WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2429

(By Delegate Mr. Spack, Mr. Chambers, and Delegate Kiser, Harris, Seacrist, Amore, and Hunt)

Passed March 19, 1995

In Effect Ninety Days from Passage
AN ACT to amend and reenact section two, article six-a, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the administration of estates and trusts; uniform management of institutional funds act; revising the definitions of "institution," "institutional fund" and "gift instrument"; and adding a definition of "community foundation" or "community trust."

Be it enacted by the Legislature of West Virginia:

That section two, article six-a, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6A. UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT.

§44-6A-2. Definitions.

The following words or phrases as used in this article shall have the meanings ascribed to them in this section, unless the context of this article clearly indicates otherwise:
(a) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(b) "Gift instrument" means a will, deed, trust agreement, grant, conveyance, agreement, memorandum, writing or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) that was executed or in effect before or after the effective date of this article under which property is transferred to, or held by or on behalf of, an institution as an institutional fund;

(c) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(d) "Historic dollar value" means the aggregate fair value in dollars of: (i) An endowment fund at the time it became an endowment fund; (ii) each subsequent donation to the fund at the time it is made; and (iii) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive;

(e) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable or other eleemosynary purpose, a governmental organization to the extent that it holds funds exclusively for any of these purposes, or a community foundation or community trust;

(f) "Institutional fund" means a fund held by an institution for its exclusive use, benefit or purposes, but does not include: (i) A fund held for an institution by a trustee that is not an institution, unless the fund is held exclusively for the benefit of either a community foundation or community trust by a bank, a trust company or another fiduciary that is a trustee of the community foundation or community trust; or (ii) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund;
(g) "Community foundation" or "community trust" means an institution that has been established to attract contributions of a capital or endowment nature for the benefit of a particular community or area whose contributions are often received and maintained in the form of separate trusts or funds which are subject to varying degrees of control by the governing body of the community foundation or community trust and which the governing body in good faith believes meets the requirements of the regulations issued by the internal revenue service, United States department of treasury, presently codified as 26 CFR 1.170A-9(e)(10) and (11), to qualify as a "publicly supported" organization and to be treated as a "single entity" rather than as an aggregation of separate funds.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 24th day of March, 1995.

Governor