

58-3616. Release or modification of restrictions on management, investment or purpose. (a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(d) If an institution determines that a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund is unlawful, impracticable, impossible to achieve or wasteful, the institution, 60 days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(1) The institutional fund subject to the restriction has a total value of less than \$50,000;

(2) more than 10 years have elapsed since the fund was established; and

(3) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

(e) The dollar amount specified in subsection (d)(1) shall be adjusted to reflect changes in the consumer price index for all urban consumers, as published by the bureau of labor statistics of the department of labor (the "index"), using 2007 as the base year, as follows:

(1) The dollar amount shall be adjusted as of January 1st of each year, if the cumulative percentage of change in the index, from the base year or from a later year that was the basis of an adjustment of this amount pursuant to this subsection, rounded to the nearest whole percentage point, is in excess of 10%;

(2) the amount of any adjustment shall be rounded to the nearest \$5,000;

(3) the dollar amount in subsection (d)(1) shall not be reduced below \$50,000; and

(4) no adjustment to this amount shall occur before January 1, 2009.

History: L. 2008, ch. 20, § 6; July 1.