

of retail sales of electricity, other than to governmental agencies, made by such city in the areas of such cities, towns, counties or taxing districts in which such facilities are located, and shall be divided among them on the same basis as taxes on real and personal property therein are divided.

Passed the House April 6, 1967.

Passed the Senate April 5, 1967.

Approved by the Governor April 14, 1967.

CHAPTER 53.

[Senate Bill No. 9.]

CHARITABLE TRUSTS.

AN ACT relating to charitable trusts and similar relationships; and providing penalties for violations relating thereto.

Be it enacted by the Legislature of the State of Washington:

Charitable trusts—
Purpose.

Section 1. The purpose of this act is to facilitate public supervision over the administration of public charitable trusts and similar relationships and to clarify and implement the powers and duties of the attorney general with relation thereto.

Charitable trusts—
Definitions.

Sec. 2. When used in this act, unless the context otherwise requires:

“Person” means an individual, organization, group, association, partnership, corporation, or any combination of them.

“Trustee” means (1) any person holding property in trust for a public charitable purpose; except the United States, its states, territories, and possessions, the District of Columbia, Puerto Rico, and their agencies and subdivisions; (2) any corporation which has accepted property to be used for a particular charitable corporate purpose as distinguished

from the general purposes of the corporation; and (3) a corporation formed for the administration of a charitable trust, pursuant to the directions of the settlor or at the instance of the trustee: *Provided*, That the term "trustee" does not apply to (a) religious corporations duly organized and operated in good faith as religious organizations, which have received a declaration of current tax exempt status from the government of the United States; their duly organized branches or chapters; and charities, agencies, and organizations affiliated with and forming an integral part of said organization, or operated, supervised, or controlled directly by such religious corporations nor any officer of any such religious organization who holds property for religious purposes: *Provided*, That if such organization has not received from the United States government a declaration of current tax exempt status prior to the time it receives property under the terms of a charitable trust, this exemption shall be applicable for two years only from the time of receiving such property, or until such tax exempt status is finally declared, whichever is sooner; (b) an educational institution which is nonprofit and charitable, having a program of primary, secondary, or collegiate instruction comparable in scope to that of any public school or college operated by the state of Washington or any of its school districts; (c) a hospital which is nonprofit and charitable, other than a hospital initially formed as a trustee pursuant to or in connection with the terms of a charitable trust; (d) any bank or trust company subject to examination by the supervisor of banking of the state of Washington, the comptroller of the currency of the United States or the board of governors of the federal reserve system; and nothing in this act shall apply to any such bank or trust company while any such bank or trust company is acting as trustee, executor or court

Charitable
trusts—
Definitions.

appointed fiduciary; (e) Nonprofit charitable foundations known as community foundations incorporated under the laws of the state of Washington and empowered to receive and administer funds in trust contributed for the support of multiple community charitable purposes, when such foundations: (i) are tax exempt under federal law; (ii) are administered, in part, to foster continuity of support for local charities in accordance with changing community needs, thereby reducing the necessity of application of the trust doctrine of cy pres; (iii) are administered by a governing body of a public or representative nature, consisting of at least ten persons; (iv) control or administer trust assets with a total value in excess of two million dollars; (v) make available to the public an annual report of their sources of funds, the uses of their funds, and other information representative of their operations: *Provided*, That a copy of such report is forwarded to the attorney general.

Exemptions
from filing
and notice
provisions.

Sec. 3. A nonprofit foundation incorporated for charitable purposes, contributions to which are currently allowed as charitable deductions under the United States income tax laws, shall be exempt from all notice and filing under the provisions of this act upon filing with the attorney general a copy of the declaration of its tax exempt status from the United States and, annually a copy of its United States tax return of an exempt corporation.

Public docu-
ments—
Inspection—
Publication.

Sec. 4. All information, documents, and reports filed with the attorney general under this act are matters of public record and shall be open to public inspection, subject to reasonable regulation: *Provided*, That the attorney general shall withhold from public inspection any trust instrument so filed whose content is not exclusively for charitable purposes. The attorney general may publish, on a

periodic or other basis, such information as may be necessary or appropriate in the public interest concerning the registration, reports, and information filed with him or any other matters relevant to the administration and enforcement of this act.

