
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1222 Session of
2019

INTRODUCED BY LEWIS, MILLARD, BERNSTINE, MOUL AND CIRESI,
APRIL 26, 2019

REFERRED TO COMMITTEE ON FINANCE, APRIL 26, 2019

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. Scope of title.

17 § 101. Scope of title.

18 This title relates to charities.

19 PART II

1 GAMES

2 (Reserved)

3 PART III

4 OPERATION

5 Chapter

6 11. General Provisions (Reserved)

7 13. Solicitation of Funds for Charitable Purposes

8 CHAPTER 11

9 GENERAL PROVISIONS

10 (Reserved)

11 CHAPTER 13

12 SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES

13 Sec.

14 1301. Scope of chapter.

15 1302. Legislative intent.

16 1303. Definitions.

17 1304. Powers and duties of secretary.

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

20 1306. Exemptions from registration.

21 1307. Short form registration.

22 1308. Registration of professional fundraising counsel and
23 contracts.

24 1309. Registration of professional solicitors and contracts.

25 1310. Contracts voidable by charitable organizations.

26 1311. Information filed to become public records.

27 1312. Records to be kept by charitable organizations,

28 professional fundraising counsels and professional
29 solicitors.

30 1313. Limitation on activities of charitable organizations and

- 1 disclosure requirements.
- 2 1314. Reciprocal agreements.
- 3 1315. Prohibited acts.
- 4 1316. Investigation.
- 5 1317. Administrative enforcement and penalties.
- 6 1318. Criminal penalties.
- 7 1319. Civil penalties.
- 8 1320. Additional regulations by counties, municipalities or
9 consolidated government.
- 10 1321. Charitable organizations deemed fiduciary.
- 11 1322. Prior registration unaffected.
- 12 1323. Regulations.
- 13 § 1301. Scope of chapter.

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

16 § 1302. Legislative intent.

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

1 in its purview, and its application shall not operate as a bar
2 or otherwise prevent the contemporaneous or subsequent
3 application of other relevant acts.

4 § 1303. Definitions.

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

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

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

21 "Bureau." The Bureau of Corporations and Charitable
22 Organizations of the Department of State.

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

1 business outside this Commonwealth shall be a charitable
2 organization for the purposes of this chapter. The term shall
3 not include:

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

9 (2) A bona fide duly constituted religious institution
10 and separate group or corporation which forms an integral
11 part of a religious institution, if all of the following
12 apply:

13 (i) The religious institution, group or corporation
14 is tax exempt under the Internal Revenue Code of 1986.

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

18 (iii) The institution's, group's 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. The term shall not include the following:

22 (1) Payment by members of an organization for membership
23 fees, dues, fines or assessments or for services rendered to
24 individual members, if the fees, dues, fines or assessments
25 confer a bona fide right, privilege, professional standing,
26 honor or other direct benefit if membership is not conferred
27 solely as consideration for making a contribution in response
28 to a solicitation.

29 (2) Government grants or contracts.

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 if membership does not confer upon
6 the federation operating authority and control of the individual
7 agencies.

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

12 "Fundraising costs." Costs incurred in inducing others to
13 make contributions to a charitable organization for which the
14 contributors will receive no direct economic benefit, such as
15 salaries, rent, acquiring and maintaining mailing lists,
16 printing, mailing and direct and indirect costs of soliciting
17 and the cost of unsolicited merchandise sent to encourage
18 contributions. The term shall not include the direct cost of
19 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 "Internal Revenue Code of 1986." The Internal Revenue Code
23 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

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

1 enforcement personnel.

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

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

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

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

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

27 "Professional solicitor." As follows:

28 (1) Any person who is retained for financial or other
29 consideration by a charitable organization to solicit in this
30 Commonwealth contributions for charitable purposes directly

1 or in the form of payment for goods, services or admission to
2 fundraising events, whether the solicitation is performed
3 personally or through the person's agents, servants or
4 employees or through agents, servants or employees especially
5 employed by or for a charitable organization who are engaged
6 in the solicitation of contributions, the sale of goods or
7 services or the production of fundraising events under the
8 direction of the person, or a person who plans, conducts,
9 manages, carries on, advises, consults, whether directly or
10 indirectly, in connection with the solicitation of
11 contributions, sale of goods or services or the production of
12 fundraising events for or on behalf of any charitable
13 organization, but does not qualify as a professional
14 fundraising counsel within the meaning of this chapter.

15 (2) The term shall include a person who is otherwise a
16 professional fundraising counsel if the person's compensation
17 is related to the amount of contributions received.

18 (3) The term shall not include a bona fide salaried
19 officer or regular, nontemporary employee of a charitable
20 organization if the individual is not employed or engaged as
21 professional fundraising counsel or as a professional
22 solicitor by any other person.

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

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

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

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

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

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

15 § 1304. Powers and duties of secretary.

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

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

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

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

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

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

1 (6) Conduct hearings and make adjudications.

2 (7) Keep a record showing the names and addresses of
3 each registered charitable organization, professional
4 fundraising counsel and professional solicitor.

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

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

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

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

22 (a) Registration and approval required.--A charitable
23 organization, unless exempted from registration requirements
24 under section 1306 (relating to exemptions from registration),
25 shall file a registration statement with the department. The
26 statement must be refiled annually within 135 days after the
27 close of its fiscal year in which the charitable organization
28 was engaged in solicitation activities. The department shall
29 review the statement under subsection (r). A charitable
30 organization may not solicit contributions or have contributions

1 solicited on the charitable organization's behalf before
2 approval of its registration statement by the department.

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

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

15 (2) The principal address and telephone number of the
16 charitable organization and the addresses and telephone
17 numbers of offices in this Commonwealth. If the charitable
18 organization does not maintain an office, the name and
19 address of the individual having custody of the charitable
20 organization's financial records.

21 (3) The names and addresses of any affiliates which
22 share in the contributions or other revenue raised in this
23 Commonwealth.

24 (4) The names and addresses of the officers, directors
25 and trustees and the principal salaried executive staff
26 officers.

27 (5) A copy of the financial report required under
28 subsection (e).

29 (6) A copy of any determination of the charitable
30 organization's tax-exempt status under the Internal Revenue

1 Code of 1986 and, for charitable organizations granted tax-
2 exempt status under section 501(c)(3) of the Internal Revenue
3 Code of 1986, a copy of the last filed Internal Revenue
4 Service Form 990 and Schedule A for every charitable
5 organization and parent organization.

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

8 (8) Whether:

9 (i) The charitable organization is authorized by any
10 other governmental authority to solicit contributions.

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

18 (iii) The charitable organization's registration or
19 license has been denied, suspended or revoked by any
20 governmental agency, together with the reasons for the
21 denial, suspension or revocation.

22 (iv) The charitable organization has voluntarily
23 entered into an assurance of voluntary discontinuance or
24 agreement similar to that set forth in section 1319(b)
25 (relating to civil penalties), together with a copy of
26 that agreement.

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

30 (10) The names and addresses of professional solicitors,

1 professional fundraising counsels and commercial coventurers
2 who are acting or have agreed to act on behalf of the
3 charitable organization.

4 (11) The names of the individuals or officers of the
5 organization who are in charge of any solicitation
6 activities, who will have final responsibility for the
7 custody of the contributions and who will be responsible for
8 the final distribution of the contributions.

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

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

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

28 (1) A copy of the charitable organization's charter,
29 articles of organization, agreement of association,
30 instrument of trust, constitution or other organizational

1 instrument and bylaws.

2 (2) A statement setting forth where and the date when
3 the charitable organization was legally established, the form
4 of its organization and its tax-exempt status, together with
5 a copy of the letter of exemption, if any, issued by the
6 Internal Revenue Service.

7 (d) Federal tax exemption determination.--Each charitable
8 organization registered with the department shall file with the
9 department a copy of a Federal tax exemption determination
10 letter received after the initial registration within 30 days
11 after receipt, and any amendments to its organizational
12 instrument within 30 days after adoption.

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

27 (f) Audit of certain financial reports.--The financial
28 report of every charitable organization which receives annual
29 contributions of \$300,000 or more shall be audited by an
30 independent certified public accountant or public accountant.

1 Every charitable organization which receives annual
2 contributions of at least \$100,000, but less than \$300,000,
3 shall be required to have a review or audit of their financial
4 statements performed by an independent certified public
5 accountant or public accountant. Every charitable organization
6 which receives annual contributions of at least \$50,000, but
7 less than \$100,000, shall be required to have a compilation,
8 review or audit of their financial statements performed by an
9 independent certified public accountant or public accountant. A
10 compilation, audit or review is optional for a charitable
11 organization which receives annual contributions of less than
12 \$50,000. Audits shall be performed in accordance with generally
13 accepted auditing standards, including the Statements on
14 Auditing Standards of the American Institute of Certified Public
15 Accountants. Reviews shall be performed in accordance with the
16 Statements on Standards for Accounting and Review Services of
17 the American Institute of Certified Public Accountants.

18 (g) Governmental audits.--Government audits of government
19 grants shall be accepted and shall be included as part of the
20 financial statements.

21 (h) Other acceptable reports.--The department may accept a
22 copy of a current financial report previously prepared by a
23 charitable organization for a governmental agency in another
24 jurisdiction in compliance with the laws of that jurisdiction if
25 the report filed with the other governmental agency shall be
26 substantially similar in content to the report required by this
27 section.

