

Public Law 104-62
104th Congress

Dec. 8, 1995
[H.R. 2519]

Philanthropy
Protection Act of 1995.

15 USC 80a-51 note.

An Act

To facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Philanthropy Protection Act of 1995”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to the Investment Company Act of 1940.
- Sec. 3. Amendment to the Securities Act of 1933.
- Sec. 4. Amendments to the Securities Exchange Act of 1934.
- Sec. 5. Amendment of the Investment Advisers Act of 1940.
- Sec. 6. Protection of philanthropy under State law.
- Sec. 7. Effective dates and applicability.

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) EXEMPTION.—Section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(10)) is amended to read as follows:

“(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

“(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

“(ii) which is or maintains a fund described in subparagraph (B).

“(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

“(i) assets of the general endowment fund or other funds of one or more charitable organizations;

“(ii) assets of a pooled income fund;

“(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

“(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

“(v) assets of a charitable lead trust;

“(vi) assets of a trust, the remainder interests of which are revocably dedicated to or for the benefit of 1 or more

of a charitable organization and receives no commission or other special compensation based on the number or the value of donations collected for the fund.”.

(d) CONFORMING AMENDMENT.—Section 12(g)(2)(D) of such Act (15 U.S.C. 781(g)(2)(D)) is amended by inserting before the period “; or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940”.

SEC. 5. AMENDMENT OF THE INVESTMENT ADVISERS ACT OF 1940.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended—

- (1) by striking “or” at the end of paragraph (2);
 - (2) by striking the period at the end of paragraph (3) and inserting “; or”;
- and

(3) by adding at the end of the following new paragraph:
 “(4) any investment adviser that is a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person’s employment or duties with such organization, whose advice, analyses, or reports are provided only to one or more of the following:

- “(A) any such charitable organization;
- “(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or
- “(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the trustees, administrators, settlors (or potential settlors), or beneficiaries of any such trust or other instrument.”.

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

15 USC 80a-3a.

(a) REGISTRATION REQUIREMENTS.—A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) TREATMENT OF CHARITABLE ORGANIZATIONS.—No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person’s employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

- (1) a charitable organization;
- (2) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or
- (3) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.