

**REPRINT**

**SUBSTITUTE FOR**

**HOUSE BILL NO. 5386**

(As passed the House June 10, 1998)

A bill to amend 1913 PA 380, entitled

"An act to regulate gifts of real and personal property to cities, villages, townships, and counties, and the use of the those gifts; and to validate all such gifts made before the enactment of this act,"

(MCL 123.871 to 123.873) by adding section 4.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 4. (1) A CITY, VILLAGE, TOWNSHIP, OR COUNTY MAY TRANS-  
2 FER ANY GIFT OF INTANGIBLE PERSONAL PROPERTY RECEIVED PURSUANT TO  
3 SECTION 1 OR THE PROCEEDS OF ANY GIFT RECEIVED PURSUANT TO SEC-  
4 TION 1 TO A COMMUNITY FOUNDATION. IF A GIFT RECEIVED BY A CITY,  
5 VILLAGE, TOWNSHIP, OR COUNTY PURSUANT TO SECTION 1 WAS SUBJECT TO  
6 CONDITIONS, LIMITATIONS, OR REQUIREMENTS, THE TRANSFER MUST BE TO  
7 A COMPONENT FUND WITHIN THE COMMUNITY FOUNDATION THAT INCOR-  
8 PORATES CONDITIONS, LIMITATIONS, OR REQUIREMENTS THAT ARE  
9 SUBSTANTIALLY SIMILAR TO THOSE THE GIFT WAS SUBJECT TO. IF A

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1 GIFT WAS NOT SUBJECT TO CONDITIONS, LIMITATIONS, OR REQUIREMENTS,  
2 THE TRANSFER MUST BE TO A COMPONENT FUND WITHIN THE COMMUNITY  
3 FOUNDATION THAT IMPOSES CONDITIONS, LIMITATIONS, OR REQUIREMENTS  
4 ON THE USE OF THE GIFT PROPERTY FOR 1 OR MORE PURPOSES PROVIDED  
5 IN SECTION 1.

6 (2) A TRANSFER OF A GIFT IN ACCORDANCE WITH THIS SECTION  
7 THAT OCCURRED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT  
8 THAT ADDED THIS SECTION IS RATIFIED AND CONFIRMED AND THE TRANS-  
9 FER IS CONSIDERED VALID AS IF IT HAD BEEN MADE UNDER THIS  
10 SUBSECTION.

11 (3) A COMMUNITY FOUNDATION TO WHICH A GIFT IS TRANSFERRED  
12 PURSUANT TO THIS SECTION SHALL RETURN THE GIFT TO THE CITY, VIL-  
13 LAGE, TOWNSHIP, OR COUNTY THAT TRANSFERRED THE GIFT IF 1 OR MORE  
14 OF THE FOLLOWING OCCUR:

15 (A) THE COMMUNITY FOUNDATION FAILS TO MEET ALL OF THE  
16 REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY FOUNDATION SET  
17 FORTH IN SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281,  
18 MCL 206.261.

19 (B) THE COMMUNITY FOUNDATION IS LIQUIDATED.

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

22 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), A COMMU-  
23 NITY FOUNDATION SHALL ESTABLISH A DONOR ADVISORY BOARD BEFORE A  
24 GIFT IS TRANSFERRED TO THAT COMMUNITY FOUNDATION UNDER THIS  
25 SECTION. THE DONOR ADVISORY BOARD SHALL INCLUDE NOT LESS THAN 1  
26 REPRESENTATIVE OF THE CITY, VILLAGE, TOWNSHIP, OR COUNTY

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1 TRANSFERRING THE GIFT. THE DONOR ADVISORY BOARD SHALL DO ALL OF  
2 THE FOLLOWING:

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

5 (B) MAKE RECOMMENDATIONS FOR THE USE OF THE TRANSFERRED  
6 GIFT.

7 (5) A CITY, VILLAGE, OR TOWNSHIP THAT TRANSFERS A GIFT TO A  
8 COMMUNITY FOUNDATION UNDER THIS SECTION MAY WAIVE THE ESTABLISH-  
9 MENT OF THE DONOR ADVISORY BOARD UNDER SUBSECTION (4).

10 (6) AS USED IN THIS SECTION:

11 (A) "COMMUNITY FOUNDATION" MEANS THAT TERM AS DEFINED IN  
12 SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL  
13 206.261.

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

16 (C) "GIFT" DOES NOT INCLUDE A GRANT FROM STATE OR FEDERAL  
17 SOURCES.