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

1 (j) Optional departmental action.--The department shall have
2 the discretion to:

3 (1) Require that an audit or review be submitted by a
4 charitable organization which files a registration statement.

5 (2) Accept the financial statement submitted by the
6 organization in lieu of an audit or review if special facts
7 and circumstances are presented.

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

13 (l) Cancellation of registration.--The registration of a
14 charitable organization may not continue in effect after the
15 date the charitable organization should have filed, but failed
16 to file, its financial report in accordance with this section. A
17 charitable organization may not file a new registration
18 statement until the charitable organization has filed the
19 required financial report with the department.

20 (m) Reports by affiliates.--

21 (1) Each affiliate whose parent organization has its
22 principal place of business in this Commonwealth may
23 separately file the registration statement or financial
24 information required by this section, or report the required
25 information to its parent organization which shall then file
26 a combined registration statement and financial report for
27 its Pennsylvania affiliates. There shall be appended to each
28 combined report a schedule, containing information as
29 prescribed in the regulations of the department, reflecting
30 the activities of each affiliate, which shall contain a

1 certification, under oath, by an official of the
2 organization, that the information contained in the schedule
3 is true. The failure of a parent organization to file a
4 combined registration statement and financial report shall
5 not excuse either the parent organization or its affiliates
6 from complying with the requirements of this section.

7 (2) If an affiliate is soliciting in this Commonwealth
8 but its parent organization has its principal place of
9 business outside this Commonwealth, both the affiliate and
10 the parent organization shall independently comply with the
11 registration requirements of this section.

12 (n) Federated organizations.--An independent member agency
13 of a federated fundraising organization shall independently
14 comply with the provisions of this section unless specifically
15 exempted or unless it receives allocations solely from the
16 federated fundraising organization and does not independently
17 solicit contributions. Donor choice programs are deemed to be
18 independent solicitations.

19 (o) Retention of records.--Each charitable organization
20 required to register shall maintain records, books and reports
21 for at least three years after the end of the period of
22 registration to which the charitable organizations relate, which
23 shall be available for inspection upon demand by the department
24 and Office of Attorney General.

25 (p) Annual registration fees.--A charitable organization
26 which submits a short form registration statement under section
27 1307 (relating to short form registration) or receives
28 contributions of \$25,000 or less during the immediately
29 preceding fiscal year shall pay an annual registration fee of
30 \$15. A charitable organization which receives contributions in

1 excess of \$25,000, but less than \$100,000, during the
2 immediately preceding fiscal year shall pay an annual
3 registration fee of \$100. A charitable organization which
4 receives contributions in excess of \$100,000, but not exceeding
5 \$500,000, during the immediately preceding fiscal year shall pay
6 an annual registration fee of \$150. A charitable organization
7 which receives contributions in excess of \$500,000 during the
8 immediately preceding fiscal year shall pay an annual
9 registration fee of \$250. A parent organization filing on behalf
10 of one or more affiliates and a federated fundraising
11 organization filing on behalf of its member agencies shall pay a
12 single annual registration fee for itself and other affiliates
13 or member agencies included in the registration statement.

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

20 (r) Department review.--The department shall examine each
21 registration statement and supporting documents filed by a
22 charitable organization and shall determine whether the
23 registration requirements are satisfied. If the department
24 determines that the registration requirements are not satisfied,
25 the department must notify the charitable organization within 10
26 working days of its receipt of the registration statement.
27 Otherwise, the registration statement is deemed to be approved.
28 Within seven days after receipt of a notification that the
29 registration requirements are not satisfied, the charitable
30 organization may request a hearing. The hearing must be held

1 within seven days of receipt of the request, and a determination
2 must be rendered within three working days of the hearing.

3 (s) Administration of charitable contributions.--A
4 charitable organization shall maintain and administer the
5 contributions raised on the charitable organization's behalf
6 through an account in the name of the charitable organization
7 and under the charitable organization's sole control.

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

12 § 1306. Exemptions from registration.

13 (a) General rule.--The following charitable organizations
14 shall be exempt from the registration requirements of this
15 chapter:

16 (1) Educational institutions, the curricula of which, in
17 whole or in part, are registered with or approved by the
18 Department of Education, either directly or by acceptance of
19 accreditation by an accrediting body recognized by the
20 Department of Education, and any auxiliary associations,
21 foundations and support groups that are directly responsible
22 to educational institutions.

23 (2) Hospitals which are subject to regulation by the
24 Department of Health or the Department of Human Services and
25 the hospital foundation, if any, which is an integral part of
26 the hospitals.

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

29 (i) any veterans' organization chartered under
30 Federal law and any service foundation recognized in the

1 bylaws of the organization;

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

3 (iii) a bona fide ambulance association;

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

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

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

7 (iii) or (iv);

8 provided that all fundraising activities are carried on by

9 volunteers, members or an auxiliary or affiliate of the

10 organization or association and that they receive no

11 compensation directly or indirectly for the fundraising

12 activities.

13 (4) Public nonprofit library organizations which receive

14 financial aid from State and municipal governments and file

15 an annual fiscal report with the State Library System.

16 (5) Senior citizen centers and nursing homes which are

17 nonprofit and charitable and which have been granted tax-

18 exempt status under the Internal Revenue Code of 1986,

19 provided that all fundraising activities are carried on by

20 volunteers, members or officers of the senior citizen center

21 and that those volunteers, members or officers receive no

22 compensation, directly or indirectly, for the fundraising

23 activities.

24 (6) Bona fide parent-teacher associations or parent-

25 teacher organizations as recognized in a notarized letter

26 from the school district in which they are located.

27 (7) Any corporation established by an act of the

28 Congress of the United States that is required by Federal law

29 to submit annual reports of its activities to Congress

30 containing itemized accounts of all receipts and expenditures

1 after being fully audited by the Department of Defense.

2 (8) Any charitable organization which receives
3 contributions of \$25,000 or less annually, provided that the
4 organization does not compensate any person who conducts
5 solicitations. Charitable organizations that receive more
6 than \$25,000 in contributions shall file the appropriate
7 registration statement within 30 days after the contributions
8 are received.

9 (b) Effect of exemption.--Exemption from the registration
10 requirements of this chapter shall in no way limit the
11 applicability of other provisions of this part to a charitable
12 organization or any professional solicitor or professional
13 fundraising counsel acting on its behalf, except that written
14 notice under sections 1309(k) (relating to registration of
15 professional solicitors and contracts) and 1313(c) (relating to
16 limitation on activities of charitable organizations and
17 disclosure requirements) shall not apply.

18 § 1307. Short form registration.

19 (a) Organizations required to file.--The following
20 charitable organizations shall be required to file short form
21 annual registration statements with the department in lieu of
22 the registration statement required by section 1305 (relating to
23 registration of charitable organizations; financial reports;
24 fees; failure to file):

25 (1) Persons or charitable organizations accepting
26 contributions for the relief of any individual specified by
27 name at the time of acceptance or solicitation when all of
28 the contributions collected without any deductions whatsoever
29 are turned over to the named beneficiary for the
30 beneficiary's use, provided that all contributions collected

1 shall be held in trust and shall be subject to the provisions
2 of 20 Pa.C.S. Ch. 77 (relating to trusts). The secretary, the
3 Attorney General, any contributor or any person who provides
4 any goods or services for which funds are expressly or
5 implicitly solicited shall have the right to petition the
6 court of common pleas of the county in which the trust is
7 located for an accounting of all contributions. For purposes
8 of this paragraph, the trust shall be deemed to be located in
9 the county where the principal place of business of the
10 charitable organization is located. If a charitable
11 organization has its principal place of business outside this
12 Commonwealth, all of the following shall apply:

13 (i) If an affiliate is soliciting contributions
14 within this Commonwealth, the trust shall be deemed to be
15 located in the county where the principal place of
16 business of the affiliate is located.

17 (ii) If a person is soliciting contributions within
18 this Commonwealth, the trust shall be deemed to be
19 located in the county where the principal place of
20 business or the residence of the person is located.

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

24 (2) Organizations which only solicit within the
25 membership of the organization by the members of the
26 organization provided that the term "membership" shall not
27 include those persons who are granted a membership solely
28 upon making a contribution as the result of solicitation. For
29 the purpose of this paragraph, "member" means a person having
30 membership in a nonprofit corporation, or other organization,

1 in accordance with the provisions of its articles of
2 incorporation, bylaws or other instruments creating its form
3 and organization and having bona fide rights and privileges
4 in the organization such as the right to vote, to elect
5 officers and directors or to hold office or position as
6 ordinarily conferred on members of the organizations.

7 (3) Charitable organizations whose fundraising
8 activities are carried out by volunteers, members, officers
9 or permanent employees and which do not receive contributions
10 in excess of \$25,000 during a fiscal year, if no part of
11 their assets or income inures to the benefit of or is paid to
12 any officer or member, professional fundraising counsel,
13 professional solicitor or commercial coventurer. Charitable
14 organizations which do not intend to solicit and receive in
15 excess of \$25,000, but do receive contributions in excess of
16 that amount, shall file the financial report required in
17 section 1305 within 30 days after contributions are received
18 in excess of that amount.

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

24 (b) Contents of statement.--The short form annual
25 registration statements required to be filed under this section
26 shall include any information required by the regulations of the
27 department.

