
SENATE BILL 5068

State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Haugen, Johnson and Winsley; by request of Secretary of State

Read first time 01/13/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to charitable trusts; amending RCW 11.110.060,
2 11.110.070, and 11.110.075; adding a new section to chapter 11.110 RCW;
3 and repealing RCW 11.110.050, 11.110.073, and 11.110.080.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 11.110 RCW
6 to read as follows:

7 (1) Except as provided in subsection (2) of this section, a
8 trustee, as defined by RCW 11.110.020, must register with the secretary
9 of state if, as to a particular charitable trust:

10 (a) The trustee holds assets in trust, invested for income-
11 producing purposes, exceeding a value established by the secretary of
12 state by rule;

13 (b) Under the terms of the trust all or part of the principal or
14 income of the trust can or must currently be expended for charitable
15 purposes; and

16 (c) The trust instrument does not require the distribution of the
17 entire trust corpus within a period of one year or less.

18 (2) A trustee of a trust, in which the only charitable interest is
19 in the nature of a remainder, is not required to register during any

1 life estate or other term that precedes the charitable interest. This
2 exclusion from registration applies to trusts which have more than one
3 noncharitable life income beneficiary, even if the death of one such
4 beneficiary obligates the trustee to distribute a remainder interest to
5 charity.

6 (3) A trustee of a charitable trust that is not required to
7 register pursuant to this section is subject to all requirements of
8 this chapter other than those governing registration and reporting to
9 the secretary of state.

10 **Sec. 2.** RCW 11.110.060 and 1993 c 471 s 28 are each amended to
11 read as follows:

12 (1) Every trustee required to file under section 1 of this act
13 shall file with the secretary of state within ((two)) four months after
14 receiving possession or control of the trust corpus, or after the trust
15 becomes a trust described by section 1(1) of this act:

16 (a) A copy of the instrument establishing his or her title, powers,
17 or duties((, and));

18 (b) An inventory of the assets of such charitable trust((—In
19 addition, trustees exempted from the provisions of RCW 11.110.070 by
20 RCW 11.110.073 shall file with the secretary of state a copy of the
21 declaration of the tax exempt status or other basis of the claim for
22 such exemption; a copy of the instrument establishing the trustee's
23 title, powers or duties; an inventory of the assets of such trust; and,
24 annually, a copy of each publicly available United States tax or
25 information return or report of the trust which the trustee files with
26 the internal revenue service.—The trustees of charitable trusts
27 existing at the time this chapter takes effect or on August 9, 1971,
28 shall comply with this section within six months thereafter)); and

29 (c) A registration form setting forth the trustee's name, mailing
30 address, physical address if different, and additional identifying
31 information required by the secretary by rule.

32 (2) A successor trustee to a previously registered trust shall file
33 a registration form and inventory of assets within four months after
34 receiving possession or control of the trust corpus.

35 (3) A trustee required to register shall file with the secretary of
36 state copies of all amendments to the trust instrument within four
37 months of the making of the amendment.

1 **Sec. 3.** RCW 11.110.070 and 1993 c 471 s 29 are each amended to
2 read as follows:

3 ~~((Except as otherwise provided)) Every trustee ((subject to this~~
4 ~~chapter shall file with the secretary of state annual reports, under~~
5 ~~oath, setting forth information as to the nature of the assets held for~~
6 ~~charitable purposes and the administration thereof by the trustee, in~~
7 ~~accordance with rules of the secretary of state.~~

