

BayStG: Bavarian Foundation Law (BayStG) as amended on September 26
2008 (GVBl. P. 834) BayRS 282-1-1-WK (Art. 1–29)

Bavarian Foundation Law
(BayStG)
as amended on September 26, 2008
(GVBl. P. 834)
BayRS 282-1-1-WK

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First section General provisions

Art. 1

(1) This law applies to foundations that have their registered office in the Free State of Bavaria.

(2) Foundations within the meaning of this law are legally valid foundations of civil law and public law.

(3) 1 Public law foundations within the meaning of this law are foundations that are exclusive pursue public purposes and with the state, a community, a community association or one other body or body governed by public law under the supervision of the State stand in an organic context that makes the foundation itself a public institution.

2 The public purposes are those of religion, science, research, education, the

Teaching, education, art, monument conservation, home care, protection of natural Livelihood, sport, social tasks or other purposes serving the common good.

(4) Foundations under public law are also church foundations (Art. 21 Para. 1), which are exclusive

pursue ecclesiastical purposes and with a church within the meaning of Art. 21, an ecclesiastical body of the public law in the sense of Art. 26a of the church tax law or another corporation in 24 in an organic context in accordance with paragraph 3 sentence 1.

Art. 2

- (1) Respect for the will of the founder is the top guideline when handling this law.
- (2) The foundations have a right to their existence and their name.

1. Title Establishment of the foundations, list of foundations

Art. 3

- (1) The creation of a foundation under civil law is determined in accordance with Sections 80 to 84 of the Civil Code (BGB).

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(2) 1 A foundation under public law is created, unless it is established by law, by the Foundation business and recognition in the appropriate application of §§ 80 to 84 BGB. 2 Without prejudice to the requirements of sentence 1, recognition is only to be granted if that Foundation business or the articles of association do not contradict this law. 3 Recognition does not need if the Free State of Bavaria is a founder or co-founder.

- (3) The government, in the district of which the Foundation should have its seat (recognition authority).

Art. 4

(1) The State Statistical Office maintains a generally accessible list of legally competent foundations based in Bavaria with the exception of church foundations (list of foundations).

(2) 1 Each foundation must be entered in the list of foundations with the following information:

1. Name of the foundation,
2. Legal status and type,
- 3rd seat,
4. Purpose
5. Foundation bodies,
6. legal representation,
7. Name of the founder,
8. time of occurrence and extinction,

9. Address of the foundation administration.

2 At the donor's request, his name should not be given. 3 changes to sentence 1 no.9

the foundations have to inform the licensing authority immediately.

2. Title Articles of Association of the Foundations

Art. 5

(1) Each foundation must have a statute.

(2) The necessary content of the statutes of a foundation under civil law is based on Section 81 (1) Clause 3 BGB.

(3) 1 In the case of foundations under public law, paragraph 2 applies, with the proviso that the articles of association also contain regulations has to contain about:

1. Legal status and type of foundation,
2. Formation, composition and tasks of foundation bodies.

2 For the rest, the foundations of public law are governed by the provisions of sections 26, 27 subsection 3, section 28

Paragraph 1 and Section 30 of the German Civil Code apply the provisions of Section 27 Paragraph 3 and Section 28 Paragraph 1 accordingly however only to the extent that nothing else results from this law or the articles of association.

(4) 1 Changes to the foundation's statutes require approval by the recognition authority. 2 Art. 3 Paragraph 2 sentence 3 applies accordingly.

3. Title administration of the foundations

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Art. 6

(1) 1 The assets of the foundation are to be managed safely and economically. 2 It is from the assets of others Keep legal entities separate. 3 Under no pretext may the property of the state, one Community, a community of associations or another body or institution of the public Be incorporated on the right. 4 This does not affect the accumulation of the assets of canceled foundations.

(2) The assets that were donated to the foundation in order to use the foundation's purpose To be fulfilled permanently and sustainably (basic assets) must be preserved undiminished.

(3) 1 Income from the Foundation's assets and donations intended for consumption may only be used for Fulfillment of the foundation's purpose. 2 The allocation of income to the basic assets, in order to preserve this in its value, remains unaffected.