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

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

5 § 1308. Registration of professional fundraising counsel and
6 contracts.

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

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

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

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

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

1 applicant.

2 (5) The name of any person who is in charge of any
3 solicitation activity.

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

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

14 (c) Department review of registration statement.--The
15 department shall examine each registration statement and
16 supporting document filed by a professional fundraising counsel
17 and shall determine whether the registration requirements are
18 satisfied. If the department determines that the registration
19 requirements are not satisfied, the department must notify the
20 professional fundraising counsel within 10 working days of the
21 receipt of its registration statement, otherwise the
22 registration statement is deemed to be approved. Within seven
23 days after receipt of a notification that the registration
24 requirements are not satisfied, the professional fundraising
25 counsel may request a hearing. The hearing must be held within
26 seven days of receipt of the request, and a determination must
27 be rendered within three working days of the hearing.

28 (d) Written contract.--There shall be a written contract
29 between a charitable organization and a professional fundraising
30 counsel which shall be filed by the professional fundraising

1 counsel with the department at least 10 working days prior to
2 the performance by the professional fundraising counsel of any
3 service. No solicitation or services pursuant to the contract
4 shall begin before the department has approved the contract
5 under subsection (e). The contract must be signed by two
6 authorized officials of the charitable organization, one of whom
7 must be a member of the charitable organization's governing
8 body, and the authorized contracting officer for the
9 professional fundraising counsel. The contract shall contain all
10 of the following provisions:

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

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

16 (3) A statement of the respective obligations of the
17 professional fundraising counsel and the charitable
18 organization.

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

21 (5) The effective and termination dates of the contract.
22 If the contract does not have a set termination date, the
23 contract shall contain a clause allowing either party a
24 reasonable period of time to terminate the contract or notify
25 the other party if either party chooses not to renew. The
26 contract shall also contain the date services will commence
27 with respect to solicitation in this Commonwealth of
28 contributions for a charitable organization.

29 (6) A statement that the professional fundraising
30 counsel will not at any time have custody or control of

1 contributions.

2 (7) A statement that the charitable organization
3 exercises control and approval over the content and volume of
4 any solicitation.

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

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

19 § 1309. Registration of professional solicitors and contracts.

20 (a) Registration and approval required.--No person shall act
21 as a professional solicitor before obtaining department approval
22 of a registration statement under subsection (d) or after the
23 expiration, suspension or revocation of registration. A
24 registration application shall be signed and made by the
25 principal officer of the professional solicitor subject to 18
26 Pa.C.S. § 4904 (relating to unsworn falsification to
27 authorities) and shall contain all of the following information:

28 (1) The address of the principal place of business of
29 the applicant and any addresses within this Commonwealth, if
30 the principal place of business is located outside this

1 Commonwealth.

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

3 (3) The names and residence addresses of all principals
4 of the applicant, including all officers, directors and
5 owners.

6 (4) Whether any of the owners, directors, officers or
7 employees of the applicant are related by blood, marriage or
8 adoption to any other directors, officers, owners or
9 employees of the applicant, any officer, director, trustee or
10 employee of any charitable organization under contract to the
11 applicant or any supplier or vendor providing goods or
12 services to any charitable organization under contract to the
13 applicant.

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

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

18 (b) Registration fee.--The application for registration
19 shall be accompanied by a fee of \$250. A professional solicitor
20 that is a partnership or corporation may register for and pay a
21 single fee on behalf of all of its partners, members, officers,
22 directors, agents and employees. Each registration shall be
23 valid for one year and may be renewed for additional one-year
24 periods upon application to the department and payment of the
25 registration fee.

26 (c) Bond.--A professional solicitor shall, at the time of
27 making application for registration or renewal of registration,
28 file with and have approved by the department a bond, in which
29 it shall be the principal obligor, in the sum of \$25,000, or a
30 greater amount as prescribed by the regulations of the

1 department, and which shall have one or more sureties
2 satisfactory to the department whose liability in the aggregate
3 as sureties will at least equal that sum and maintain the bond
4 in effect as long as the registration is in effect. The bond
5 shall run to the Commonwealth for use of the secretary, Attorney
6 General and any person who may have a cause of action against
7 the obligor for any losses resulting from malfeasance,
8 nonfeasance or misfeasance in the conduct of solicitation
9 activities. A professional solicitor that is a partnership or
10 corporation may file one \$25,000 bond or an amount specified by
11 regulation of the department on behalf of all of its partners,
12 members, officers, directors, agents and employees.

13 (d) Department review of registration statement.--The
14 department shall examine each registration statement and
15 supporting documents filed by a professional solicitor and shall
16 determine whether the registration requirements are satisfied.
17 If the department determines that the registration requirements
18 are not satisfied, the department must notify the professional
19 solicitor within 10 working days of its receipt of the
20 registration statement. Otherwise, the registration statement is
21 deemed to be approved. Within seven days after receipt of a
22 notification that the regulation requirements are not satisfied,
23 the professional solicitor may request a hearing. The hearing
24 must be held within seven days of receipt of the request and a
25 determination must be rendered within three working days of the
26 hearing.

27 (e) Contract filing.--No less than 10 working days prior to
28 the commencement of each solicitation campaign, event or
29 services, a professional solicitor shall file with the
30 department a copy of the contract described in subsection (f)

1 and a written solicitation notice. No solicitation or services
2 pursuant to the contract shall begin before the department has
3 approved the contract under subsection (g). The solicitation
4 notice shall be accompanied by a fee of \$25 and shall be signed
5 and sworn to by the authorized contracting officer for the
6 professional solicitor. If more than one event or campaign is
7 conducted under a contract, then a solicitation notice addendum
8 must be filed no less than 10 working days prior to the
9 commencement of each additional event or campaign. No additional
10 fee is required to file the addendum. The solicitation notice
11 and addendum shall contain all of the following information:

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

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

15 (3) The legal name and resident address of each person
16 responsible for directing and supervising the conduct of the
17 campaign and each person who is to solicit during the
18 campaign.

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

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

23 (6) A full and fair description of the charitable
24 program for which the solicitation campaign is being carried
25 out.

26 (7) The date the solicitation campaign or event will
27 begin or be held within this Commonwealth and the termination
28 date for each campaign or event.

29 (8) Any other information required by the regulations of
30 the department.

1 (f) Written contract.--There shall be a written contract
2 between a professional solicitor and a charitable organization
3 for each solicitation campaign which shall be signed by two
4 authorized officials of the charitable organization, one of whom
5 must be a member of the charitable organization's governing
6 body, and the authorized contracting officer for the
7 professional solicitor. The contract shall contain all of the
8 following provisions:

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

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

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

16 (4) A statement of the guaranteed minimum percentage of
17 the gross receipts from contributions which will be remitted
18 to or retained by the charitable organization, if any, or, if
19 the solicitation involves the sale of goods, services or
20 tickets to a fundraising event, the percentage of the
21 purchase price which will be remitted to the charitable
22 organization, if any. Any stated percentage shall exclude any
23 amount which the charitable organization is to pay as
24 fundraising costs.

25 (5) A statement of the percentage of the gross revenue
26 which the professional solicitor will be compensated. The
27 stated percentage shall include any amount which the
28 professional solicitor is to be reimbursed as payment for
29 fundraising costs. If the compensation of the professional
30 solicitor is not contingent upon the number of contributions

1 or the amount of revenue received, the compensation shall be
2 expressed as a reasonable estimate of the percentage of the
3 gross revenue, and the contract shall clearly disclose the
4 assumptions upon which the estimate is based. The stated
5 assumptions shall be based upon all of the relevant facts
6 known to the professional solicitor regarding the
7 solicitation to be conducted by the professional solicitor.

8 (6) The effective and termination dates of the contract.
9 If the contract does not have a set termination date, the
10 contract shall contain a clause allowing either party a
11 reasonable period of time to terminate the contract or notify
12 the other party if either party chooses not to renew. The
13 contract shall also contain the date solicitation activity is
14 to commence within this Commonwealth.

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

17 (g) Department review of contract.--The department shall
18 examine each contract and solicitation notice filed by a
19 professional solicitor and shall determine whether the contract
20 and notice contain the required information. If the department
21 determines that the requirements are not satisfied, the
22 department must notify the professional solicitor within 10
23 working days of its receipt of the contract and notice.
24 Otherwise, the contract and notice are deemed to be approved.
25 Within seven days after receipt of a notification that the
26 requirements are not satisfied, the professional solicitor may
27 request a hearing. The hearing must be held within seven days of
28 receipt of the request, and a determination must be rendered
29 within three working days of the hearing.

30 (h) Required disclosures.--Prior to orally requesting a

1 contribution or contemporaneously with a written request for a
2 contribution, a professional solicitor shall be responsible for
3 clearly and conspicuously disclosing:

4 (1) The name of the professional solicitor on file with
5 the department and that the solicitation is being conducted
6 by a professional solicitor who is being paid for the
7 solicitor's services.

8 (2) If the individual acting on behalf of the
9 professional solicitor is identified by name, the
10 individual's legal name.

11 (3) The legal name of the charitable organization as
12 registered with the department and a description of how the
13 contributions raised by the solicitation will be utilized for
14 a charitable purpose or, if there is no charitable
15 organization, a description as to how the contributions
16 raised by the solicitation will be utilized for a charitable
17 purpose.

