

No. 23

AN ACT

HB 555

Respecting governing instruments of certain charitable organizations.

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

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; 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) 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.

Section 2. For purposes of this act, the term "charitable organization" means any corporation, trust, or other instrumentality governed by Pennsylvania law, including any trust described in section 4947 (a) (1) of the Internal Revenue Code of 1954, which is or is treated as a private foundation under section 509 of that code.

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

Section 4. 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 5. This act shall take effect immediately and shall apply:

(1) Forthwith to every charitable organization created after December 31, 1969; and

(2) After December 31, 1971, to every charitable organization created before January 1, 1970, unless a court of competent jurisdiction in a proceeding instituted before January 1, 1972, should explicitly decide that the operation of section 1 of this act would substantially impair the accomplishment of the purposes of the charitable organization involved in that proceeding.

Section 6. This act shall be known and may be cited as the "Charitable Instruments Act of 1971."

APPROVED—The 17th day of June, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 23.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth.