

**LEGISLATIVE HISTORY CHECKLIST**  
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(Community trusts for chronically disabled -- eliminate certain constraints on board members)

**NJSA:** 3B:11-2

**LAWS OF:** 1993 **CHAPTER:** 224

**BILL NO:** S159

**SPONSOR(S)** Bennett

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Judiciary  
**SENATE:** Health & Human Services

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
 First reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** June 21, 1993  
**SENATE:** November 30, 1992

**DATE OF APPROVAL:** August 6, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBG:pp

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Senator FELDMAN

1 AN ACT concerning community trusts and amending P.L.1985,  
2 c.424.

3  
4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

6 1. Section 3 of P.L.1985, c.424 (C.3B:11-21) is amended to  
7 read as follows:

8 3. This act shall be liberally construed and applied to promote  
9 its underlying purposes and policies, which are among others to:

10 a. encourage the orderly establishment of community trusts  
11 for the benefit of persons with severe chronic disabilities;

12 b. ensure that community trusts are administered properly  
13 [and that the managing boards of the trusts are free from  
14 conflicts of interest] <sup>1</sup>and that the managing boards of the trusts  
15 are free from conflicts of interest, except that an unpaid member  
16 of the managing board of a nonprofit corporation provider shall  
17 not be deemed to be in conflict as a member of the managing  
18 board of a trust<sup>1</sup> ;

19 c. facilitate sound administration of trust funds for persons  
20 with severe chronic disabilities by allowing family members and  
21 others to pool resources in order to make professional  
22 management investment more efficient;

23 d. provide parents of persons with severe chronic disabilities  
24 peace of mind in knowing that a means exists to ensure that the  
25 interests of their children who have severe chronic disabilities  
26 are properly looked after and managed after the parents die or  
27 become incapacitated;

28 e. help make guardians available for persons with severe  
29 chronic disabilities who are incompetent, when no other family  
30 member is available for this purpose;

31 f. encourage the availability of private resources to purchase  
32 for persons with severe chronic disabilities goods and services  
33 that are not available through any governmental or charitable  
34 program and to conserve these resources by limiting purchases to  
35 those which are not available from other sources;

36 g. encourage the inclusion, as beneficiaries of community  
37 trusts, of persons who lack resources and whose families are  
38 indigent, in a way that does not diminish the resources available  
39 to other beneficiaries whose families have contributed to the  
40 trust; and

41 h. remove the disincentives which discourage parents and  
42 others from setting aside funds for the future protection of

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate floor amendments adopted November 9, 1992.

\*1 persons with severe chronic disabilities by ensuring that the  
2 interests of beneficiaries in community trusts are not considered  
3 assets or income which would disqualify them from any  
4 governmental or charitable entitlement program with an  
5 economic means test.

6 (cf: P.L.1985, c.424, s.3)

7 2. Section 4 of P.L.1985, c.424 (C.3B:11-22) is amended to  
8 read as follows:

9 4. As used in this act:

10 a. "Beneficiary" means any person with a severe chronic  
11 disability who has qualified as a member of the community trust  
12 program and who has the right to receive those services and  
13 benefits of the community trust program as provided in this act.

14 b. "Board" means the board of trustees or the group of persons  
15 vested with the management of the business and affairs of a  
16 corporation, formed for the purpose of managing a community  
17 trust, irrespective of the name by which the group is designated.

18 c. "Community trust" means a nonprofit organization which  
19 offers the following services:

20 (1) administration of special trust funds for persons with  
21 severe chronic disabilities;

22 (2) follow-along services;

23 (3) guardianship for persons with severe chronic disabilities  
24 who are incompetent, when no other immediate family member  
25 or friend is available for this purpose; and

26 (4) advice and counsel to persons who have been appointed as  
27 individual guardians of the persons or estates of persons with  
28 severe chronic disabilities.

29 d. "Follow-along services" means those services offered by  
30 community trusts which are designed to insure that the needs of  
31 each beneficiary are being met for as long as may be required and  
32 may include periodic visits to the beneficiary and to the places  
33 where the beneficiary receives services, participation in the  
34 development of individualized plans being made by service  
35 providers for the beneficiary, and other similar services  
36 consistent with the purposes of this act.

37 e. "Severe chronic disability" means a physical or mental  
38 impairment which is expected to give rise to a long-term need  
39 for specialized health, social, and other services, and which  
40 makes the person with such a disability dependent upon others for  
41 assistance to secure these services.

42 f. "Trustee" means any member of the board of a corporation,  
43 formed for the purpose of managing a community trust, whether  
44 that member is designated as a trustee, director, manager,  
45 governor, or by any other title.

