

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 836 Session of 2020

INTRODUCED BY DIAMOND, COX, METCALFE, ROWE, RYAN, ZIMMERMAN, MALONEY, STRUZZI, BOROWICZ, KEEFER, HERSHEY, RADER, NELSON, KAUFFMAN, ECKER, GLEIM, GREGORY, KNOWLES, DUSH, JONES, SCHEMEL, TOBASH, RAPP, MUSTELLO, PUSKARIC, WARNER, STAATS, MENTZER, TOPPER, BERNSTINE, DOWLING, RIGBY, GREINER, GROVE, LEWIS, GAYDOS AND ROAE, APRIL 3, 2020

AS AMENDED, HOUSE OF REPRESENTATIVES, MAY 28, 2020

A CONCURRENT RESOLUTION

1 ~~Terminating the disaster emergency declared in response to the~~ <--
2 ~~cases of COVID-19 in Pennsylvania.~~

3 ~~WHEREAS, 35 Pa.C.S. § 7301(c) (relating to general authority~~
4 ~~of Governor) authorizes the Governor to declare a state of~~
5 ~~disaster emergency; and~~

6 ~~WHEREAS, On March 6, 2020, the Governor issued a proclamation~~
7 ~~declaring a disaster emergency in response to the existence of~~
8 ~~COVID-19 cases in Pennsylvania; and~~

9 ~~WHEREAS, 35 Pa.C.S. § 7301(c) authorizes the General Assembly~~
10 ~~by concurrent resolution to terminate a state of disaster~~
11 ~~emergency at any time; therefore be it~~

12 ~~RESOLVED (the Senate concurring), That the General Assembly,~~
13 ~~in accordance with 35 Pa.C.S. § 7301(c), hereby terminate the~~
14 ~~disaster emergency declared on March 6, 2020, in response to~~
15 ~~COVID-19.~~

16 ~~TERMINATING IN PART THE MARCH 6, 2020, PROCLAMATION OF DISASTER~~ <--
17 ~~EMERGENCY ISSUED UNDER THE HAND AND SEAL OF THE GOVERNOR,~~

1 THOMAS WESTERMAN WOLF.

2 WHEREAS, A NOVEL CORONAVIRUS, KNOWN AS COVID-19, ENTERED THE
3 UNITED STATES IN LATE JANUARY 2020 AND HAS SPREAD THROUGH THE
4 STATES, INCLUDING THIS COMMONWEALTH; AND

5 WHEREAS, ON MARCH 6, 2020, GOVERNOR THOMAS WESTERMAN WOLF
6 ISSUED A PROCLAMATION OF DISASTER EMERGENCY, PUBLISHED AT 50
7 PA.B. 1644 (MARCH 21, 2020), CITING A THREAT OF IMMINENT
8 DISASTER THAT WAS PROJECTED TO BE OF SUCH A MAGNITUDE AND
9 SEVERITY AS TO NECESSITATE EXTRAORDINARY MEASURES TO PROTECT THE
10 HEALTH, SAFETY AND LIFE OF THIS COMMONWEALTH'S CITIZENS; AND

11 WHEREAS, SINCE THE ISSUANCE OF THE PROCLAMATION OF DISASTER
12 EMERGENCY, THE GOVERNOR AND HIS ADMINISTRATION HAVE ISSUED
13 EXECUTIVE ORDERS INTENDED TO MITIGATE THE SPREAD OF COVID-19,
14 DIRECTLY RESULTING IN SEVERE DISRUPTION TO THE COMMONWEALTH AND
15 ITS POLITICAL SUBDIVISIONS AND WHICH HAVE AND CONTINUE TO
16 PRODUCE CRITICAL AND IN SOME CASES IRREVERSIBLE SHORT-TERM AND
17 LONG-TERM NEGATIVE ECONOMIC CONSEQUENCES; AND

18 WHEREAS, UNDER THE PROVISIONS OF THE COMMONWEALTH'S EMERGENCY
19 MANAGEMENT CODE, SPECIFICALLY 35 PA.C.S. § 7101 ET SEQ., THE
20 GENERAL ASSEMBLY AUTHORIZED THE GOVERNOR TO MAKE A TEMPORARY
21 PROCLAMATION OR DECLARATION OF A DISASTER EMERGENCY BY EXECUTIVE
22 ORDER FOR A PERIOD NOT TO EXCEED 90 DAYS IF THE HEALTH, SAFETY
23 OR WELFARE OF THE CITIZENS OF THIS COMMONWEALTH IS THREATENED;
24 AND

