

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 462 Session of 2017

INTRODUCED BY DeLUCA, ENGLISH, O'BRIEN, GODSHALL, NEILSON,  
D. COSTA, BARRAR, McNEILL, READSHAW, MILLARD AND GOODMAN,  
FEBRUARY 13, 2017

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 13, 2017

AN ACT

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

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

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

13 Section 11. Prohibited act.

14 (a) Exemption.--No institution may claim an exemption from  
15 sales and use tax as an institution of purely public charity  
16 unless the institution has received an order from the Department  
17 of Revenue approving and authorizing the exemption. The  
18 Department of Revenue may not issue an order to an institution  
19 approving and authorizing an exemption from sales and use tax if  
20 it receives a report from the Department of State under

1 subsection (b)(4) that lists the institution as subject to a  
2 disqualification order.

3 (b) Disqualification.--The following shall apply:

4 (1) The Department of State may issue an order  
5 disqualifying an institution from claiming an exemption from  
6 sales and use tax as an institution of purely public charity  
7 if the Department of State finds that the institution has  
8 failed to expend at least 60% of the institution's total  
9 annual functional expenses on program services when those  
10 expenses are averaged over the most recent three fiscal years  
11 for which the Department of State has reports containing  
12 expense information. The calculation of program services  
13 expenses and total functional expenses shall be based on the  
14 amounts of program services expenses and total functional  
15 expenses identified by the institution in the institution's  
16 Internal Revenue Service Form 990 return. If the institution  
17 does not file a full Internal Revenue Service Form 990  
18 return, the Department of State may require an institution to  
19 file the amounts spent on program services expenses and total  
20 functional expenses identified by the institution on a form  
21 prescribed by the Department of State. All actions taken by  
22 the Department of State shall be taken subject to the right  
23 of notice, hearing and adjudication, and the right of appeal,  
24 in accordance with 2 Pa.C.S. (relating to administrative law  
25 and procedure).

26 (2) A disqualification order shall remain in effect  
27 until such time as the institution submits sufficient  
28 information to the Department of State to demonstrate that  
29 the institution's program services expenses meet the minimum  
30 percentage provided under paragraph (1). An institution may

1 submit information under this paragraph no earlier than one  
2 year after the disqualification order becomes final, and may  
3 not submit information under this paragraph more than once  
4 each year after the initial submission is made. The  
5 information submitted under this paragraph must include all  
6 Internal Revenue Service Form 990 returns or other forms  
7 prescribed by the Department of State filed by the  
8 institution after the disqualification order became final.

9 (3) When a disqualification order becomes effective, the  
10 Department of State shall publish on the Department of  
11 State's publicly accessible Internet website and otherwise  
12 make publicly available information identifying the  
13 institution named in the order, the date that the order  
14 became effective and the date that the information was  
15 published on the Department of State's publicly accessible  
16 Internet website.

17 (4) At least once every year, the Department of State  
18 shall file a written report with the Department of Revenue  
19 that identifies:

20 (i) all institutions that are subject to  
21 disqualification orders during the period covered by the  
22 report;

23 (ii) the date the disqualification orders became  
24 effective;

25 (iii) the date that information required under  
26 paragraph (3) was published on the Department of State's  
27 publicly accessible Internet website for each order; and

28 (iv) the methods by which the public can obtain a  
29 listing of institutions that are subject to  
30 disqualification orders.

1           (5) The Department of State may promulgate any  
2           regulations deemed necessary to carry out the Department of  
3           State's duties under this section.

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