
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 178 Session of
2015

INTRODUCED BY GREENLEAF, ALLOWAY, WOZNIAK, BROWNE AND RAFFERTY,
JANUARY 27, 2015

REFERRED TO STATE GOVERNMENT, JANUARY 27, 2015

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.

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16 1302. Legislative intent.

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30 solicitors.

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2 disclosure requirements.

3 1314. Reciprocal agreements.

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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 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) or a person who
27 is or holds himself out to be established for a charitable
28 purpose or a person who in a manner employs a charitable appeal
29 as the basis of any solicitation or an appeal which has a
30 tendency to suggest there is a charitable purpose to any

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

11 "Fundraising costs." Those costs incurred in inducing others
12 to make contributions to a charitable organization for which the
13 contributors will receive no direct economic benefit.

14 Fundraising costs normally include, but are not limited to,
15 salaries, rent, acquiring and maintaining mailing lists,
16 printing, mailing and direct and indirect costs of soliciting,
17 as well as the cost of unsolicited merchandise sent to encourage
18 contributions. Fundraising costs do not include the direct cost
19 of merchandise or goods sold or the direct cost of fundraising
20 dinners, bazaars, shows, circuses, banquets, dinners, theater
21 parties or any other form of benefit performances.

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

30 "Net proceeds." The total proceeds received from the

1 solicitation of contributions reduced by the direct cost of
2 merchandise or other goods sold or fundraising events of any
3 kind.

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

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

10 "Person." An individual, organization, corporation,
11 association, partnership, trust, foundation or any other entity
12 however styled.

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

26 "Professional solicitor." Any person who is retained for
27 financial or other consideration by a charitable organization to
28 solicit in this Commonwealth contributions for charitable
29 purposes directly or in the form of payment for goods, services
30 or admission to fundraising events, whether the solicitation is

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

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

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

25 (1) An oral request that is made in person, by
26 telephone, radio or television or other advertising or
27 communication media.

28 (2) A written or otherwise recorded or published request
29 that is mailed, sent, delivered, circulated, distributed,
30 posted in a public place or advertised or communicated by

1 press, telegraph, television or other media.

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

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

12 § 1304. Powers and duties of secretary.

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

14 (1) Provide for and regulate the registration of
15 charitable organizations, professional fundraising counselors
16 and professional solicitors.

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

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

21 (4) Promulgate regulations altering fees and fines
22 established in this chapter sufficient to meet expenditures
23 of the bureau.

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

28 (6) Conduct hearings and make adjudications.

29 (7) Keep a record showing the names and addresses of all
30 registered charitable organizations, professional fundraising

1 counsel and professional solicitors.

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

12 (9) Delegate to a division director of his office the
13 powers and duties under this chapter as he may deem
14 appropriate.

15 (10) Exercise other authority accorded to him by this
16 chapter.

17 § 1305. Registration of charitable organizations; financial
18 reports; fees; failure to file.

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

30 (b) Filing of statement.--It shall be the duty of the

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

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

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

15 (3) The names and addresses of any affiliates which
16 share in the contributions or other revenue raised in this
17 Commonwealth.

18 (4) The names and addresses of the officers, directors
19 and trustees and the principal salaried executive staff
20 officers.

21 (5) A copy of the financial report required under
22 subsection (e).

23 (6) A copy of any determination of the organization's
24 tax-exempt status under the Internal Revenue Code of 1986
25 (Public Law 99-514, 26 U.S.C. § 1 et seq.) and, for
26 organizations granted tax-exempt status under section 501(c)
27 (3) of the Internal Revenue Code of 1986, a copy of the last
28 filed Internal Revenue Service Form 990 and Schedule A for
29 every charitable organization and parent organization.

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

1 (8) Whether:

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

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

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

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

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

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

25 (11) The names of the individuals or officers of the
26 organization who are in charge of any solicitation
27 activities, who will have final responsibility for the
28 custody of the contributions and who will be responsible for
29 the final distribution of the contributions.

30 (12) Whether any of the organization's officers,

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

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

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

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

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

26 (d) Federal tax exemption determination.--Each charitable
27 organization registered with the department shall file with the
28 department a copy of a Federal tax exemption determination
29 letter received after the initial registration within 30 days
30 after receipt, and any amendments to its organizational

1 instrument within 30 days after adoption.

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

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

1 standards, including the Statements on Auditing Standards of the
2 American Institute of Certified Public Accountants, but reviews
3 shall be performed in accordance with the Statements on
4 Standards for Accounting and Review Services of the American
5 Institute of Certified Public Accountants.

6 (g) Governmental audits.--Government audits of government
7 grants shall be accepted and shall be included as part of the
8 financial statements.

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

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

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

26 (k) Time extension for filings.--For good cause shown, the
27 department may extend the time for the annual filing of a
28 registration statement or financial report for a period not to
29 exceed 180 days during which time the previous registration
30 remains in effect.

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

8 (m) Reports by affiliates.--

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

25 (2) If an affiliate is soliciting in this Commonwealth
26 but its parent organization has its principal place of
27 business outside this Commonwealth, both the affiliate and
28 the parent organization shall independently comply with the
29 registration requirements of this section.

30 (n) Federated organizations.--An independent member agency

1 of a federated fundraising organization shall independently
2 comply with the provisions of this section unless specifically
3 exempted or unless it receives allocations solely from the
4 federated fundraising organization and does not independently
5 solicit contributions. Donor choice programs are deemed to be
6 independent solicitations.