25 WHEREAS, ON MARCH 19, 2020, THE GOVERNOR PROCLAIMED BY
26 EXECUTIVE ORDER THAT CERTAIN BUSINESS OPERATIONS (TERMED NON-
27 LIFE-SUSTAINING) WOULD BE IMMEDIATELY CLOSED FOR AN INDEFINITE
28 PERIOD OF TIME WHILE OTHER BUSINESS OPERATIONS (TERMED LIFE-
29 SUSTAINING) COULD REMAIN OPEN TO THE PUBLIC PROVIDED THAT THE
30 BUSINESS OPERATION ADHERED TO "SOCIAL DISTANCING PRACTICES AND

1 OTHER MITIGATION MEASURES DEFINED BY THE CENTERS FOR DISEASE
2 CONTROL AND PREVENTION TO PROTECT WORKERS AND PATRONS"; AND

3 WHEREAS, SINCE THE GOVERNOR'S MARCH 19, 2020, BUSINESS
4 CLOSURE ORDER, THOSE BUSINESS OPERATIONS IN THIS COMMONWEALTH
5 THAT WERE FORCED TO CLOSE HAVE EXPERIENCED SIGNIFICANT LOSS,
6 MASSIVE LAYOFFS, CATASTROPHIC ECONOMIC INJURY AND OTHER
7 UNSUSTAINABLE DAMAGE, SOME OF WHICH WILL NEVER FINANCIALLY
8 RECOVER OR REOPEN AS A DIRECT RESULT; AND

9 WHEREAS, SINCE THE GOVERNOR'S MARCH 19, 2020, BUSINESS
10 CLOSURE ORDER, MORE THAN 1.8 MILLION PENNSYLVANIANS HAVE FILED
11 FOR UNEMPLOYMENT BENEFITS, OR 27% OF THE WORKFORCE, RIVALING THE
12 UNEMPLOYMENT EXPERIENCED DURING THE GREAT DEPRESSION; AND

13 WHEREAS, IN AN EFFORT TO MORE EFFECTIVELY MANAGE THE
14 MITIGATION OF THE SPREAD OF COVID-19 WHILE SAFELY PERMITTING
15 CRITICAL BUSINESSES TO REOPEN AND ALLOWING CITIZENS TO WORK, THE
16 GENERAL ASSEMBLY PASSED SENATE BILL NO. 613, PRINTER'S NO. 1636,
17 WHICH PROVIDED FOR A COVID-19 EMERGENCY MITIGATION PLAN FOR
18 BUSINESSES, THAT REQUIRED THE GOVERNOR TO DEVELOP A BUSINESS
19 MITIGATION PLAN FOR THIS COMMONWEALTH FOLLOWING THE FEDERAL
20 GUIDANCE PROVIDED BY THE CENTERS FOR DISEASE CONTROL AND
21 PREVENTION AND CONFORMING TO THE MARCH 28, 2020, ADVISORY
22 MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL
23 INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE, AS PUBLISHED BY
24 THE UNITED STATES CYBERSECURITY AND INFRASTRUCTURE SECURITY
25 AGENCY (CISA); AND

26 WHEREAS, ON APRIL 20, 2020, THE GOVERNOR VETOED SENATE BILL
27 NO. 613, PRINTER'S NO. 1636, POSITING IN HIS VETO MESSAGE THAT,
28 "REOPENING TENS OF THOUSANDS OF BUSINESSES TOO EARLY WILL ONLY
29 INCREASE THE SPREAD OF THE VIRUS, PLACE MORE LIVES AT RISK,
30 INCREASE THE DEATH TOLLS, AND EXTEND THE LENGTH OF ECONOMIC

