

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 598 Session of  
1995

INTRODUCED BY GREENLEAF, LEMMOND, HECKLER, AFFLERBACH, HART,  
SCHWARTZ, SHUMAKER AND TOMLINSON, FEBRUARY 24, 1995

REFERRED TO JUDICIARY, FEBRUARY 24, 1995

AN ACT

1 Amending the act of June 17, 1971 (P.L.181, No.23), entitled "An  
2 act respecting governing instruments of certain charitable  
3 organizations," further providing for amendment of governing  
4 instruments of charitable organizations.

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

7 Section 1. Section 1 of the act of June 17, 1971 (P.L.181,  
8 No.23), known as the Charitable Instruments Act of 1971, is  
9 amended to read:

10 Section 1. The governing instrument of any charitable  
11 organization shall be deemed to include provisions, the effects  
12 of which are:

13 (1) To require distributions for each taxable year in such  
14 amounts and at such times and in such manner as not to subject  
15 the organization to tax under section 4942 of the Internal  
16 Revenue Code of [1954] 1986; and

17 (2) To prohibit the organization from engaging in any act of  
18 self-dealing (as defined in section 4941(d) of the Internal

1 Revenue Code of [1954] 1986) and from retaining any excess  
2 business holdings (as defined in section 4943(c) of that code)  
3 and from making any investment in such manner as to subject the  
4 organization to tax under section 4944 of that code and from  
5 making any taxable expenditure as defined in section 4945(d) of  
6 that code,  
7 and such provisions shall supersede any contrary provision of  
8 the governing instrument. This section shall be applicable only  
9 to the extent that the charitable organization is subject to one  
10 or more of the cited sections of the Internal Revenue Code of  
11 [1954] 1986.

12 Section 2. Section 2 of the act, amended June 30, 1972  
13 (P.L.501, No.160), is amended to read:

14 Section 2. For purposes of this act, the term "charitable  
15 organization" means any corporation, trust, or other  
16 instrumentality governed by Pennsylvania law, including:

17 (1) any trust described in section 4947(a)(1) or (2) of the  
18 Internal Revenue Code of [1954] 1986, which is or is treated as  
19 a private foundation under section 509 of that code[.]; or

20 (2) any trust governed by Pennsylvania law that is, or is  
21 treated as, a pooled income fund under section 642(c)(5) of that  
22 code.

23 Section 3. Sections 3 and 4 of the act are amended to read:

24 Section 3. References herein to the Internal Revenue Code of  
25 [1954] 1986 shall be deemed to extend to corresponding  
26 provisions of any subsequent Federal tax laws.

27 Section 4. (a) The trustees or directors of every  
28 charitable organization shall have the power, acting alone,  
29 without the approval of any member, any court, any donor or any  
30 beneficiary, to amend the instrument governing the charitable

1 organization in any manner required for the sole purpose of  
2 ensuring that:

3 (1) gifts and bequests to the charitable organization  
4 qualify for charitable deductions available for Federal income,  
5 gift and estate tax purposes; and

6 (2) the charitable organization qualifies for tax exemptions  
7 available for Federal income tax purposes.

8 (b) Nothing in this act shall preclude a court of competent  
9 jurisdiction from authorizing a deviation from the express terms  
10 of an instrument governing a charitable organization.

11 Section 4. This act shall apply to all charitable  
12 organizations created before, on or after the effective date of  
13 this act.

14 Section 5. This act shall take effect immediately.