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

13 (p) Annual registration fees.--A charitable organization
14 which submits a short form registration statement under section
15 1307 (relating to short form registration) or receives
16 contributions of \$25,000 or less during the immediately
17 preceding fiscal year shall pay an annual registration fee of
18 \$15. A charitable organization which receives contributions in
19 excess of \$25,000 but less than \$100,000 during the immediately
20 preceding fiscal year shall pay an annual registration fee of
21 \$100. A charitable organization which receives contributions in
22 excess of \$100,000 but not exceeding \$500,000 during the
23 immediately preceding fiscal year shall pay an annual
24 registration fee of \$150. A charitable organization which
25 receives contributions in excess of \$500,000 during the
26 immediately preceding fiscal year shall pay an annual
27 registration fee of \$250. A parent organization filing on behalf
28 of one or more affiliates and a federated fundraising
29 organization filing on behalf of its member agencies shall pay a
30 single annual registration fee for itself and other affiliates

1 or member agencies included in the registration statement.

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

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

21 (s) Administration of charitable contributions.--A
22 charitable organization shall maintain and administer the
23 contributions raised on its behalf through an account in the
24 name of the charitable organization and under its sole control.

25 (t) Updating information.--A material change in information
26 filed with the department under this section shall be reported
27 in writing by the registrant to the department not more than 30
28 days after the change occurs.

29 § 1306. Exemptions from registration.

30 (a) General rule.--The following charitable organizations

1 shall be exempt from the registration requirements of this
2 chapter:

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

10 (2) Hospitals which are subject to regulation by the
11 Department of Health or the Department of Human Services and
12 the hospital foundation, if any, which is an integral part of
13 the hospitals.

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

16 (i) any veterans' organization chartered under
17 Federal law and any service foundation recognized in the
18 bylaws of the organization;

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

20 (iii) a bona fide ambulance association;

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

22 (v) a bona fide auxiliary or affiliate of any
23 organization or association under subparagraph (i), (ii),
24 (iii) or (iv);

25 provided that all fundraising activities of an organization
26 or association under subparagraph (i), (ii), (iii), (iv) or
27 (v) are carried on by volunteers, members or an auxiliary or
28 affiliate of the organization or association and those
29 volunteers, members or affiliates receive no compensation
30 directly or indirectly for the fundraising activities.

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

4 (5) Senior citizen centers and nursing homes which are
5 nonprofit and charitable and which have been granted tax-
6 exempt status under the Internal Revenue Code of 1986 (Public
7 Law 99-514, 26 U.S.C. § 1 et seq.), provided that all
8 fundraising activities are carried on by volunteers, members
9 or officers of the senior citizen center and those
10 volunteers, members or officers receive no compensation,
11 directly or indirectly, for the fundraising activities.

12 (6) Bona fide parent teacher associations or parent
13 teacher organizations as recognized in a notarized letter
14 from the school district in which they are located.

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

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

27 (b) Effect of exemption.--Exemption from the registration
28 requirements of this chapter shall in no way limit the
29 applicability of other provisions of this part to a charitable
30 organization or any professional solicitor or professional

1 fundraising counsel acting on its behalf, except that written
2 notice under sections 1309(k) (relating to registration of
3 professional solicitors and contracts) and 1313(c) (relating to
4 limitation on activities of charitable organizations and
5 disclosure requirements) shall not apply.

6 § 1307. Short form registration.

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

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

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

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

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

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

25 (3) Charitable organizations whose fundraising
26 activities are carried on by volunteers, members, officers or
27 permanent employees and which do not receive contributions in
28 excess of \$25,000 during a fiscal year, if no part of their
29 assets or income inures to the benefit of or is paid to any
30 officer or member, professional fundraising counsel,

1 professional solicitor or commercial coventurer. Charitable
2 organizations which do not intend to solicit and receive in
3 excess of \$25,000 but do receive contributions in excess of
4 that amount shall file the financial report required in
5 section 1305 within 30 days after contributions are received
6 in excess of that amount.

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

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

16 (c) Financial report.--Charitable organizations which file a
17 short form registration statement need not file the financial
18 report required under section 1305 (relating to registration of
19 charitable organizations; financial reports; fees; failure to
20 file).

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

25 § 1308. Registration of professional fundraising counsel and
26 contracts.

27 (a) Registration and approval required.--No person shall act
28 as a professional fundraising counsel before obtaining
29 department approval of a registration statement under subsection
30 (c) or after the expiration, suspension or revocation of

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

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

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

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

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

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

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

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

1 Each registration shall be valid for one year and may be renewed
2 for additional one-year periods upon application to the
3 department and payment of the registration fee.

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

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

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

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

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

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

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

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

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

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

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

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

9 § 1309. Registration of professional solicitors and contracts.

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

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

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

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

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

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

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

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

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

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

1 regulation of the department on behalf of all its partners,
2 members, officers, directors, agents and employees.

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

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

1 and addendum shall contain all of the following information:

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

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

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

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

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

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

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

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

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

28 (1) The legal name and address of the charitable
29 organization as registered with the department, unless that
30 charitable organization is exempt from registration.

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

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

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

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

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

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

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

6 (g) Department review of contract.--The department shall
7 examine each contract and solicitation notice filed by a
8 professional solicitor and shall determine whether the contract
9 and notice contain the required information. If the department
10 determines that the requirements are not satisfied, the
11 department must notify the professional solicitor within 10
12 working days of its receipt of the contract and notice;
13 otherwise, the contract and notice are deemed to be approved.
14 Within seven days after receipt of a notification that the
15 requirements are not satisfied, the professional solicitor may
16 request a hearing. The hearing must be held within seven days of
17 receipt of the request, and a determination must be rendered
18 within three working days of the hearing.

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

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

27 (2) If the individual acting on behalf of the
28 professional solicitor identifies himself by name, the
29 individual's legal name.

30 (3) The legal name of the charitable organization as

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

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

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

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

20 The official registration and financial information of
21 (insert the legal name of the charity as registered with
22 the department) may be obtained from the Pennsylvania
23 Department of State by calling toll free, within
24 Pennsylvania, 1-800-000-0000. 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
18 solicitor employs, engages or procures to solicit for
19 compensation, has been convicted, by a court of any state or
20 the United States, of any felony or of any misdemeanor
21 involving dishonesty or arising from the conduct of a
22 solicitation for a charitable 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 by calling toll free, within
25 Pennsylvania, 1-800-732-0999. Registration does not imply
26 endorsement.