Sec. 5. The attorney general shall establish and maintain a register of trustees as defined in section 2 of this act and, to that end, shall conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing authorities, trustees, and other sources whatever information, copies of instruments, reports, and records are needed, for the establishment and maintenance of the register.

Register of trustees.

Sec. 6. Every trustee subject to this act shall file with the attorney general within two months after receiving possession or control of the trust corpus a copy of the instrument establishing his title, powers, or duties, and an inventory of the assets of such charitable trust. The trustees of charitable trusts existing at the time this act takes effect shall comply with this section within six months thereafter.

Instruments establishing trust and inventory to be filed—Time.

Sec. 7. Except as otherwise provided every trustee subject to this act shall file with the attorney general annual reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules and regulations of the attorney general.

Charitable trusts—Reports of trustees—Filing—Rules and regulations—Violations.

The attorney general shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or

Charitable trusts—Reports of trustees—Filing—Rules and regulations—Violations.

otherwise, and may establish different rules for the different classes as to time and nature of the reports required, to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The attorney general may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the attorney general, may be filed as a report required by this section.

The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within six months after the effective date of this act.

The wilful refusal by a trustee to make or file any report, to perform any other duties expressly required by this act, or to comply with any valid rule or regulation promulgated by the attorney gen-

eral under this act, shall constitute a breach of trust and a violation of this act.

Sec. 8. The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts shall furnish within two months after receiving possession or control thereof such copies of papers, records, and files of his office relating to the subject of this act as the attorney general shall require.

Court records, copies to attorney general—List of tax exemption applications.

Every officer, agency, board or commission of this state receiving applications for exemption from taxation of any charitable trust or similar relationship in which the trustee is subject to this act shall annually file with the attorney general a list of all applications received during the year.

Sec. 9. It is the purpose of this act to make uniform the laws of this and other states on the subject of charitable trusts and similar relationships. Recognizing the necessity for uniform application and enforcement of this act, its provisions are hereby declared mandatory and they shall not be superseded by the provisions of any trust instrument or similar instrument to the contrary.

Uniformity with other states.

Sec. 10. The attorney general may investigate transactions and relationships of trustees and other persons subject to this act for the purpose of determining whether the trust or other relationship is administered according to law and the terms and purposes of the trust, or to determine compliance with this act in any other respect. He may require any officer, agent, trustee, fiduciary, beneficiary, or other person, to appear, at a time and place designated by the attorney general in the county where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title, and evidence of assets, lia-

Attorney general—Investigation—Hearings—Production of papers, etc.

Charitable trusts.

bilities, receipts, or disbursements in the possession or control of the person ordered to appear.

Order to appear—Effect—Enforcement—Court review.

Sec. 11. When the attorney general requires the attendance of any person, as provided in section 10 of this act, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the supreme court by certiorari or other appropriate proceeding.

Enforcement—Notice of court proceedings.

Sec. 12. The attorney general may institute appropriate proceedings to secure compliance with this act and to secure the proper administration of any trust or other relationship to which this act applies. He shall be notified of all judicial proceedings involving or affecting the charitable trust or its administration in which, at common law, he is a necessary or proper party as representative of the public beneficiaries. The notification shall be given by registered mail to the attorney general at his office in Olympia at least twenty days prior to hearing thereon, except where shorter periods are prescribed by statute or by rules of court. The powers

and duties of the attorney general provided in this act are in addition to his existing powers and duties, and are not to be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general or of any prosecuting attorney which they may exercise or perform under any other provision of law. Except as provided herein, nothing in this act shall impair or restrict the jurisdiction of any court with respect to any of the matters covered by it.

Sec. 13. A civil action for a violation of this act may be prosecuted by the attorney general or by a prosecuting attorney designated by the attorney general.

Violations—
Civil action.

Sec. 14. Every false statement of material fact knowingly made or caused to be made by any person in any statement or report filed under this act and every other violation of this act is a gross misdemeanor.

Penalty.

Sec. 15. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Severability.

Passed the Senate April 10, 1967.

Passed the House April 8, 1967.

Approved by the Governor April 18, 1967.