

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the State Civil Service Commission

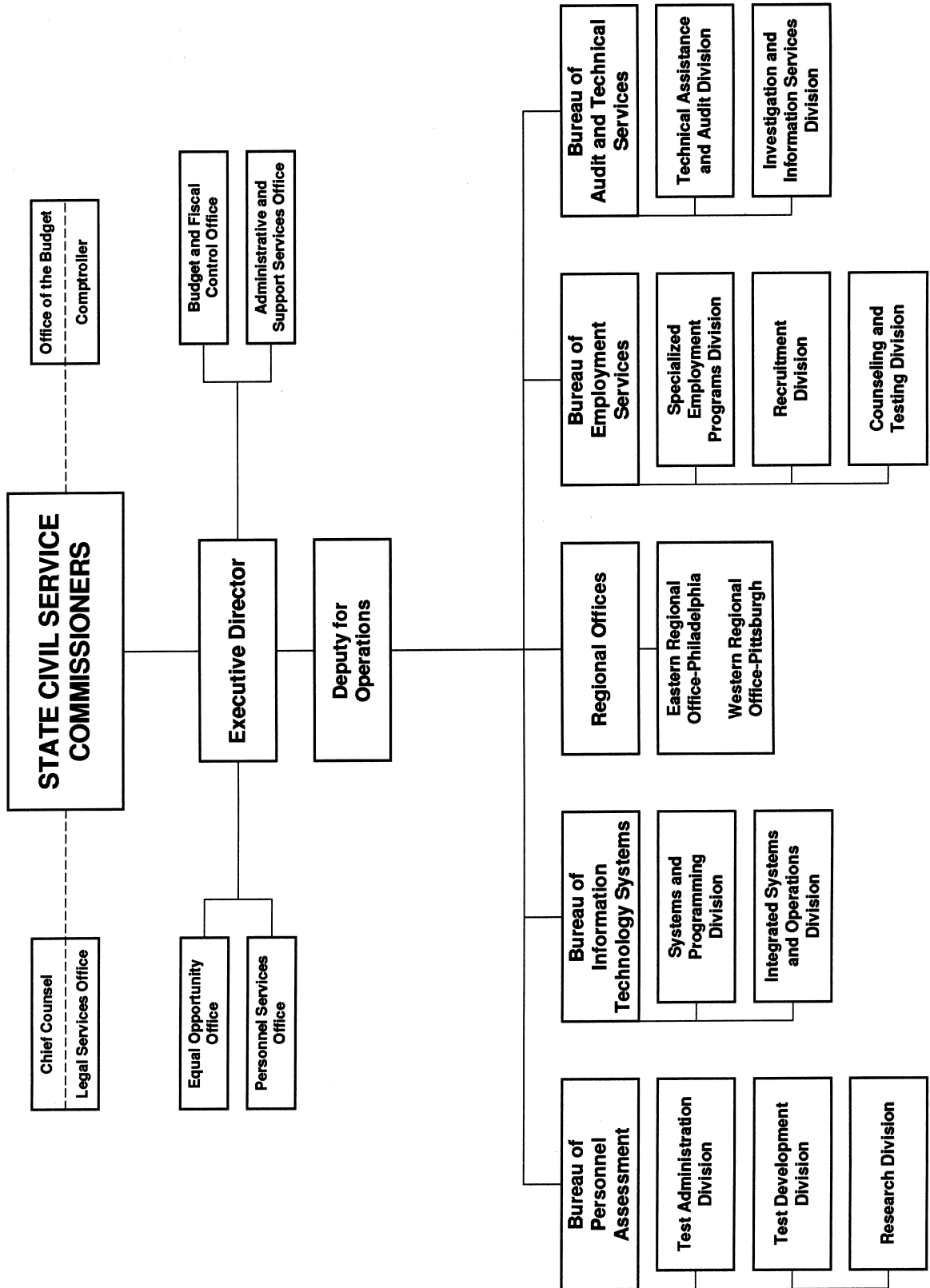
The Executive Board approved a reorganization of the State Civil Service Commission effective October 29, 1997.

The organization chart at 27 Pa.B. 5969 (November 15, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code).

[Pa.B. Doc. No. 97-1823. Filed for public inspection November 14, 1997, 9:00 a.m.]