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

1 (1) Its purpose.

2 (2) Its nature.

3 (3) The purpose of a solicitation.

4 (4) The beneficiary of a solicitation.

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

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

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

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

28 § 1314. Reciprocal agreements.

29 (a) Authorization.--The secretary may enter into reciprocal
30 agreements with the appropriate authority of any other state for

1 the purpose of exchanging information with respect to charitable
2 organizations, professional fundraising counsel and professional
3 solicitors.

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

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

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

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

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

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

24 § 1315. Prohibited acts.

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

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

1 or order of the secretary.

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

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

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

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

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

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

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

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

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

12 The official registration and financial information of
13 (insert the legal name of the charity as registered with
14 the department) may be obtained from the Pennsylvania
15 Department of State by calling toll free, within
16 Pennsylvania, 1-800-732-0999. Registration does not imply
17 endorsement.

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

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

29 (13) Violating the following:

30 (i) Soliciting for advertising to appear in a for-

1 profit publication which relates to, purports to relate
2 to or which could reasonably be construed to relate to
3 any charitable purpose without making the following
4 disclosures at the time of solicitation:

5 (A) The publication is a for-profit, commercial
6 enterprise.

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

9 (C) The publication is not directly affiliated
10 or sponsored by any charitable organization.

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

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

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

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

30 (ii) The charitable organization or professional

1 solicitor does not solicit or accept more contributions
2 of donated tickets than the lesser of:

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

5 (B) the total attendance capacity of the site of
6 the event.

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

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

16 § 1316. Investigation.

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

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

24 (2) Administer oaths or affirmations.

25 (3) Take testimony under oath.

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

1 chapter.

2 (5) Issue subpoenas.

3 (6) Conduct private or public hearings.

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

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

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

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

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

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

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

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

29 (d) Restrictions on notices.--No notice shall contain any
30 requirement which would be unreasonable or improper if contained

1 in a subpoena duces tecum issued by a court of the Commonwealth.

2 (e) Restriction on materials.--

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

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

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

1 Commonwealth Attorneys Act.

2 (g) Contempt of final order.--Any disobedience of a final
3 order entered under this section by a court shall be punishable
4 as contempt.

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

8 (1) Fails to appear.

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

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

16 (4) Knowingly conceals any relevant information.

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

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

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

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

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

22 § 1317. Administrative enforcement and penalties.

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

29 (1) Has violated or is operating in violation of any
30 provision of this chapter, the regulations of the department

1 promulgated under this chapter or an order issued by the
2 secretary.

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

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

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

14 (1) Revoke a grant of exemption to any of the provisions
15 of this chapter.

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

18 (3) Impose an administrative fine not to exceed \$1,000
19 for each act or omission which constitutes a violation of
20 this chapter and an additional penalty, not to exceed \$100
21 for each day during which the violation continues.

22 Registration will be automatically suspended upon final
23 affirmation of an administrative fine until the fine is paid
24 or until the normal expiration date of the registration. No
25 registration may be renewed until the fine is paid.

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

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

1 judicial review of Commonwealth agency action).

2 § 1318. Criminal penalties.

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

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

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

17 § 1319. Civil penalties.

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

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

28 (2) the sequestration of assets;

29 (3) the reimbursement of persons from whom contributions
30 have been unlawfully solicited;

1 (4) the distribution of contributions in accordance with
2 the charitable purpose expressed in the registration
3 statement or in accordance with the representations made to
4 the person solicited;

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

7 (6) the assessment of a civil penalty not exceeding
8 \$1,000 per violation of the act, which penalty shall be in
9 addition to any other relief which may be granted; and

10 (7) the granting of other appropriate relief.

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

18 (1) An assurance of compliance:

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

24 (ii) Shall be in writing.

25 (iii) Shall be filed with a court of the
26 Commonwealth.

27 (2) In the event of an alleged violation of the
28 assurance of voluntary compliance, the Attorney General or a
29 district attorney may, at his discretion, either initiate
30 contempt proceedings or proceed as if the assurance of

1 voluntary compliance has not been accepted. Evidence of a
2 violation of the assurance shall be prima facie evidence of a
3 violation of this chapter in a subsequent proceeding brought
4 by the Attorney General or district attorney.

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

7 § 1320. Additional regulations by counties, municipalities or
8 consolidated government.

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

18 § 1321. Charitable organizations deemed fiduciary.

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

25 § 1322. Prior registration unaffected.

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

1 Registration shall be reissued in accordance with this chapter.
2 § 1323. Regulations.
3 Regulations promulgated under the former act of April 30,
4 1986 (P.L.107, No.36), known as the Charitable Organization
5 Reform Act, and in effect on February 19, 1991, shall remain in
6 effect until amended in accordance with the provisions of this
7 chapter.

8 PART IV

9 TAX

10 Chapter

11 19. General Provisions (Reserved)

12 21. Charitable Gift Annuity Exemptions (Reserved)

13 23. Institutions of Purely Public Charity

14 CHAPTER 19

15 GENERAL PROVISIONS

16 (RESERVED)

17 CHAPTER 21

18 CHARITABLE GIFT ANNUITY EXEMPTIONS

19 (RESERVED)

20 CHAPTER 23

21 INSTITUTIONS OF PURELY PUBLIC CHARITY

22 Sec.

23 2301. Scope of chapter.

24 2302. Legislative intent.

25 2303. Definitions.

26 2304. State-related universities.

27 2305. Criteria for institutions of purely public charity.

28 2306. Presumption process.

29 2307. Voluntary agreements.

30 2308. Unfair competition with small businesses.

1 2309. Accountability and disclosure.

2 2310. Exemption for Federal Government instrumentality.

3 2311. Prohibited act.

