

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 2484

PRINTER NO. 4008

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

May 5, 2020

PRIME SPONSOR

Representative White

DESCRIPTION AND PURPOSE OF BILL

House Bill 2484 amends Title 15 (Corporations and Unincorporated Associations) and Title 20 (Decedents, Estates and Fiduciaries) to increase endowment spending limitations for nonprofit corporations and charitable trusts. Title 15 is also amended to authorize a donor of property transferred to a nonprofit corporation to enter into a binding nonjudicial settlement agreement with the nonprofit so long as the gift instrument does not expressly provide otherwise and includes certain terms and conditions.

Title 15

House Bill 2484 amends 15 Pa.C.S. § 5548 (relating to investment of trust funds) to permit the board of directors or other governing body of a nonprofit corporation to select a percentage of the value of the assets held by or for the nonprofit corporation as spendable income which meets the following criteria:

- (1) Is consistent with the long-term preservation of the real value of the assets and the corporation's need for capital to fulfill its mission; and
- (2) Is not more than 10% per year.

The legislation provides that the amendment of § 5548 applies only during calendar years 2020, 2021 and 2022, or for the corporation's fiscal years that end during those calendar years.

House Bill 2484 creates a new § 5548.1 (relating to nonjudicial settlement agreement) to provide that binding nonjudicial settlement agreements may be entered into for property transferred to a nonprofit corporation, including restrictions thereon, so long as it includes terms and conditions a court could have approved under Title 15. These agreements would have to occur during calendar years 2020, 2021 and 2022, or for the corporation's fiscal years that end during those calendar years.

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Section 5548.1 stipulates that a proceeding commenced to enforce a gift instrument related to assets held by a nonprofit corporation for a charitable purpose may be brought by the following:

- A donor during the donor's lifetime;
- The Office of Attorney General;
- A charitable organization expressly named in the gift instrument and nonjudicial settlement agreement, if applicable, to receive any portion of the assets; or
- Any other person having standing to do so, which may include anyone appointed in the gift instrument.

Title 20

House Bill 2484 amends 20 Pa.C.S. § 8113(c) (relating to charitable trusts) to permit the trustee of a charitable trust to select a percentage of the value of the assets held by or for the charitable trust as spendable income which meets the following criteria:

- (1) Is consistent with the long-term preservation of the real value of the assets and the organization's need for capital to fulfill its mission; and
- (2) Is not more than 10% per year.

The legislation provides that the amendment of § 8113(c) applies only during calendar years 2020, 2021 and 2022, or for the trust's fiscal years that end during those calendar years.

This act shall take effect immediately.

FISCAL IMPACT:

House Bill 2484 will have no fiscal impact on Commonwealth funds.

House Bill 2484 allows nonprofit corporations subject to § 5548 of Title 15 (Corporations and Unincorporated Associations) and charitable trusts subject to § 8113 of Title 20 (Decedents, Estates, and Fiduciaries) to calculate the annual permissible expenditures from endowment funds based on a percentage of the endowment fund's total value. The allowable percentage of the value of assets held by or for the nonprofit corporation or charitable trust and selected for this purpose is spendable income.

Under current law, a nonprofit corporation or charitable trust must annually choose a percentage to spend from the fund that is at least 2% but not greater than 7%. The legislation temporarily increases the spending limit to 10% in order to allow these entities flexibility in dealing with fiscal impacts associated with the COVID-19 pandemic.