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

21 (j) Information on disclosure.--In the case of a
22 solicitation campaign conducted orally, whether by telephone or
23 otherwise, any written confirmation, receipt and reminder sent
24 to any person who has contributed or has pledged to contribute
25 shall include a clear and conspicuous disclosure of the
26 information required by subsection (h).

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

1 The official registration and financial information of
2 (insert the legal name of the charity as registered with
3 the department) may be obtained from the Pennsylvania
4 Department of State. Registration does not imply
5 endorsement.

6 (l) Financial reports.--Within 90 days after a solicitation
7 campaign or event has been completed and on the anniversary of
8 the commencement of a solicitation campaign lasting more than
9 one year, a professional solicitor shall file with the
10 department a financial report for the campaign, including gross
11 revenue and an itemization of all expenses incurred. This report
12 shall be signed and sworn to by the authorized contracting agent
13 for the professional solicitor and two authorized officials of
14 the charitable organization.

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

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

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

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

26 (4) The location and account number of each bank or
27 other financial institution account in which the professional
28 solicitor has deposited revenue from the solicitation
29 campaign.

30 (n) Records from ticket sales.--If the professional

1 solicitor sells tickets to an event and represents that tickets
2 will be donated for use by another, the professional solicitor
3 shall maintain, for not less than three years after the
4 completion of the event, the following records, which shall be
5 available for inspection upon demand by the department or the
6 Office of Attorney General:

7 (1) The number of tickets purchased and donated by each
8 contributor.

9 (2) The name and address of all organizations receiving
10 donated tickets for use by others, including the number of
11 tickets received by each organization.

12 (o) Deposit of contributions.--Each contribution in the
13 control or custody of the professional solicitor shall, in its
14 entirety and within five days of its receipt, be deposited in an
15 account at a bank or other federally insured financial
16 institution which shall be in the name of the charitable
17 organization. The charitable organization shall maintain and
18 administer the account and shall have sole control of all
19 withdrawals.

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

24 (q) Restrictions.--

25 (1) No person may act as a professional solicitor if the
26 person, any officer or director, any person with a
27 controlling interest or any person the professional solicitor
28 employs, engages or procures to solicit for compensation has
29 been convicted, by a court of any state or the United States,
30 of any felony or of any misdemeanor involving dishonesty or

1 arising from the conduct of a solicitation for a charitable
2 organization or purpose.

3 (2) A professional solicitor shall not solicit in this
4 Commonwealth on behalf of a charitable organization unless
5 that charitable organization is registered or is exempt from
6 registration with the department.

7 § 1310. Contracts voidable by charitable organizations.

8 (a) Contracts with registered groups.--No professional
9 fundraising counsel or professional solicitor shall contract
10 with a charitable organization unless the professional
11 fundraising counsel or professional solicitor is registered with
12 the department. A contract with an unregistered professional
13 fundraising counsel or professional solicitor shall be voidable
14 at the option of the charitable organization.

15 (b) Cancellation of contract.--Whenever a charitable
16 organization contracts with a professional fundraising counsel
17 or professional solicitor, the charitable organization shall
18 have the right to cancel the contract without cost, penalty or
19 liability for a period of 10 days following the date on which
20 that contract is executed. Any provision in the contract that is
21 intended to waive this right of cancellation shall be void and
22 unenforceable.

23 (c) Manner of cancellation.--A charitable organization may
24 cancel a contract under subsection (b) by serving a written
25 notice of cancellation on the professional fundraising counsel
26 or professional solicitor. If mailed, service shall be by
27 certified mail, return receipt requested, and cancellation shall
28 be deemed effective upon receipt by the professional fundraising
29 counsel or professional solicitor. The notice shall be
30 sufficient if it indicates that the charitable organization does

1 not intend to be bound by the contract.

2 (d) Cancellation notice to department.--Whenever a
3 charitable organization cancels a contract under the provisions
4 of this section, it shall mail a duplicate copy of the notice of
5 cancellation to the department.

6 (e) Status of funds after cancellation.--Any funds collected
7 after effective notice that a contract has been canceled shall
8 be deemed to be held in trust for the benefit of the charitable
9 organization without deduction for costs or expenses of any
10 nature. A charitable organization shall be entitled to recover
11 all funds collected after the date of cancellation.

12 § 1311. Information filed to become public records.

13 Except as otherwise provided in section 1312 (relating to
14 records to be kept by charitable organizations, professional
15 fundraising counsels and professional solicitors), registration
16 statements and applications, reports, notices, contracts or
17 agreements between charitable organizations and professional
18 fundraising counsel, professional solicitors and commercial
19 coventurers, and all other documents and information required to
20 be filed under this chapter with the department, shall become
21 public records in the office of the bureau and shall be open to
22 the general public at the time and under conditions the
23 department prescribes.

24 § 1312. Records to be kept by charitable organizations,
25 professional fundraising counsels and professional
26 solicitors.

27 (a) True and accurate fiscal records.--A charitable
28 organization, professional fundraising counsel and professional
29 solicitor subject to the provisions of this chapter shall, in
30 accordance with the rules and regulations prescribed by the

1 department, keep true fiscal records as to its activities in
2 this Commonwealth as may be covered under this chapter in a form
3 to enable them to accurately provide the information required
4 under this chapter.

5 (b) Availability for inspection.--Except as provided in
6 subsection (c), the records shall be made available for
7 inspection upon demand by the department or the Office of
8 Attorney General.

9 (c) Nonpublic records.--Notwithstanding subsection (b),
10 names, addresses and identities of contributors and amounts
11 contributed by them shall not be considered a matter of public
12 record. This information shall:

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

14 (2) Not be used for a purpose inconsistent with this
15 chapter.

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

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

22 § 1313. Limitation on activities of charitable organizations
23 and disclosure requirements.

24 (a) Solicitation limitation.--A charitable organization may
25 only solicit contributions for the charitable purpose expressed
26 in a solicitation for contributions or the registration
27 statement of the charitable organization and may only apply
28 contributions in a manner substantially consistent with that
29 purpose.

30 (b) Solicitation disclosures.--A charitable organization

1 soliciting in this Commonwealth shall disclose the following at
2 the point of solicitation:

3 (1) Its legal name and address as registered with the
4 department. If different, the legal name and address of the
5 charitable organization, as registered with the department,
6 on whose behalf the solicitation is being conducted. Any use
7 of a project or program name in a solicitation must be
8 followed immediately by a disclosure of the legal, registered
9 name of the charitable organization.

10 (2) If requested, the name and address or telephone
11 number of a representative to whom inquiries could be
12 addressed.

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

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

18 (i) Be consistent with the annual financial report
19 requested under section 1305 (relating to registration of
20 charitable organizations; financial reports; fees;
21 failure to file).

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

24 (iii) List expenses separately, under the categories
25 of program services, administrative costs and fundraising
26 costs.

27 (c) Notice on printed solicitation.--On every printed
28 solicitation or written confirmation, receipt and reminder of a
29 contribution, the following statement must be printed
30 conspicuously, verbatim:

1 The official registration and financial information of
2 (insert the legal name of the charity as registered with
3 the department) may be obtained from the Pennsylvania
4 Department of State. Registration does not imply
5 endorsement.

6 (d) Misrepresentation.--A misrepresentation is accomplished
7 by words, conduct or failure to disclose a material fact. A
8 charitable organization may not misrepresent any of the
9 following:

10 (1) Its purpose.

11 (2) Its nature.

12 (3) The purpose of a solicitation.

13 (4) The beneficiary of a solicitation.

14 (e) Control over fundraising activities.--A charitable
15 organization must establish and exercise control over
16 fundraising activities conducted for the charitable
17 organization's benefit, including approval of all written
18 contracts and agreements, and must assure that fundraising
19 activities are conducted without coercion.

20 (f) Restrictions on certain contracts.--A charitable
21 organization shall not enter into a contract or agreement with
22 or employ any professional fundraising counsel or professional
23 solicitor unless the counsel or solicitor is registered with the
24 department.

25 (g) Registration with department required.--A charitable
26 organization shall not enter into a contract or agreement with
27 or raise any funds for a charitable organization required to be
28 registered under this chapter unless both charitable
29 organizations are registered with the department.

30 (h) Deposit of contributions.--Each contribution in the

1 control or custody of a professional solicitor shall, in its
2 entirety and within five days of its receipt, be deposited,
3 maintained and administered in an account at a bank or other
4 federally insured financial institution. The account shall be in
5 the name of the charitable organization, which shall have sole
6 control of all account withdrawals.

7 § 1314. Reciprocal agreements.

8 (a) Authorization.--The secretary may enter into reciprocal
9 agreements with the appropriate authority of any other state for
10 the purpose of exchanging information with respect to charitable
11 organizations, professional fundraising counsel and professional
12 solicitors.

13 (b) Effect.--Pursuant to any reciprocal agreement, the
14 secretary may accept information filed by a charitable
15 organization, professional fundraising counsel or professional
16 solicitor with the appropriate authority of another state in
17 lieu of the information required to be filed in accordance with
18 this chapter if the information is substantially similar to the
19 information required under this chapter.