Art. 7

1 The members of the foundation organs are responsible for the conscientious and economical administration of the foundation Committed. 2 Unless the articles of association stipulate otherwise, they are voluntary Board members only in the event of willful or grossly negligent breach of their obligations by the Foundation obliged to pay compensation. 3 Are several board members responsible for the damage

side by side, they are jointly and severally liable.

4. Title conversion of purpose and expiry of foundations

Art. 8

(1) 1 §§ apply to the conversion of the purpose and the expiry of the foundations of civil law 87 and 88 BGB. 2 These provisions apply to foundations under public law

Application, § 88 sentence 3 BGB with the proviso that § 46 BGB is to be applied accordingly, if the Foundation's assets do not fall to the Treasury.

(2) The founder must be heard before the foundation is canceled or the purpose is changed.

(3) 1 Foundations can also be abolished in such a way that several foundations of the same type, in which one of the conditions specified in Section 87 (1) BGB is met. 2 The new foundation gains legal capacity when it is merged. 3 In the event of cancellation of the new one Foundation, the merged foundations will not be revived.

(4) 1 The abolition of a foundation in which one of the conditions specified in § 87 Paragraph 1 BGB can also be done by adding it to a foundation of the same type. 2 The allocation is only permissible if the receiving foundation agrees and the fulfillment of its purpose is not is affected.

(5) The competent authority in the sense of § 87 BGB is the recognition authority.

Art. 9

1 If no beneficiary is designated in the event of the extinction of a foundation, the assets of one of them fall municipal foundation (Art. 20) to the relevant local authority, that of a church foundation (Art. 21) to the appropriate church, otherwise to the tax authorities. 2 The assets accrued are as far as possible to be used in a manner appropriate to the purpose of the foundation. 3 If possible, it is another To provide a foundation with a similar purpose. 4 Here is the social and confessional commitment of the extinct foundation.

Second section, foundation supervision

Art. 10

(1) 1 For their protection, foundations that pursue public purposes (Art. 1 Para. 3 Clause 2) are subject to Exception of the state-administered foundations of the legal supervision of the state (foundation supervision); of the Fourth section of this law remains unaffected. 2 Foundation regulators are governments.

(2) 1 As the highest foundation authorities are responsible

1. the State Ministry of Education and Culture for foundations dedicated to religion or education are,

2. the State Ministry of Science and Art for foundations dedicated to science, research,
Dedicated to art or monument preservation,

3. the State Ministry of the Interior, for sport and integration for all other foundations.

2 If a foundation pursues different purposes, the predominant public purpose of the
Foundation, endowment.

(3) 1 The State Committee for the Foundation, formed by the highest foundation supervisory authorities
has the task of advising these and the foundation supervisory authorities. 2 He is also responsible for
Promotion and maintenance of the foundation system.

Art. 11

The foundation's supervisory authorities should understand the foundations in the performance of their duties
advise, promote and protect as well as the determination and personal responsibility of the foundation's organs
strengthen.

Art. 12

(1) 1 The foundation supervisory authority monitors the proper and timely equipment of the
Foundation, endowment. 2 It ensures that the affairs of the foundation are in accordance with the law and
of the foundation's statutes. 3 In particular, it checks the preservation of the
Basic assets as well as the intended use of its income and for consumption
certain donations.

(2) The foundation supervisory authority are the composition of the organs of the foundation and any
Notify changes immediately.

(3) 1 The foundation supervisory authority is authorized to inform itself about all matters of the foundation.
2 In particular, it can visit the institutions and facilities of the foundation, the business and
Check cash register management or have it checked on a larger scale and request reports and files.

(4) The foundation supervisory authority can object to illegal behavior by the foundation organs and
request that it refrain from doing so or take the necessary measures.

Art. 13

1 If a member of a foundation body is guilty of a gross breach of duty or is it
proper management incapable, the foundation supervisory authority can dismiss this
Member and requesting a new one. 2 At the same time or later, the member
For the time being, prohibit the exercise of his organs' rights and appoint a provisional representative, provided that
§ 29 BGB is not applicable. 3 These provisions do not apply to foundations whose
Administration is managed by a public authority.

Art. 14

(1) 1 The body generally responsible for representing the foundation may carry out legal transactions on behalf of the
Do not undertake a foundation with yourself in your own name or as a representative of a third party, unless that
Legal transaction consists solely in the fulfillment of a liability. 2 The foundation supervisory authority
has to appoint a special representative for such legal transactions.

