

HOUSE BILL No. 5390

December 2, 1997, Introduced by Rep. Martinez and referred to the Committee on Commerce.

A bill to amend 1961 PA 101, entitled "Supervision of trustees for charitable purposes act," by amending section 3 (MCL 14.253).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) ~~(a)~~ This act does not apply to the United
2 States, any state, territory, or possession of the United States,
3 the ~~district~~ DISTRICT of Columbia, the ~~commonwealth~~
4 COMMONWEALTH of Puerto Rico, or to any of their agencies or gov-
5 ernmental subdivisions; ~~—~~ to an officer of a religious organi-
6 zation who holds property for religious purposes; ~~—~~ or to a
7 charitable corporation organized and operated primarily as an
8 educational institution, including amateur theater, band, and
9 orchestra corporations, OR AS a religious organization. ~~or~~
10 ~~hospital.~~ This exemption does not apply to a governmental
11 subdivision of this state, except state supported colleges or

1 universities, as to property held for charitable purposes other
2 than or more limited or specific than its general public or cor-
3 porate purposes. This act ~~shall~~ DOES not apply to any non-
4 profit charitable corporation, EXCEPT FOR A HOSPITAL, organized
5 under the laws of this state whose operating funds are derived,
6 in whole or in part, from community funds or united foundation
7 sources. ~~but~~ HOWEVER, this act shall apply to ~~such~~ a charita-
8 ble corporation DESCRIBED IN THIS SUBSECTION as to funds or prop-
9 erties received by it as trustee of an inter vivos trust of a
10 continuing nature.

11 (2) ~~(b)~~ The registration and periodic reporting require-
12 ments of this act ~~shall~~ DO not apply to any trust in which the
13 interests of the charitable remainder beneficiaries are remote.
14 For the purpose of this act, the interests of charitable remain-
15 der beneficiaries of a trust ~~shall be~~ ARE considered remote if
16 under the maximum exercise of discretion by the trustee in favor
17 of the charitable remainder beneficiaries of ~~such~~ THOSE trusts,
18 the value of their interests in the aggregate assets ~~—~~ IS com-
19 puted actuarially at 5% or less of the value of the property
20 subject to the trust, ~~such~~ AND THAT determination shall be made
21 at the time of the creation of an irrevocable trust, ~~or~~ at the
22 time a revocable trust becomes irrevocable, or at the death of
23 the testator in case of a testamentary trust. ~~When~~ IF a remote
24 charitable interest vests in present possession or enjoyment,
25 registration and periodic reports shall be required for the first
26 time under this act.

1 (3) ~~(c)~~ Unless the governing instrument provides
2 otherwise, a trust, whether testamentary or inter vivos, shall
3 not be deemed a charitable trust only for the purposes of regis-
4 tration, accounting, and notice, ~~in the case where~~ IF the indi-
5 vidual or individuals are the sole income beneficiaries of the
6 trust and a charitable organization or organizations, ~~(~~ none of
7 which or the selection of which are under the dominion or control
8 of the grantor, testator, executor, or trustee, or any members of
9 his OR HER family, ~~)~~ are remaindermen, until the remainder
10 interest of at least ~~one~~ 1 charitable organization vests in
11 enjoyment. This provision ~~shall~~ DOES not apply in the case of
12 a disputed last will and testament.