitation  
30 activities, who will have final responsibility for the

1 custody of the contributions and who will be responsible for  
2 the final distribution of the contributions.

3 (12) Whether any of the organization's officers,  
4 directors, trustees or employees are related by blood,  
5 marriage or adoption to each other or to officers, agents or  
6 employees of a professional fundraising counsel or  
7 professional solicitor under contract to the organization or  
8 to a supplier or vendor providing goods or services to the  
9 organization, and the names and business and residence  
10 addresses of any related parties. Where the number of  
11 employees or vendors renders it impractical for the  
12 registrant to contact them on an individual basis regarding  
13 the existence of the relationships set forth under this  
14 section, the registrant may file an affidavit stating which  
15 relationships, if any, exist to the best of the affiant's  
16 information and belief.

17 (13) Other information required by the regulations of  
18 the department.

19 (c) Additional filings.--With the initial registration only,  
20 each charitable organization required to be registered shall  
21 also file with the department the following documents:

22 (1) A copy of the organization's charter, articles of  
23 organization, agreement of association, instrument of trust,  
24 constitution or other organizational instrument and bylaws.

25 (2) A statement setting forth where and the date when  
26 the organization was legally established, the form of its  
27 organization and its tax-exempt status, together with a copy  
28 of the letter of exemption, if any, issued by the Internal  
29 Revenue Service.

30 (d) Federal tax exemption determination.--Each charitable

1 organization registered with the department shall file with the  
2 department a copy of a Federal tax exemption determination  
3 letter received after the initial registration within 30 days  
4 after receipt, and any amendments to its organizational  
5 instrument within 30 days after adoption.

6 (e) Financial report.--With each registration statement  
7 filed under this section, a charitable organization must file a  
8 financial report for the immediately preceding fiscal year,  
9 which shall contain a balance sheet and statements of revenue,  
10 expenses and changes in fund balances indicating the  
11 organization's gross revenue, the amount of funds received from  
12 solicitations or other fundraising activities and expenditures  
13 for supplies, equipment, goods, services, programs, activities  
14 or other expenses, a detailed list of salaries and wages paid  
15 and expenses allowed to an officer or employee, if the  
16 organization is not required to file an Internal Revenue Service  
17 Form 990, and the disposition of the net proceeds received from  
18 solicited contributions or other fundraising activities.

19 (f) Audit of certain financial reports.--The financial  
20 report of every charitable organization which receives annual  
21 contributions of \$300,000 or more shall be audited by an  
22 independent certified public accountant or public accountant.  
23 Every charitable organization which receives annual  
24 contributions of at least \$100,000 but less than \$300,000 shall  
25 be required to have a review or audit of their financial  
26 statements performed by an independent certified public  
27 accountant or public accountant. Every charitable organization  
28 which receives annual contributions of at least \$50,000 but less  
29 than \$100,000 shall be required to have a compilation, review or  
30 audit of their financial statements performed by an independent

1 certified public accountant or public accountant. A compilation,  
2 audit or review is optional for a charitable organization which  
3 receives annual contributions of less than \$50,000. Audits shall  
4 be performed in accordance with generally accepted auditing  
5 standards, including the Statements on Auditing Standards of the  
6 American Institute of Certified Public Accountants, but reviews  
7 shall be performed in accordance with the Statements on  
8 Standards for Accounting and Review Services of the American  
9 Institute of Certified Public Accountants.

10 (g) Governmental audits.--Government audits of government  
11 grants shall be accepted and shall be included as part of the  
12 financial statements.

13 (h) Other acceptable reports.--The department may accept a  
14 copy of a current financial report previously prepared by a  
15 charitable organization for a governmental agency in another  
16 jurisdiction in compliance with the laws of that jurisdiction,  
17 provided that the report filed with the other governmental  
18 agency shall be substantially similar in content to the report  
19 required by this section.

20 (i) Reports to accompany audit.--Audited and reviewed  
21 financial statements must be accompanied by the report prepared  
22 and signed by the independent public accountant.

23 (j) Optional departmental action.--The department shall have  
24 the discretion to require that an audit or review be submitted  
25 by a charitable organization which files a registration  
26 statement. The department shall also have the discretion to  
27 accept the financial statement submitted by the organization in  
28 lieu of an audit or review where special facts and circumstances  
29 are presented.

30 (k) Time extension for filings.--For good cause shown, the



1 department may extend the time for the annual filing of a  
2 registration statement or financial report for a period not to  
3 exceed 180 days during which time the previous registration  
4 remains in effect.

5 (l) Cancellation of registration.--In no event shall the  
6 registration of a charitable organization continue in effect  
7 after the date the organization should have filed, but failed to  
8 file, its financial report in accordance with this section. The  
9 organization shall not be eligible to file a new registration  
10 statement until it shall have filed the required financial  
11 report with the department.

12 (m) Reports by affiliates.--

13 (1) Each affiliate whose parent organization has its  
14 principal place of business in this Commonwealth may  
15 separately file the registration statement or financial  
16 information required by this section, or report the required  
17 information to its parent organization which shall then file  
18 a combined registration statement and financial report for  
19 its Pennsylvania affiliates. There shall be appended to each  
20 combined report a schedule, containing information as  
21 prescribed in the regulations of the department, reflecting  
22 the activities of each affiliate, which shall contain a  
23 certification, under oath, by an official of the  
24 organization, that the information contained in the schedule  
25 is true. The failure of a parent organization to file a  
26 combined registration statement and financial report shall  
27 not excuse either the parent organization or its affiliates  
28 from complying with the requirements of this section.

29 (2) If an affiliate is soliciting in this Commonwealth  
30 but its parent organization has its principal place of

1 business outside this Commonwealth, both the affiliate and  
2 the parent organization shall independently comply with the  
3 registration requirements of this section.

4 (n) Federated organizations.--An independent member agency  
5 of a federated fundraising organization shall independently  
6 comply with the provisions of this section unless specifically  
7 exempted or unless it receives allocations solely from the  
8 federated fundraising organization and does not independently  
9 solicit contributions. Donor choice programs are deemed to be  
10 independent solicitations.

11 (o) Retention of records.--Each charitable organization  
12 required to register shall maintain records, books and reports  
13 for at least three years after the end of the period of  
14 registration to which they relate, which shall be available for  
15 inspection upon demand by the department and the Office of  
16 Attorney General.

17 (p) Annual registration fees.--A charitable organization  
18 which submits a short form registration statement under section  
19 1307 (relating to short form registration) or receives  
20 contributions of \$25,000 or less during the immediately  
21 preceding fiscal year shall pay an annual registration fee of  
22 \$15. A charitable organization which receives contributions in  
23 excess of \$25,000 but less than \$100,000 during the immediately  
24 preceding fiscal year shall pay an annual registration fee of  
25 \$100. A charitable organization which receives contributions in  
26 excess of \$100,000 but not exceeding \$500,000 during the  
27 immediately preceding fiscal year shall pay an annual  
28 registration fee of \$150. A charitable organization which  
29 receives contributions in excess of \$500,000 during the  
30 immediately preceding fiscal year shall pay an annual

1 registration fee of \$250. A parent organization filing on behalf  
2 of one or more affiliates and a federated fundraising  
3 organization filing on behalf of its member agencies shall pay a  
4 single annual registration fee for itself and other affiliates  
5 or member agencies included in the registration statement.

6 (q) Late filing fees.--In addition to the registration fee,  
7 an organization failing to file a registration application by  
8 the due date shall pay an additional fee of \$25 for each month  
9 or part of the month after the date on which the registration  
10 statement and financial report were due to be filed or after the  
11 period of extension granted for the filing.

12 (r) Department review.--The department shall examine each  
13 registration statement and supporting documents filed by a  
14 charitable organization and shall determine whether the  
15 registration requirements are satisfied. If the department  
16 determines that the registration requirements are not satisfied,  
17 the department must notify the charitable organization within 10  
18 working days of its receipt of the registration statement.

19 Otherwise, the registration statement is deemed to be approved.  
20 Within seven days after receipt of a notification that the  
21 registration requirements are not satisfied, the charitable  
22 organization may request a hearing. The hearing must be held  
23 within seven days of receipt of the request, and a determination  
24 must be rendered within three working days of the hearing.

25 (s) Administration of charitable contributions.--A  
26 charitable organization shall maintain and administer the  
27 contributions raised on its behalf through an account in the  
28 name of the charitable organization and under its sole control.

29 (t) Updating information.--A material change in information  
30 filed with the department under this section shall be reported

1 in writing by the registrant to the department not more than 30  
2 days after the change occurs.

3 § 1306. Exemptions from registration.

4 (a) General rule.--The following charitable organizations  
5 shall be exempt from the registration requirements of this  
6 chapter:

7 (1) Educational institutions, the curricula of which, in  
8 whole or in part, are registered with or approved by the  
9 Department of Education, either directly or by acceptance of  
10 accreditation by an accrediting body recognized by the  
11 Department of Education, and any auxiliary associations,  
12 foundations and support groups which are directly responsible  
13 to educational institutions.

14 (2) Hospitals which are subject to regulation by the  
15 Department of Health or the Department of Human Services and  
16 the hospital foundation, if any, which is an integral part of  
17 the hospitals.

18 (3) A local post, camp, chapter or similarly designated  
19 element or a county unit of the elements of:

20 (i) any veterans' organization chartered under  
21 Federal law and any service foundation recognized in the  
22 bylaws of the organization;

23 (ii) a bona fide organization of volunteer firemen;

24 (iii) a bona fide ambulance association;

25 (iv) a bona fide rescue squad association; or

26 (v) a bona fide auxiliary or affiliate of any

27 organization or association under subparagraph (i), (ii),

28 (iii) or (iv);

29 provided that all fundraising activities are carried on by  
30 volunteers, members or an auxiliary or affiliate of the

1 organization or association and that they receive no  
2 compensation directly or indirectly for the fundraising  
3 activities.

4 (4) Public nonprofit library organizations which receive  
5 financial aid from State and municipal governments and file  
6 an annual fiscal report with the State Library System.

7 (5) Senior citizen centers and nursing homes which are  
8 nonprofit and charitable and which have been granted tax-  
9 exempt status under the Internal Revenue Code of 1986,  
10 provided that all fundraising activities are carried on by  
11 volunteers, members or officers of the senior citizen center  
12 and that those volunteers, members or officers receive no  
13 compensation, directly or indirectly, for the fundraising  
14 activities.

15 (6) Bona fide parent-teacher associations or parent-  
16 teacher organizations as recognized in a notarized letter  
17 from the school district in which they are located.

18 (7) Any corporation established by an act of the  
19 Congress of the United States that is required by Federal law  
20 to submit annual reports of its activities to Congress  
21 containing itemized accounts of all receipts and expenditures  
22 after being fully audited by the Department of Defense.

23 (8) Any charitable organization which receives  
24 contributions of \$25,000 or less annually, provided that the  
25 organization does not compensate any person who conducts  
26 solicitations. Charitable organizations which receive more  
27 than \$25,000 in contributions shall file the appropriate  
28 registration statement within 30 days after the contributions  
29 are received.

30 (b) Effect of exemption.--Exemption from the registration

1 requirements of this chapter shall in no way limit the  
2 applicability of other provisions of this part to a charitable  
3 organization or any professional solicitor or professional  
4 fundraising counsel acting on its behalf, except that written  
5 notice under sections 1309(k) (relating to registration of  
6 professional solicitors and contracts) and 1313(c) (relating to  
7 limitation on activities of charitable organizations and  
8 disclosure requirements) shall not apply.

9 § 1307. Short form registration.

10 (a) Organizations required to file.--The following  
11 charitable organizations shall be required to file short form  
12 annual registration statements with the department in lieu of  
13 the registration statement required by section 1305 (relating to  
14 registration of charitable organizations; financial reports;  
15 fees; failure to file):

16 (1) Persons or charitable organizations accepting  
17 contributions for the relief of any individual specified by  
18 name at the time of acceptance or solicitation when all of  
19 the contributions collected without any deductions whatsoever  
20 are turned over to the named beneficiary for the  
21 beneficiary's use, provided that all contributions collected  
22 shall be held in trust and shall be subject to the provisions  
23 of 20 Pa.C.S. Ch. 77 (relating to trusts). The secretary, the  
24 Attorney General, any contributor or any person who provides  
25 any goods or services for which funds are expressly or  
26 implicitly solicited shall have the right to petition the  
27 court of common pleas of the county in which the trust is  
28 located for an accounting of all contributions. For purposes  
29 of this paragraph, the trust shall be deemed to be located in  
30 the county where the principal place of business of the

1 charitable organization is located. If a charitable  
2 organization has its principal place of business outside this  
3 Commonwealth, all of the following shall apply:

4 (i) If an affiliate is soliciting contributions  
5 within this Commonwealth, the trust shall be deemed to be  
6 located in the county where the principal place of  
7 business of the affiliate is located.

8 (ii) If a person is soliciting contributions within  
9 this Commonwealth, the trust shall be deemed to be  
10 located in the county where the principal place of  
11 business or the residence of the person is located.

12 (iii) If there is no place of business or residence  
13 within this Commonwealth, the trust shall be deemed to be  
14 located in the County of Dauphin.

15 (2) Organizations which only solicit within the  
16 membership of the organization by the members of the  
17 organization provided that the term "membership" shall not  
18 include those persons who are granted a membership solely  
19 upon making a contribution as the result of solicitation. For  
20 the purpose of this paragraph, "member" means a person having  
21 membership in a nonprofit corporation, or other organization,  
22 in accordance with the provisions of its articles of  
23 incorporation, bylaws or other instruments creating its form  
24 and organization and having bona fide rights and privileges  
25 in the organization such as the right to vote, to elect  
26 officers and directors or to hold office or position as  
27 ordinarily conferred on members of the organizations.

28 (3) Charitable organizations whose fundraising  
29 activities are carried out by volunteers, members, officers  
30 or permanent employees and which do not receive contributions

1 in excess of \$25,000 during a fiscal year, if no part of  
2 their assets or income inures to the benefit of or is paid to  
3 any officer or member, professional fundraising counsel,  
4 professional solicitor or commercial coventurer. Charitable  
5 organizations which do not intend to solicit and receive in  
6 excess of \$25,000 but do receive contributions in excess of  
7 that amount shall file the financial report required in  
8 section 1305 within 30 days after contributions are received  
9 in excess of that amount.

10 (4) Organizations described in section 1306(a) (3)  
11 (relating to exemptions from registration) which do not  
12 receive contributions in excess of \$100,000 during a fiscal  
13 year if no part of their assets or income inures to the  
14 benefit of or is paid to a professional solicitor.

15 (b) Contents of statement.--The short form annual  
16 registration statements required to be filed under this section  
17 shall include any information required by the regulations of the  
18 department.

19 (c) Financial report.--Charitable organizations which file a  
20 short form registration statement need not file the financial  
21 report required under section 1305.

22 (d) Updating of information.--Any material change in any  
23 information filed with the department under this section shall  
24 be reported in writing by the registrant to the department not  
25 more than 30 days after the change occurs.

26 § 1308. Registration of professional fundraising counsel and  
27 contracts.

28 (a) Registration and approval required.--No person shall act  
29 as a professional fundraising counsel before obtaining  
30 department approval of a registration statement under subsection



1 (c) or after the expiration, suspension or revocation of  
2 registration. A registration application shall be signed and  
3 made by the principal officer of the professional fundraising  
4 counsel subject to 18 Pa.C.S. § 4904 (relating to unsworn  
5 falsification to authorities) and shall contain all of the  
6 following information:

7 (1) The address of the principal place of business of  
8 the applicant and any addresses within this Commonwealth, if  
9 the principal place of business is located outside this  
10 Commonwealth.

11 (2) The form of the applicant's business.

12 (3) The names and residence addresses of all principals  
13 of the applicant, including all officers, directors and  
14 owners.

15 (4) Whether any of the owners, directors, officers or  
16 employees of the applicant are related by blood, marriage or  
17 adoption to any other directors, officers, owners or  
18 employees of the applicant, any officer, director, trustee or  
19 employee of any charitable organization under contract to the  
20 applicant or any supplier or vendor providing goods or  
21 services to any charitable organization under contract to the  
22 applicant.

23 (5) The name of any person who is in charge of any  
24 solicitation activity.

25 (6) Any other information required by the regulations of  
26 the department.

27 (b) Registration fee.--The application for registration  
28 shall be accompanied by a fee of \$250. A professional  
29 fundraising counsel which is a partnership or corporation may  
30 register for and pay a single fee on behalf of all of its

1 partners, members, officers, directors, agents and employees.  
2 Each registration shall be valid for one year and may be renewed  
3 for additional one-year periods upon application to the  
4 department and payment of the registration fee.

5 (c) Department review of registration statement.--The  
6 department shall examine each registration statement and  
7 supporting document filed by a professional fundraising counsel  
8 and shall determine whether the registration requirements are  
9 satisfied. If the department determines that the registration  
10 requirements are not satisfied, the department must notify the  
11 professional fundraising counsel within 10 working days of the  
12 receipt of its registration statement, otherwise the  
13 registration statement is deemed to be approved. Within seven  
14 days after receipt of a notification that the registration  
15 requirements are not satisfied, the professional fundraising  
16 counsel may request a hearing. The hearing must be held within  
17 seven days of receipt of the request, and a determination must  
18 be rendered within three working days of the hearing.

19 (d) Written contract.--There shall be a written contract  
20 between a charitable organization and a professional fundraising  
21 counsel which shall be filed by the professional fundraising  
22 counsel with the department at least 10 working days prior to  
23 the performance by the professional fundraising counsel of any  
24 service. No solicitation or services pursuant to the contract  
25 shall begin before the department has approved the contract  
26 under subsection (e). The contract must be signed by two  
27 authorized officials of the charitable organization, one of whom  
28 must be a member of the organization's governing body, and the  
29 authorized contracting officer for the professional fundraising  
30 counsel. The contract shall contain all of the following

1 provisions:

2 (1) The legal name and address of the charitable  
3 organization as registered with the department unless that  
4 charitable organization is exempt from registration.

5 (2) A statement of the charitable purpose for which the  
6 solicitation campaign is being conducted.

7 (3) A statement of the respective obligations of the  
8 professional fundraising counsel and the charitable  
9 organization.

10 (4) A clear statement of the fees which will be paid to  
11 the professional fundraising counsel.

12 (5) The effective and termination dates of the contract.  
13 If the contract does not have a set termination date the  
14 contract shall contain a clause allowing either party a  
15 reasonable period to terminate the contract or notify the  
16 other party if either party chooses not to renew. The  
17 contract shall also contain the date services will commence  
18 with respect to solicitation in this Commonwealth of  
19 contributions for a charitable organization.

20 (6) A statement that the professional fundraising  
21 counsel will not at any time have custody or control of  
22 contributions.

23 (7) A statement that the charitable organization  
24 exercises control and approval over the content and volume of  
25 any solicitation.

26 (8) Any other information required by the regulations of  
27 the department.

28 (e) Department review of contract.--The department shall  
29 examine each contract filed by a professional fundraising  
30 counsel and shall determine whether the contract contains the

1 required information. If the department determines that the  
2 requirements are not satisfied, the department must notify the  
3 professional fundraising counsel within 10 working days of its  
4 receipt of the contract. Otherwise, the contract is deemed to be  
5 approved. Within seven days after receipt of a notification that  
6 the requirements are not satisfied, the professional fundraising  
7 counsel may request a hearing. The hearing must be held within  
8 seven days of receipt of the request and a determination must be  
9 rendered within three working days of the hearing.

10 § 1309. Registration of professional solicitors and contracts.

11 (a) Registration and approval required.--No person shall act  
12 as a professional solicitor before obtaining department approval  
13 of a registration statement under subsection (d) or after the  
14 expiration, suspension or revocation of registration. A  
15 registration application shall be signed and made by the  
16 principal officer of the professional solicitor subject to 18  
17 Pa.C.S. § 4904 (relating to unsworn falsification to  
18 authorities) and shall contain all of the following information:

19 (1) The address of the principal place of business of  
20 the applicant and any addresses within this Commonwealth, if  
21 the principal place of business is located outside this  
22 Commonwealth.

23 (2) The form of the applicant's business.

24 (3) The names and residence addresses of all principals  
25 of the applicant, including all officers, directors and  
26 owners.

27 (4) Whether any of the owners, directors, officers or  
28 employees of the applicant are related by blood, marriage or  
29 adoption to any other directors, officers, owners or  
30 employees of the applicant, any officer, director, trustee or

1 employee of any charitable organization under contract to the  
2 applicant or any supplier or vendor providing goods or  
3 services to any charitable organization under contract to the  
4 applicant.

5 (5) The name of all persons in charge of any  
6 solicitation activity.

7 (6) Any other information required by the regulations of  
8 the department.

9 (b) Registration fee.--The application for registration  
10 shall be accompanied by a fee of \$250. A professional solicitor  
11 which is a partnership or corporation may register for and pay a  
12 single fee on behalf of all of its partners, members, officers,  
13 directors, agents and employees. Each registration shall be  
14 valid for one year and may be renewed for additional one-year  
15 periods upon application to the department and payment of the  
16 registration fee.

17 (c) Bond.--A professional solicitor shall, at the time of  
18 making application for registration or renewal of registration,  
19 file with and have approved by the department a bond, in which  
20 it shall be the principal obligor, in the sum of \$25,000, or a  
21 greater amount as prescribed by the regulations of the  
22 department, and which shall have one or more sureties  
23 satisfactory to the department whose liability in the aggregate  
24 as sureties will at least equal that sum and maintain the bond  
25 in effect as long as the registration is in effect. The bond  
26 shall run to the Commonwealth for use of the secretary, Attorney  
27 General and any person who may have a cause of action against  
28 the obligor for any losses resulting from malfeasance,  
29 nonfeasance or misfeasance in the conduct of solicitation  
30 activities. A professional solicitor which is a partnership or

1 corporation may file one \$25,000 bond or an amount specified by  
2 regulation of the department on behalf of all of its partners,  
3 members, officers, directors, agents and employees.

4 (d) Department review of registration statement.--The  
5 department shall examine each registration statement and  
6 supporting documents filed by a professional solicitor and shall  
7 determine whether the registration requirements are satisfied.  
8 If the department determines that the registration requirements  
9 are not satisfied, the department must notify the professional  
10 solicitor within 10 working days of its receipt of the  
11 registration statement. Otherwise, the registration statement is  
12 deemed to be approved. Within seven days after receipt of a  
13 notification that the regulation requirements are not satisfied,  
14 the professional solicitor may request a hearing. The hearing  
15 must be held within seven days of receipt of the request and a  
16 determination must be rendered within three working days of the  
17 hearing.

18 (e) Contract filing.--No less than 10 working days prior to  
19 the commencement of each solicitation campaign, event or  
20 services, a professional solicitor shall file with the  
21 department a copy of the contract described in subsection (f)  
22 and a written solicitation notice. No solicitation or services  
23 pursuant to the contract shall begin before the department has  
24 approved the contract under subsection (g). The solicitation  
25 notice shall be accompanied by a fee of \$25 and shall be signed  
26 and sworn to by the authorized contracting officer for the  
27 professional solicitor. If more than one event or campaign is  
28 conducted under a contract, then a solicitation notice addendum  
29 must be filed no less than 10 working days prior to the  
30 commencement of each additional event or campaign. No additional

1 fee is required to file the addendum. The solicitation notice  
2 and addendum shall contain all of the following information:

3 (1) A description of the solicitation event or campaign.

4 (2) Each location and telephone number from which the  
5 solicitation is to be conducted.

6 (3) The legal name and resident address of each person  
7 responsible for directing and supervising the conduct of the  
8 campaign and each person who is to solicit during the  
9 campaign.

10 (4) A statement as to whether the professional solicitor  
11 will at any time have custody or control of contributions.

12 (5) The account number and location of each bank account  
13 where receipts from the campaign are to be deposited.

14 (6) A full and fair description of the charitable  
15 program for which the solicitation campaign is being carried  
16 out.

17 (7) The date the solicitation campaign or event will  
18 begin or be held within this Commonwealth and the termination  
19 date for each campaign or event.

20 (8) Any other information required by the regulations of  
21 the department.

22 (f) Written contract.--There shall be a written contract  
23 between a professional solicitor and a charitable organization  
24 for each solicitation campaign which shall be signed by two  
25 authorized officials of the charitable organization, one of whom  
26 must be a member of the organization's governing body, and the  
27 authorized contracting officer for the professional solicitor.

28 The contract shall contain all of the following provisions:

29 (1) The legal name and address of the charitable  
30 organization as registered with the department, unless that

1 charitable organization is exempt from registration.

2 (2) A statement of the charitable purpose for which the  
3 solicitation campaign is being conducted.

4 (3) A statement of the respective obligations of the  
5 professional solicitor and the charitable organization.

6 (4) A statement of the guaranteed minimum percentage of  
7 the gross receipts from contributions which will be remitted  
8 to or retained by the charitable organization, if any, or, if  
9 the solicitation involves the sale of goods, services or  
10 tickets to a fundraising event, the percentage of the  
11 purchase price which will be remitted to the charitable  
12 organization, if any. Any stated percentage shall exclude any  
13 amount which the charitable organization is to pay as  
14 fundraising costs.

15 (5) A statement of the percentage of the gross revenue  
16 which the professional solicitor will be compensated. The  
17 stated percentage shall include any amount which the  
18 professional solicitor is to be reimbursed as payment for  
19 fundraising costs. If the compensation of the professional  
20 solicitor is not contingent upon the number of contributions  
21 or the amount of revenue received, the compensation shall be  
22 expressed as a reasonable estimate of the percentage of the  
23 gross revenue, and the contract shall clearly disclose the  
24 assumptions upon which the estimate is based. The stated  
25 assumptions shall be based upon all of the relevant facts  
26 known to the professional solicitor regarding the  
27 solicitation to be conducted by the professional solicitor.