1 HARDSHIPS CREATED BY THE PANDEMIC"; AND

2 WHEREAS, IN RESPONSE TO THE SEVERE AND DETERIORATING NEGATIVE
3 ECONOMIC CONSEQUENCES OF THE GOVERNOR'S MARCH 19, 2020, BUSINESS
4 CLOSURE ORDER ON BUSINESSES AND WORKERS IN THIS COMMONWEALTH,
5 THE GENERAL ASSEMBLY PASSED HOUSE BILL NO. 2388, PRINTER'S NO.
6 3719, WHICH REQUIRED THE SECRETARY OF COMMUNITY AND ECONOMIC
7 DEVELOPMENT TO IMMEDIATELY ISSUE WAIVERS FOR THE FOLLOWING
8 BUSINESS OPERATIONS: VEHICLE DEALERS, LAWN AND GARDEN CENTERS,
9 COSMETOLOGY SALONS AND BARBER SHOPS, MESSENGER SERVICES, ANIMAL
10 GROOMING SERVICES AND MANUFACTURING OPERATIONS; AND REQUIRED THE
11 BUSINESS OPERATIONS TO ADHERE TO SOCIAL DISTANCING PRACTICES AND
12 OTHER MITIGATION MEASURES DEFINED BY THE CENTERS FOR DISEASE
13 CONTROL AND PREVENTION AND ORDERS ISSUED BY THE SECRETARY OF
14 HEALTH; AND

15 WHEREAS, ON MAY 19, 2020, THE GOVERNOR VETOED HOUSE BILL NO.
16 2388, PRINTER'S NO. 3719, POSITING IN HIS VETO MESSAGE THAT,
17 "THIS LEGISLATION IS AN INFRINGEMENT ON THE AUTHORITY AND
18 RESPONSIBILITY OF THE EXECUTIVE AND VIOLATES THE SEPARATION OF
19 POWERS WHICH IS CRITICAL TO THE PROPER FUNCTIONING OF OUR
20 DEMOCRACY"; AND

21 WHEREAS, IN CONTINUING EFFORTS TO ADDRESS THE SEVERE AND
22 UNMITIGATED NEGATIVE ECONOMIC CONSEQUENCES TO CITIZENS SEEKING
23 TO PURCHASE OR SELL A HOME IN THIS COMMONWEALTH, AND IN AN
24 EFFORT TO PREVENT HOMELESSNESS, THE GENERAL ASSEMBLY ALSO PASSED
25 HOUSE BILL NO. 2412, PRINTER'S NO. 3720, WHICH REQUIRED THE
26 SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT TO IMMEDIATELY
27 ISSUE A WAIVER TO THE GOVERNOR'S MARCH 19, 2020, BUSINESS
28 CLOSURE ORDER TO PERMIT PROVIDERS OF REAL ESTATE SERVICES,
29 INCLUDING LEGAL SERVICES, RESIDENTIAL AND COMMERCIAL REAL ESTATE
30 SERVICES AND SETTLEMENT SERVICES, TO CONDUCT BUSINESS; AND

1 REQUIRED THE BUSINESS OPERATIONS TO ADHERE TO SOCIAL DISTANCING
2 PRACTICES AND OTHER MITIGATION MEASURES DEFINED BY THE CENTERS
3 FOR DISEASE CONTROL AND PREVENTION AND ORDERS ISSUED BY THE
4 SECRETARY OF HEALTH; AND

5 WHEREAS, ON MAY 19, 2020, THE GOVERNOR VETOED HOUSE BILL NO.
6 2412, PRINTER'S NO. 3720, POSITING IN HIS VETO MESSAGE THAT,
7 "THIS LEGISLATION IS AN INFRINGEMENT ON THE AUTHORITY AND
8 RESPONSIBILITY OF THE EXECUTIVE AND VIOLATES THE SEPARATION OF
9 POWERS WHICH IS CRITICAL TO THE PROPER FUNCTIONING OF OUR
10 DEMOCRACY"; AND

11 WHEREAS, AS A RESULT OF THE DISPARATE IMPACT THAT THE COVID-
12 19 VIRUS IS HAVING AMONG THE COMMONWEALTH'S COUNTIES, WHERE SOME
13 COUNTIES EXPERIENCED FEW CASES OF COVID-19 AND OTHERS
14 EXPERIENCED WIDER SPREAD OF THE VIRUS, THE GENERAL ASSEMBLY
15 PASSED SENATE BILL NO. 327, PRINTER'S NO. 1700, WHICH, AMONG
16 OTHER COVID-19 PROVISIONS, ESTABLISHED THE COVID-19 COUNTY
17 EMERGENCY MITIGATION PLAN FOR BUSINESSES; AND

