ASSEMBLY BILL No. 2018

Introduced by Assembly Member Norby

February 23, 2012

An act to amend Section 9142 of the Corporations Code, relating to religious corporations.

legislative counsel's digest

AB 2018, as introduced, Norby. Religious corporations: trusts.

Under existing law, a trust in favor of a superior religious body or general church may be created in assets of its member religious corporation only, (1) by express commitment by resolution of its board of directors to hold those assets in trust, (2) if the articles or bylaws of the corporation, or the governing instruments of a superior religious body or general church of which the corporation is a member, expressly provide for creation of a trust, and (3) if the donor expressly imposed a trust in writing.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 9142 of the Corporations Code is amended to read:

9142. (a) Notwithstanding Section 9141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a trust under which any or all of the assets of a corporation are held:

(1) The corporation, a member, or a former member asserting the right in the name of the corporation, provided that for the purpose of this paragraph the provisions of Section 5710 shall apply to ~~such~~ *the* action.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to ~~such~~ *the* trust.

(b) In an action under this section, the court may not rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are parties to the action;

(2) No party to the contract has, in good faith and without actual notice of the restriction, parted with value under the contract or in reliance upon it; and

(3) It is equitable to do so.

(c) No assets of a religious corporation are or shall be deemed to be impressed with any trust, express or implied, statutory or at common law unless one of the following applies:

(1) Unless, and only to the extent that, the assets were received by the corporation with an express commitment by resolution of its board of directors to so hold those assets in trust.

(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide.

(3) Unless, and only to the extent that, the donor expressly imposed a trust, in writing, at the time of the gift or donation.

(d) Trusts created by paragraph (2) of subdivision (c) may be amended or dissolved by amendment from time to time to the articles, bylaws, or governing instruments creating the trusts. However, nothing in this subdivision shall be construed to permit the amendment of the articles to delete or to amend provisions required by Section 214.01 of the Revenue and Taxation Code to a greater extent than otherwise allowable by law.

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