28 (6) The effective and termination dates of the contract.  
29 If the contract does not have a set termination date, the  
30 contract shall contain a clause allowing either party a



1 reasonable period to terminate the contract or notify the  
2 other party if either party chooses not to renew. The  
3 contract shall also contain the date solicitation activity is  
4 to commence within this Commonwealth.

5 (7) Any other information required by the regulations of  
6 the department.

7 (g) Department review of contract.--The department shall  
8 examine each contract and solicitation notice filed by a  
9 professional solicitor and shall determine whether the contract  
10 and notice contain the required information. If the department  
11 determines that the requirements are not satisfied, the  
12 department must notify the professional solicitor within 10  
13 working days of its receipt of the contract and notice.

14 Otherwise, the contract and notice are deemed to be approved.  
15 Within seven days after receipt of a notification that the  
16 requirements are not satisfied, the professional solicitor may  
17 request a hearing. The hearing must be held within seven days of  
18 receipt of the request, and a determination must be rendered  
19 within three working days of the hearing.

20 (h) Required disclosures.--Prior to orally requesting a  
21 contribution or contemporaneously with a written request for a  
22 contribution, a professional solicitor shall be responsible for  
23 clearly and conspicuously disclosing:

24 (1) The name of the professional solicitor as on file  
25 with the department and that the solicitation is being  
26 conducted by a professional solicitor who is being paid for  
27 the solicitor's services.

28 (2) If the individual acting on behalf of the  
29 professional solicitor is identified by name, the  
30 individual's legal name.

1           (3) The legal name of the charitable organization as  
2 registered with the department and a description of how the  
3 contributions raised by the solicitation will be utilized for  
4 a charitable purpose or, if there is no charitable  
5 organization, a description as to how the contributions  
6 raised by the solicitation will be utilized for a charitable  
7 purpose.

8           (i) Responses.--Any responses given by or on behalf of a  
9 professional solicitor to an oral or written request for  
10 information shall be truthful.

11           (j) Information on disclosure.--In the case of a  
12 solicitation campaign conducted orally, whether by telephone or  
13 otherwise, any written confirmation, receipt and reminder sent  
14 to any person who has contributed or has pledged to contribute  
15 shall include a clear and conspicuous disclosure of the  
16 information required by subsection (h).

17           (k) Notice.--In addition to the information required by  
18 subsection (j), any written confirmation, receipt and reminder  
19 of a contribution made under an oral solicitation and any  
20 written solicitation shall conspicuously state verbatim:

21           The official registration and financial information of  
22 (insert the legal name of the charity as registered with  
23 the department) may be obtained from the Pennsylvania  
24 Department of State. Registration does not imply  
25 endorsement.

26           (l) Financial reports.--Within 90 days after a solicitation  
27 campaign or event has been completed and on the anniversary of  
28 the commencement of a solicitation campaign lasting more than  
29 one year, a professional solicitor shall file with the  
30 department a financial report for the campaign, including gross

1 revenue and an itemization of all expenses incurred. This report  
2 shall be signed and sworn to by the authorized contracting agent  
3 for the professional solicitor and two authorized officials of  
4 the charitable organization.

5 (m) Retention of records.--A professional solicitor shall  
6 maintain during each solicitation campaign and for not less than  
7 three years after the completion of the campaign the following  
8 records, which shall be available for inspection upon demand by  
9 the department or the Office of Attorney General:

10 (1) The date and amount of each contribution received  
11 and the name and address of each contributor.

12 (2) The name and residence of each employee, agent or  
13 other person involved in the solicitation.

14 (3) Records of all revenue received and expenses  
15 incurred in the course of the solicitation campaign.

16 (4) The location and account number of each bank or  
17 other financial institution account in which the professional  
18 solicitor has deposited revenue from the solicitation  
19 campaign.

20 (n) Records from ticket sales.--If the professional  
21 solicitor sells tickets to an event and represents that tickets  
22 will be donated for use by another, the professional solicitor  
23 shall maintain, for not less than three years after the  
24 completion of the event, the following records, which shall be  
25 available for inspection upon demand by the department or the  
26 Office of Attorney General:

27 (1) The number of tickets purchased and donated by each  
28 contributor.

29 (2) The name and address of all organizations receiving  
30 donated tickets for use by others, including the number of

1 tickets received by each organization.

2 (o) Deposit of contributions.--Each contribution in the  
3 control or custody of the professional solicitor shall, in its  
4 entirety and within five days of its receipt, be deposited in an  
5 account at a bank or other federally insured financial  
6 institution which shall be in the name of the charitable  
7 organization. The charitable organization shall maintain and  
8 administer the account and shall have sole control of all  
9 withdrawals.

10 (p) Updating of information.--Any material change in any  
11 information filed with the department under this section shall  
12 be reported in writing by the professional solicitor to the  
13 department not more than seven days after the change occurs.

14 (q) Restrictions.--

15 (1) No person may act as a professional solicitor if the  
16 person, any officer or director, any person with a  
17 controlling interest or any person the professional solicitor  
18 employs, engages or procures to solicit for compensation has  
19 been convicted, by a court of any state or the United States,  
20 of any felony or of any misdemeanor involving dishonesty or  
21 arising from the conduct of a solicitation for a charitable  
22 organization or purpose.

23 (2) A professional solicitor shall not solicit in this  
24 Commonwealth on behalf of a charitable organization unless  
25 that charitable organization is registered or is exempt from  
26 registration with the department.

27 § 1310. Contracts voidable by charitable organizations.

28 (a) Contracts with registered groups.--No professional  
29 fundraising counsel or professional solicitor shall contract  
30 with a charitable organization unless the professional

1 fundraising counsel or professional solicitor is registered with  
2 the department. A contract with an unregistered professional  
3 fundraising counsel or professional solicitor shall be voidable  
4 at the option of the charitable organization.

5 (b) Cancellation of contract.--Whenever a charitable  
6 organization contracts with a professional fundraising counsel  
7 or professional solicitor, the charitable organization shall  
8 have the right to cancel the contract without cost, penalty or  
9 liability for a period of 10 days following the date on which  
10 that contract is executed. Any provision in the contract that is  
11 intended to waive this right of cancellation shall be void and  
12 unenforceable.

13 (c) Manner of cancellation.--A charitable organization may  
14 cancel a contract under subsection (b) by serving a written  
15 notice of cancellation on the professional fundraising counsel  
16 or professional solicitor. If mailed, service shall be by  
17 certified mail, return receipt requested, and cancellation shall  
18 be deemed effective upon receipt by the professional fundraising  
19 counsel or professional solicitor. The notice shall be  
20 sufficient if it indicates that the charitable organization does  
21 not intend to be bound by the contract.

22 (d) Cancellation notice to department.--Whenever a  
23 charitable organization cancels a contract under the provisions  
24 of this section, it shall mail a duplicate copy of the notice of  
25 cancellation to the department.

26 (e) Status of funds after cancellation.--Any funds collected  
27 after effective notice that a contract has been canceled shall  
28 be deemed to be held in trust for the benefit of the charitable  
29 organization without deduction for costs or expenses of any  
30 nature. A charitable organization shall be entitled to recover

1 all funds collected after the date of cancellation.

2 § 1311. Information filed to become public records.

3 Except as otherwise provided in section 1312 (relating to  
4 records to be kept by charitable organizations, professional  
5 fundraising counsels and professional solicitors), registration  
6 statements and applications, reports, notices, contracts or  
7 agreements between charitable organizations and professional  
8 fundraising counsel, professional solicitors and commercial  
9 coventurers, and all other documents and information required to  
10 be filed under this chapter with the department, shall become  
11 public records in the office of the bureau and shall be open to  
12 the general public at the time and under conditions the  
13 department prescribes.

14 § 1312. Records to be kept by charitable organizations,  
15 professional fundraising counsels and professional  
16 solicitors.

17 (a) True and accurate fiscal records.--A charitable  
18 organization, professional fundraising counsel and professional  
19 solicitor subject to the provisions of this chapter shall, in  
20 accordance with the rules and regulations prescribed by the  
21 department, keep true fiscal records as to its activities in  
22 this Commonwealth as may be covered under this chapter, in a  
23 form to enable them to accurately provide the information  
24 required under this chapter.

25 (b) Availability for inspection.--Except as provided in  
26 subsection (c), the records shall be made available for  
27 inspection upon demand by the department or the Office of  
28 Attorney General.

29 (c) Nonpublic records.--Notwithstanding subsection (b),  
30 names, addresses and identities of contributors and amounts

1 contributed by them shall not be considered a matter of public  
2 record. This information shall generally:

3 (1) Not be made available for public inspection.

4 (2) Not be used for a purpose inconsistent with this  
5 chapter.

6 (3) Be removed from the records in the custody of the  
7 department at the time that the information is no longer  
8 necessary for the enforcement of this chapter.

9 (d) Term of record retention.--Records shall be maintained  
10 for a period of at least three years after the end of the period  
11 of registration to which they relate.

12 § 1313. Limitation on activities of charitable organizations  
13 and disclosure requirements.

14 (a) Solicitation limitation.--A charitable organization may  
15 only solicit contributions for the charitable purpose expressed  
16 in a solicitation for contributions or the registration  
17 statement of the charitable organization and may only apply  
18 contributions in a manner substantially consistent with that  
19 purpose.

20 (b) Solicitation disclosures.--A charitable organization  
21 soliciting in this Commonwealth shall disclose the following at  
22 the point of solicitation:

23 (1) Its legal name and address as registered with the  
24 department. If different, the legal name and address of the  
25 charitable organization, as registered with the department,  
26 on whose behalf the solicitation is being conducted. Any use  
27 of a project or program name in a solicitation must be  
28 followed immediately by a disclosure of the legal, registered  
29 name of the charitable organization.

30 (2) If requested, the name and address or telephone

1 number of a representative to whom inquiries could be  
2 addressed.

3 (3) A full and fair description of the charitable  
4 purpose or purposes for which the solicitation is being made  
5 and a source from which written information is available.

6 (4) If requested, the source from which a financial  
7 statement may be obtained. The financial statement shall:

8 (i) Be consistent with the annual financial report  
9 requested under section 1305 (relating to registration of  
10 charitable organizations; financial reports; fees;  
11 failure to file).

12 (ii) Disclose assets, liabilities, fund balances,  
13 revenue and expenses for the preceding fiscal year.

14 (iii) List expenses separately, under the categories  
15 of Program Services, Administrative Costs and Fundraising  
16 Costs.

17 (c) Notice on printed solicitation.--On every printed  
18 solicitation or written confirmation, receipt and reminder of a  
19 contribution, the following statement must be printed  
20 conspicuously, verbatim:

21 The official registration and financial information of  
22 (insert the legal name of the charity as registered with  
23 the department) may be obtained from the Pennsylvania  
24 Department of State. Registration does not imply  
25 endorsement.

26 (d) Misrepresentation.--A misrepresentation is accomplished  
27 by words, conduct or failure to disclose a material fact. A  
28 charitable organization may not misrepresent any of the  
29 following:

30 (1) Its purpose.



1           (2) Its nature.

2           (3) The purpose of a solicitation.

3           (4) The beneficiary of a solicitation.

4           (e) Control over fundraising activities.--A charitable  
5 organization must establish and exercise control over  
6 fundraising activities conducted for its benefit, including  
7 approval of all written contracts and agreements, and must  
8 assure that fundraising activities are conducted without  
9 coercion.

10          (f) Restrictions on certain contracts.--A charitable  
11 organization shall not enter into a contract or agreement with  
12 or employ any professional fundraising counsel or professional  
13 solicitor unless the counsel or solicitor is registered with the  
14 department.

15          (g) Registration with department required.--A charitable  
16 organization shall not enter into a contract or agreement with  
17 or raise any funds for a charitable organization required to be  
18 registered under this chapter unless both charitable  
19 organizations are registered with the department.

20          (h) Deposit of contributions.--Each contribution in the  
21 control or custody of a professional solicitor shall, in its  
22 entirety and within five days of its receipt, be deposited,  
23 maintained and administered in an account at a bank or other  
24 federally insured financial institution. The account shall be in  
25 the name of the charitable organization, which shall have sole  
26 control of all account withdrawals.

27          § 1314. Reciprocal agreements.

28          (a) Authorization.--The secretary may enter into reciprocal  
29 agreements with the appropriate authority of any other state for  
30 the purpose of exchanging information with respect to charitable

1 organizations, professional fundraising counsel and professional  
2 solicitors.

3 (b) Effect.--Pursuant to any reciprocal agreement, the  
4 secretary may accept information filed by a charitable  
5 organization, professional fundraising counsel or professional  
6 solicitor with the appropriate authority of another state in  
7 lieu of the information required to be filed in accordance with  
8 this chapter if the information is substantially similar to the  
9 information required under this chapter.