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(2) The body generally responsible for representation can exempt from the restrictions in paragraph 1 sentence 1 the articles of association are exempted in general or for individual cases.

Art. 15

1 The foundation supervisory authority is empowered to file claims against members of the Foundation organs to enforce in court, unless this within a reasonable period by the responsible body of the foundation itself happens. 2 Article 13 sentence 3 applies accordingly.

Art. 16

(1) 1 The foundations are obliged to maintain proper bookkeeping. 2 The type of accounting can choose them yourself within the framework of the statutory provisions. 3 Before the start of each financial year The foundations are supposed to draw up a budget that forms the basis for the management of all income and forms expenses. 4 Within six months of the end of the financial year, there are one Closing of accounts and an overview of assets (annual accounts) and a report submitted to the foundation supervisory authority regarding the fulfillment of the foundation's purpose.

(2) 1 The foundation supervisory authority has to check the annual accounts. 2 The exam can focus on Limit samples if, based on previous tests, a comprehensive test is not appears necessary. 3 In the case of foundations, the foundation supervisory authority may do so annually Have consistent income and expenses, auditing annual accounts for multiple Summarize years. 4 For a maximum of three years, the submission of the documents by the Foundation in accordance with paragraph 1 sentence 4 and an audit of the annual accounts in accordance with sentence 1 if the Checking the annual accounts for at least five consecutive years no objection has resulted. 5 If the subsequent invoice verification does not result in a complaint, sentence 4 will be found corresponding application.

(3) 1 If an annual account is carried out by the administrative bodies of the state audit, one Auditing association, an auditor or a sworn accountant, so the Check also for the preservation of the basic assets and the intended use of its income and the use of certain donations. 2 The examination report is the To submit to the supervisory authority. 3 In this case, the foundation supervisory authority sees one own audit of the annual accounts.

(4) 1 The foundation supervisory authority may require a foundation to have an audit association, a Wirtschaftsprüfer or a sworn accountant with the performance of an audit within the meaning of paragraph 3 instructed. 2 paragraph 2 sentences 4 and 5 apply accordingly.

Art. 17

If the assets of a foundation are weakened so significantly that the sustainable fulfillment of the If the purpose of the foundation is impaired, the foundation supervisory authority can order that the income of the Foundation assets can be accumulated in whole or in part until the foundation is able to function again has become.

Art. 18

1 If the organs of the foundation comply with the instructions of the Foundation supervisory authority does not comply, it can enforce the orders with coercive means. 2 Art. 29

to 39 of the Bavarian Administrative Delivery and Enforcement Act apply.

Art. 19

The approval of the foundation supervisory authority is required

1. the acceptance of endowments linked to a burden or for a purpose other than that Foundation should serve

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2. the conclusion of surety agreements and related legal transactions, which require the Have a foundation for external guilt,
3. Legal transactions in which a member of a foundation body personally or as a representative of a third party is involved, unless the foundation is appointed by a special representative in accordance with Article 14 paragraph 1 sentence 2 represented, the legal transaction consists exclusively in the fulfillment of a liability or the foundation only gains a legal advantage.

Third section of municipal foundations

Art. 20

- (1) Local, district communal and district communal foundations (communal foundations) are those whose Purpose is within the scope of the respective municipal tasks and not significantly above the spatial Of the local authority.
- (2) The representation and administration of the municipal foundations is incumbent, unless otherwise stipulated in the statutes is determined, the person responsible for the representation and administration of the municipalities, districts and districts Organs.
- (3) 1 For municipal foundations managed by municipalities, districts and districts, the First section of this law only Articles 1 to 6, 8 and 9. 2 From the second section of this law for these foundations only Art. 10 Para. 1 and 2, Art. 11, 12, 14, 17, 18 and 19 Nos. 1 and 3 with the Provided that the legal supervisory authority replaces the foundation supervisory authority. 3 For this Incidentally, foundations are governed by the regulations on community management, district management and District economy with the exception of Art. 62 Para. 1 and Art. 77 to 85 of the Municipal Code, Art. 56 Para. 1 and Art. 71 to 73 of the District Ordinance and Art. 54 Para. 1 and Art. 69 to 71 of the District regulations accordingly.

