

## No. 160

## AN ACT

Amending the act of April 18, 1949 (P. L. 512), entitled "An act relating to the administration and distribution of decedents' estates, trust estates, minors' estates and absentees' estates, both as to real and personal property, and the procedure relating thereto; including the disposition of such estates or portions thereof and the determination of title thereto without the appointment of a fiduciary in certain cases; the appointment, bond, removal and discharge of fiduciaries of such estates, their powers, duties and liabilities; the rights of persons dealing with such fiduciaries, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning guardians of the person of minors, the powers, duties and liabilities of sureties and of foreign fiduciaries, the abatement, survival and control of actions and rights of action, and the presumption of death; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and of the register of wills in all matters relating to fiduciaries," allowing compensation to a trustee on the basis of the market value of the trust, and permitting the compensation to be calculated on a graduated percentage.

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

Fiduciaries  
Act of 1949.

Section 1. The act of April 18, 1949 (P. L. 512), known as the "Fiduciaries Act of 1949," is amended by adding, after section 984, a new section to read:

Act of April 18,  
1949, P. L. 512,  
amended by  
adding a new  
section 985.

*Section 985. Compensation.—The court shall allow such compensation to the trustee as shall in the circumstances be reasonable and just, and may take into account the market value of the trust at the time of the allowance, and calculate such compensation on a graduated percentage.*

APPROVED—The 25th day of July, A. D. 1963.

WILLIAM W. SCRANTON

## No. 161

## AN ACT

Amending the act of June 18, 1923 (P. L. 840), entitled "An act concerning declaratory judgments and decrees and to make uniform the law relating thereto," including certain cases relating to taxation.

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

Declaratory  
judgments.

Section 6, act of June 18, 1923, P. L. 840, amended May 26, 1943, P. L. 645, further amended.

Section 1. Section 6, act of June 18, 1923 (P. L. 840), known as the "Uniform Declaratory Judgments Act," amended May 26, 1943 (P. L. 645), is amended to read:

Section 6. Discretionary.—Relief by declaratory judgment or decree may be granted in all civil cases where (1) an actual controversy exists between contending parties, or (2) where the court is satisfied that antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation, or (3) where in any such case the court is satisfied that a party asserts a legal relation, status, right, or privilege in which he has a concrete interest and that *either* (i) there is a challenge or denial of such asserted relation, status, right, or privilege by an adversary party who also has or asserts a concrete interest therein, or (ii) *that there is an uncertainty with respect to the effect of such asserted relation, status, right, or privilege upon the determination of any tax imposed or to be imposed by any taxing authority, including the United States, any state and any political subdivision thereof,* and the court is satisfied also that a declaratory judgment or decree will serve to terminate the uncertainty or controversy giving rise to the proceeding. Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy must be followed; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, or an equitable remedy, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the privilege of obtaining a declaratory judgment or decree in any case where the other essentials to such relief are present; but proceeding by declaratory judgment shall not be permitted in any case where a divorce or annulment of marriage is sought.

Section 11 of act, amended.

Section 2. Section 11 of the act is amended to read:

Section 11. Parties.—When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party and shall be entitled to be heard, and, if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General of the State shall also be served with a copy of the proceeding and be entitled to be

heard. *In any proceeding which involves the effect of any asserted legal relation, status, right, or privilege upon the determination of any tax, the appropriate taxing authority shall be served with a copy of the proceeding, but if such taxing authority does not enter its appearance, the requirements of this section shall nevertheless be satisfied if the court considers that the interests of the taxing authority are adequately represented.*

APPROVED—The 25th day of July, A. D. 1963.

WILLIAM W. SCRANTON

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No. 162

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," prohibiting certain elected controllers and auditors, and controllers and auditors appointed to fill unexpired terms of previous controllers or auditors, from being otherwise employed by school districts and joint school boards.

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

Public School  
Code of 1949.

Section 1. The act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," is amended by adding, after section 2401, a new section to read:

Act of March 10,  
1949, P. L. 30,  
amended by add-  
ing a new section  
2401.1.

*Section 2401.1. Controllers and Auditors Not to be Otherwise Employed by School Districts or Joint School Boards.—No elected county, city, borough, town or township controller or auditor, and no controller or auditor appointed to fill a vacancy in the office of county, city, borough, town or township controller or auditor for the unexpired term of the previous controller or auditor, shall be employed in any other capacity by a school district or joint school board if he audits any finances or any funds belonging to or controlled by the school district or joint school board.*

Section 2. This act shall take effect immediately.

Act effective  
immediately.

APPROVED—The 25th day of July, A. D. 1963.

WILLIAM W. SCRANTON