

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2409 Session of 2015

INTRODUCED BY DeLUCA, ENGLISH, GODSHALL, D. COSTA, McNEILL,
ROEBUCK AND GOODMAN, OCTOBER 18, 2016

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 18, 2016

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 in 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.