46 g. "Surplus trust funds" means funds accumulated in the trust  
47 from contributions made on behalf of an individual beneficiary,  
48 which, after the death of the beneficiary, are determined by the  
49 board to be in excess of the actual cost of providing services  
50 during the beneficiary's lifetime, including the beneficiary's  
51 share of administrative costs, and of any amounts provided to a  
52 remainderman.

53 (cf: P.L.1985, c.424, s.4)

54 3. Section 6 of P.L.1985, c.424 (C.3B:11-24) is amended to

1 read as follows:

2 6. Every community trust shall be administered by a board.  
3 The board shall be comprised of no less than nine and no more  
4 than 21 members, at least one-third of whom shall be parents or  
5 relatives of persons with severe chronic disabilities. [No board  
6 member shall be a provider of habilitative, health, social, or  
7 educational services to persons with severe chronic disabilities or  
8 an employee of such a service provider. The board may, however,  
9 allow service providers to serve on the board in an advisory  
10 capacity.] Board members shall be selected, to the maximum  
11 extent possible, from geographic areas throughout the area  
12 served by the trust.

13 The certificate of incorporation filed with the Secretary of  
14 State pursuant to Title 15A of the New Jersey Statutes shall, in  
15 addition to the requirements set forth in that Title, demonstrate  
16 that the requirements of this section have been met.

17 (cf: P.L.1985, c.424, s.6)

18 4. Section 14 of P.L.1985, c.424 (C.3B:11-32) is amended to  
19 read as follows:

20 14. A community trust for persons with severe chronic  
21 disabilities is irrevocable, but the trustees in their sole discretion  
22 may provide compensation for any contribution to the trust to  
23 any trustor who, upon good cause, withdraws a beneficiary  
24 designated by the trustor from the trust, or if it becomes  
25 impossible to fulfill the conditions of the trust with regard to an  
26 individual beneficiary for reasons other than the death of the  
27 beneficiary. The trustor may also designate one or more  
28 remaindermen at the time the contribution is made to the trust.

29 (cf: P.L.1985, c.424, s.14)

30 5. This act shall take effect immediately.

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35 \_\_\_\_\_  
36 Permits remainderman and eliminates certain constraints on  
board members in the context of community trusts.

1 relatives of persons with severe chronic disabilities. [No board  
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3 educational services to persons with severe chronic disabilities or  
4 an employee of such a service provider. The board may, however,  
5 allow service providers to serve on the board in an advisory  
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7 extent possible, from geographic areas throughout the area  
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23 beneficiary. The trustor may also designate one or more  
24 remaindermen at the time the contribution is made to the trust.

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#### STATEMENT

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31 This bill amends P.L.1985, c.424 (C.3B:11-19 et seq.), the "New  
32 Jersey Community Trust for Persons with Severe Chronic  
33 Disabilities Act." The bill would permit the trustor to designate  
34 one or more remaindermen at the time the contribution is made  
35 to the trust. In addition, the bill would eliminate a requirement  
36 in the current law that board members of community trusts may  
37 not be providers of certain services to persons with severe  
38 chronic disabilities or an employee of these providers. This will  
39 permit a person to serve on both the board of a community trust  
40 and on the board of a service provider, in accordance with the  
41 provisions of Title 15A of the New Jersey Statutes.

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46 Permits remainderman and eliminates certain constraints on  
47 board members in the context of community trusts.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**SENATE, No. 159**

**STATE OF NEW JERSEY**

DATED: APRIL 29, 1993

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 159 (1R).

This bill amends P.L.1985, c.424 (C.3B:11-19 et seq.), the "New Jersey Community Trust for Persons with Severe Chronic Disabilities Act." The bill would permit the trustor to designate one or more remaindermen at the time the contribution is made to the trust. In addition, the bill would eliminate a requirement in the current law that board members of community trusts may not be providers of certain services to persons with severe chronic disabilities or an employee of these providers. This will permit a person to serve on both the board of a community trust and on the board of a service provider, in accordance with the provisions of Title 15A of the New Jersey Statutes. An unpaid member of the managing board of a nonprofit corporation provider shall not be deemed to be in conflict as a member of the managing board of a trust.

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 159

STATE OF NEW JERSEY

DATED: OCTOBER 8, 1992

The Senate Health and Human Services Committee favorably reports Senate Bill No. 159.

This bill amends P.L.1985, c.424 (C.3B:11-19 et seq.), the "New Jersey Community Trust for Persons with Severe Chronic Disabilities Act." The bill would permit the trustor to designate one or more remaindermen at the time the contribution is made to the trust. In addition, the bill would eliminate a requirement in the current law that board members of community trusts may not be providers of certain services to persons with severe chronic disabilities or an employee of these providers. This will permit a person to serve on both the board of a community trust and on the board of a service provider, in accordance with the provisions of Title 15A of the New Jersey Statutes.

This bill was prefiled for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.