8 ~~The secretary of state shall make rules as to the time for filing~~
9 ~~reports, the contents thereof, and the manner of executing and filing~~
10 ~~them. The secretary of state may classify trusts and other~~
11 ~~relationships concerning property held for a charitable purpose as to~~
12 ~~purpose, nature of assets, duration of the trust or other relationship,~~
13 ~~amount of assets, amounts to be devoted to charitable purposes, nature~~
14 ~~of trustee, or otherwise, and may establish different rules for the~~
15 ~~different classes as to time and nature of the reports required, to the~~
16 ~~ends (1) that the secretary of state shall receive reasonably current,~~
17 ~~periodic reports as to all charitable trusts or other relationships of~~
18 ~~a similar nature which will enable the secretary of state to ascertain~~
19 ~~whether they are being properly administered, and (2) that periodic~~
20 ~~reports shall not unreasonably add to the expense of the administration~~
21 ~~of charitable trusts and similar relationships. The secretary of state~~
22 ~~may suspend the filing of reports as to a particular charitable trust~~
23 ~~or relationship for a reasonable, specifically designated time upon~~
24 ~~written application of the trustee filed with the secretary of state~~
25 ~~after the secretary of state has filed in the register of charitable~~
26 ~~trusts a written statement that the interests of the beneficiaries will~~
27 ~~not be prejudiced thereby and that periodic reports are not required~~
28 ~~for proper supervision by the secretary of state's office.~~

29 ~~A copy of an account filed by the trustee in any court having~~
30 ~~jurisdiction of the trust or other relationship, if the account~~
31 ~~substantially complies with the rules of the secretary of state, may be~~
32 ~~filed as a report required by this section.~~

33 ~~The first report for a trust or similar relationship hereafter~~
34 ~~established, unless the filing thereof is suspended as herein provided,~~
35 ~~shall be filed not later than one year after any part of the income or~~
36 ~~principal is authorized or required to be applied to a charitable~~
37 ~~purpose. If any part of the income or principal of a trust previously~~
38 ~~established is authorized or required to be applied to a charitable~~
39 ~~purpose at the time this act takes effect, the first report, unless the~~

1 ~~filing thereof is suspended, shall be filed within six months after~~
2 ~~July 30, 1967))~~ required to register under section 1 of this act shall
3 file with the secretary of state a copy of each publicly available
4 United States tax or information return or report of the trust at the
5 time that the trustee files with the internal revenue service. The
6 secretary may provide by rule for the exemption from reporting under
7 this section by some or all trusts not required to file a federal tax
8 or information return, and for a substitute form containing similar
9 information to be used by any trusts not so exempted.

10 **Sec. 4.** RCW 11.110.075 and 1993 c 471 s 30 are each amended to
11 read as follows:

12 A trust is not exclusively for charitable purposes, within the
13 meaning of RCW 11.110.040, when the instrument creating it contains a
14 trust for several or mixed purposes, and any one or more of such
15 purposes is not charitable within the meaning of RCW 11.110.020, as
16 enacted or hereafter amended. Such instrument shall be withheld from
17 public inspection by the secretary of state and no information as to
18 such noncharitable purpose shall be made public. The attorney general
19 shall have free access to such information.

20 ~~((Annual reporting of such trusts to the secretary of state, as~~
21 ~~required by RCW 11.110.060 or 11.110.070, shall commence within one~~
22 ~~year after trust income or principal is authorized or required to be~~
23 ~~used for a charitable purpose.~~

24 ~~When a trust consists of a vested charitable remainder preceded by~~
25 ~~a life estate, a copy of the instrument shall be filed by the trustee~~
26 ~~or by the life tenant, within two months after commencement of the life~~
27 ~~estate.~~

28 ~~If the trust instrument contains only contingent gifts or~~
29 ~~remainders to charitable purposes, no charitable trust shall be deemed~~
30 ~~created until a charitable gift or remainder is legally vested. The~~
31 ~~first registration or report of such trust shall be filed within two~~
32 ~~months after trust income or principal is authorized or required to be~~
33 ~~used for a charitable purpose.))~~

34 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
35 repealed:

- 36 (1) RCW 11.110.050 and 1993 c 471 s 27 & 1985 c 30 s 116;
37 (2) RCW 11.110.073 and 1994 c 92 s 2 & 1985 c 30 s 119; and

1 (3) RCW 11.110.080 and 1993 c 471 s 31 & 1985 c 30 s 121.

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