4 2312. Compliance.

5 2313. Civil penalty.

6 2314. Repeals.

7 2315. Applicability.

8 § 2301. Scope of chapter.

9 This chapter relates to institutions of purely public
10 charity.

11 § 2302. Legislative intent.

12 (a) Findings.--The General Assembly finds and declares as
13 follows:

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

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

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

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

30 (5) There is increasing concern that the eligibility

1 standards for charitable tax exemptions are being applied
2 inconsistently, which may violate the uniformity provision of
3 the Constitution of Pennsylvania.

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

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

29 (b) Intent.--It is the intent of the General Assembly to
30 eliminate inconsistent application of eligibility standards for

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

11 § 2303. Definitions.

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

15 "Affiliate." The terms includes:

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

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

22 "Annual return." The term includes:

23 (1) The annual information return required to be filed
24 with the Internal Revenue Service by institutions exempt from
25 tax under section 501(a) of the Internal Revenue Code of 1986
26 (Public Law 99-514, 26 U.S.C. § 501(a)).

27 (2) The annual information return consists of Internal
28 Revenue Service Form 990 or Form 990EZ and Schedule A or any
29 succeeding form used for the same or similar purpose. For an
30 institution which is not required to file the returns, the

1 institution's annual financial statement with reported income
2 shall constitute its annual return.

3 "Bureau." The Bureau of Charitable Organizations of the
4 Department of State of the Commonwealth.

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

8 "Contribution." The promise, grant, pledge or gift of money,
9 property, goods, services, financial assistance or other similar
10 remittance.

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

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

20 "Institution." A domestic or foreign nonprofit corporation,
21 association or trust or other similar entity.

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

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

30 "Political subdivision." Any county, city, borough, town,

1 township, school district, vocational school district and county
2 institution district.

3 "Program service revenue." Income earned from the provision
4 of goods or services, including government fees and contracts
5 associated with the institution's charitable purpose, which is
6 reported on the annual return.

7 "Small business." Any self-employed individual, sole
8 proprietorship, firm, corporation, partnership, association or
9 other entity that:

10 (1) has fewer than 101 full-time employees; and
11 (2) is subject to income taxation under the act of March
12 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

13 "Total operating expenses." The costs related to the
14 provision of goods or services associated with the institution's
15 charitable purpose, as determined in accordance with generally
16 accepted accounting principles applicable to the institution.

17 "Voluntary agreement." An agreement, contract or other
18 arrangement for the purpose of receiving contributions under
19 section 2307 (relating to voluntary agreements) between a
20 political subdivision and an institution seeking or possessing
21 an exemption as an institution of purely public charity. These
22 contributions are for the purpose of defraying some of the cost
23 of various local government services. The term includes the
24 establishment of public service foundations by institutions of
25 purely public charity.

26 § 2304. State-related universities.

27 (a) General rule.--It is the intent of the General Assembly
28 to recognize that the State-related universities provide a
29 direct public benefit and serve the public purposes of this
30 Commonwealth by declaring the real property of State-related

1 universities to be public property for purposes of exemption
2 from State and local taxation when the property is actually and
3 regularly used for public purposes, provided that nothing in
4 this section is intended or shall be construed to affect the
5 title to real property of State-related universities or the
6 power and authority of the governing bodies of State-related
7 universities with respect to the real property. Nothing in this
8 section is intended or shall be construed to affect, impair or
9 terminate any contract or agreement in effect on or before
10 November 26, 1997, by and between a State-related university and
11 any political subdivision where the State-related university
12 pays real estate taxes, amounts in lieu of real estate taxes or
13 other charges, fees or contributions for government services.

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

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

1 control of real property within the meaning of this section.

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

5 "Public purposes." All activities relating to the
6 educational mission of State-related universities, including
7 teaching, research, service and activities incident or ancillary
8 to the educational mission which provide services to or for
9 students, employees or the public.

10 "State-related universities." The Pennsylvania State
11 University and its affiliates, the Pennsylvania College of
12 Technology, the University of Pittsburgh, Temple University and
13 its subsidiaries Temple University Hospital, Inc., and Temple
14 University Children's Hospital, Inc., and Lincoln University.
15 § 2305. Criteria for institutions of purely public charity.

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

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

25 (1) Relief of poverty.

26 (2) Advancement and provision of education. This
27 paragraph includes postsecondary education.

28 (3) Advancement of religion.

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

1 (5) Government or municipal purposes.

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

5 (c) Private profit motive.--The institution must operate
6 entirely free from private profit motive. Notwithstanding
7 whether the institution's revenues exceed its expenses, this
8 criterion is satisfied if the institution meets all of the
9 following:

10 (1) Neither the institution's net earnings nor donations
11 which it receives inures to the benefit of private
12 shareholders or other individuals, as the private inurement
13 standard is interpreted under section 501(c)(3) of the
14 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
15 501(c)(3)).

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

20 (3) Compensation, including benefits, of any director,
21 officer or employee is not based primarily upon the financial
22 performance of the institution.

23 (4) The governing body of the institution of purely
24 public charity has adopted as part of its articles of
25 incorporation or, if unincorporated, other governing legal
26 documents a provision that expressly prohibits the use of any
27 surplus funds for private inurement to any person in the
28 event of a sale or dissolution of the institution of purely
29 public charity.

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

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

5 (i) Goods or services to all who seek them without
6 regard to a person's ability to pay for what the person
7 receives if all of the following apply:

8 (A) The institution has a written policy to this
9 effect.

10 (B) The institution has published this policy in
11 a reasonable manner.

12 (C) The institution provides uncompensated goods
13 or services at least equal to 75% of the
14 institution's net operating income but not less than
15 3% of the institution's total operating expenses.

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

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

27 (B) At least 20% of the individuals receiving
28 goods or services from the institution pay no fee or
29 a fee which is lower than the cost of the goods or
30 services provided by the institution.

1 (C) At least 10% of the individuals receiving
2 goods or services from the institution receive a
3 reduction in fees of at least 10% of the cost of the
4 goods or services provided to them.

5 (D) No individuals receiving goods or services
6 from the institution pay a fee which is equal to or
7 greater than the cost of the goods or services
8 provided to them or the goods or services provided to
9 the individuals described in clause (B) are
10 comparable in quality and quantity to the goods or
11 services provided to those individuals who pay a fee
12 which is equal to or greater than the cost of the
13 goods or services provided to them.

14 (iii) Wholly gratuitous goods or services to at
15 least 5% of those receiving similar goods or services
16 from the institution.

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

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

28 (vi) Goods or services at no fee or reduced fees to
29 government agencies or goods or services to individuals
30 eligible for government programs if any one of the

1 following applies:

2 (A) The institution receives 75% or more of its
3 gross operating revenue from grants or fee-for-
4 service payments by government agencies and if the
5 aggregate amount of fee-for-service payments from
6 government agencies does not exceed 95% of the
7 institution's costs of providing goods or services to
8 the individuals for whom the fee-for-services
9 payments are made.

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

23 (I) Sections 1905(d) and 1915(c) of the
24 Social Security Act (49 Stat. 620, 42 U.S.C. §§
25 1396d(d) and 1396n(c)).

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

28 (III) 42 CFR Pt. 483 Subpt. I (relating to
29 conditions of participation for intermediate care
30 facilities for individuals with intellectual

1 disabilities).

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

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

8 (VI) 23 Pa.C.S. Ch. 63 (relating to child
9 protective services).

10 (VII) 42 Pa.C.S. Ch. 63 (relating to
11 juvenile matters).

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

29 (vii) Fundraising on behalf of or grants to an
30 institution of purely public charity, an entity similarly

1 recognized by another state or foreign jurisdiction, a
2 qualifying religious organization or a government agency
3 and actual contribution of a substantial portion of the
4 funds raised or contributions received to an institution
5 of purely public charity, an entity similarly recognized
6 by another state or foreign jurisdiction, a qualifying
7 religious organization or a government agency.

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

12 (3) For purposes of calculating the number of
13 individuals for use in the percentage calculations in this
14 subsection, educational institutions may use full-time
15 equivalent students as defined by the Department of
16 Education.

17 (4) For purposes of this subsection, the term
18 "uncompensated goods or services" shall be limited to any of
19 the following:

20 (i) The full cost of all goods or services provided
21 by the institution for which the institution has not
22 received monetary compensation or the difference between
23 the full cost and any lesser fee received for the goods
24 or services, including the cost of the goods or services
25 provided to individuals unable to pay.

26 (ii) The difference between the full cost of
27 education and research programs provided by or
28 participated in by the institution and the payment made
29 to the institution to support the education and research
30 programs.

1 (iii) The difference between the full cost of
2 providing the goods or services and the payment made to
3 the institution under any government program, including
4 individuals covered by Medicare or Medicaid.

5 (iv) The difference between the full cost of the
6 community services which the institution provides or
7 participates in and the payment made to the institution
8 to support the community services.

9 (v) The reasonable value of any moneys, property,
10 goods or services donated by a primary donor to an
11 institution of purely public charity or to a government
12 agency or the reasonable value of the net donation made
13 by a secondary donor to a primary donor. As used in this
14 subparagraph, the following words and phrases shall have
15 the following meanings:

16 (A) "Net donation." In the case of a donation
17 of money, property or identical goods and services
18 made by a secondary donor, the difference between the
19 value of the donation made by the secondary donor and
20 the value of the donation made by the primary donor,
21 provided the value is positive.

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

25 (C) "Secondary donor." An institution which
26 receives a donation of any money, property, goods or
27 services from a primary donor and then makes a
28 donation back to that primary donor within three
29 years of having received the donation.

30 (vi) The reasonable value of volunteer assistance

1 donated by individuals who are involved or assist in the
2 provision of goods or services by the institution. The
3 reasonable value of volunteer assistance, computed on an
4 hourly basis, shall not exceed the Statewide average
5 weekly wage as defined in section 105.1 of the act of
6 June 2, 1915 (P.L.736, No.338), known as the Workers'
7 Compensation Act, divided by 40.

8 (vii) The cost of goods or services provided by an
9 institution licensed by the Department of Health or the
10 Department of Human Services to individuals who are
11 unable to pay, provided that reasonable and customary
12 collection efforts have been made by the institution.

13 (viii) The value of any voluntary agreement as set
14 forth in section 2307(c) (relating to voluntary
15 agreements).

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

17 (1) The institution must benefit a substantial and
18 indefinite class of persons who are legitimate subjects of
19 charity.

20 (2) As used in this subsection, the following words and
21 phrases shall have the meanings given to them in this
22 paragraph:

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

26 (ii) "Substantial and indefinite class of persons."
27 Persons not predetermined in number, provided that, where
28 the goods or services are received primarily by members
29 of the institution, membership cannot be predetermined in
30 number and cannot be arbitrarily denied by a vote of the

1 existing members. This subsection specifically recognizes
2 that the use of admissions criteria and enrollment
3 limitations by educational institutions does not
4 constitute predetermined membership or arbitrary
5 restrictions on membership so as to violate this section
6 and recognizes that an institution may reasonably deny
7 membership based on the types of services it provides, as
8 long as denial is not in violation of Federal or State
9 antidiscrimination laws, such as the Civil Rights Act of
10 1964 (Public Law 88-352, 78 Stat. 241) and the act of
11 October 27, 1955 (P.L.744, No.222), known as the
12 Pennsylvania Human Relations Act.

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

26 (4) An institution which operates exclusively on a
27 voluntary basis to provide emergency health and safety
28 services to the community or an institution which provides
29 funds and support exclusively to volunteer institutions which
30 provide emergency health and safety services to the community

1 shall be considered to benefit a substantial and indefinite
2 class of persons who are legitimate subjects of charity.