10 (c) Annual registration exemption.--The secretary may grant  
11 exemptions from the requirements for the filing of annual  
12 registration statements with the department to a charitable  
13 organization if the following apply:

14 (1) It is organized under the laws of another state.

15 (2) It has its principal place of business outside this  
16 Commonwealth.

17 (3) Its funds are derived principally from sources  
18 outside this Commonwealth.

19 (4) It has been exempted from the filing of registration  
20 statements by the state under whose laws it is organized if  
21 the state has a statute similar in substance to the  
22 provisions of this chapter.

23 § 1315. Prohibited acts.

24 (a) General rule.--Regardless of a person's intent or the  
25 lack of injury the following acts and practices are prohibited  
26 in the planning, conduct or execution of a solicitation or  
27 charitable sales promotion:

28 (1) Operating in violation of or failing to comply with  
29 any requirement of this chapter, regulation of the department  
30 or order of the secretary.

1           (2) Soliciting contributions after registration with the  
2 department has expired or has been suspended or revoked.

3           (3) Soliciting contributions prior to the solicitation  
4 notice and contract having been approved by the department.

5           (4) Utilizing any unfair or deceptive acts or practices  
6 or engaging in any fraudulent conduct which creates a  
7 likelihood of confusion or of misunderstanding.

8           (5) Conveying any representation that implies the  
9 contribution is for or on behalf of a charitable organization  
10 or utilizing an emblem, device or printed matter belonging to  
11 or associated with a charitable organization without first  
12 being authorized in writing to do so by the charitable  
13 organization.

14           (6) Utilizing a name, symbol or statement so closely  
15 related or similar to that used by another charitable  
16 organization or other person that the use would tend to  
17 confuse or mislead a solicited person.

18           (7) Misrepresenting or misleading anyone in any manner  
19 to believe that the person on whose behalf a solicitation or  
20 charitable sales promotion is being conducted is a charitable  
21 organization or that the proceeds of the solicitation or  
22 charitable sales promotion will be used for charitable  
23 purposes when this is not the fact.

24           (8) Misrepresenting to or misleading anyone in any  
25 manner so as to allow the belief that another person  
26 sponsors, endorses or approves the solicitation or charitable  
27 sales promotion when in fact the other person has not given  
28 consent in writing to the use of that person's name for these  
29 purposes.

30           (9) Misrepresenting to or misleading anyone in any

1 manner so as to allow the belief that goods or services have  
2 sponsorship, approval, characteristics, ingredients, uses,  
3 benefits or qualities that they do not have or that a person  
4 has a sponsorship, approval, status, affiliation or  
5 connection that the person in fact does not have.

6 (10) Utilizing or exploiting the fact of registration so  
7 as to lead a person to believe that the registration in any  
8 manner constitutes an endorsement or approval by the  
9 Commonwealth. The use of the following statement shall not be  
10 deemed a prohibited exploitation:

11 The official registration and financial information of  
12 (insert the legal name of the charity as registered with  
13 the department) may be obtained from the Pennsylvania  
14 Department of State. Registration does not imply  
15 endorsement.

16 (11) Representing directly or by implication that a  
17 charitable organization will receive an amount greater than  
18 the actual net proceeds reasonably estimated to be retained  
19 by the charity for its use.

20 (12) With respect to solicitations by professional  
21 solicitors on behalf of law enforcement personnel,  
22 firefighters or other persons who protect the public safety,  
23 issuing, offering, giving, delivering or distributing  
24 honorary membership cards, courtesy cards or similar cards or  
25 any stickers, emblems, plates or other items which could be  
26 used for display on a motor vehicle.

27 (13) Violating the following:

28 (i) Soliciting for advertising to appear in a for-  
29 profit publication which relates to, purports to relate  
30 to or which could reasonably be construed to relate to

1 any charitable purpose without making the following  
2 disclosures at the time of solicitation:

3 (A) The publication is a for-profit, commercial  
4 enterprise.

5 (B) The true name of the solicitor and the fact  
6 that the solicitor is a professional solicitor.

7 (C) The publication is not directly affiliated  
8 with or sponsored by any charitable organization.

9 (ii) Where a sale of advertising has been made, the  
10 solicitor, prior to accepting any money for the sale,  
11 shall present the purchaser with the same disclosures as  
12 are set forth in subparagraph (i) in written form and in  
13 conspicuous type.

14 (14) Representing that a part of contributions received  
15 will be given or donated to another charitable organization  
16 unless that organization has consented in writing to the use  
17 of its name prior to the solicitation. The written consent  
18 shall be signed by two authorized officers, directors or  
19 trustees of the charitable organization.

20 (15) Representing that tickets to events will be donated  
21 for use by another, unless all of the following requirements  
22 have been met:

23 (i) The charitable organization or professional  
24 solicitor has commitments, in writing, from charitable  
25 organizations stating that they will accept donated  
26 tickets and specifying the number of tickets they are  
27 willing to accept.

28 (ii) The charitable organization or professional  
29 solicitor does not solicit or accept more contributions  
30 of donated tickets than the lesser of:

1           (A) the number of ticket commitments it has  
2           received from charitable associations; or

3           (B) the total attendance capacity of the site of  
4           the event.

5           (iii) A ticket commitment alone, as described in  
6           this subsection, does not constitute written consent to  
7           use the organization's name in the solicitation campaign.

8           (b) Criteria to determine unfairness.--In determining  
9           whether or not a practice is unfair, deceptive, fraudulent or  
10           misleading under this section, definitions, standards or  
11           interpretations relating to the practice under the act of  
12           December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade  
13           Practices and Consumer Protection Law, shall apply.

14           § 1316. Investigation.

15           (a) Permissible investigations.--The Attorney General, the  
16           secretary or a district attorney with jurisdiction may make or  
17           cause to be made an investigation of any person as deemed  
18           necessary. In conducting the investigation, the official may:

19           (1) Require or permit a person to file a statement in  
20           writing, under oath or otherwise, as to all the facts and  
21           circumstances concerning the matter being investigated.

22           (2) Administer oaths or affirmations.

23           (3) Take testimony under oath.

24           (4) Require the attendance and testimony of witnesses  
25           and the production of books, accounts, papers, records,  
26           documents, audits and files relating to a solicitation or  
27           practice subject to this chapter or the regulations of the  
28           department promulgated pursuant to the authority of this  
29           chapter.

30           (5) Issue subpoenas.

1           (6) Conduct private or public hearings.

2           (7) Examine witnesses and receive evidence during an  
3           investigation or public or private hearings.

4           (b) Notice.--Notice of the time and place for the  
5           examination of documentary material shall be given by the  
6           Attorney General, the secretary or the district attorney at  
7           least 10 days prior to the date of the examination or taking of  
8           testimony.

9           (c) Contents of notice.--Each notice shall:

10           (1) State the time and place for the taking of testimony  
11           or the examination and the name and address of the person to  
12           be examined, if known, or, if the name is not known, a  
13           general description sufficient to identify the person or the  
14           particular class or group to which the person belongs.

15           (2) State the statute, if any, proscribing the alleged  
16           violation which is under investigation and the general  
17           subject matter of the investigation.

18           (3) Describe the class or classes of documentary  
19           material to be produced under the notice with reasonable  
20           specificity, so as to fairly indicate the material demanded.

21           (4) Prescribe a return date within which the documentary  
22           material is to be produced.

23           (5) Identify the members of the Office of Attorney  
24           General's staff, the secretary's staff or the district  
25           attorney's staff to whom the documentary material is to be  
26           made available for inspection and copying.

27           (d) Restrictions on notices.--No notice shall contain any  
28           requirement which would be unreasonable or improper if contained  
29           in a subpoena duces tecum issued by a court of the Commonwealth.

30           (e) Restriction on materials.--

1           (1) Except as provided under paragraph (2), any  
2           documentary material or other information produced by a  
3           person in accordance with this section shall not, unless  
4           otherwise ordered by a court of competent jurisdiction for  
5           good cause shown, be produced for inspection or copying by or  
6           disclosed to a person other than the authorized  
7           representative of the Attorney General, the secretary or the  
8           district attorney without the consent of the person who  
9           produced the material.

10           (2) Under reasonable terms and conditions that the  
11           Attorney General, the secretary or the district attorney  
12           shall prescribe, documentary material in paragraph (1) shall  
13           be available for inspection and copying by the person who  
14           produced the material or a duly authorized representative of  
15           the person. The Attorney General, the secretary or the  
16           district attorney or a duly authorized representative may use  
17           the documentary material or copies as the official may  
18           determine is necessary in the enforcement of this chapter,  
19           including production at a subsequent administrative or  
20           judicial proceeding.

21           (f) Compliance.--A person upon whom a notice is served  
22           pursuant to this section shall comply with the terms of the  
23           notice unless otherwise provided by an order of court. The  
24           Attorney General or the district attorney may petition for an  
25           order of court for enforcement of this section. Additionally,  
26           the secretary may take appropriate action to petition for an  
27           order of court for the enforcement of this section in accordance  
28           with the act of October 15, 1980 (P.L.950, No.164), known as the  
29           Commonwealth Attorneys Act.

30           (g) Contempt of final order.--Any disobedience of a final



1 order entered under this section by a court shall be punishable  
2 as contempt.

3 (h) Civil penalties.--Any person shall be assessed a civil  
4 penalty of not more than \$5,000 if the person does any of the  
5 following:

6 (1) Fails to appear.

7 (2) With intent, avoids, evades or prevents compliance  
8 with, in whole or in part, any civil investigation under this  
9 chapter.

10 (3) Removes from any place, conceals, withholds or  
11 destroys, mutilates, alters or by any other means falsifies  
12 any documentary material in the possession, custody or  
13 control of a person subject to any notice.

14 (4) Knowingly conceals any relevant information.

15 (i) Service.--Service of a subpoena may be made in any of  
16 the following ways:

17 (1) Delivering a duly executed copy to the person to be  
18 served or to a partner or to any officer or agent authorized  
19 by appointment or by law to receive service of process on  
20 behalf of the person.

21 (2) Delivering a duly executed copy to the principal  
22 place of business in this Commonwealth of the person to be  
23 served.

24 (3) Mailing by registered or certified mail a duly  
25 executed copy addressed to the person to be served at the  
26 person's principal place of business in this Commonwealth or,  
27 if the person has no place of business in this Commonwealth,  
28 to the last address of the person known to the secretary.

29 (4) Appointing the secretary as its agent if the  
30 charitable organization, fundraising counsel or professional

1 solicitor has its principal place of business outside this  
2 Commonwealth or is organized under and by virtue of the laws  
3 of a foreign state, which is subject to the provisions of  
4 this chapter. The secretary shall be deemed its irrevocable  
5 agent upon whom may be served any summons, subpoena duces  
6 tecum or other process directed to the charitable  
7 organization, fundraising counsel or professional solicitor,  
8 or any partner, principal officer or director of the  
9 charitable organization, in an action or proceeding brought  
10 under the provisions of this chapter. Service of process upon  
11 the secretary shall be made by personally delivering to and  
12 leaving with the secretary a copy of the process at the  
13 secretary's office in Harrisburg, Pennsylvania. This service  
14 shall be sufficient, provided that notice of service and a  
15 copy of the process shall be sent by the secretary by  
16 registered mail to the charitable organization, fundraising  
17 counsel, professional solicitor or other person to whom it is  
18 directed, with return receipt requested, at the last address  
19 known to the secretary.

20 § 1317. Administrative enforcement and penalties.

21 (a) General rule.--The secretary may revoke, suspend or  
22 refuse to register the registration of a charitable  
23 organization, professional fundraising counsel or professional  
24 solicitor whenever the secretary finds that a charitable  
25 organization, professional fundraising counsel or professional  
26 solicitor, or an agent, servant or employee:

27 (1) Has violated or is operating in violation of any  
28 provision of this chapter, the regulations of the department  
29 promulgated under this chapter or an order issued by the  
30 secretary.

1           (2) Has refused or failed or any of its principal  
2 officers has refused or failed, after notice, to produce any  
3 records of the organization or to disclose any information  
4 required to be disclosed under this chapter or the  
5 regulations of the department.

6           (3) Has made a material false statement in an  
7 application, statement or report required to be filed under  
8 this chapter.

9           (b) Additional actions.--When the secretary finds that the  
10 registration of a person may be refused, suspended or revoked  
11 under the terms of subsection (a), the secretary may:

12           (1) Revoke a grant of exemption to any of the provisions  
13 of this chapter.

14           (2) Issue an order directing that the person cease and  
15 desist specified fundraising activities.

16           (3) Impose an administrative fine not to exceed \$1,000  
17 for each act or omission which constitutes a violation of  
18 this chapter and an additional penalty not to exceed \$100 for  
19 each day during which the violation continues. Registration  
20 will be automatically suspended upon final affirmation of an  
21 administrative fine until the fine is paid or until the  
22 normal expiration date of the registration. No registration  
23 may be renewed until the fine is paid.

