

FINAL BILL REPORT

HB 1196

C 124 L 97

Synopsis as Enacted

Brief Description: Regulating registration of charitable trusts.

Sponsors: Representatives McDonald, Costa, Sheahan, Sterk and Skinner; by request of Secretary of State.

House Committee on Law & Justice

Senate Committee on Law & Justice

Background: Generally, trusts that are set up for charitable purposes are required to register with the Office of the Secretary of State.

Charitable trusts are those held for a public charitable purpose and those that are subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, education, or similar purposes. The attorney general has authority to investigate violations of and to secure compliance with the charitable trust law. Any individual who is holding assets or property in the state for charitable purposes must register within two months of receiving possession or control of the trust. Every trustee also must file an annual report. All information filed with the Office of the Secretary of State is public. However, if any portion of the trust is for other than charitable purposes, the trust instrument is not to be disclosed.

In some cases a charitable trust may be created as a remainder interest— following a life estate in the trust. That is, property that is the subject of the trust is given first to a person for use during his or her lifetime. Only after the death of the person and the end of the life estate does the charitable trust begin. However, the law requires that the instrument creating the trust must be filed within two months of the beginning of the life estate.

The secretary of state is directed to investigate— a variety of sources to obtain information necessary for the creation and maintenance of a register of charitable trusts. The custodians of court records pertaining to probate and trusts matters and public officials receiving applications for tax exempt status are directed to furnish the secretary of state with information relating to charitable trusts.

Some entities that are required to register under the charitable trust law may also have to register under the Charitable Solicitations Act. That act generally regulates practices and entities involved in fund-raising for charitable purposes.

Summary: Several changes are made to the charitable trust law. These changes generally reduce the number of entities that must register and reduce the amount of reporting required.

The secretary of state is authorized to set a threshold value for a charitable trust's income producing assets. A charitable trust with assets above that value will be required to register if all or part of the principal or income of the trust can or must currently be expended for charitable purposes and if the trust is authorized to distribute its assets over a period greater than one year.

A remainder trust need register only when all preceding life estates have ended.

The time for initial registration is increased to four months following the acquisition of possession or control of the assets of a charitable trust. The general annual reporting requirement is eliminated, and trustees are required to file each publicly available— tax form filed with the federal government. The secretary of state may provide an exemption from reporting or an alternative reporting requirement for charitable trusts that are not required to file a federal tax return.

The secretary of state must withhold from public inspection any trust which is established for several or mixed purposes if any one of the purposes is not charitable.

The requirements that the secretary of state investigate various sources for information, that custodians of court records report information on probate and trusts, and that public officials report information on tax exemption applications are all repealed.

Votes on Final Passage:

House 96 0

Senate 47 0

Effective: July 27, 1997