STATE CIVIL SERVICE COMMISSION



Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 170]

Student Loan Assets Exempt by Public Policy

The Department of Revenue (Department) has adopted a statement of policy under the authority contained in § 3.2 (relating to statements of policy). This statement of policy adds § 170.2 (relating to student loan assets exempt by public policy) and shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

Act 7 of 1997 (H. B. No. 134, Printer's No. 1706) amended section 601 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7601) with the effect of subjecting certain business trusts to the capital stock tax/foreign franchise tax for the first time, effective for tax years beginning on or after January 1, 1998. Section 170.2 sets forth the Department's policy that student loan assets specified in § 170.2 that are owned or held by a trust or other entity formed for the securitization of student loans are exempt assets by reason of public policy for purposes of capital stock/foreign franchise taxation and the application of the apportionment rules applicable thereto.

Specific questions relating to information provided in this statement of policy may be directed to the Department of Revenue, Office of Chief Counsel, Department 281061, Harrisburg, PA 17128-1061.

ROBERT A. JUDGE, Sr.,
Secretary

Fiscal Note: 15-SOP-398. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE VI. CORPORATION TAXES

CHAPTER 170. CORPORATION TAX PRONOUNCEMENTS—STATEMENTS OF POLICY

§ 170.2. Student loan assets exempt by public policy.

(a) It has long been the public policy of the Commonwealth to improve higher educational opportunities by assisting persons in meeting the educational expenses of higher education and by enabling the Pennsylvania Higher Education Assistance Agency, other lenders and postsecondary institutions to make loans available to students and the parents of students for postsecondary educational purposes. Financial assistance to students is provided through various Federal, State and private postsecondary student loan programs.

(b) The business trust form is frequently used as a financing vehicle to increase the availability of financing for student loans. In these trust structures, a trust is established to acquire student loan notes from originators of student loans. The trust certificates of beneficial interest and debt securities issued by the trusts to raise funds to acquire student loans from originators are secured by the student loan notes acquired, related Federal and State guarantees and subsidies of the student loans, and certain other assets commonly held by student loan trusts to facilitate the ownership, maintenance and management of, and investment in or purchase

and sale of, student loans. Legal title to the student loan notes is typically held by a financial institution serving as trustee and qualifying to hold title to the loans under applicable student loan laws and regulations. The investment in student loans through these trust structures serves the public purpose of increasing liquidity in the student loan market and increasing the total funding available to make student loans.

(c) Act 7 of 1997 amended section 601 of the TRC (72 P. S. § 7601) to change the definitions of "domestic entity" and "foreign entity" with the effect of subjecting all business trusts to the capital stock tax/foreign franchise tax, effective for tax years beginning on or after January 1, 1998.

(d) Currently, certain assets exempt from taxation by reason of public policy are listed in § 155.10(d)(4) (relating to single factor apportionment). Student loan assets have not previously been listed as exempt assets because prior to Act 7 of 1997, trusts holding the assets were not included within the definition of "domestic entity" or "foreign entity" for purposes of the capital stock tax/foreign franchise tax since the trusts are not taxable as corporations for Federal income tax purposes. Treating student loan notes assets commonly held by the trusts to facilitate the securitization of student loans as taxable assets would contravene public policy in favor of promoting higher education and financial assistance to students pursuing higher education.

(e) Therefore, it is the policy of the Department that for tax years beginning on or after January 1, 1998, the following student loan assets that are owned or held by an entity created for the securitization of student loans, or by a trustee on its behalf, are exempt by reason of public policy from taxation for purposes of the taxable assets fraction under § 155.10:

- (1) Student loan notes.
- (2) Federal, State or private subsidies or guarantees of student loans.
- (3) Instruments that represent a guarantee of debt, certificates or other securities issued by an entity created for the securitization of student loans, or by a trustee on its behalf.
- (4) Contract rights to acquire or dispose of student loans and interest rate swap agreements related to student loans.
- (5) Interests in or debt obligations of other student loan securitization trusts or entities.
- (6) Cash or cash equivalents representing reserve funds or payments on or with respect to student loan notes, the securities issued by an entity created for the securitization of student loans or the other student loan assets exempted under this section. Solely for purposes of this public policy exemption for student loan assets, "cash or cash equivalents" shall include direct obligations of the United States Department of the Treasury, obligations of Federal agencies which obligations represent the full faith and credit of the United States, investment grade debt obligations or commercial paper, deposit accounts, Federal funds and banker's acceptances, prefunded municipal obligations, and money market instruments and money market funds.

[Pa.B. Doc. No. 97-1824. Filed for public inspection November 14, 1997, 9:00 a.m.]