24           (4) Place a registrant on probation for a period of time  
25 and subject to conditions as the secretary may decide.

26           (c) Administrative procedures.--Actions of the secretary are  
27 subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and  
28 procedure of Commonwealth agencies) and 7 Subch. A (relating to  
29 judicial review of Commonwealth agency action).

30 § 1318. Criminal penalties.

1 (a) Deceit or fraud violation.--A person who willfully and  
2 knowingly violates any provision of this chapter with intent to  
3 deceive or defraud a charity or individual commits a misdemeanor  
4 of the first degree and shall, upon conviction, be sentenced to  
5 pay a fine not exceeding \$10,000 or to imprisonment for not more  
6 than five years, or both.

7 (b) Other violations.--Any other violation of this chapter  
8 shall constitute a misdemeanor of the third degree punishable,  
9 upon conviction, by a fine not exceeding \$2,500 or to  
10 imprisonment for not more than one year, or both.

11 (c) Location of offense.--An offense committed under this  
12 chapter involving a solicitation may be deemed to have been  
13 committed at either the place at which the solicitation was  
14 initiated or at the place where the solicitation was received.  
15 § 1319. Civil penalties.

16 (a) General rule.--Whenever the Attorney General or any  
17 district attorney shall have reason to believe, or shall be  
18 advised by the secretary, that a person is operating in  
19 violation of the provisions of this chapter, the Attorney  
20 General or district attorney may bring an action in the name of  
21 the Commonwealth against that person to enjoin the person from  
22 continuing the violation and for other relief as the court deems  
23 appropriate. In a proceeding under this subsection, the court  
24 may make appropriate orders, including:

25 (1) the appointment of a master or receiver;

26 (2) the sequestration of assets;

27 (3) the reimbursement of persons from whom contributions  
28 have been unlawfully solicited;

29 (4) the distribution of contributions in accordance with  
30 the charitable purpose expressed in the registration

1 statement or in accordance with the representations made to  
2 the person solicited;

3 (5) the reimbursement of the Commonwealth for attorney  
4 fees and the costs of investigation, including audit costs;

5 (6) the assessment of a civil penalty not exceeding  
6 \$1,000 per violation of this act, which penalty shall be in  
7 addition to any other relief which may be granted; and

8 (7) the granting of other appropriate relief.

9 (b) Assurance of voluntary compliance.--In any case where  
10 the Attorney General or a district attorney has authority to  
11 institute an action or proceeding under this chapter, the  
12 official may accept an assurance of voluntary compliance through  
13 which a person alleged to be engaged in any method, act or  
14 practice in violation of this chapter agrees to discontinue the  
15 method, act or practice.

16 (1) An assurance of compliance:

17 (i) May, among other terms, include a stipulation of  
18 a voluntary payment by the person of the cost of the  
19 investigation or of an amount to be held in escrow  
20 pending the outcome of an action or as restitution to  
21 aggrieved persons, or both.

22 (ii) Shall be in writing.

23 (iii) Shall be filed with a court of the  
24 Commonwealth.

25 (2) In the event of an alleged violation of the  
26 assurance of voluntary compliance, the Attorney General or a  
27 district attorney may either initiate contempt proceedings or  
28 proceed as if the assurance of voluntary compliance has not  
29 been accepted. Evidence of a violation of the assurance shall  
30 be prima facie evidence of a violation of this chapter in a

1 subsequent proceeding brought by the Attorney General or  
2 district attorney.

3 (3) Matters closed may be reopened at any time by the  
4 court for further proceedings in the public interest.

5 § 1320. Additional regulations by counties, municipalities or  
6 consolidated government.

7 Nothing contained in this chapter shall serve to deny the  
8 right to a county, municipality or consolidated government to  
9 pass ordinances, rules and regulations as may be deemed  
10 appropriate to regulate further the soliciting of contributions  
11 within the county, municipality or consolidated government. The  
12 ordinance may not alter any of the obligations set forth in this  
13 chapter or the regulations of the department but may add other  
14 requirements and rules as appear to be proper to the county,  
15 municipality or consolidated government involved.

16 § 1321. Charitable organizations deemed fiduciary.

17 Every person soliciting, collecting or expending  
18 contributions for charitable purposes and every officer,  
19 director, trustee and employee of the person concerned with the  
20 solicitation, collection or expenditure of the contribution  
21 shall be deemed to be a fiduciary and acting in a fiduciary  
22 capacity.

23 § 1322. Prior registration unaffected.

24 A person who is registered with the department under the  
25 former act of April 30, 1986 (P.L.107, No.36), known as the  
26 Charitable Organization Reform Act, prior to February 19, 1991,  
27 shall, on and after February 19, 1991, be deemed to be  
28 registered with the department as provided for in this chapter.  
29 Registration shall be reissued in accordance with this chapter.

30 § 1323. Regulations.

1 Regulations promulgated under the former act of April 30,  
2 1986 (P.L.107, No.36), known as the Charitable Organization  
3 Reform Act, and in effect on February 19, 1991, shall remain in  
4 effect until amended in accordance with the provisions of this  
5 chapter.

6 PART IV

7 TAX

8 Chapter

9 19. General Provisions (Reserved)

10 21. Charitable Gift Annuity Exemptions (Reserved)

11 23. Institutions of Purely Public Charity

12 CHAPTER 19

13 GENERAL PROVISIONS

14 (Reserved)

15 CHAPTER 21

16 CHARITABLE GIFT ANNUITY EXEMPTIONS

17 (Reserved)

18 CHAPTER 23

19 INSTITUTIONS OF PURELY PUBLIC CHARITY

20 Sec.

21 2301. Scope of chapter.

22 2302. Legislative intent.

23 2303. Definitions.

24 2304. State-related universities.

25 2305. Criteria for institutions of purely public charity.

26 2306. Presumption process.

27 2307. Voluntary agreements.

28 2308. Unfair competition with small businesses.

29 2309. Accountability and disclosure.

30 2310. Exemption for Federal Government instrumentality.

1 2311. Prohibited act.

2 2312. Compliance.

3 2313. Civil penalty.

4 2314. Repeals.

5 2315. Applicability.

6 § 2301. Scope of chapter.

7 This chapter relates to institutions of purely public  
8 charity.

9 § 2302. Legislative intent.

10 (a) Findings.--The General Assembly finds and declares as  
11 follows:

12 (1) It is in the best interest of the Commonwealth and  
13 its citizens that the recognition of tax-exempt status be  
14 accomplished in an orderly, uniform and economical manner.

15 (2) For more than 100 years, it has been the policy of  
16 the Commonwealth to foster the organization and operation of  
17 institutions of purely public charity by exempting them from  
18 taxation.

19 (3) Because institutions of purely public charity  
20 contribute to the common good or lessen the burden of  
21 government, the historic policy of exempting these  
22 institutions from taxation should be continued.

23 (4) Lack of specific legislative standards defining the  
24 term "institutions of purely public charity" has led to  
25 increasing confusion and confrontation among traditionally  
26 tax-exempt institutions and political subdivisions to the  
27 detriment of the public.

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



1 the Constitution of Pennsylvania.

2 (6) Recognizing the interest of the taxpayers in a fair  
3 and equitable system of property tax assessment and the  
4 attendant statutory requirements for the political  
5 subdivision responsible for maintaining real property  
6 assessment rolls to administer the system of property  
7 assessment, this chapter shall not in any way limit the  
8 responsibilities, prerogatives or abilities of political  
9 subdivisions with respect to the determination of or  
10 challenges to the taxable status of a parcel of property  
11 based on the use of the parcel or part of the parcel of  
12 property.

13 (7) Institutions of purely public charity benefit  
14 substantially from local government services. These  
15 institutions have significant value to the Commonwealth and  
16 its citizens, and the need exists for revenues to maintain  
17 local government services provided for the benefit of all  
18 citizens, including institutions of purely public charity. It  
19 is the intent of this chapter to encourage financially secure  
20 institutions of purely public charity to enter into voluntary  
21 agreements or to maintain existing or continuing agreements  
22 for the purpose of defraying some of the cost of various  
23 local government services. Payments made under the agreements  
24 shall be deemed to be in compliance with any fiduciary  
25 obligation pertaining to the institutions of purely public  
26 charity, its officers or directors.

27 (b) Intent.--It is the intent of the General Assembly to  
28 eliminate inconsistent application of eligibility standards for  
29 charitable tax exemptions, reduce confusion and confrontation  
30 among traditionally tax-exempt institutions and political

1 subdivisions and ensure that charitable and public funds are not  
2 unnecessarily diverted from the public good to litigate  
3 eligibility for tax-exempt status by providing standards to be  
4 applied uniformly in all proceedings throughout this  
5 Commonwealth for determining eligibility for exemption from  
6 State and local taxation which are consistent with traditional  
7 legislative and judicial applications of the constitutional term  
8 "institutions of purely public charity."

9 § 2303. Definitions.

10 The following words and phrases when used in this chapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Affiliate." The term includes:

14 (1) A domestic or foreign corporation, association,  
15 trust or other organization which owns a 10% or greater  
16 interest in an institution of purely public charity.

17 (2) A domestic or foreign corporation, association,  
18 trust or other organization in which an institution of purely  
19 public charity owns a 10% or greater interest.

20 "Annual return." The annual information return required to  
21 be filed with the Internal Revenue Service by institutions  
22 exempt from tax under section 501(a) of the Internal Revenue  
23 Code of 1986 consisting of Internal Revenue Service Form 990 or  
24 Form 990EZ and Schedule A or any succeeding form used for the  
25 same or similar purpose. For an institution which is not  
26 required to file the returns, the institution's annual financial  
27 statement with reported income shall constitute its annual  
28 return.

29 "Bureau." The Bureau of Charitable Organizations of the  
30 Department of State of the Commonwealth.

1 "Commercial business." The sale of products or services that  
2 are principally the same as those offered by an existing small  
3 business in the same community.

4 "Contribution." The promise, grant, pledge or gift of money,  
5 property, goods, services, financial assistance or other similar  
6 remittance.

7 "Goods or services." Goods or services which promote any of  
8 the enumerated purposes under section 2305(b) (relating to  
9 criteria for institutions of purely public charity) and which  
10 are valued in accordance with generally accepted accounting  
11 principles applicable to the institution.

12 "Government agency." Any Commonwealth agency or any  
13 political subdivision or municipal or other local authority or  
14 any officer or agency of any political subdivision or local  
15 authority.

16 "Institution." A domestic or foreign nonprofit corporation,  
17 association or trust or other similar entity.

18 "Institution of purely public charity." An institution which  
19 meets the criteria under section 2305.

20 "Internal Revenue Code of 1986." The Internal Revenue Code  
21 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

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

28 "Program service revenue." Income earned from the provision  
29 of goods or services, including government fees and contracts  
30 associated with the institution's charitable purpose, which is

1 reported on the annual return.

2 "Small business." Any self-employed individual, sole  
3 proprietorship, firm, corporation, partnership, association or  
4 other entity that:

5 (1) has fewer than 101 full-time employees; and

6 (2) is subject to income taxation under the act of March  
7 4, 1971 (P.L.6, No.2), 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 "Voluntary agreement." An agreement, contract or other  
13 arrangement for the purpose of receiving contributions under  
14 section 2307 (relating to voluntary agreements) between a  
15 political subdivision and an institution seeking or possessing  
16 an exemption as an institution of purely public charity. These  
17 contributions are for the purpose of defraying some of the cost  
18 of various local government services. The term includes the  
19 establishment of public service foundations by institutions of  
20 purely public charity.

21 § 2304. State-related universities.

22 (a) General rule.--It is the intent of the General Assembly  
23 to recognize that the State-related universities provide a  
24 direct public benefit and serve the public purposes of this  
25 Commonwealth by declaring the real property of State-related  
26 universities to be public property for purposes of exemption  
27 from State and local taxation when the property is actually and  
28 regularly used for public purposes, provided that nothing in  
29 this section is intended or shall be construed to affect the  
30 title to real property of State-related universities or the

1 power and authority of the governing bodies of State-related  
2 universities with respect to the real property. Nothing in this  
3 section is intended or shall be construed to affect, impair or  
4 terminate any contract or agreement in effect on or before  
5 November 26, 1997, by and between a State-related university and  
6 any political subdivision where the State-related university  
7 pays real estate taxes, amounts in lieu of real estate taxes or  
8 other charges, fees or contributions for government services.

9 (b) Real property.--All real property owned by State-related  
10 universities or owned by the Commonwealth and used by a State-  
11 related university is and shall be deemed public property for  
12 purposes of the Constitution of Pennsylvania and the laws of  
13 this Commonwealth relating to the assessment, taxation and  
14 exemption of real estate and shall be exempt from all State and  
15 local taxation when actually and regularly used for public  
16 purposes.