18 WHEREAS, THE COVID-19 COUNTY EMERGENCY MITIGATION PLAN FOR
19 BUSINESSES AUTHORIZED THE GOVERNING BODY OF A COUNTY, IN
20 CONSULTATION WITH ITS COUNTY EMERGENCY MANAGEMENT AGENCY, COUNTY
21 HEALTH DEPARTMENT, COUNTY HEALTH OFFICER OR ANY OTHER
22 APPROPRIATE HEALTH OR EMERGENCY MANAGEMENT OFFICIAL, TO DEVELOP
23 AND IMPLEMENT A COUNTYWIDE PLAN TO MITIGATE THE SPREAD OF COVID-
24 19 FOR BUSINESSES WITHIN THE COUNTY; AND REQUIRED THE BUSINESS
25 MITIGATION PLAN FOR THE COUNTY FOLLOW THE FEDERAL GUIDANCE
26 PROVIDED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND
27 CONFORM TO THE MARCH 28, 2020, ADVISORY MEMORANDUM ON
28 IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS
29 DURING COVID-19 RESPONSE, AS PUBLISHED BY CISA; AND

30 WHEREAS, ON MAY 19, 2020, THE GOVERNOR VETOED SENATE BILL NO.

1 327, PRINTER'S NO. 1700, POSITING IN HIS VETO MESSAGE THAT,
2 "THIS PROHIBITION IS A LEGISLATIVE INFRINGEMENT ON EXECUTIVE
3 RULE-MAKING AUTHORITY AND VIOLATES THE SEPARATION OF POWERS
4 WHICH IS CRITICAL TO THE PROPER FUNCTIONING OF OUR DEMOCRACY";
5 AND

6 WHEREAS, IN RESPONSE TO THE UNPRECEDENTED AND WELL-DOCUMENTED
7 ECONOMIC HARMS BEING EXPERIENCED BY THIS COMMONWEALTH'S CITIZENS
8 AND BUSINESSES, EACH CHAMBER OF THE GENERAL ASSEMBLY HAS PASSED
9 OTHER LEGISLATION SUBSTANTIALLY SIMILAR TO SENATE BILL NO. 613,
10 HOUSE BILL NO. 2388, HOUSE BILL NO. 2412 AND SENATE BILL NO.
11 327, TO REQUIRE THE SECRETARY OF COMMUNITY AND ECONOMIC
12 DEVELOPMENT TO ISSUE WAIVERS TO THE GOVERNOR'S MARCH 19, 2020,
13 BUSINESS CLOSURE ORDER FOR RESIDENTIAL AND COMMERCIAL
14 CONSTRUCTION, RESTAURANT OPERATIONS, OUTDOOR EVENTS AND CURBSIDE
15 RETAIL SERVICES AND REQUIRED THE BUSINESS OPERATIONS TO ADHERE
16 TO SOCIAL DISTANCING PRACTICES AND OTHER MITIGATION MEASURES
17 DEFINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND
18 ORDERS ISSUED BY THE SECRETARY OF HEALTH; AND

19 WHEREAS, IT IS EVIDENT, NOTWITHSTANDING BIPARTISAN SUPPORT
20 FOR THESE LEGISLATIVE EFFORTS, AND WITH APPARENT DISREGARD TO
21 THE ONGOING ECONOMIC HARM BEING EXPERIENCED IN THIS COMMONWEALTH
22 BY MILLIONS OF CITIZENS AND BUSINESSES, THAT THE GOVERNOR, BY
23 AND THROUGH HIS USE OF THE TEMPORARY EMERGENCY POWERS UNDER 35
24 PA.C.S. § 7101 ET SEQ., HAS DEMONSTRATED THAT HE WILL NOT
25 COOPERATIVELY MANAGE THE COVID-19 CRISIS TO THE BENEFIT OF ALL
26 PENNSYLVANIANS; AND

27 WHEREAS, SINCE THE ISSUANCE OF THE MARCH 6, 2020,
28 PROCLAMATION OF DISASTER EMERGENCY, THE DOCUMENTED CASES OF
29 COVID-19 HAVE PEAKED AND HAVE CONTINUOUSLY DECLINED; AND

30 WHEREAS, BASED ON DATA PROVIDED BY THE DEPARTMENT OF HEALTH,

1 THE MOST IMMEDIATE AND DIRECT THREAT POSED BY THE COVID-19 VIRUS
2 IS TO OLDER CITIZENS AND THOSE INDIVIDUALS WITH PREEXISTING
3 HEALTH CONDITIONS, A FACT WHICH WAS REFERENCED IN THE SEVENTH
4 CLAUSE OF THE MARCH 6, 2020, PROCLAMATION OF DISASTER EMERGENCY
5 THAT HAS NOW BEEN PROVEN; AND

