

MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
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Sec. 2. R. S., T. 29, § 540, amended. The first sentence of section 540 of Title 29 of the Revised Statutes is amended to read as follows:

Each license shall state the name, age, place of residence of the licensee and ~~the distinguishing numbers or marks~~ the permanent number assigned to him and may contain a brief description of the licensee for the purpose of identification and such other information as the said Secretary of State shall deem necessary.

Sec. 3. **Effective date.** This Act shall become effective January 1, 1975.

Effective January 1, 1975

CHAPTER 286

AN ACT Relating to Management of Endowment Funds of Educational Organizations.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 13, c. 95, additional. Title 13 of the Revised Statutes is amended by adding a new chapter 95 to read as follows:

CHAPTER 95

EDUCATIONAL ORGANIZATIONS

SUBCHAPTER I

ENDOWMENT FUNDS

§ 4001. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Endowment fund.** "Endowment fund" means a fund, or any part thereof, held by an institution for its exclusive use, benefit or purposes, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument; but does not include a fund held for an institution by a trustee which is not an institution or 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 the fund.

2. **Gift instrument.** "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 endowment fund resulted, under which property is transferred to or held by an institution as an endowment fund.

3. **Governing board.** "Governing board" means the body responsible for the management of an institution or of an institutional fund.

4. Historic dollar value. "Historic dollar value" means the fair market value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair market value in dollars of each subsequent donation to the fund at the time it is made, plus the fair market 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. The determination of historic dollar value made in good faith by the institution is conclusive.

5. Institution. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational purposes and subject to Title 20, sections 2201 to 2204.

§ 4002. Appropriation of appreciation

The governing board at its stated annual meeting may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair market value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard applicable to the governing board of the institution. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of an institution.

§ 4003. Rule of construction

Section 4002 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits" or "to preserve the principal intact" or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

§ 4004. Delegation of authority

Except as otherwise provided by the applicable gift instrument or by applicable law relating to educational institutions or funds, the governing board may delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, or contract with independent investment advisors, investment counsel or managers, banks or trust companies, so to act, and authorize the payment of compensation for investment advisory or management services.

§ 4005. Care and prudence

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends and general economic conditions.