17 (c) Exception.--This section shall not include the property  
18 of a State-related university, the possession and control of  
19 which has been transferred to a for-profit entity not otherwise  
20 entitled to tax-exempt status, irrespective of whether that  
21 entity is affiliated with the university. The execution of a  
22 management services contract with a third party entity to  
23 provide operational services to the university which would  
24 otherwise be provided or conducted directly by the university  
25 shall not, however, be considered a transfer of possession and  
26 control of real property within the meaning of this section.

27 (d) Definitions.--As used in this section, the following  
28 words and phrases shall have the meanings given to them in this  
29 subsection:

30 "Public purposes." All activities relating to the

1 educational mission of State-related universities, including  
2 teaching, research, service and activities incident or ancillary  
3 to the educational mission which provide services to or for  
4 students, employees or the public.

5 "State-related universities." The Pennsylvania State  
6 University and its affiliates, the Pennsylvania College of  
7 Technology, the University of Pittsburgh, Temple University and  
8 its subsidiaries Temple University Hospital, Inc., and Temple  
9 University Children's Hospital, Inc., and Lincoln University.  
10 § 2305. Criteria for institutions of purely public charity.

11 (a) General rule.--An institution of purely public charity  
12 is an institution which meets the criteria set forth in  
13 subsections (b), (c), (d), (e) and (f). An institution which  
14 meets the criteria of this section shall be considered to be  
15 founded, endowed and maintained by public or private charity.

16 (b) Charitable purpose.--The institution must advance a  
17 charitable purpose. This criterion is satisfied if the  
18 institution is organized and operated primarily to fulfill any  
19 one or combination of the following purposes:

20 (1) Relief of poverty.

21 (2) Advancement and provision of education. This  
22 paragraph includes postsecondary education.

23 (3) Advancement of religion.

24 (4) Prevention and treatment of disease or injury,  
25 including mental retardation and mental disorders.

26 (5) Government or municipal purposes.

27 (6) Accomplishment of a purpose which is recognized as  
28 important and beneficial to the public and which advances  
29 social, moral or physical objectives.

30 (c) Private profit motive.--The institution must operate

1 entirely free from private profit motive. Notwithstanding  
2 whether the institution's revenues exceed its expenses, this  
3 criterion is satisfied if the institution meets all of the  
4 following:

5 (1) Neither the institution's net earnings nor donations  
6 which it receives inures to the benefit of private  
7 shareholders or other individuals, as the private inurement  
8 standard is interpreted under section 501(c)(3) of the  
9 Internal Revenue Code of 1986.

10 (2) The institution applies or reserves all revenue,  
11 including contributions, in excess of expenses in furtherance  
12 of its charitable purpose or to fund other institutions which  
13 meet the provisions of subsection (b) and this subsection.

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

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

24 (d) Community service.--The following shall apply:

25 (1) The institution must donate or render gratuitously a  
26 substantial portion of its services. This criterion is  
27 satisfied if the institution benefits the community by  
28 actually providing any one of the following:

29 (i) Goods or services to all who seek them without  
30 regard to a person's ability to pay for what the person

1 receives if all of the following apply:

2 (A) The institution has a written policy to this  
3 effect.

4 (B) The institution has published this policy in  
5 a reasonable manner.

6 (C) The institution provides uncompensated goods  
7 or services at least equal to 75% of the  
8 institution's net operating income but not less than  
9 3% of the institution's total operating expenses.

10 (ii) Goods or services for fees that are based upon  
11 the recipient's ability to pay for them if all of the  
12 following apply:

13 (A) The institution can demonstrate that it has  
14 implemented a written policy and a written schedule  
15 of fees based on individual or family income. An  
16 institution will meet the requirement of this clause  
17 if the institution consistently applies a formula to  
18 all individuals requesting consideration of reduced  
19 fees which is in part based on individual or family  
20 income.

21 (B) At least 20% of the individuals receiving  
22 goods or services from the institution pay no fee or  
23 a fee which is lower than the cost of the goods or  
24 services provided by the institution.

25 (C) At least 10% of the individuals receiving  
26 goods or services from the institution receive a  
27 reduction in fees of at least 10% of the cost of the  
28 goods or services provided to them.

29 (D) No individuals receiving goods or services  
30 from the institution pay a fee which is equal to or



1 greater than the cost of the goods or services  
2 provided to them or the goods or services provided to  
3 the individuals described in clause (B) are  
4 comparable in quality and quantity to the goods or  
5 services provided to those individuals who pay a fee  
6 which is equal to or greater than the cost of the  
7 goods or services provided to them.

8 (iii) Wholly gratuitous goods or services to at  
9 least 5% of those receiving similar goods or services  
10 from the institution.

11 (iv) Financial assistance or uncompensated goods or  
12 services to at least 20% of those receiving similar goods  
13 or services from the institution if at least 10% of the  
14 individuals receiving goods or services from the  
15 institution either paid no fees or fees which were 90% or  
16 less of the cost of the goods or services provided to  
17 them, after consideration of any financial assistance  
18 provided to them by the institution.

19 (v) Uncompensated goods or services which in the  
20 aggregate are equal to at least 5% of the institution's  
21 costs of providing goods or services.

22 (vi) Goods or services at no fee or reduced fees to  
23 government agencies or goods or services to individuals  
24 eligible for government programs if any one of the  
25 following applies:

26 (A) The institution receives 75% or more of its  
27 gross operating revenue from grants or fee-for-  
28 service payments by government agencies and if the  
29 aggregate amount of fee-for-service payments from  
30 government agencies does not exceed 95% of the

1 institution's costs of providing goods or services to  
2 the individuals for whom the fee-for-services  
3 payments are made.

4 (B) The institution provides goods or services  
5 to individuals with mental retardation, to  
6 individuals who need mental health services, to  
7 members of an individual's family or guardian in  
8 support of the goods or services or to individuals  
9 who are dependent, neglected or delinquent children,  
10 as long as the institution performs duties that would  
11 otherwise be the responsibility of government and the  
12 institution is restricted in its ability to retain  
13 revenue over expenses or voluntary contributions by  
14 any one of the following statutes or regulations or  
15 by contractual limitations with county children and  
16 youth offices in this Commonwealth:

17 (I) Sections 1905(d) and 1915(c) of the  
18 Social Security Act (49 Stat. 620, 42 U.S.C. §§  
19 1396d(d) and 1396n(c)).

20 (II) 42 CFR 440.150 (relating to  
21 intermediate care facility (ICF/IID) services).

22 (III) 42 CFR Pt. 483 Subpt. I (relating to  
23 conditions of participation for intermediate care  
24 facilities for individuals with intellectual  
25 disabilities).

26 (IV) The act of October 20, 1966 (3rd  
27 Sp.Sess., P.L.96, No.6), known as the Mental  
28 Health and Intellectual Disability Act of 1966.

29 (V) Articles II, VII, IX and X of the act of  
30 June 13, 1967 (P.L.31, No.21), known as the Human

1           Services Code.

2           (VI) 23 Pa.C.S. Ch. 63 (relating to child  
3           protective services).

4           (VII) 42 Pa.C.S. Ch. 63 (relating to  
5           juvenile matters).

6           (VIII) 55 Pa. Code Chs. 3170 (relating to  
7           allowable costs and procedures for county  
8           children and youth social service programs), 3680  
9           (relating to administration and operation of a  
10           children and youth social service agency), 4300  
11           (relating to county mental health and  
12           intellectual disability fiscal manual), 6210  
13           (relating to participation requirements for the  
14           intermediate care facilities for intellectual  
15           disability program), 6211 (relating to allowable  
16           cost reimbursement for non-State operated  
17           intermediate care facilities for persons with an  
18           intellectual disability), 6400 (relating to  
19           community homes for individuals with intellectual  
20           disability), 6500 (relating to family living  
21           homes) and 6600 (relating to intermediate care  
22           facilities for individuals with intellectual  
23           disability).

24           (vii) Fundraising on behalf of or grants to an  
25           institution of purely public charity, an entity similarly  
26           recognized by another state or foreign jurisdiction, a  
27           qualifying religious organization or a government agency  
28           and actual contribution of a substantial portion of the  
29           funds raised or contributions received to an institution  
30           of purely public charity, an entity similarly recognized

1 by another state or foreign jurisdiction, a qualifying  
2 religious organization or a government agency.

3 (2) The institution may elect to average the applicable  
4 data for its five most recently completed fiscal years for  
5 the purposes of calculating any formula or meeting any  
6 quantitative standard in paragraph (1).

7 (3) For purposes of calculating the number of  
8 individuals for use in the percentage calculations in this  
9 subsection, educational institutions may use full-time  
10 equivalent students as defined by the Department of  
11 Education.

12 (4) For purposes of this subsection, the term  
13 "uncompensated goods or services" shall be limited to any of  
14 the following:

15 (i) The full cost of all goods or services provided  
16 by the institution for which the institution has not  
17 received monetary compensation or the difference between  
18 the full cost and any lesser fee received for the goods  
19 or services, including the cost of the goods or services  
20 provided to individuals unable to pay.

21 (ii) The difference between the full cost of  
22 education and research programs provided by or  
23 participated in by the institution and the payment made  
24 to the institution to support the education and research  
25 programs.

26 (iii) The difference between the full cost of  
27 providing the goods or services and the payment made to  
28 the institution under any government program, including  
29 individuals covered by Medicare or Medicaid.

30 (iv) The difference between the full cost of the

1 community services which the institution provides or  
2 participates in and the payment made to the institution  
3 to support the community services.

4 (v) The reasonable value of any money, property,  
5 goods or services donated by a primary donor to an  
6 institution of purely public charity or to a government  
7 agency or the reasonable value of the net donation made  
8 by a secondary donor to a primary donor. As used in this  
9 subparagraph, the following words and phrases shall have  
10 the following meanings:

11 (A) "Net donation." In the case of a donation  
12 of money, property or identical goods and services  
13 made by a secondary donor, the difference between the  
14 value of the donation made by the secondary donor and  
15 the value of the donation made by the primary donor,  
16 provided the value is positive.

17 (B) "Primary donor." An institution which makes  
18 a donation of any money, property, goods or services  
19 to an institution of purely public charity.

20 (C) "Secondary donor." An institution which  
21 receives a donation of any money, property, goods or  
22 services from a primary donor and then makes a  
23 donation back to that primary donor within three  
24 years of having received the donation.

25 (vi) The reasonable value of volunteer assistance  
26 donated by individuals who are involved or assist in the  
27 provision of goods or services by the institution. The  
28 reasonable value of volunteer assistance, computed on an  
29 hourly basis, shall not exceed the Statewide average  
30 weekly wage as defined in section 105.1 of the act of

1 June 2, 1915 (P.L.736, No.338), known as the Workers'  
2 Compensation Act, divided by 40.

3 (vii) The cost of goods or services provided by an  
4 institution licensed by the Department of Health or the  
5 Department of Human Services to individuals who are  
6 unable to pay, provided that reasonable and customary  
7 collection efforts have been made by the institution.

8 (viii) The value of any voluntary agreement as set  
9 forth in section 2307(c) (relating to voluntary  
10 agreements).

11 (e) Charity to persons.--The following shall apply:

12 (1) The institution must benefit a substantial and  
13 indefinite class of persons who are legitimate subjects of  
14 charity.

15 (2) An institution shall be considered to benefit a  
16 substantial and indefinite class of persons who are  
17 legitimate subjects of charity if the institution is  
18 primarily engaged in fundraising on behalf of or making  
19 grants to an institution of purely public charity, an entity  
20 similarly recognized by another state or foreign  
21 jurisdiction, a qualifying religious organization or a  
22 government agency and there is actual contribution of a  
23 substantial portion of the funds raised or contributions  
24 received to an institution of purely public charity, an  
25 entity similarly recognized by another state or foreign  
26 jurisdiction, a qualifying religious organization or a  
27 government agency.

28 (3) An institution which operates exclusively on a  
29 voluntary basis to provide emergency health and safety  
30 services to the community or an institution which provides

1 funds and support exclusively to volunteer institutions which  
2 provide emergency health and safety services to the community  
3 shall be considered to benefit a substantial and indefinite  
4 class of persons who are legitimate subjects of charity.

5 (4) An institution shall not be considered to benefit a  
6 substantial and indefinite class of persons who are  
7 legitimate subjects of charity if:

8 (i) the institution is not qualified under section  
9 501(c)(3) of the Internal Revenue Code of 1986; and

10 (ii) the institution is qualified under section  
11 501(c)(4), (5), (6), (7), (8) or (9) of the Internal  
12 Revenue Code of 1986 as any of the following:

13 (A) An association of employees, the membership  
14 of which is limited to the employees of a designated  
15 person or persons.

16 (B) A labor organization.

17 (C) An agricultural or horticultural  
18 organization.

19 (D) A business league, chamber of commerce, real  
20 estate board, board of trade or professional sports  
21 league.

22 (E) A club organized for pleasure or recreation.