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

6 (i) the institution is not qualified under section
7 501(c)(3) of the Internal Revenue Code of 1986; and

8 (ii) the institution is qualified under section
9 501(c)(4), (5), (6), (7), (8) or (9) of the Internal
10 Revenue Code of 1986 (26 U.S.C. § 501(c)(4), (5), (6),
11 (7), (8) or (9)) as any of the following:

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

15 (B) A labor organization.

16 (C) An agricultural or horticultural
17 organization.

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

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

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

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

27 (1) Provides a service to the public that the government
28 would otherwise be obliged to fund or to provide directly or
29 indirectly or to assure that a similar institution exists to
30 provide the service.

1 (2) Provides services in furtherance of its charitable
2 purpose which are either the responsibility of the government
3 by law or which historically have been assumed or offered or
4 funded by the government.

5 (3) Receives on a regular basis payments for services
6 rendered under a government program if the payments are less
7 than the full costs incurred by the institution, as
8 determined by generally accepted accounting principles.

9 (4) Provides a service to the public which directly or
10 indirectly reduces dependence on government programs or
11 relieves or lessens the burden borne by government for the
12 advancement of social, moral, educational or physical
13 objectives.

14 (5) Advances or promotes religion and is owned and
15 operated by a corporation or other entity as a religious
16 ministry and otherwise satisfies the criteria set forth in
17 this section.

18 (6) Has a voluntary agreement under section 2307
19 (relating to voluntary agreements).

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

25 (1) Each subsidiary:

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

28 (ii) meets the requirements of this section.

29 (2) The parent:

30 (i) is a nonstock corporation;

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

4 (iii) meets the requirements of subsections (b) and
5 (c); and

6 (iv) except for services that meet the requirements
7 of this section, does not render services for a fee to an
8 individual or entity that does not meet the requirements
9 of paragraph (1).

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

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

21 (2) Nothing in this chapter shall prohibit a political
22 subdivision from filing challenges or making determinations
23 as to whether a particular parcel of property is being used
24 to advance the charitable purpose of an institution of purely
25 public charity.

26 (i) Standards.--An institution of purely public charity may
27 conduct activities intended to influence legislation provided
28 that no substantial part of the activities of an institution of
29 purely public charity shall consist of carrying on propaganda,
30 except as otherwise provided in section 501(h) of the Internal

1 Revenue Code of 1986, or participating in or intervening in,
2 including the publishing or distributing of statements, any
3 political campaign on behalf of or in opposition to any
4 candidate for public office as the limitations are interpreted
5 under section 501 of the Internal Revenue Code of 1986.

6 § 2306. Presumption process.

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

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

19 (2) An institution of purely public charity that has
20 annual program service revenue equal to or exceeding
21 \$10,000,000 shall be entitled to assert the presumption if
22 all of the following apply:

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

25 (ii) the institution has a voluntary agreement as
26 provided under section 2307 (relating to voluntary
27 agreements) with a political subdivision in which that
28 institution conducts substantial business operations.

29 (3) The presumption under paragraph (2) may be asserted
30 by an institution of purely public charity only with regard

1 to a challenge made by a political subdivision with which
2 that institution has a voluntary agreement in effect under
3 section 2307.

4 (4) For the purpose of calculating annual program
5 service revenue under this section, an institution of purely
6 public charity may elect to average annual program service
7 revenue for its two most recently completed fiscal years.

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

14 (b) Burden of proof.--If an institution of purely public
15 charity asserts a presumption under subsection (a), a political
16 subdivision challenging that institution before a government
17 agency or court shall bear the burden, by a preponderance of the
18 evidence, of proving that the institution of purely public
19 charity does not comply with the requirements of section 2305.

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

27 (d) Waiver of confidentiality.--An institution of purely
28 public charity asserting a presumption under subsection (a)
29 shall be deemed to have waived any right to confidentiality with
30 regard to all records in the possession of the department

1 relating to the application for exemption. These records shall
2 be deemed public records that the department must furnish to any
3 person upon request. A political subdivision challenging the
4 presumption may request from the institution of purely public
5 charity all relevant financial statements, records and documents
6 used to obtain the exemption under section 204(10) of the Tax
7 Reform Code of 1971. Failure by that institution to supply or,
8 at its option, to permit inspection of the information in its
9 possession within 30 days shall eliminate the presumption with
10 respect to that challenge.

11 (e) Department involvement.--A determination made under this
12 section shall not in any way subject the department to
13 participation in any controversy, discovery or litigation
14 between a political subdivision and an institution claiming the
15 exemption as an institution of purely public charity, other than
16 providing a copy of its written order and any supporting
17 documentation supplied to the department by that institution.
18 § 2307. Voluntary agreements.

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

30 (b) Public service foundations.--Institutions of purely

1 public charity may establish a public service foundation, upon
2 mutual agreement with a political subdivision, for the purpose
3 of receiving contributions from institutions of purely public
4 charity. Upon agreement, the foundation shall make distributions
5 or grants to a participating political subdivision to help
6 ensure that essential governmental, public or community services
7 will continue to be provided in a manner that will permit an
8 institution to continue to fulfill its charitable mission. A
9 political subdivision which receives a distribution or grant
10 from a public service foundation shall not assess or seek a
11 separate contribution for services from institutions of purely
12 public charity participating in a foundation.

13 (c) Additional credit for voluntary agreements.--An
14 institution which has entered into a voluntary agreement may
15 credit the following percentage of the reasonable value of its
16 contribution for purposes of computing the community service
17 criteria set forth in section 2305(d)(4) (relating to criteria
18 for institutions of purely public charity):

19 (1) If the reasonable value of the institution's
20 contribution is equal to or less than 0.15% of its program
21 service revenue, the institution may credit the entire
22 contribution at 150% of its value.

