

Act No. 370
Public Acts of 1998
Approved by the Governor
October 20, 1998
Filed with the Secretary of State
October 20, 1998
EFFECTIVE DATE: October 20, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Rep. Profit

ENROLLED HOUSE BILL No. 5389

AN ACT 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:

Sec. 1. (1) Subject to subsection (2), a board of education, library commission, or other public corporation empowered to maintain a public library may receive and accept gifts and donations of real or personal property, for the library, and shall hold, use, and apply the property received for the purposes, in accordance with the provisions, and subject to the conditions and limitations, if any, set forth in the instrument of gift.

(2) A board of education, library commission, or other public corporation empowered to maintain a public library may transfer a gift of intangible personal property, other than a federal or state grant, described in subsection (1), or the proceeds from that gift to a community foundation. If a gift received by a board of education, library commission, or other public corporation empowered to maintain a public library was subject to certain conditions, limitations, or requirements, the transfer must be to a component fund within the community foundation that incorporates conditions, limitations, or requirements that are substantially similar. If a gift was not subject to conditions, limitations, or requirements, the transfer must be to a component fund of the community foundation that imposes conditions, limitations, or requirements on the use of the property for the purpose of maintaining the public library.

(3) A transfer of a gift described in subsection (1) by a board of education, library commission, or other public corporation empowered to maintain a public library to a component fund within a community foundation that satisfies the conditions under subsection (2), before the effective date of the amendatory act that amended this section, is valid.

(4) A community foundation to which a gift is transferred pursuant to this section shall return the gift to the board of education, library commission, or other public corporation empowered to maintain a public library, that transferred the gift if 1 or more of the following occur:

(a) The community foundation fails to meet all of the requirements for certification as a community foundation set forth in section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261.

(b) The community foundation is liquidated.

(c) The community foundation substantially violates any condition, limitation, or requirement imposed on the gift.

(5) Except as otherwise provided in subsection (6), a community foundation shall establish a donor advisory board before a gift is transferred to that community foundation under this section. The donor advisory board shall include not less than 1 representative of the board of education, library commission, or other public corporation empowered to maintain a public library transferring the gift. The donor advisory board shall do all of the following:

(a) Determine that any condition, limitation, or requirement on the use of the transferred gift is complied with.

(b) Make recommendations for the use of the transferred gift.

(6) A board of education, library commission, or other public corporation empowered to maintain a public library that transfers a gift to a community foundation under this section may waive the establishment of the donor advisory board under subsection (5).

(7) As used in this section:

(a) "Community foundation" means that term as defined in section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261.

(b) "Component fund" means a component part of a community trust as described in 26 C.F.R. 1.170A-9.

This act is ordered to take immediate effect

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.