20 (c) Annual registration exemption.--The secretary may grant
21 exemptions from the requirements for the filing of annual
22 registration statements with the department to a charitable
23 organization if the following apply:

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

25 (2) It has its principal place of business outside this
26 Commonwealth.

27 (3) Its funds are derived principally from sources
28 outside this Commonwealth.

29 (4) It has been exempted from the filing of registration
30 statements by the state in which it is organized if the state

1 has a statute similar in substance to the provisions of this
2 chapter.

3 § 1315. Prohibited acts.

4 (a) General rule.--Notwithstanding a person's intent or the
5 lack of injury, the following are prohibited in the planning,
6 conduct or execution of a solicitation or charitable sales
7 promotion:

8 (1) Operating in violation of or failing to comply with
9 any requirement of this chapter, regulation of the department
10 or order of the secretary.

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

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

15 (4) Utilizing any unfair or deceptive acts or practices
16 or engaging in any fraudulent conduct which creates a
17 likelihood of confusion or misunderstanding.

18 (5) Conveying any representation that implies the
19 contribution is for or on behalf of a charitable organization
20 or utilizing an emblem, device or printed matter belonging to
21 or associated with a charitable organization without first
22 being authorized in writing to do so by the charitable
23 organization.

24 (6) Utilizing a name, symbol or statement so closely
25 related or similar to that used by another charitable
26 organization or other person that the use would tend to
27 confuse or mislead a solicited person.

28 (7) Misrepresenting or misleading anyone in any manner
29 to believe that the person on whose behalf a solicitation or
30 charitable sales promotion is being conducted is a charitable

1 organization or that the proceeds of the solicitation or
2 charitable sales promotion will be used for charitable
3 purposes when this is not the fact.

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

10 (9) Misrepresenting to or misleading anyone in any
11 manner so as to allow the belief that goods or services have
12 sponsorship, approval, characteristics, ingredients, uses,
13 benefits or qualities that they do not have or that a person
14 has a sponsorship, approval, status, affiliation or
15 connection that the person in fact does not have.

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

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

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

30 (12) With respect to solicitations by professional

1 solicitors on behalf of law enforcement personnel,
2 firefighters or other persons who protect the public safety,
3 issuing, offering, giving, delivering or distributing
4 honorary membership cards, courtesy cards or similar cards or
5 any stickers, emblems, plates or other items which could be
6 used for display on a motor vehicle.

7 (13) Violating the following:

8 (i) Soliciting for advertising to appear in a for-
9 profit publication that relates to, purports to relate to
10 or that could reasonably be construed to relate to any
11 charitable purpose without making the following
12 disclosures at the time of solicitation:

13 (A) The publication is a for-profit, commercial
14 enterprise.

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

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

19 (ii) Where a sale of advertising has been made, the
20 solicitor, prior to accepting any money for the sale,
21 shall present the purchaser with the same disclosures as
22 are set forth under subparagraph (i) in written form and
23 in conspicuous type.

24 (14) Representing that a part of contributions received
25 will be given or donated to another charitable organization
26 unless that organization has consented in writing to the use
27 of its name prior to the solicitation. The written consent
28 shall be signed by two authorized officers, directors or
29 trustees of the charitable organization.

30 (15) (i) Representing that tickets to events will be

1 donated for use by another, unless all of the following
2 requirements have been met:

3 (A) The charitable organization or professional
4 solicitor has commitments, in writing, from
5 charitable organizations stating that they will
6 accept donated tickets and specifying the number of
7 tickets they are willing to accept.

8 (B) The charitable organization or professional
9 solicitor does not solicit or accept more
10 contributions of donated tickets than the lesser of:

11 (I) the number of ticket commitments it has
12 received from charitable associations; or

13 (II) the total attendance capacity of the
14 site of the event.

15 (ii) A ticket commitment alone, as described in this
16 paragraph, does not constitute written consent to use the
17 charitable organization's name in the solicitation
18 campaign.

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

25 § 1316. Investigation.

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

30 (1) Require or permit a person to file a statement in

1 writing, under oath or otherwise, as to all the facts and
2 circumstances concerning the matter being investigated.

3 (2) Administer oaths or affirmations.

4 (3) Take testimony under oath.

5 (4) Require the attendance and testimony of witnesses
6 and the production of books, accounts, papers, records,
7 documents, audits and files relating to a solicitation or
8 practice subject to this chapter or the regulations of the
9 department promulgated pursuant to the authority of this
10 chapter.

11 (5) Issue subpoenas.

12 (6) Conduct private or public hearings.

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

15 (b) Notice.--Notice of the time and place for the
16 examination of documentary material shall be given by the
17 Attorney General, the secretary or the district attorney at
18 least 10 days prior to the date of the examination or taking of
19 testimony.

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

21 (1) State the time and place for the taking of testimony
22 or the examination and the name and address of the person to
23 be examined, if known, or, if the name is not known, a
24 general description sufficient to identify the person or the
25 particular class or group to which the person belongs.

26 (2) State the statute, if any, proscribing the alleged
27 violation that is under investigation and the general subject
28 matter of the investigation.

29 (3) Describe the class or classes of documentary
30 material to be produced under the notice with reasonable

1 specificity, so as to fairly indicate the material demanded.

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

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

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

11 (e) Restriction on materials.--

12 (1) Except as provided under paragraph (2), any
13 documentary material or other information produced by a
14 person in accordance with this section shall not, unless
15 otherwise ordered by a court of competent jurisdiction for
16 good cause shown, be produced for inspection or copying by or
17 disclosed to a person other than the authorized
18 representative of the Attorney General, the secretary or the
19 district attorney without the consent of the person who
20 produced the material.

21 (2) Under reasonable terms and conditions that the
22 Attorney General, the secretary or the district attorney
23 shall prescribe, documentary material in paragraph (1) shall
24 be available for inspection and copying by the person who
25 produced the material or a duly authorized representative of
26 the person. The Attorney General, the secretary or the
27 district attorney or a duly authorized representative may use
28 the documentary material or copies as the official may
29 determine is necessary in the enforcement of this chapter,
30 including production at a subsequent administrative or

1 judicial proceeding.

2 (f) Compliance.--A person upon whom a notice is served
3 pursuant to this section shall comply with the terms of the
4 notice unless otherwise provided by an order of court. The
5 Attorney General or the district attorney may petition for an
6 order of court for enforcement of this section. Additionally,
7 the secretary may take appropriate action to petition for an
8 order of court for the enforcement of this section in accordance
9 with the act of October 15, 1980 (P.L.950, No.164), known as the
10 Commonwealth Attorneys Act.

11 (g) Contempt of final order.--Any disobedience of a final
12 order entered under this section by a court shall be punishable
13 as contempt.

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

17 (1) Fails to appear.

18 (2) With intent, avoids, evades or prevents compliance
19 with, in whole or in part, any civil investigation under this
20 chapter.

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

25 (4) Knowingly conceals any relevant information.

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

28 (1) Delivering a duly executed copy to the person to be
29 served or to a partner or to any officer or agent authorized
30 by appointment or by law to receive service of process on

1 behalf of the person.

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

5 (3) Mailing by registered or certified mail a duly
6 executed copy addressed to the person to be served at the
7 person's principal place of business in this Commonwealth or,
8 if the person has no place of business in this Commonwealth,
9 to the last address of the person known to the secretary.

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

1 § 1317. Administrative enforcement and penalties.

2 (a) General rule.--The secretary may revoke, suspend or
3 refuse to register the registration of a charitable
4 organization, professional fundraising counsel or professional
5 solicitor whenever the secretary finds that a charitable
6 organization, professional fundraising counsel or professional
7 solicitor, or an agent, servant or employee:

8 (1) Has violated or is operating in violation of any
9 provision of this chapter, the regulations of the department
10 promulgated under this chapter or an order issued by the
11 secretary.

12 (2) Has refused or failed, or any of its principal
13 officers has refused or failed, after notice, to produce any
14 records of the organization or to disclose any information
15 required to be disclosed under this chapter or the
16 regulations of the department.

17 (3) Has made a material false statement in an
18 application, statement or report required to be filed under
19 this chapter.

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

23 (1) Revoke a grant of exemption to any of the provisions
24 of this chapter.

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

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

1 will be automatically suspended upon final affirmation of an
2 administrative fine until the fine is paid or until the
3 normal expiration date of the registration. No registration
4 may be renewed until the fine is paid.

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

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

11 § 1318. Criminal penalties.

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

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

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

26 § 1319. Civil penalties.

27 (a) General rule.--Whenever the Attorney General or any
28 district attorney shall have reason to believe, or shall be
29 advised by the secretary, that a person is operating in
30 violation of the provisions of this chapter, the Attorney

1 General or district attorney may bring an action in the name of
2 the Commonwealth against that person to enjoin the person from
3 continuing the violation and for other relief as the court deems
4 appropriate. In a proceeding under this subsection, the court
5 may make appropriate orders, including:

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

7 (2) the sequestration of assets;

8 (3) the reimbursement of persons from whom contributions
9 have been unlawfully solicited;

10 (4) the distribution of contributions in accordance with
11 the charitable purpose expressed in the registration
12 statement or in accordance with the representations made to
13 the person solicited;

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

16 (6) the assessment of a civil penalty not exceeding
17 \$1,000 per violation of this act, which penalty shall be in
18 addition to any other relief which may be granted; and

19 (7) the granting of other appropriate relief.

20 (b) Assurance of voluntary compliance.--In any case where
21 the Attorney General or a district attorney has authority to
22 institute an action or proceeding under this chapter, the
23 official may accept an assurance of voluntary compliance through
24 which a person alleged to be engaged in any method, act or
25 practice in violation of this chapter agrees to discontinue the
26 method, act or practice.

27 (1) An assurance of compliance:

28 (i) May, among other terms, include a stipulation of
29 a voluntary payment by the person of the cost of the
30 investigation or of an amount to be held in escrow

1 pending the outcome of an action or as restitution to
2 aggrieved persons, or both.

3 (ii) Shall be in writing.

4 (iii) Shall be filed with a court of the
5 Commonwealth.

6 (2) In the event of an alleged violation of the
7 assurance of voluntary compliance, the Attorney General or a
8 district attorney may either initiate contempt proceedings or
9 proceed as if the assurance of voluntary compliance has not
10 been accepted. Evidence of a violation of the assurance shall
11 be prima facie evidence of a violation of this chapter in a
12 subsequent proceeding brought by the Attorney General or
13 district attorney.

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

16 § 1320. Additional regulations by counties, municipalities or
17 consolidated government.

18 Nothing contained in this chapter shall serve to deny the
19 right to a county, municipality or consolidated government to
20 pass ordinances, rules and regulations as may be deemed
21 appropriate to regulate further the soliciting of contributions
22 within the county, municipality or consolidated government. The
23 ordinance may not alter any of the obligations set forth in this
24 chapter or the regulations of the department but may add other
25 requirements and rules as appear to be proper to the county,
26 municipality or consolidated government involved.

27 § 1321. Charitable organizations deemed fiduciary.

28 Every person soliciting, collecting or expending
29 contributions for charitable purposes and every officer,
30 director, trustee and employee of the person concerned with the

1 solicitation, collection or expenditure of the contribution
2 shall be deemed to be a fiduciary and acting in a fiduciary
3 capacity.

4 § 1322. Prior registration unaffected.

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

11 § 1323. Regulations.

12 Regulations promulgated under the former act of April 30,
13 1986 (P.L.107, No.36), known as the Charitable Organization
14 Reform Act, and in effect on February 19, 1991, shall remain in
15 effect until amended in accordance with the provisions of this
16 chapter.

17 PART IV

18 TAX

19 Chapter

20 19. General Provisions (Reserved)

21 21. Charitable Gift Annuity Exemptions (Reserved)

22 23. Institutions of Purely Public Charity

23 CHAPTER 19

24 GENERAL PROVISIONS

25 (Reserved)

26 CHAPTER 21

27 CHARITABLE GIFT ANNUITY EXEMPTIONS

28 (Reserved)

29 CHAPTER 23

30 INSTITUTIONS OF PURELY PUBLIC CHARITY

- 1 Sec.
2 2301. Scope of chapter.
3 2302. Legislative intent.
4 2303. Definitions.
5 2304. State-related universities.
6 2305. Criteria for institutions of purely public charity.
7 2306. Presumption process.
8 2307. Voluntary agreements.
9 2308. Unfair competition with small businesses.
10 2309. Accountability and disclosure.
11 2310. Exemption for Federal Government instrumentality.
12 2311. Prohibited act.
13 2312. Compliance.
14 2313. Civil penalty.
15 2314. Repeals.
16 2315. Applicability.

17 § 2301. Scope of chapter.

18 This chapter relates to institutions of purely public
19 charity.

20 § 2302. Legislative intent.

21 (a) Findings.--The General Assembly finds and declares as
22 follows:

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

26 (2) For more than 100 years, it has been the policy of
27 the Commonwealth to foster the organization and operation of
28 institutions of purely public charity by exempting them from
29 taxation.

30 (3) Because institutions of purely public charity

1 contribute to the common good or lessen the burden of
2 government, the historic policy of exempting these
3 institutions from taxation should be continued.

4 (4) Lack of specific legislative standards defining the
5 term "institutions of purely public charity" has led to
6 increasing confusion and confrontation among traditionally
7 tax-exempt institutions and political subdivisions to the
8 detriment of the public.

9 (5) There is increasing concern that the eligibility
10 standards for charitable tax exemptions are being applied
11 inconsistently, which may violate the uniformity provision of
12 the Constitution of Pennsylvania.

13 (6) Recognizing the interest of the taxpayers in a fair
14 and equitable system of property tax assessment and the
15 attendant statutory requirements for the political
16 subdivision responsible for maintaining real property
17 assessment rolls to administer the system of property
18 assessment, this chapter shall not in any way limit the
19 responsibilities, prerogatives or abilities of political
20 subdivisions with respect to the determination of or
21 challenges to the taxable status of a parcel of property
22 based on the use of the parcel or part of the parcel of
23 property.

24 (7) Institutions of purely public charity benefit
25 substantially from local government services. These
26 institutions have significant value to the Commonwealth and
27 its citizens, and the need exists for revenues to maintain
28 local government services provided for the benefit of all
29 citizens, including institutions of purely public charity. It
30 is the intent of this chapter to encourage financially secure

1 institutions of purely public charity to enter into voluntary
2 agreements or to maintain existing or continuing agreements
3 for the purpose of defraying some of the cost of various
4 local government services. Payments made under the agreements
5 shall be deemed to be in compliance with any fiduciary
6 obligation pertaining to the institutions of purely public
7 charity, its officers or directors.

8 (b) Intent.--It is the intent of the General Assembly to
9 eliminate inconsistent application of eligibility standards for
10 charitable tax exemptions, reduce confusion and confrontation
11 among traditionally tax-exempt institutions and political
12 subdivisions and ensure that charitable and public funds are not
13 unnecessarily diverted from the public good to litigate
14 eligibility for tax-exempt status by providing standards to be
15 applied uniformly in all proceedings throughout this
16 Commonwealth for determining eligibility for exemption from
17 State and local taxation which are consistent with traditional
18 legislative and judicial applications of the constitutional term
19 "institutions of purely public charity."

20 § 2303. Definitions.

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

24 "Affiliate." The term includes:

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

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

1 "Annual return." The annual information return required to
2 be filed with the Internal Revenue Service by institutions
3 exempt from tax under section 501(a) of the Internal Revenue
4 Code of 1986 consisting of Internal Revenue Service Form 990 or
5 Form 990EZ and Schedule A or any succeeding form used for the
6 same or similar purpose. For an institution which is not
7 required to file the returns, the institution's annual financial
8 statement with reported income shall constitute its annual
9 return.

10 "Bureau." The Bureau of Corporations and Charitable
11 Organizations of the Department of State of the Commonwealth.

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

15 "Contribution." The promise, grant, pledge or gift of money,
16 property, goods, services, financial assistance or other similar
17 remittance.

18 "Department." Department of State of the Commonwealth.

19 "Goods or services." Goods or services that promote any of
20 the enumerated purposes under section 2305(b) (relating to
21 criteria for institutions of purely public charity) and which
22 are valued in accordance with generally accepted accounting
23 principles applicable to the institution.

24 "Government agency." Any Commonwealth agency or any
25 political subdivision or municipal or other local authority or
26 any officer or agency of any political subdivision or local
27 authority.

28 "Institution." A domestic or foreign nonprofit corporation,
29 association or trust or other similar entity.

30 "Institution of purely public charity." An institution which

1 meets the criteria under section 2305.

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

4 "Net operating income." The amount of funds remaining after
5 all operating expenses related to the provision of goods or
6 services associated with the institution's charitable purpose
7 are deducted from payments received for providing these goods or
8 services, as determined in accordance with generally accepted
9 accounting principles applicable to the institution.

10 "Program service revenue." Income earned from the provision
11 of goods or services, including government fees and contracts
12 associated with the institution's charitable purpose, that is
13 reported on the annual return.

14 "Small business." Any self-employed individual, sole
15 proprietorship, firm, corporation, partnership, association or
16 other entity that:

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

18 (2) is subject to income taxation under the act of March
19 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

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

24 "Voluntary agreement." An agreement, contract or other
25 arrangement for the purpose of receiving contributions under
26 section 2307 (relating to voluntary agreements) between a
27 political subdivision and an institution seeking or possessing
28 an exemption as an institution of purely public charity. These
29 contributions are for the purpose of defraying some of the cost
30 of various local government services. The term includes the

1 establishment of public service foundations by institutions of
2 purely public charity.

3 § 2304. State-related universities.

4 (a) General rule.--It is the intent of the General Assembly
5 to recognize that State-related universities provide a direct
6 public benefit and serve the public purposes of this
7 Commonwealth by declaring the real property of State-related
8 universities to be public property for purposes of exemption
9 from State and local taxation when the property is actually and
10 regularly used for public purposes, provided that nothing in
11 this section is intended or shall be construed to affect the
12 title to real property of State-related universities or the
13 power and authority of the governing bodies of State-related
14 universities with respect to the real property. Nothing in this
15 section is intended or shall be construed to affect, impair or
16 terminate any contract or agreement in effect on or before
17 November 26, 1997, by and between a State-related university and
18 any political subdivision where the State-related university
19 pays real estate taxes, amounts in lieu of real estate taxes or
20 other charges, fees or contributions for government services.

