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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. For

HOUSE BILL No. 2429

(By Delegate *Mr. Spoker, Mr. Chambers, and
Delegates Kiss, Farris, Seacrist,
Amores and Hunt*)

Passed March 19, 1995

In Effect Ninety Days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2429

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATES KISS, FARRIS,
SEACRIST, AMORES AND HUNT)

[Passed March 10, 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.

- 1 The following words or phrases as used in this article
- 2 shall have the meanings ascribed to them in this section,
- 3 unless the context of this article clearly indicates other-
- 4 wise:

5 (a) "Endowment fund" means an institutional fund, or
6 any part thereof, not wholly expendable by the institution
7 on a current basis under the terms of the applicable gift
8 instrument;

9 (b) "Gift instrument" means a will, deed, trust agree-
10 ment, grant, conveyance, agreement, memorandum, writ-
11 ing or other governing document (including the terms of
12 any institutional solicitations from which an institutional
13 fund resulted) that was executed or in effect before or
14 after the effective date of this article under which property
15 is transferred to, or held by or on behalf of, an institution
16 as an institutional fund;

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

20 (d) "Historic dollar value" means the aggregate fair
21 value in dollars of: (i) An endowment fund at the time it
22 became an endowment fund; (ii) each subsequent dona-
23 tion to the fund at the time it is made; and (iii) each accu-
24 mulation made pursuant to a direction in the applicable
25 gift instrument at the time the accumulation is added to
26 the fund. The determination of historic dollar value made
27 in good faith by the institution is conclusive;

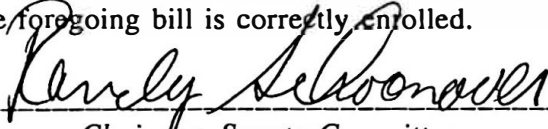
28 (e) "Institution" means an incorporated or unincorpo-
29 rated organization organized and operated exclusively for
30 educational, religious, charitable or other eleemosynary
31 purpose, a governmental organization to the extent that it
32 holds funds exclusively for any of these purposes, or a
33 community foundation or community trust;

34 (f) "Institutional fund" means a fund held by an insti-
35 tution for its exclusive use, benefit or purposes, but does
36 not include: (i) A fund held for an institution by a trustee
37 that is not an institution, unless the fund is held exclusively
38 for the benefit of either a community foundation or com-
39 munity trust by a bank, a trust company or another fidu-
40 ciary that is a trustee of the community foundation or
41 community trust; or (ii) a fund in which a beneficiary that
42 is not an institution has an interest, other than possible
43 rights that could arise upon violation or failure of the
44 purposes of the fund;

45 (g) "Community foundation" or "community trust"
46 means an institution that has been established to attract
47 contributions of a capital or endowment nature for the
48 benefit of a particular community or area whose contribu-
49 tions are often received and maintained in the form of
50 separate trusts or funds which are subject to varying de-
51 grees of control by the governing body of the community
52 foundation or community trust and which the governing
53 body in good faith believes meets the requirements of the
54 regulations issued by the internal revenue service, United
55 States department of treasury, presently codified as 26
56 CFR 1.170A-9(e)(10) and (11), to qualify as a "publicly
57 supported" organization and to be treated as a "single
58 entity" rather than as an aggregation of separate funds.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



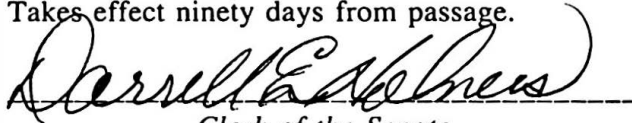
Chairman Senate Committee



Chairman House Committee

Originating in the House.

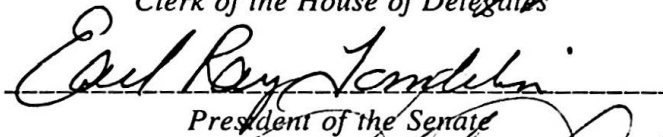
Takes effect ninety days from passage.



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

PRESENTED TO THE

GOVERNOR

Date 3/24/95

Time 3:58 PM