6 WHEREAS, 35 PA.C.S. § 7301(C) PROVIDES BROAD CONTEMPORANEOUS
7 AUTHORITY, WITHOUT PRECONDITIONS, TO THE GENERAL ASSEMBLY TO
8 TERMINATE ALL OR PART OF A STATE OF EMERGENCY BY CONCURRENT
9 RESOLUTION AT ANY TIME; AND

10 WHEREAS, ON APRIL 13, 2020, THE PENNSYLVANIA SUPREME COURT IN
11 *FRIENDS OF DANNY DEVITO V. WOLF* (NO. 68 MM 2020, 2020 WL
12 1847100), AFFIRMED THE GENERAL ASSEMBLY'S AUTHORITY TO TERMINATE
13 A STATE OF EMERGENCY, WRITING THAT, "AS A COUNTERBALANCE TO THE
14 EXERCISE OF THE BROAD POWERS GRANTED TO THE GOVERNOR, THE
15 EMERGENCY CODE PROVIDES THAT THE GENERAL ASSEMBLY BY CONCURRENT
16 RESOLUTION MAY TERMINATE A STATE OF DISASTER EMERGENCY AT ANY
17 TIME"; AND

18 WHEREAS, THE COURT, IN REVIEWING THE TAKINGS WITHOUT
19 COMPENSATION CLAIMS RAISED BY BUSINESSES SUBJECT TO THE
20 GOVERNOR'S MARCH 19, 2020, BUSINESS CLOSURE ORDER IN *FRIENDS OF*
21 *DANNY DEVITO V. WOLF*, ALSO SPECIFICALLY AFFIRMED THAT THE
22 EMERGENCY CODE, "PROVIDES THE GENERAL ASSEMBLY WITH THE ABILITY
23 TO TERMINATE THE ORDER AT ANY TIME. 35 PA.C.S. § 7301(C)";
24 THEREFORE BE IT

25 RESOLVED (THE SENATE CONCURRING), THAT THE GENERAL ASSEMBLY,
26 IN CONSIDERATION OF THE ORDERS ISSUED BY THE GOVERNOR TO
27 MITIGATE THE SPREAD OF COVID-19 AND THE EFFECT THE ORDERS HAVE
28 HAD ON THE PUBLIC HEALTH AND THE COMMONWEALTH'S ECONOMY, HEREBY
29 TERMINATE IN PART THE PROCLAMATION OF DISASTER EMERGENCY ISSUED
30 ON MARCH 6, 2020, TO THE EXTENT THE PROCLAMATION AND THE ORDERS

1 ISSUED PURSUANT TO THE PROCLAMATION REGULATE THE CONDUCT OF
2 BUSINESS OPERATIONS DEEMED NON-LIFE-SUSTAINING DIFFERENTLY THAN
3 THE CONDUCT OF BUSINESS OPERATIONS DEEMED LIFE-SUSTAINING UNDER
4 THE MARCH 19, 2020, BUSINESS CLOSURE ORDER AS AMENDED; AND BE IT
5 FURTHER

6 RESOLVED, THAT UPON ADOPTION OF THIS CONCURRENT RESOLUTION BY
7 BOTH CHAMBERS OF THE GENERAL ASSEMBLY, THE CHIEF CLERK OF THE
8 HOUSE OF REPRESENTATIVES SHALL DO ALL OF THE FOLLOWING:

9 (1) TRANSMIT A COPY OF THIS RESOLUTION TO THE SECRETARY
10 OF THE COMMONWEALTH AS AN OFFICIAL ACTION OF THE GENERAL
11 ASSEMBLY UNDER THE AUTHORITY PROVIDED UNDER 35 PA.C.S. §
12 7301(C) TO TERMINATE ALL OR PART OF A STATE OF EMERGENCY.

13 (2) TRANSMIT A COPY OF THIS RESOLUTION TO THE DIRECTOR
14 OF THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY.

15 (3) TRANSMIT THIS RESOLUTION TO THE LEGISLATIVE
16 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN
17 UNDER 45 PA.C.S. § 725(A)(4).

18 (4) PROVIDE PUBLIC NOTICE OF ADOPTION OF THIS RESOLUTION
19 BY PUBLISHING A SUMMARY OF IT IN NEWSPAPERS OF GENERAL
20 CIRCULATION IN THIS COMMONWEALTH WITHIN FIVE DAYS OF ADOPTION
21 BY THE HOUSE OF REPRESENTATIVES AND THE SENATE.