

SUBSTITUTE FOR
HOUSE BILL NO. 5389

A bill to amend 1921 PA 136, entitled
"An act to authorize and facilitate the acquisition and disposal
of public library property by public corporations empowered to
maintain public libraries,"
by amending section 1 (MCL 397.381).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~Any~~ SUBJECT TO SUBSECTION (2), A board of
2 education, library commission, or other public corporation empow-
3 ered to maintain a public library may receive and accept gifts
4 and donations of REAL OR PERSONAL property, ~~real or personal,~~
5 for the ~~purpose of such~~ library, and shall hold, use, and apply
6 the property ~~so~~ received for the purposes, IN ACCORDANCE WITH
7 THE PROVISIONS, AND SUBJECT TO THE CONDITIONS AND LIMITATIONS, IF
8 ANY, set forth in the instrument of gift. ~~and in accordance with~~
9 ~~the provisions of such instrument and subject to the conditions~~
10 ~~and limitations, if any, therein expressed.~~

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1 (2) A BOARD OF EDUCATION, LIBRARY COMMISSION, OR OTHER
2 PUBLIC CORPORATION EMPOWERED TO MAINTAIN A PUBLIC LIBRARY MAY
3 TRANSFER A GIFT OF INTANGIBLE PERSONAL PROPERTY, OTHER THAN A
4 FEDERAL OR STATE GRANT, DESCRIBED IN SUBSECTION (1), OR THE PRO-
5 CEEDS FROM THAT GIFT TO A COMMUNITY FOUNDATION. IF A GIFT
6 RECEIVED BY A BOARD OF EDUCATION, LIBRARY COMMISSION, OR OTHER
7 PUBLIC CORPORATION EMPOWERED TO MAINTAIN A PUBLIC LIBRARY WAS
8 SUBJECT TO CERTAIN CONDITIONS, LIMITATIONS, OR REQUIREMENTS, THE
9 TRANSFER MUST BE TO A COMPONENT FUND WITHIN THE COMMUNITY FOUNDA-
10 TION THAT INCORPORATES CONDITIONS, LIMITATIONS, OR REQUIREMENTS
11 THAT ARE SUBSTANTIALLY SIMILAR. IF A GIFT WAS NOT SUBJECT TO
12 CONDITIONS, LIMITATIONS, OR REQUIREMENTS, THE TRANSFER MUST BE TO
13 A COMPONENT FUND OF THE COMMUNITY FOUNDATION THAT IMPOSES CONDI-
14 TIONS, LIMITATIONS, OR REQUIREMENTS ON THE USE OF THE PROPERTY
15 FOR THE PURPOSE OF MAINTAINING THE PUBLIC LIBRARY.

16 (3) A TRANSFER OF A GIFT DESCRIBED IN SUBSECTION (1) BY A
17 BOARD OF EDUCATION, LIBRARY COMMISSION, OR OTHER PUBLIC CORPORA-
18 TION EMPOWERED TO MAINTAIN A PUBLIC LIBRARY TO A COMPONENT FUND
19 WITHIN A COMMUNITY FOUNDATION THAT SATISFIES THE CONDITIONS UNDER
20 SUBSECTION (2), BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
21 THAT AMENDED THIS SECTION, IS VALID.

22 (4) A COMMUNITY FOUNDATION TO WHICH A GIFT IS TRANSFERRED
23 PURSUANT TO THIS SECTION SHALL RETURN THE GIFT TO THE BOARD OF
24 EDUCATION, LIBRARY COMMISSION, OR OTHER PUBLIC CORPORATION EMPOW-
25 ERED TO MAINTAIN A PUBLIC LIBRARY, THAT TRANSFERRED THE GIFT IF 1
26 OR MORE OF THE FOLLOWING OCCUR:

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1 (A) THE COMMUNITY FOUNDATION FAILS TO MEET ALL OF THE
2 REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY FOUNDATION SET
3 FORTH IN SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281,
4 MCL 206.261.

5 (B) THE COMMUNITY FOUNDATION IS LIQUIDATED.

6 (C) THE COMMUNITY FOUNDATION SUBSTANTIALLY VIOLATES ANY CON-
7 DITION, LIMITATION, OR REQUIREMENT IMPOSED ON THE GIFT.

8 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), A COMMU-
9 NITY FOUNDATION SHALL ESTABLISH A DONOR ADVISORY BOARD BEFORE A
10 GIFT IS TRANSFERRED TO THAT COMMUNITY FOUNDATION UNDER THIS
11 SECTION. THE DONOR ADVISORY BOARD SHALL INCLUDE NOT LESS THAN 1
12 REPRESENTATIVE OF THE BOARD OF EDUCATION, LIBRARY COMMISSION, OR
13 OTHER PUBLIC CORPORATION EMPOWERED TO MAINTAIN A PUBLIC LIBRARY
14 TRANSFERRING THE GIFT. THE DONOR ADVISORY BOARD SHALL DO ALL OF
15 THE FOLLOWING:

16 (A) DETERMINE THAT ANY CONDITION, LIMITATION, OR REQUIREMENT
17 ON THE USE OF THE TRANSFERRED GIFT IS COMPLIED WITH.

18 (B) MAKE RECOMMENDATIONS FOR THE USE OF THE TRANSFERRED
19 GIFT.

20 (6) A BOARD OF EDUCATION, LIBRARY COMMISSION, OR OTHER
21 PUBLIC CORPORATION EMPOWERED TO MAINTAIN A PUBLIC LIBRARY THAT
22 TRANSFERS A GIFT TO A COMMUNITY FOUNDATION UNDER THIS SECTION MAY
23 WAIVE THE ESTABLISHMENT OF THE DONOR ADVISORY BOARD UNDER SUBSEC-
24 TION (5).

25 (7) AS USED IN THIS SECTION:

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1 (A) "COMMUNITY FOUNDATION" MEANS THAT TERM AS DEFINED IN
2 SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
3 206.261.

4 (B) "COMPONENT FUND" MEANS A COMPONENT PART OF A COMMUNITY
5 TRUST AS DESCRIBED IN 26 C.F.R. 1.170A-9.