23 (F) A fraternal beneficiary society, order or  
24 association.

25 (5) As used in this subsection, the following words and  
26 phrases shall have the meanings given to them in this  
27 paragraph:

28 (i) "Legitimate subjects of charity." Those  
29 individuals who are unable to provide themselves with  
30 what the institution provides for them.

1           (ii) "Substantial and indefinite class of persons."  
2           Persons not predetermined in number, provided that, where  
3           the goods or services are received primarily by members  
4           of the institution, membership cannot be predetermined in  
5           number and cannot be arbitrarily denied by a vote of the  
6           existing members. This subsection specifically recognizes  
7           that the use of admissions criteria and enrollment  
8           limitations by educational institutions does not  
9           constitute predetermined membership or arbitrary  
10           restrictions on membership so as to violate this section  
11           and recognizes that an institution may reasonably deny  
12           membership based on the types of services it provides, as  
13           long as denial is not in violation of Federal or State  
14           antidiscrimination laws, such as the Civil Rights Act of  
15           1964 (Public Law 88-352, 78 Stat. 241) and the act of  
16           October 27, 1955 (P.L.744, No.222), known as the  
17           Pennsylvania Human Relations Act.

18           (f) Government service.--The institution must relieve the  
19           government of some of its burden. This criterion is satisfied if  
20           the institution meets any one of the following:

21           (1) Provides a service to the public that the government  
22           would otherwise be obliged to fund or to provide directly or  
23           indirectly or to assure that a similar institution exists to  
24           provide the service.

25           (2) Provides services in furtherance of its charitable  
26           purpose which are either the responsibility of the government  
27           by law or which historically have been assumed or offered or  
28           funded by the government.

29           (3) Receives on a regular basis payments for services  
30           rendered under a government program if the payments are less



1 than the full costs incurred by the institution, as  
2 determined by generally accepted accounting principles.

3 (4) Provides a service to the public which directly or  
4 indirectly reduces dependence on government programs or  
5 relieves or lessens the burden borne by government for the  
6 advancement of social, moral, educational or physical  
7 objectives.

8 (5) Advances or promotes religion and is owned and  
9 operated by a corporation or other entity as a religious  
10 ministry and otherwise satisfies the criteria set forth in  
11 this section.

12 (6) Has a voluntary agreement under section 2307  
13 (relating to voluntary agreements).

14 (g) Other nonprofit entities.--A nonprofit parent  
15 corporation, together with all of its subsidiary nonprofit  
16 corporations, may elect to be considered as a single institution  
17 in meeting the criteria set forth in this section as long as all  
18 of the following are met:

19 (1) Each subsidiary:

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

22 (ii) meets the requirements of this section.

23 (2) The parent:

24 (i) is a nonstock corporation;

25 (ii) is qualified by the Internal Revenue Service as  
26 meeting the requirements of section 501(c)(3) of the  
27 Internal Revenue Code of 1986;

28 (iii) meets the requirements of subsections (b) and  
29 (c); and

30 (iv) except for services that meet the requirements

1 of this section, does not render services for a fee to an  
2 individual or entity that does not meet the requirements  
3 of paragraph (1).

4 (h) Parcel review.--The following shall apply:

5 (1) Nothing in this chapter shall affect, impair or  
6 hinder the responsibilities or prerogatives of the political  
7 subdivision responsible for maintaining real property  
8 assessment rolls to make a determination whether a parcel of  
9 property or a portion of a parcel of property is being used  
10 to advance the charitable purpose of an institution of purely  
11 public charity or to assess the parcel or part of the parcel  
12 of property as taxable based on the use of the parcel or part  
13 of the parcel for purposes other than the charitable purpose  
14 of that institution.

15 (2) Nothing in this chapter shall prohibit a political  
16 subdivision from filing challenges or making determinations  
17 as to whether a particular parcel of property is being used  
18 to advance the charitable purpose of an institution of purely  
19 public charity.

20 (i) Standards.--An institution of purely public charity may  
21 conduct activities intended to influence legislation provided  
22 that no substantial part of the activities of an institution of  
23 purely public charity shall consist of carrying on propaganda,  
24 except as otherwise provided in section 501(h) of the Internal  
25 Revenue Code of 1986, or participating in or intervening in,  
26 including the publishing or distributing of statements, any  
27 political campaign on behalf of or in opposition to any  
28 candidate for public office as the limitations are interpreted  
29 under section 501 of the Internal Revenue Code of 1986.

30 § 2306. Presumption process.

1 (a) Presumption determination.--An institution of purely  
2 public charity possessing a valid exemption from the tax imposed  
3 by Article II of the act of March 4, 1971 (P.L.6, No.2), known  
4 as the Tax Reform Code of 1971, shall be entitled to assert a  
5 rebuttable presumption regarding that institution's compliance  
6 with the criteria set forth in section 2305 (relating to  
7 criteria for institutions of purely public charity) as follows:

8 (1) An institution of purely public charity that has  
9 annual program service revenue less than \$10,000,000 shall be  
10 entitled to assert the presumption if the institution  
11 possesses a valid exemption under section 204(10) of the Tax  
12 Reform Code of 1971.

13 (2) An institution of purely public charity that has  
14 annual program service revenue equal to or exceeding  
15 \$10,000,000 shall be entitled to assert the presumption if  
16 all of the following apply:

17 (i) the institution possesses a valid exemption  
18 under section 204(10) of the Tax Reform Code of 1971; and

19 (ii) the institution has a voluntary agreement as  
20 provided under section 2307 (relating to voluntary  
21 agreements) with a political subdivision in which that  
22 institution conducts substantial business operations.

23 (3) The presumption under paragraph (2) may be asserted  
24 by an institution of purely public charity only with regard  
25 to a challenge made by a political subdivision with which  
26 that institution has a voluntary agreement in effect under  
27 section 2307.

28 (4) For the purpose of calculating annual program  
29 service revenue under this section, an institution of purely  
30 public charity may elect to average annual program service

1 revenue for its two most recently completed fiscal years.

2 (5) Commencing July 1, 1999, and every year thereafter,  
3 the Department of Revenue shall increase the amount set forth  
4 in paragraphs (1) and (2) by 1%. The department shall  
5 transmit notice of the adjustment to the Legislative  
6 Reference Bureau for publication in the Pennsylvania  
7 Bulletin.

8 (b) Burden of proof.--If an institution of purely public  
9 charity asserts a presumption under subsection (a), a political  
10 subdivision challenging that institution before a government  
11 agency or court shall bear the burden, by a preponderance of the  
12 evidence, of proving that the institution of purely public  
13 charity does not comply with the requirements of section 2305.

14 (c) Issuance of written order.--The department shall furnish  
15 a written order to any institution applying for exemption under  
16 section 204(10) of the Tax Reform Code of 1971 approving or  
17 denying the exemption. An order denying an exemption shall  
18 include specific information concerning that institution's  
19 failure to comply with at least one of the criteria under  
20 section 2305.

21 (d) Waiver of confidentiality.--An institution of purely  
22 public charity asserting a presumption under subsection (a)  
23 shall be deemed to have waived any right to confidentiality with  
24 regard to all records in the possession of the department  
25 relating to the application for exemption. These records shall  
26 be deemed public records that the department must furnish to any  
27 person upon request. A political subdivision challenging the  
28 presumption may request from the institution of purely public  
29 charity all relevant financial statements, records and documents  
30 used to obtain the exemption under section 204(10) of the Tax

1 Reform Code of 1971. Failure by that institution to supply or,  
2 at its option, to permit inspection of the information in its  
3 possession within 30 days shall eliminate the presumption with  
4 respect to that challenge.

5 (e) Department involvement.--A determination made under this  
6 section shall not in any way subject the department to  
7 participation in any controversy, discovery or litigation  
8 between a political subdivision and an institution claiming the  
9 exemption as an institution of purely public charity, other than  
10 providing a copy of its written order and any supporting  
11 documentation supplied to the department by that institution.

12 § 2307. Voluntary agreements.

13 (a) General rule.--A political subdivision may execute a  
14 voluntary agreement with an institution that owns real property  
15 within the political subdivision. All contributions received  
16 from the voluntary agreements shall be used to help ensure that  
17 essential governmental, public or community services will  
18 continue to be provided in a manner that will permit an  
19 institution to continue to fulfill its charitable mission.  
20 Nothing in this section shall be construed to prohibit a  
21 political subdivision from sharing with another political  
22 subdivision a portion of the proceeds derived from a voluntary  
23 agreement upon the mutual agreement of all affected parties.

24 (b) Public service foundations.--Institutions of purely  
25 public charity may establish a public service foundation, upon  
26 mutual agreement with a political subdivision, for the purpose  
27 of receiving contributions from institutions of purely public  
28 charity. Upon agreement, the foundation shall make distributions  
29 or grants to a participating political subdivision to help  
30 ensure that essential governmental, public or community services

1 will continue to be provided in a manner that will permit an  
2 institution to continue to fulfill its charitable mission. A  
3 political subdivision which receives a distribution or grant  
4 from a public service foundation shall not assess or seek a  
5 separate contribution for services from institutions of purely  
6 public charity participating in a foundation.

7 (c) Additional credit for voluntary agreements.--An  
8 institution which has entered into a voluntary agreement may  
9 credit the following percentage of the reasonable value of its  
10 contribution for purposes of computing the community service  
11 criteria set forth in section 2305(d) (4) (relating to criteria  
12 for institutions of purely public charity):

13 (1) If the reasonable value of the institution's  
14 contribution is equal to or less than 0.15% of its program  
15 service revenue, the institution may credit the entire  
16 contribution at 150% of its value.

17 (2) If the reasonable value of the institution's  
18 contribution is greater than 0.15% but less than 0.25% of its  
19 program service revenue, the institution may credit the  
20 entire contribution at 250% of its value.

21 (3) If the reasonable value of the institution's  
22 contribution is equal to or greater than 0.25% of its program  
23 service revenue, the institution may credit the entire  
24 contribution at 350% of its value.

25 (d) Existing agreements.--Nothing in this chapter shall be  
26 construed to affect, impair, terminate or supersede any  
27 contract, agreement or other arrangement on or before November  
28 27, 1997, between an institution and a political subdivision  
29 which authorizes or requires payment of taxes, amounts in lieu  
30 of taxes or other charges or fees for the services of a

1 political subdivision.

2 (e) New agreements.--Nothing in this chapter shall be  
3 construed to impair or otherwise inhibit the right or ability of  
4 any institution seeking or possessing an exemption as an  
5 institution of purely public charity, a public service  
6 foundation or a political subdivision from executing voluntary  
7 agreements after November 26, 1997.

8 § 2308. Unfair competition with small businesses.

9 (a) Intent.--It is the policy of this chapter that  
10 institutions of purely public charity shall not use their tax-  
11 exempt status to compete unfairly with small businesses.

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

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

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

28 (2) The commercial business results in sales to the  
29 general public that are incidental or periodic rather than  
30 permanent and ongoing.

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

6 (e) Investments.--The investment in publicly traded stocks  
7 and bonds, real estate, whether directly or indirectly, or other  
8 investments by an institution of purely public charity does not  
9 violate subsection (b).

10 (f) Educational functions.--Use of facilities to host groups  
11 for educational purposes by an institution of purely public  
12 charity does not violate subsection (b).

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

18 (h) Existing business arrangements.--An institution of  
19 purely public charity that prior to March 26, 1998, funded,  
20 capitalized, guaranteed the indebtedness of, leased obligations  
21 of or subsidized a commercial business may continue to own and  
22 operate the businesses without violating subsection (b) as long  
23 as the institution does not substantially expand the scope of  
24 the commercial business. In the event an injunction is issued  
25 under subsection (i), the effect of the injunction shall be  
26 limited to restraining the substantial expansion of the scope of  
27 the commercial business which was initiated after March 26,  
28 1998.

29 (i) Remedies.--The Department of State shall establish a  
30 system of mandatory arbitration for the purpose of receiving all



1 complaints from aggrieved small businesses relating to an  
2 institution of purely public charity's alleged violation of this  
3 section. Upon receipt of the complaint, the department shall  
4 direct that the complaint be resolved as follows:

5 (1) All complaints shall be in the form of a sworn  
6 statement setting forth all allegations and requests for  
7 relief and shall be filed with the department, together with  
8 a fee as prescribed by the department.

9 (2) Within 10 days of filing the complaint with the  
10 department, the aggrieved small business shall serve a copy  
11 of the complaint on the institution of purely public charity  
12 against which the complaint is filed. The institution of  
13 purely public charity must respond to the complaint within 30  
14 days of its receipt.

15 (3) Within 30 days following the period of time allotted  
16 to the institution of purely public charity to respond to the  
17 complaint, the department shall provide an unbiased and  
18 qualified arbitrator who possesses sufficient knowledge  
19 regarding the institutions to adjudicate the matter. If the  
20 institution of purely public charity does not participate in  
21 the arbitration, the arbitrator may issue an order to compel  
22 the participation. An order shall be enforceable by the court  
23 of common pleas in the judicial district where the  
24 arbitration takes place.

25 (4) The arbitration shall take place in the judicial  
26 district in which the aggrieved small business is located.  
27 The department shall provide the arbitrator all relevant  
28 material regarding the complaint, including the original  
29 complaint, the institution of purely public charity's  
30 response to the complaint and copies of any other relevant

1 information which the department may possess. The arbitration  
2 shall be completed within one year from the date on which the  
3 arbitrator was assigned.

4 (5) Within 30 days of the arbitrator's assignment, the  
5 arbitrator shall determine if the complaint sets forth prima  
6 facie evidence that a violation of this section has occurred.  
7 If the arbitrator determines that the complaint does not  
8 contain prima facie evidence, the arbitrator shall issue a  
9 written report detailing the findings and shall terminate the  
10 arbitration. A small business may appeal a determination as  
11 provided in paragraph (9).

12 (6) The arbitrator shall determine if the activity of  
13 the institution of purely public charity is in violation of  
14 this section. In making this determination, the arbitrator  
15 shall review all relevant law, including previous  
16 arbitrators' decisions, regulations and the charter or  
17 governing legal documents of the institution of purely public  
18 charity.

19 (7) The decision of the arbitrator shall be set forth in  
20 a written decision issued to each party specifying findings  
21 of fact and conclusions of law. If the arbitrator finds a  
22 violation of this section, the arbitrator may include an  
23 order or injunction as part of the decision, provided that no  
24 damages may be assessed against an institution of purely  
25 public charity.

26 (8) Upon agreement of the parties, the decision of the  
27 arbitrator shall be final and binding as to all matters of  
28 fact and law and shall be entered by the arbitrator as a  
29 final judgment in the court of common pleas of the judicial  
30 district in which the arbitration took place. A copy of the

1 arbitrator's final decision shall also be filed with the  
2 department.

3 (9) Either party may initiate a de novo appeal from the  
4 arbitrator's decision in the court of common pleas of the  
5 judicial district in which the arbitration took place within  
6 30 days of the arbitrator's decision.

7 (10) The department may provide for the system of  
8 arbitration by maintaining a list of qualified arbitrators or  
9 by contracting for qualified arbitration services.

10 (11) The department may adopt regulations necessary to  
11 implement this section.

12 (12) The cost of an arbitration proceeding, including  
13 the arbitrator's fee, shall be borne by the complainant,  
14 unless the arbitrator directs otherwise. Each party shall be  
15 responsible for its attorney fees and other costs incurred.

16 (13) Except as set forth in this section or in  
17 regulations promulgated by the department under this section,  
18 the arbitration shall be governed by 42 Pa.C.S. Ch. 73 Subch.  
19 A (relating to statutory arbitration).

20 (14) The remedies set forth in this subsection shall be  
21 the exclusive remedies available to an aggrieved small  
22 business.

23 § 2309. Accountability and disclosure.

24 (a) Reporting.--An institution of purely public charity that  
25 does not register with the Department of State under Chapter 13  
26 (relating to solicitation of funds for charitable purposes),  
27 including institutions exempt under section 1306(a) (relating to  
28 exemptions from registration), shall file an annual report with  
29 the bureau. The report shall be filed within 135 days after the  
30 close of the institution's fiscal year unless an extension is

1 granted by the department. The report shall be in a format  
2 approved by the department and shall include:

3 (1) A copy of the annual return filed or required to be  
4 filed with the Internal Revenue Service.

5 (2) The date the institution of purely public charity  
6 was organized under applicable law.

7 (3) Any revocation of tax-exempt status by the Internal  
8 Revenue Service.

9 (4) The following information on each affiliate of the  
10 institution of purely public charity:

11 (i) The name and type of organization.

12 (ii) Whether the affiliate is organized on a for-  
13 profit or nonprofit basis.

14 (iii) The relationship of each affiliate to the  
15 institution of purely public charity making the report.

16 (5) The relationship of the institution of purely public  
17 charity with any other nonprofit corporation or  
18 unincorporated association if the relationship involves  
19 formal governance or the sharing of revenue.

20 (b) Regulations.--The department shall promulgate  
21 regulations to require institutions of purely public charity  
22 which register under section 1305 (relating to registration of  
23 charitable organizations; financial reports; fees; failure to  
24 file), to include the information set forth in subsection (a).

25 (c) Amendments to annual returns.--An institution of purely  
26 public charity which files an amended annual return with the  
27 Internal Revenue Service shall file a copy of the amended annual  
28 return with the bureau within 10 days of its filing with the  
29 Internal Revenue Service.

30 (d) Exemption from filing.--Each of the following

1 institutions of purely public charity shall be exempt from the  
2 reporting requirements of this section:

3 (1) A bona fide duly constituted religious institution  
4 and the separate groups or corporations which form an  
5 integral part of a religious institution and are exempt from  
6 filing an annual return under the Internal Revenue Code of  
7 1986.

8 (2) An institution of purely public charity which  
9 receives contributions of less than \$25,000 per year,  
10 provided that the institution's program service revenue does  
11 not equal or exceed \$5,000,000.

12 (e) Filing fee.--An institution of purely public charity  
13 which is required to file a report under subsection (a) shall  
14 pay an annual filing fee of \$15. All fees collected under this  
15 chapter and Chapter 13 shall be deposited in the State Treasury.  
16 The amount of the filing fee under this subsection may be  
17 adjusted by the department by regulation. All fines, penalties,  
18 attorney fees and costs of investigation collected under this  
19 chapter and under Chapter 13 shall be paid as follows:

20 (1) Amounts collected by the bureau shall be paid to the  
21 State Treasury.

22 (2) Amounts collected by the action or litigation of  
23 another government agency shall be paid directly to that  
24 agency.

25 (f) Paperwork reduction.--The department shall allow an  
26 institution of purely public charity to certify that the  
27 information required in subsection (a) (2), (3), (4) and (5) has  
28 not changed since the prior report in lieu of providing the same  
29 information in the report required by subsection (a). The  
30 department may obtain from the Internal Revenue Service copies

1 of annual returns of institutions of purely public charity which  
2 file annual returns with the Internal Revenue Service on  
3 computer disk or other electronic or paper media.

4 (g) Retention of records.--The department shall retain the  
5 reporting information required by this section for three years  
6 from the date the reports are required to be filed.

7 (h) Utilization of reports.--The department shall make  
8 reports submitted under this section available for public  
9 inspection to the extent that the information is available for  
10 public inspection under section 6104 of the Internal Revenue  
11 Code of 1986. The department shall provide any government agency  
12 a copy of the report filed under this section upon request.  
13 Nothing in this subsection shall prevent a government agency  
14 from requiring any institution seeking exemption as an  
15 institution of purely public charity to provide the information  
16 described in subsection (a) to that agency as part of a  
17 determination of the tax-exempt status of the institution.

18 (i) Administrative penalty.--The department may impose an  
19 administrative penalty not to exceed \$500 for any of the  
20 following:

21 (1) Knowingly failing to file the report required by  
22 this section.

23 (2) Knowingly making a false statement which is material  
24 in a report required by this section.

25 § 2310. Exemption for Federal Government instrumentality.

26 All real property owned by any corporation established by an  
27 act of the Congress of the United States that is required to  
28 submit annual reports of its activities to Congress containing  
29 itemized accounts of all receipts and expenditures after being  
30 fully 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 deemed to be property of a Federal Government instrumentality  
4 and thus exempt from all State and local taxation.

5 § 2311. Prohibited act.

6 No institution may claim an exemption from sales and use tax  
7 as an institution of purely public charity unless the  
8 institution has received an order from the Department of Revenue  
9 approving and authorizing the exemption.

10 § 2312. Compliance.

11 Institutions of purely public charity shall comply with the  
12 provisions of this chapter and with the provisions of Article II  
13 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax  
14 Reform Code of 1971.

15 § 2313. Civil penalty.

16 In addition to any penalties authorized by the act of March  
17 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for  
18 violations of that act, the Department of Revenue may impose an  
19 administrative penalty not to exceed \$500 for any willful and  
20 knowing violation of this chapter. This section shall not apply  
21 to any violation of section 2308 (relating to unfair competition  
22 with small businesses).

23 § 2314. Repeals.

24 (a) Absolute.--(Reserved).

25 (b) General.--All other acts and parts of acts are repealed  
26 insofar as they are inconsistent with this chapter except for  
27 section 204(a)(3) of the act of May 22, 1933 (P.L.853, No.155),  
28 known as The General County Assessment Law, as it applies to  
29 charitable organizations providing residential housing services.

30 § 2315. Applicability.

1 (a) General.--This chapter shall not apply to nor affect 40  
2 Pa.C.S. § 6103 (relating to exemptions applicable to certified  
3 hospital plan corporations) or 6307 (relating to exemptions  
4 applicable to certificated professional health service  
5 corporations) or the entities subject to those sections.

6 (b) Existing sales and use tax exemptions.--An exemption  
7 from tax under section 204(10) of the act of March 4, 1971  
8 (P.L.6, No.2), known as the Tax Reform Code of 1971, existing on  
9 November 26, 1997, shall remain in effect until the expiration  
10 of that exemption.

11 (c) Presumption.--No institution of purely public charity  
12 may assert a presumption under section 2306 (relating to  
13 presumption process) until that institution's exemption under  
14 section 204(10) of the Tax Reform Code of 1971 is granted or  
15 renewed after March 25, 1998.

16 Section 2. Repeals are as follows:

17 (1) The General Assembly declares that the repeal under  
18 paragraph (2) is necessary to effectuate the addition of 10  
19 Pa.C.S. Ch. 13.

20 (2) The act of December 19, 1990 (P.L.1200, No.202),  
21 known as the Solicitation of Funds for Charitable Purposes  
22 Act, is repealed.

23 (3) The General Assembly declares that the repeal under  
24 paragraph (4) is necessary to effectuate the addition of 10  
25 Pa.C.S. Ch. 23.

26 (4) The act of November 26, 1997 (P.L.508, No.55), known  
27 as the Institutions of Purely Public Charity Act, is  
28 repealed.

29 Section 3. The addition of 10 Pa.C.S. Ch. 13 is a  
30 continuation of the act of December 19, 1990 (P.L.1200, No.202),



1 known as the Solicitation of Funds for Charitable Purposes Act.

2 The following apply:

3 (1) Except as otherwise provided in 10 Pa.C.S. Ch. 13,  
4 all activities initiated under the Solicitation of Funds for  
5 Charitable Purposes Act shall continue and remain in full  
6 force and effect and may be completed under 10 Pa.C.S. Ch.  
7 13. Orders, regulations, rules and decisions which were made  
8 under the the Solicitation of Funds for Charitable Purposes  
9 Act and which are in effect on the effective date of this  
10 section shall remain in full force and effect until revoked,  
11 vacated or modified under 10 Pa.C.S. Ch. 13. Contracts,  
12 obligations and collective bargaining agreements entered into  
13 under the Solicitation of Funds for Charitable Purposes Act  
14 are not affected nor impaired by the repeal of the  
15 Solicitation of Funds for Charitable Purposes Act.

16 (2) Any difference in language between 10 Pa.C.S. Ch. 13  
17 and the Solicitation of Funds for Charitable Purposes Act is  
18 intended only to conform to the style of the Pennsylvania  
19 Consolidated Statutes and is not intended to change or affect  
20 the legislative intent, judicial construction or  
21 administration and implementation of the Solicitation of  
22 Funds for Charitable Purposes Act.

23 Section 4. The addition of 10 Pa.C.S. Ch. 23 is a  
24 continuation of the act of November 26, 1997 (P.L.508, No.55),  
25 known as the Institutions of Purely Public Charity Act. The  
26 following apply:

27 (1) Except as otherwise provided in 10 Pa.C.S. Ch. 23,  
28 all activities initiated under the Institutions of Purely  
29 Public Charity Act shall continue and remain in full force  
30 and effect and may be completed under 10 Pa.C.S. Ch. 23.

1 Orders, regulations, rules and decisions which were made  
2 under the Institutions of Purely Public Charity Act and which  
3 are in effect on the effective date of this section shall  
4 remain in full force and effect until revoked, vacated or  
5 modified under 10 Pa.C.S. Ch. 23. Contracts, obligations and  
6 collective bargaining agreements entered into under the  
7 Institutions of Purely Public Charity Act are not affected  
8 nor impaired by the repeal of the Institutions of Purely  
9 Public Charity Act.

10 (2) Any difference in language between 10 Pa.C.S. Ch. 23  
11 and the Institutions of Purely Public Charity Act is intended  
12 only to conform to the style of the Pennsylvania Consolidated  
13 Statutes and is not intended to change or affect the  
14 legislative intent, judicial construction or administration  
15 and implementation of the Institutions of Purely Public  
16 Charity Act.

17 Section 5. This act shall take effect in 60 days.