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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2011	.	
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The Committee on Higher Education (Lynn) recommended the following:

**Senate Amendment**

Delete lines 207 - 256  
and insert:

(6) 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.



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13           (b) If consent of the donor in a record cannot be obtained  
14 by reason of the donor's death, disability, unavailability, or  
15 impossibility of identification, a governing board may modify a  
16 restriction contained in a gift instrument regarding the  
17 management, investment, or use of an institutional fund if the  
18 fund has a total value of \$100,000 or less and the restriction  
19 has become impracticable or wasteful, impairs the management,  
20 investment, or use of the fund or if, because of circumstances  
21 not anticipated by the donor, a modification of a restriction  
22 will further the purposes of the fund.

23           (c) If an institution determines that a restriction  
24 contained in a gift instrument on the management, investment, or  
25 purpose of an institutional fund is unlawful, impracticable,  
26 impossible to achieve, or wasteful, the institution, after  
27 providing written notice to the Attorney General, may release or  
28 modify the restriction, in whole or part, if:

29           1. The institutional fund subject to the restriction has a  
30 total value of at least \$100,000 and not more than \$250,000;

31           2. More than 20 years have elapsed since the fund was  
32 established; and

33           3. The institution uses the property in a manner consistent  
34 with the charitable purposes expressed in the gift instrument.

35           (d) The circuit court for the circuit in which an  
36 institution is located, upon application of that institution,  
37 may modify a restriction contained in a gift instrument  
38 regarding the management or investment of an institutional fund  
39 if the restriction has become impracticable or wasteful, if it  
40 impairs the management or investment of the fund, or if, because  
41 of circumstances not anticipated by the donor, a modification of



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42 a restriction will further the purposes of the fund. The  
43 institution shall notify the Attorney General of the  
44 application. To the extent practicable, any modification must be  
45 made in accordance with the donor's probable intention.

46 (e) If a particular charitable purpose or a restriction  
47 contained in a gift instrument on the use of an institutional  
48 fund becomes unlawful, impracticable, impossible to achieve, or  
49 wasteful, the circuit court for the circuit in which an  
50 institution is located, upon application of that institution,  
51 may modify the purpose of the fund or the restriction on the use  
52 of the fund in a manner consistent with the charitable purposes  
53 expressed in the gift instrument. The institution shall notify  
54 the Attorney General of the application.