23 (2) If the reasonable value of the institution's
24 contribution is greater than 0.15% but less than 0.25% of its
25 program service revenue, the institution may credit the
26 entire contribution at 250% of its value.

27 (3) If the reasonable value of the institution's
28 contribution is equal to or greater than 0.25% of its program
29 service revenue, the institution may credit the entire
30 contribution at 350% of its value.

1 (d) Existing agreements.--Nothing in this chapter shall be
2 construed to affect, impair, terminate or supersede any
3 contract, agreement or other arrangement on or before November
4 27, 1997, between an institution and a political subdivision
5 which authorizes or requires payment of taxes, amounts in lieu
6 of taxes or other charges or fees for the services of a
7 political subdivision.

8 (e) New agreements.--Nothing in this chapter shall be
9 construed to impair or otherwise inhibit the right or ability of
10 any institution seeking or possessing an exemption as an
11 institution of purely public charity, a public service
12 foundation or a political subdivision from executing voluntary
13 agreements after November 26, 1997.

14 § 2308. Unfair competition with small businesses.

15 (a) Intent.--It is the policy of this chapter that
16 institutions of purely public charity shall not use their tax-
17 exempt status to compete unfairly with small business.

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

23 (c) Exceptions.--Institutions of purely public charity are
24 not in violation of subsection (b) if any of the following
25 apply:

26 (1) The commercial business is intended only for the use
27 of its employees, staff, alumni, faculty, members, students,
28 clients, volunteers, patients or residents. For purposes of
29 this paragraph, a person shall not be considered an employee,
30 staff, member, alumnus, faculty, student, client, volunteer,

1 patient or resident if the person's only relationship with
2 the institution of purely public charity is to receive
3 products or services resulting from the commercial business.

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

7 (d) Support for other charities.--Nothing in this section
8 shall be construed as prohibiting or limiting the ability of an
9 institution of purely public charity to fund, capitalize,
10 guarantee the indebtedness of or otherwise subsidize another
11 institution of purely public charity.

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

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

19 (g) Government functions.--An institution of purely public
20 charity may engage in a new commercial business that may
21 otherwise be in violation of subsection (b) if the institution
22 is formally requested to do so by the Commonwealth or a
23 political subdivision.

24 (h) Existing business arrangements.--An institution of
25 purely public charity that prior to March 26, 1998, funded,
26 capitalized, guaranteed the indebtedness of, leased obligations
27 of or subsidized a commercial business may continue to own and
28 operate the businesses without violating subsection (b) as long
29 as the institution does not substantially expand the scope of
30 the commercial business. In the event an injunction is issued

1 under subsection (i), the effect of the injunction shall be
2 limited to restraining the substantial expansion of the scope of
3 the commercial business which was initiated after March 26,
4 1998.

5 (i) Remedies.--The Department of State shall establish a
6 system of mandatory arbitration for the purpose of receiving all
7 complaints from aggrieved small businesses relating to an
8 institution of purely public charity's alleged violation of this
9 section. Upon receipt of the complaint, the department shall
10 direct that the complaint be resolved as follows:

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

15 (2) Within 10 days of filing the complaint with the
16 department, the aggrieved small business shall serve a copy
17 of the complaint on the institution of purely public charity
18 against which the complaint is filed. The institution of
19 purely public charity must respond to the complaint within 30
20 days of its receipt.

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

1 (4) The arbitration shall take place in the judicial
2 district in which the aggrieved small business is located.
3 The department shall provide the arbitrator all relevant
4 material regarding the complaint, including the original
5 complaint, the institution of purely public charity's
6 response to the complaint and copies of any other relevant
7 information which the department may possess. The arbitration
8 shall be completed within one year from the date on which the
9 arbitrator was assigned.

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

18 (6) The arbitrator shall determine if the activity of
19 the institution of purely public charity is in violation of
20 this section. In making this determination, the arbitrator
21 shall review all relevant law, including previous
22 arbitrators' decisions, regulations and the charter or
23 governing legal documents of the institution of purely public
24 charity.

25 (7) The decision of the arbitrator shall be set forth in
26 a written decision issued to each party specifying findings
27 of fact and conclusions of law. If the arbitrator finds a
28 violation of this section, the arbitrator may include an
29 order or injunction as part of the decision, provided that no
30 damages may be assessed against an institution of purely

1 public charity.

2 (8) Upon agreement of the parties, the decision of the
3 arbitrator shall be final and binding as to all matters of
4 fact and law and shall be entered by the arbitrator as a
5 final judgment in the court of common pleas of the judicial
6 district in which the arbitration took place. A copy of the
7 arbitrator's final decision shall also be filed with the
8 department.

9 (9) Either party may initiate a de novo appeal from the
10 arbitrator's decision in the court of common pleas of the
11 judicial district in which the arbitration took place within
12 30 days of the arbitrator's decision.

13 (10) The department may provide for the system of
14 arbitration by maintaining a list of qualified arbitrators or
15 by contracting for qualified arbitration services.

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

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

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

26 (14) The remedies set forth in this subsection shall be
27 the exclusive remedies available to an aggrieved small
28 business.

29 § 2309. Accountability and disclosure.

30 (a) Reporting.--An institution of purely public charity that

1 does not register with the Department of State under Chapter 13
2 (relating to solicitation of funds for charitable purposes),
3 including institutions exempt under section 1306(a) (relating to
4 exemptions from registration), shall file an annual report with
5 the bureau. The report shall be filed within 135 days after the
6 close of the institution's fiscal year unless an extension is
7 granted by the department. The report shall be in a format
8 approved by the department and shall include:

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

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

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

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

17 (i) The name and type of organization.

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

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

22 (5) The relationship of the institution of purely public
23 charity with any other nonprofit corporation or
24 unincorporated association if the relationship involves
25 formal governance or the sharing of revenue.

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

1 (c) Amendments to annual returns.--An institution of purely
2 public charity which files an amended annual return with the
3 Internal Revenue Service shall file a copy of the amended annual
4 return with the bureau within 10 days of its filing with the
5 Internal Revenue Service.

6 (d) Exemption from filing.--Each of the following
7 institutions of purely public charity shall be exempt from the
8 reporting requirements of this section:

9 (1) A bona fide duly constituted religious institution
10 and the separate groups or corporations which form an
11 integral part of a religious institution and are exempt from
12 filing an annual return pursuant to the Internal Revenue Code
13 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

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

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

26 (1) Amounts collected by the bureau shall be paid to the
27 State Treasury.

28 (2) Amounts collected by the action or litigation of
29 another government agency shall be paid directly to that
30 agency.

1 (f) Paperwork reduction.--The department shall allow an
2 institution of purely public charity to certify that the
3 information required in subsection (a) (2), (3), (4) and (5) has
4 not changed since the prior report in lieu of providing the same
5 information in the report required by subsection (a). The
6 department may obtain from the Internal Revenue Service copies
7 of annual returns of institutions of purely public charity which
8 file annual returns with the Internal Revenue Service on
9 computer disk or other electronic or paper media.

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

13 (h) Utilization of reports.--The department shall make
14 reports submitted under this section available for public
15 inspection to the extent that the information is available for
16 public inspection under section 6104 of the Internal Revenue
17 Code of 1986 (26 U.S.C. § 6104). The department shall provide
18 any government agency a copy of the report filed under this
19 section upon request. Nothing in this subsection shall prevent a
20 government agency from requiring any institution seeking
21 exemption as an institution of purely public charity to provide
22 the information described in subsection (a) to that agency as
23 part of a determination of the tax-exempt status of the
24 institution.

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

28 (1) Knowingly failing to file the report required by
29 this section.

30 (2) Knowingly making a false statement which is material

1 in a report required by this section.

2 § 2310. Exemption for Federal Government instrumentality.

3 All real property owned by any corporation established by an
4 act of the Congress of the United States that is required to
5 submit annual reports of its activities to Congress containing
6 itemized accounts of all receipts and expenditures after being
7 fully audited by the Department of Defense, for purposes of the
8 Constitution of Pennsylvania and the laws of this Commonwealth
9 relating to the assessment and taxation of real estate, is
10 deemed to be property of a Federal Government instrumentality
11 and thus exempt from all State and local taxation.

12 § 2311. Prohibited act.

13 No institution may claim an exemption from sales and use tax
14 as an institution of purely public charity unless the
15 institution has received an order from the Department of Revenue
16 approving and authorizing the exemption.

17 § 2312. Compliance.

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

22 § 2313. Civil penalty.

23 In addition to any penalties authorized by the act of March
24 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for
25 violations of that act, the Department of Revenue may impose an
26 administrative penalty not to exceed \$500 for any willful and
27 knowing violation of this chapter. This section shall not apply
28 to any violation of section 2308 (relating to unfair competition
29 with small businesses).

30 § 2314. Repeals.

1 (a) Absolute.--(Reserved).

2 (b) General.--All other acts and parts of acts are repealed
3 insofar as they are inconsistent with this chapter except for
4 section 204(a)(3) of the act of May 22, 1933 (P.L.853, No.155),
5 known as The General County Assessment Law, as it applies to
6 charitable organizations providing residential housing services.
7 § 2315. Applicability.

8 (a) General.--This chapter shall not apply to nor affect 40
9 Pa.C.S. § 6103 (relating to exemptions applicable to certified
10 hospital plan corporations) or 6307 (relating to exemptions
11 applicable to certificated professional health service
12 corporations) or the entities subject to those sections.

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

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

23 Section 2. Repeals are as follows:

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

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

30 (3) The General Assembly declares that the repeal under

1 paragraph (4) is necessary to effectuate the addition of 10
2 Pa.C.S. Ch. 23.

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

6 Section 3. The addition of 10 Pa.C.S. Ch. 13 is a
7 continuation of the act of December 19, 1990 (P.L.1200, No.202),
8 known as the Solicitation of Funds for Charitable Purposes Act.
9 The following apply:

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

23 (2) Except as set forth in paragraph (3), any difference
24 in language between 10 Pa.C.S. Ch. 13 and the Solicitation of
25 Funds for Charitable Purposes Act is intended only to conform
26 to the style of the Pennsylvania Consolidated Statutes and is
27 not intended to change or affect the legislative intent,
28 judicial construction or administration and implementation of
29 the Solicitation of Funds for Charitable Purposes Act.

30 Section 4. The addition of 10 Pa.C.S. Ch. 23 is a

1 continuation of the act of November 26, 1997 (P.L.508, No.55),
2 known as the Institutions of Purely Public Charity Act. The
3 following apply:

4 (1) Except as otherwise provided in 10 Pa.C.S. Ch. 23,
5 all activities initiated under the Institutions of Purely
6 Public Charity Act shall continue and remain in full force
7 and effect and may be completed under 10 Pa.C.S. Ch. 23.
8 Orders, regulations, rules and decisions which were made
9 under the Institutions of Purely Public Charity Act and which
10 are in effect on the effective date of this section shall
11 remain in full force and effect until revoked, vacated or
12 modified under 10 Pa.C.S. Ch. 23. Contracts, obligations and
13 collective bargaining agreements entered into under the
14 Institutions of Purely Public Charity Act are not affected
15 nor impaired by the repeal of the Institutions of Purely
16 Public Charity Act.

17 (2) Except as set forth in paragraph (3), any difference
18 in language between 10 Pa.C.S. Ch. 23 and the Institutions of
19 Purely Public Charity Act is intended only to conform to the
20 style of the Pennsylvania Consolidated Statutes and is not
21 intended to change or affect the legislative intent, judicial
22 construction or administration and implementation of the
23 Institutions of Purely Public Charity Act.

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