

No. 1996-136

AN ACT

SB 598

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

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

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

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

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

(2) To prohibit the organization from engaging in any act of self-dealing (as defined in section 4941(d) of the Internal Revenue Code of [1954] 1986) and from retaining any excess business holdings (as defined in section 4943(c) of that code) and from making any investment in such manner as to subject the organization to tax under section 4944 of that code and from making any taxable expenditure as defined in section 4945(d) of that code, and such provisions shall supersede any contrary provision of the governing instrument. This section shall be applicable only to the extent that the charitable organization is subject to one or more of the cited sections of the Internal Revenue Code of [1954] 1986.

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

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

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

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

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

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

Section 4. (a) *The trustees or directors of every charitable organization shall have the power, acting alone, without the approval of any member,*

any court, any donor or any beneficiary, to amend the instrument governing the charitable organization in any manner required for the sole purpose of ensuring that:

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

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

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

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

Section 5. This act shall take effect immediately.

APPROVED—The 27th day of November, A.D. 1996.

THOMAS J. RIDGE