Fourth section Church foundations

Art. 21

- (1) 1 Ecclesiastical foundations in the sense of this law are foundations that are exclusively or predominantly ecclesiastical purposes of the Catholic, the Evangelical-Lutheran or the Evangelical-Reformed Are dedicated to the supervision of the founder and according to the actual or presumed will of the founder church in question. 2 Ecclesiastical foundations are in particular the local ecclesiastical ones Foundations and the benefactors' foundations.

(2) A foundation does not become an ecclesiastical one simply because an ecclesiastical official is Foundation body has been appointed or that only members of a certain denomination from the Foundation are favored.

Art. 22

(1) A church foundation is to be recognized as legally competent at the request of the church concerned if the permanent and sustainable fulfillment of the foundation's purpose secured by the assets of the foundation appears or is guaranteed by the church in question.

(2) Church foundations may only be recognized, converted or approved with the consent of the church concerned To get picked up.

(3) 1 In addition, the provisions of the first section of this law apply to church foundations Application; in Article 3 (3) the government is replaced by the State Ministry of Education and Kultus, the competent ecclesiastical authority in place of the recognition authority in Art. 5 para. 4 sentence 1. 2 The amendment to the statutes of a church foundation when it is recognized requires the approval of the competent church authority. 3 Art. 8 applies with the proviso that at the request of the concerned church a merger or allocation of church foundations of the public The right can also take place if the requirements of Section 87 (1) BGB are not met.

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Art. 23

(1) 1 The church foundations are subject to the supervision of the church concerned. 2 The enactment more general Regulations on the name, seat, purpose, representation, administration and supervision of church foundations Task of the churches.

(2) The existing regulations on state support for church buildings within the framework of a The state's construction obligation remains unaffected.

Art. 24

The provisions of this title apply equally to the corresponding foundations of the Israelite Religious communities, other religious communities and ideological communities, provided they are public corporations in Bavaria.

Fifth section final and transitional provisions

Art. 25

(1) Foundations that were previously legally valid retain their legal status.

(2) If the legal status or the type of a foundation is in dispute, this decides in accordance with Art. 10 Para. 2 Ministry of State responsible, in case of doubt the State Ministry of the Interior, for sport and integration.

(3) Foundations which, according to *Art. 5 Para. 4 of the Parish Ordinance of September 24, 1912 (GVBl p. 911)* previously administered by ecclesiastical organs continue to count as ecclesiastical foundations in the sense of this Law.

(4) Exclusively or predominantly for ecclesiastical or religious purposes of the Catholic, the Evangelical

Lutheran foundations or foundations dedicated to the Evangelical Reformed Church, which are open until January 1st 1996 in accordance with the statutes of an authority of the state, a municipality or an association of municipalities are still not considered as church foundations.

Art. 26

The statutes of a foundation can neither restrict nor regulate the provisions of this law be excluded, unless this is expressly permitted in this law.

Art. 27

With the exception of the measures according to Art. 12 Para. 3, Art. 13, 15 and 18 as well as the audit according to Art. 16 Para. 2 are official acts at foundations that mainly serve public purposes (Art. 1 Para. 3 Sentence 2) track free of charge under this law.

Art. 28

The highest foundation supervisory authorities (Art. 10 Para. 2 Clause 1) are authorized by Ordinance

1. the procedure for the recognition of foundations, the approval of amendments to the statutes and Regulate legal transactions in accordance with Art. 19,
2. the foundations' duties to cooperate in the audit according to Art. 16, in particular the determine the evidence and supporting documents to be submitted,
3. to determine the appointment and the composition of the State Committee for the Foundation.

Art. 29

(1) This law enters into force on January 1, 1955 1).

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(2) 1 (sentence 1 without object). 2 The other previously applicable provisions on dissolution and the Expiration of the Fideikommiss and other tied assets and about the forest protection at the Fideikommiss liquidation remain unaffected.

(3) 1 Existing obligations to render special riches in money or in kind to clergymen or to secular church servants remain unaffected until they are replaced. 2 The replacement is too capitalization factor of the valuation law in the version of the Announcement of February 1, 1991 (BGBl I p. 230) in the currently applicable version is decisive.

1) **[Official Note:]** This provision applies to the entry into force of the law in the original version dated November 26, 1954 (GVBl p. 301). The date of the entry into force of the subsequent changes is given from the respective change laws.