

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 219

An Act to amend and reenact § 55-268.1 of the Code of Virginia, relating to institutional funds.

[H 2219]

Approved March 9, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 55-268.1 of the Code of Virginia is amended and reenacted as follows:

§ 55-268.1. Definitions.

As used in this article:

(1) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes or a governmental organization to the extent that it holds funds exclusively for any of these purposes;

(2) "Institutional fund" means a fund held by an institution for its exclusive use, benefit or purposes, but does not include, (i) a fund held for an institution by a trustee which is not an institution, *unless the fund is held by the trustee as a component trust of a community trust or foundation*, or (ii) a fund in which a beneficiary, which is not an institution, has an interest other than possible rights which could arise upon violation or failure of the purposes of this fund;

(3) "Endowment fund" means an institutional fund, or any part thereof, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(4) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(5) "Historic dollar value" means the fair value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair value in dollars of each subsequent donation to the fund at the time it is made, plus the fair value in dollars of each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. In determining historic dollar value of individual endowment funds maintained in pooled or common institutional funds, institutions may use the aggregate historic dollar value of an institutional fund to determine the historic dollar value of an individual endowment included therein at any particular date based on the institutional fund's current allocation between appreciation and historic dollar value as determined on an aggregate basis for the institutional fund. The determination of historic dollar value made in good faith by the institution is conclusive;

(6) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.