21 (b) Real property.--All real property owned by State-related
22 universities or owned by the Commonwealth and used by a State-
23 related university is and shall be deemed public property for
24 purposes of the Constitution of Pennsylvania and the laws of
25 this Commonwealth relating to the assessment, taxation and
26 exemption of real estate and shall be exempt from all State and
27 local taxation when actually and regularly used for public
28 purposes.

29 (c) Exception.--This section shall not include the property
30 of a State-related university, the possession and control of

1 which has been transferred to a for-profit entity not otherwise
2 entitled to tax-exempt status, irrespective of whether that
3 entity is affiliated with the university. The execution of a
4 management services contract with a third-party entity to
5 provide operational services to the university which would
6 otherwise be provided or conducted directly by the university
7 shall not, however, be considered a transfer of possession and
8 control of real property within the meaning of this section.

9 (d) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Public purposes." All activities relating to the
13 educational mission of State-related universities, including
14 teaching, research, service and activities incident or ancillary
15 to the educational mission that provide services to or for
16 students, employees or the public.

17 "State-related universities." The Pennsylvania State
18 University and its affiliates, the Pennsylvania College of
19 Technology, the University of Pittsburgh, Temple University and
20 its subsidiaries, Temple University Hospital, Inc., and Temple
21 University Children's Hospital, Inc., and Lincoln University.
22 § 2305. Criteria for institutions of purely public charity.

23 (a) General rule.--An institution of purely public charity
24 is an institution that meets the criteria set forth in
25 subsections (b), (c), (d), (e) and (f). An institution that
26 meets the criteria of this section shall be considered to be
27 founded, endowed and maintained by public or private charity.

28 (b) Charitable purpose.--The institution must advance a
29 charitable purpose. This criterion is satisfied if the
30 institution is organized and operated primarily to fulfill any

1 one or combination of the following purposes:

2 (1) Relief of poverty.

3 (2) Advancement and provision of education. This
4 paragraph includes postsecondary education.

5 (3) Advancement of religion.

6 (4) Prevention and treatment of disease or injury,
7 including intellectual disabilities and mental disorders.

8 (5) Government or municipal purposes.

9 (6) Accomplishment of a purpose which is recognized as
10 important and beneficial to the public and that advances
11 social, moral or physical objectives.

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

17 (1) Neither the institution's net earnings nor donations
18 that it receives inures to the benefit of private
19 shareholders or other individuals, as the private inurement
20 standard is interpreted under section 501(c)(3) of the
21 Internal Revenue Code of 1986.

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

26 (3) Compensation, including benefits, of any director,
27 officer or employee is not based primarily upon the financial
28 performance of the institution.

29 (4) The governing body of the institution of purely
30 public charity has adopted as part of its articles of

1 incorporation or, if unincorporated, other governing legal
2 documents a provision that expressly prohibits the use of any
3 surplus funds for private inurement to any person in the
4 event of a sale or dissolution of the institution of purely
5 public charity.

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

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

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

14 (A) The institution has a written policy to this
15 effect.

16 (B) The institution has published this policy in
17 a reasonable manner.

18 (C) The institution provides uncompensated goods
19 or services at least equal to 75% of the
20 institution's net operating income, but not less than
21 3% of the institution's total operating expenses.

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

25 (A) The institution can demonstrate that it has
26 implemented a written policy and a written schedule
27 of fees based on individual or family income. An
28 institution will meet the requirement of this clause
29 if the institution consistently applies a formula to
30 all individuals requesting consideration of reduced

1 fees which is in part based on individual or family
2 income.

3 (B) At least 20% of the individuals receiving
4 goods or services from the institution pay no fee or
5 a fee which is lower than the cost of the goods or
6 services provided by the institution.

7 (C) At least 10% of the individuals receiving
8 goods or services from the institution receive a
9 reduction in fees of at least 10% of the cost of the
10 goods or services provided to them.

11 (D) No individuals receiving goods or services
12 from the institution pay a fee that is equal to or
13 greater than the cost of the goods or services
14 provided to them or the goods or services provided to
15 the individuals described in clause (B) are
16 comparable in quality and quantity to the goods or
17 services provided to those individuals who pay a fee
18 that is equal to or greater than the cost of the
19 goods or services provided to them.

20 (iii) Wholly gratuitous goods or services to at
21 least 5% of those receiving similar goods or services
22 from the institution.

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

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

4 (vi) Goods or services at no fee or reduced fees to
5 government agencies or goods or services to individuals
6 eligible for government programs if any one of the
7 following applies:

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

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

29 (I) Sections 1905(d) and 1915(c) of the
30 Social Security Act (49 Stat. 620, 42 U.S.C. §§

1 1396d(d) and 1396n(c)).

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

4 (III) 42 CFR Pt. 483 Subpt. I (relating to
5 conditions of participation for intermediate care
6 facilities for individuals with intellectual
7 disabilities).

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

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

14 (VI) 23 Pa.C.S. Ch. 63 (relating to child
15 protective services).

16 (VII) 42 Pa.C.S. Ch. 63 (relating to
17 juvenile matters).

18 (VIII) 55 Pa. Code Chs. 3170 (relating to
19 allowable costs and procedures for county
20 children and youth social service programs), 3680
21 (relating to administration and operation of a
22 children and youth social service agency), 4300
23 (relating to county mental health and
24 intellectual disability fiscal manual), 6210
25 (relating to participation requirements for the
26 intermediate care facilities for the intellectual
27 disability program), 6211 (relating to allowable
28 cost reimbursement for non-State operated
29 intermediate care facilities for individuals with
30 an intellectual disability), 6400 (relating to

1 community homes for individuals with an
2 intellectual disability), 6500 (relating to
3 family living homes) and 6600 (relating to
4 intermediate care facilities for individuals with
5 an intellectual disability).

6 (vii) Fundraising on behalf of or grants to an
7 institution of purely public charity, an entity similarly
8 recognized by another state or foreign jurisdiction, a
9 qualifying religious organization or a government agency
10 and actual contribution of a substantial portion of the
11 funds raised or contributions received to an institution
12 of purely public charity, an entity similarly recognized
13 by another state or foreign jurisdiction, a qualifying
14 religious organization or a government agency.

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

19 (3) For purposes of calculating the number of
20 individuals for use in the percentage calculations in this
21 subsection, educational institutions may use full-time
22 equivalent students as defined by the Department of
23 Education.

24 (4) For purposes of this subsection, the term
25 "uncompensated goods or services" shall be limited to any of
26 the following:

27 (i) The full cost of all goods or services provided
28 by the institution for which the institution has not
29 received monetary compensation or the difference between
30 the full cost and any lesser fee received for the goods

1 or services, including the cost of the goods or services
2 provided to individuals unable to pay.

3 (ii) The difference between the full cost of
4 education and research programs provided by or
5 participated in by the institution and the payment made
6 to the institution to support the education and research
7 programs.

8 (iii) The difference between the full cost of
9 providing the goods or services and the payment made to
10 the institution under any government program, including
11 individuals covered by Medicare or Medicaid.

12 (iv) The difference between the full cost of the
13 community services that the institution provides or
14 participates in and the payment made to the institution
15 to support the community services.

16 (v) The reasonable value of any money, property,
17 goods or services donated by a primary donor to an
18 institution of purely public charity or to a government
19 agency or the reasonable value of the net donation made
20 by a secondary donor to a primary donor. As used in this
21 subparagraph, the following words and phrases shall have
22 the following meanings:

23 (A) "Net donation." In the case of a donation
24 of money, property or identical goods or services
25 made by a secondary donor, the difference between the
26 value of the donation made by the secondary donor and
27 the value of the donation made by the primary donor,
28 provided the value is positive.

29 (B) "Primary donor." An institution which makes
30 a donation of any money, property, goods or services

1 to an institution of purely public charity.

2 (C) "Secondary donor." An institution which
3 receives a donation of any money, property, goods or
4 services from a primary donor and then makes a
5 donation back to that primary donor within three
6 years of having received the donation.

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

15 (vii) The cost of goods or services provided by an
16 institution licensed by the Department of Health or the
17 Department of Human Services to individuals who are
18 unable to pay, provided that reasonable and customary
19 collection efforts have been made by the institution.

20 (viii) The value of any voluntary agreement as set
21 forth in section 2307(c) (relating to voluntary
22 agreements).

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

24 (1) The institution must benefit a substantial and
25 indefinite class of persons who are legitimate subjects of
26 charity.

27 (2) An institution shall be considered to benefit a
28 substantial and indefinite class of persons who are
29 legitimate subjects of charity if the institution is
30 primarily engaged in fundraising on behalf of or making

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

10 (3) An institution that operates exclusively on a
11 voluntary basis to provide emergency health and safety
12 services to the community or an institution that provides
13 funds and support exclusively to volunteer institutions that
14 provide emergency health and safety services to the community
15 shall be considered to benefit a substantial and indefinite
16 class of persons who are legitimate subjects of charity.

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

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

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

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

28 (B) A labor organization.

29 (C) An agricultural or horticultural
30 organization.

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

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

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

7 (5) As used in this subsection, the following words and
8 phrases shall have the meanings given to them in this
9 paragraph:

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

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

30 (f) Government service.--The institution must relieve the

1 government of some of its burden. This criterion is satisfied if
2 the institution meets any one of the following:

3 (1) Provides a service to the public that the government
4 would otherwise be obliged to fund or to provide directly or
5 indirectly or to assure that a similar institution exists to
6 provide the service.

7 (2) Provides services in furtherance of its charitable
8 purpose that are either the responsibility of the government
9 by law or that historically have been assumed or offered or
10 funded by the government.

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

15 (4) Provides a service to the public that directly or
16 indirectly reduces dependence on government programs or
17 relieves or lessens the burden borne by government for the
18 advancement of social, moral, educational or physical
19 objectives.

20 (5) Advances or promotes religion and is owned and
21 operated by a corporation or other entity as a religious
22 ministry and otherwise satisfies the criteria set forth in
23 this section.

24 (6) Has a voluntary agreement under section 2307.

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

30 (1) Each subsidiary:

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

3 (ii) meets the requirements of this section.

4 (2) The parent:

5 (i) is a nonstock corporation;

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

9 (iii) meets the requirements of subsections (b) and
10 (c); and

11 (iv) except for services that meet the requirements
12 of this section, does not render services for a fee to an
13 individual or entity that does not meet the requirements
14 of paragraph (1).

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

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

26 (2) Nothing in this chapter shall prohibit a political
27 subdivision from filing challenges or making determinations
28 as to whether a particular parcel of property is being used
29 to advance the charitable purpose of an institution of purely
30 public charity.

1 (i) Standards.--An institution of purely public charity may
2 conduct activities intended to influence legislation provided
3 that no substantial part of the activities of an institution of
4 purely public charity shall consist of carrying on propaganda,
5 except as otherwise provided in section 501(h) of the Internal
6 Revenue Code of 1986, or participating in or intervening in,
7 including the publishing or distributing of statements, any
8 political campaign on behalf of or in opposition to any
9 candidate for public office as the limitations are interpreted
10 under section 501 of the Internal Revenue Code of 1986.
11 § 2306. Presumption process.

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

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

24 (2) An institution of purely public charity that has
25 annual program service revenue equal to or exceeding
26 \$10,000,000 shall be entitled to assert the presumption if
27 all of the following apply:

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

30 (ii) the institution has a voluntary agreement as

1 provided under section 2307 (relating to voluntary
2 agreements) with a political subdivision in which that
3 institution conducts substantial business operations.

4 (3) The presumption under paragraph (2) may be asserted
5 by an institution of purely public charity only with regard
6 to a challenge made by a political subdivision with which
7 that institution has a voluntary agreement in effect under
8 section 2307.

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

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

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

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

1 section 2305.

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

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

23 § 2307. Voluntary agreements.

24 (a) General rule.--A political subdivision may execute a
25 voluntary agreement with an institution that owns real property
26 within the political subdivision. All contributions received
27 from the voluntary agreements shall be used to help ensure that
28 essential governmental, public or community services will
29 continue to be provided in a manner that will permit an
30 institution to continue to fulfill its charitable mission.

1 Nothing in this section shall be construed to prohibit a
2 political subdivision from sharing with another political
3 subdivision a portion of the proceeds derived from a voluntary
4 agreement upon the mutual agreement of all affected parties.

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

18 (c) Additional credit for voluntary agreements.--An
19 institution that has entered into a voluntary agreement may
20 credit the following percentage of the reasonable value of its
21 contribution for purposes of computing the community service
22 criteria set forth in section 2305(d)(4) (relating to criteria
23 for institutions of purely public charity):

24 (1) If the reasonable value of the institution's
25 contribution is equal to or less than 0.15% of its program
26 service revenue, the institution may credit the entire
27 contribution at 150% of its value.

28 (2) If the reasonable value of the institution's
29 contribution is greater than 0.15% but less than 0.25% of its
30 program service revenue, the institution may credit the

1 entire contribution at 250% of its value.

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

6 (d) Existing agreements.--Nothing in this chapter shall be
7 construed to affect, impair, terminate or supersede any
8 contract, agreement or other arrangement on or before November
9 27, 1997, between an institution and a political subdivision
10 that authorizes or requires payment of taxes, amounts in lieu of
11 taxes or other charges or fees for the services of a political
12 subdivision.

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

19 § 2308. Unfair competition with small businesses.

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

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

28 (c) Exceptions.--Institutions of purely public charity are
29 not in violation of subsection (b) if any of the following
30 apply:

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

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

12 (d) Support for other charities.--Nothing in this section
13 shall be construed as prohibiting or limiting the ability of an
14 institution of purely public charity to fund, capitalize,
15 guarantee the indebtedness of or otherwise subsidize another
16 institution of purely public charity.

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

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

24 (g) Government functions.--An institution of purely public
25 charity may engage in a new commercial business that may
26 otherwise be in violation of subsection (b) if the institution
27 is formally requested to do so by the Commonwealth or a
28 political subdivision.

29 (h) Existing business arrangements.--An institution of
30 purely public charity that prior to March 26, 1998, funded,

1 capitalized, guaranteed the indebtedness of, leased obligations
2 of or subsidized a commercial business may continue to own and
3 operate the businesses without violating subsection (b) as long
4 as the institution does not substantially expand the scope of
5 the commercial business. In the event an injunction is issued
6 under subsection (i), the effect of the injunction shall be
7 limited to restraining the substantial expansion of the scope of
8 the commercial business which was initiated after March 26,
9 1998.

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

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

20 (2) Within 10 days of filing the complaint with the
21 department, the aggrieved small business shall serve a copy
22 of the complaint on the institution of purely public charity
23 against which the complaint is filed. The institution of
24 purely public charity must respond to the complaint within 30
25 days of its receipt.

26 (3) Within 30 days following the period of time allotted
27 to the institution of purely public charity to respond to the
28 complaint, the department shall provide an unbiased and
29 qualified arbitrator who possesses sufficient knowledge
30 regarding the institutions to adjudicate the matter. If the

1 institution of purely public charity does not participate in
2 the arbitration, the arbitrator may issue an order to compel
3 the participation. An order shall be enforceable by the court
4 of common pleas in the judicial district where the
5 arbitration takes place.

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

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

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

30 (7) The decision of the arbitrator shall be set forth in

1 a written decision issued to each party specifying findings
2 of fact and conclusions of law. If the arbitrator finds a
3 violation of this section, the arbitrator may include an
4 order or injunction as part of the decision, provided that no
5 damages may be assessed against an institution of purely
6 public charity.

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

14 (9) Either party may initiate a de novo appeal from the
15 arbitrator's decision in the court of common pleas of the
16 judicial district in which the arbitration took place within
17 30 days of the arbitrator's decision.

18 (10) The department may provide for the system of
19 arbitration by maintaining a list of qualified arbitrators or
20 by contracting for qualified arbitration services.

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

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

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

1 (14) The remedies set forth in this subsection shall be
2 the exclusive remedies available to an aggrieved small
3 business.

4 § 2309. Accountability and disclosure.

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

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

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

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

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

22 (i) The name and type of organization.

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

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

27 (5) The relationship of the institution of purely public
28 charity with any other nonprofit corporation or
29 unincorporated association if the relationship involves
30 formal governance or the sharing of revenue.

1 (b) Regulations.--The department shall promulgate
2 regulations to require institutions of purely public charity
3 that register under section 1305 (relating to registration of
4 charitable organizations; financial reports; fees; failure to
5 file) to include the information set forth in subsection (a).

6 (c) Amendments to annual returns.--An institution of purely
7 public charity that files an amended annual return with the
8 Internal Revenue Service shall file a copy of the amended annual
9 return with the bureau within 10 days of its filing with the
10 Internal Revenue Service.

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

14 (1) A bona fide duly constituted religious institution
15 and the separate groups or corporations that form an integral
16 part of a religious institution and are exempt from filing an
17 annual return under the Internal Revenue Code of 1986.

18 (2) An institution of purely public charity that
19 receives contributions of less than \$25,000 per year,
20 provided that the institution's program service revenue does
21 not equal or exceed \$5,000,000.

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

30 (1) Amounts collected by the bureau shall be paid to the

1 State Treasury.

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

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

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

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

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

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

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

5 § 2310. Exemption for Federal Government instrumentality.

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

15 § 2311. Prohibited act.

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

20 § 2312. Compliance.

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

25 § 2313. Civil penalty.

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

1 to any violation of section 2308 (relating to unfair competition
2 with small businesses).

3 § 2314. Repeals.

4 (a) Absolute.--(Reserved).

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

10 § 2315. Applicability.

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

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

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

26 Section 2. Repeals are as follows:

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

30 (2) The act of December 19, 1990 (P.L.1200, No.202),

1 known as the Solicitation of Funds for Charitable Purposes
2 Act, is repealed.

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

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

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

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

26 (2) Any difference in language between 10 Pa.C.S. Ch. 13
27 and the Solicitation of Funds for Charitable Purposes Act is
28 intended only to conform to the style of the Pennsylvania
29 Consolidated Statutes and is not intended to change or affect
30 the legislative intent, judicial construction or

1 administration and implementation of the Solicitation of
2 Funds for Charitable Purposes Act.

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

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

20 (2) Any difference in language between 10 Pa.C.S. Ch. 23
21 and the Institutions of Purely Public Charity Act is intended
22 only to conform to the style of the Pennsylvania Consolidated
23 Statutes and is not intended to change or affect the
24 legislative intent, judicial construction or administration
25 and implementation of the Institutions of Purely Public
26 Charity Act.

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